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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.

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51205 **Grant Programs—Health** HHS/PHS issues criteria for the Health Professions Capitation Grants Program; effective 8–1–80

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Presidential Documents

Title 3—

The President

Executive Order 12230 of July 30, 1980

Competitive Status for Special Agents of the Drug Enforcement Administration

By the authority vested in me as President of the United States of America by Sections 3301 and 3302 of Title 5 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. Criminal investigators of the Drug Enforcement Administration, Department of Justice, who have Schedule A or B appointments and who have completed three years of fully satisfactory service may be converted noncompetitively to career or career-conditional appointments, if they meet qualifications and other requirements established by the Director of the Office of Personnel Management.

1–102. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this Order.

Jimmy Carter

THE WHITE HOUSE,
July 30, 1980.

[FR Doc. 80–23392
Filed 7–31–80; 8:45 am]
Billing code 3195–01–M

Presidential Documents

Memorandum of July 31, 1980
Determination Under Section 301 of the Trade Act of 1974
Memorandum for the United States Trade Representative

Under Section 301(a)(2) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to the European Communities' export subsidy practices with respect to wheat flour which are inconsistent with the provisions of the General Agreement on Tariffs and Trade (GATT). I am therefore directing the United States Trade Representative (USTR) to pursue diligently the dispute settlement procedures already initiated under the provisions of the GATT in an effort to resolve the issues in this case.

STATEMENT OF REASONS

The Office of the United States Trade Representative initiated an investigation under section 301 on December 8, 1975, (40 FR 57249) on the basis of the petition filed by the Millers National Federation. Petitioner's allegation that the EC has violated GATT Article XVI:3 by using export subsidies to gain more than an equitable share of world export trade in wheat flour is well-founded. The EC's share of the world export market for wheat flour has increased from an average of 28 percent in the three-year period prior to the initial authorization of export subsidy practices in 1962 to 73 percent in the most recent three-year period. In this same period, the U.S. share has declined from 28 percent to 11 percent.

Reasonable efforts have been made by U.S. trade officials to seek a solution to this problem. After a public hearing on the matter, bilateral consultations were undertaken on February 14, 1977. These consultations were unsuccessful. Efforts were made then to resolve the problem in the context of the Tokyo Round of Multilateral Trade Negotiations. Although agreement was achieved during the Tokyo Round on a code of conduct to discipline subsidy practices in general, the specific problem relating to the subsidized sale of wheat flour by the EC to third countries was not addressed.

Upon the conclusion of the Tokyo Round, a new series of efforts were undertaken by the USTR to rectify the export subsidy problem on wheat flour. After carefully analyzing world wheat flour trade for the 20-year period during which the EC's subsidies have affected trade, U.S. trade officials, on June 12, 1980, undertook bilateral consultations with their counterparts in Europe. Specific proposals were made by U.S. representatives to resolve the issue of the EC export subsidies on flour. Unfortunately, no agreement was reached.

Section 301 provides that the President shall take all appropriate and feasible action in response to any act, policy or practice of a foreign country or instrumentality that is inconsistent with the provisions of, or otherwise denies benefits to, the United States under any trade agreement. After the efforts

described above failed to resolve the wheat flour subsidy problem, U.S. trade officials determined that it is appropriate to use the multilateral dispute settlement procedures under the GATT to seek a satisfactory resolution of this problem. Such procedures were formally initiated on July 24, 1980. I affirm this decision and direct the USTR to pursue U.S. rights under such procedures vigorously. Notwithstanding the initiation of dispute settlement procedures, I remain hopeful that a solution can be achieved through conciliation and consultation.

This determination will be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, July 31, 1980.

[FR Doc. 80-23464
Filed 7-31-80; 12:20 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of July 31, 1980
Determination Under Section 301 of the Trade Act of 1974
Memorandum for the United States Trade Representative

Pursuant to Section 301(a)(2) of the Trade Act of 1974, (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to the practice of the Government of Japan in imposing quantitative restrictions on imports of leather from the United States. The Japanese practice is inconsistent with the provisions of the General Agreement on Tariffs and Trade (GATT). I therefore direct the United States Trade Representative (USTR) to seek measures from the Government of Japan to facilitate the implementation of the U.S.-Japan understanding on leather of February 23, 1979, pursuant to which the quotas on leather maintained by Japan are to be expanded to provide increased opportunities for sales of U.S. leather in Japan. I further direct the USTR to report to me on the results of these efforts within six months. At that time, I will consider if further appropriate and feasible action should be taken to obtain elimination of the Japanese practice.

STATEMENT OF REASONS

BACKGROUND

On August 4, 1977, the Tanners' Council of America submitted a petition under section 301 of the Trade Act of 1974 alleging that quantitative restrictions and tariffs imposed by the Government of Japan on imports of leather are unjustifiable and unreasonable restrictions which burden U.S. commerce by frustrating the attempts of the U.S. leather industry to export its products to Japan. After holding a hearing on the petition on October 11, 1977, and initiating consultations with the Government of Japan, the United States Government instituted dispute settlement proceedings pursuant to Article XXIII (1) of the GATT. A GATT panel was established and held its first meeting in January, 1979. The 301 Committee scheduled hearings to consider retaliatory measures in February, 1979.

Prior to the panel meeting, bilateral negotiations were renewed. As a result of the understanding reached between the United States Government and the Government of Japan in these negotiations, the United States Government withdrew its GATT complaint and cancelled the hearings on retaliatory measures. The understanding reached on February 23, 1979 resulted in an expansion of the restrictive quotas maintained by Japan and, therefore, a significant expansion of opportunities for U.S. tanners to sell in Japan. At the time the understanding was reached, it was expected that U.S. tanners would have an opportunity to sell approximately $20–30 million in leather.

The understanding provides for consultations on any matter arising in connection with the understanding and does not preclude either party from exercising its rights under GATT if the understanding is not implemented to the parties' mutual satisfaction.

BASIS FOR DETERMINATION

Section 301(a)(2) provides that the President may take all appropriate and feasible action in response to any act, policy, or practice of a foreign country or instrumentality that is inconsistent with the provisions of, or otherwise denies benefits to, the United States under any trade agreement, or that is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce. In this case, the petitioner's allegation that the 20% duty imposed by Japan on imports of leather constitutes an unfair trade practice under

section 301 is without foundation because the Japanese duty on leather is a bound GATT rate and, therefore, is not inconsistent with the GATT. Similarly, the duty cannot be considered "unreasonable".

The quantitative restrictions imposed by the Government of Japan with respect to imports of leather are "inconsistent with the provisions of . . . (a) trade agreement" within the meaning of section 301(a)(2)(A). When the restrictions were imposed in 1949, Japan was facing a serious balance of payments problem. However, despite the resolution of this problem, Japan has maintained restrictions on imports of leather. Thus, the restrictions are inconsistent with the GATT. Specifically, they violate the Article XI prohibition against quantitative restrictions. As a result of these restrictions, U.S. tanners have been able to sell only a minimal amount of leather in the Japanese market. Despite the significant size of the Japanese market for leather the Government of Japan's restrictions, which amounted to a global quota, limited imports to a de minimis level. Furthermore, the U.S. share of the Japanese market is estimated at less than 1%.

The objective of the U.S.-Japanese understanding was liberalization in the trade of leather. As noted earlier, it was expected that U.S. tanners would have significantly increased opportunities to sell leather in Japan. Nevertheless, the volume of U.S. shipments of leather actually declined during the first year of the agreement. This fact brings into question the Government of Japan's efforts to implement the understanding fully. United States officials have met on numerous occasions with representatives of the Government of Japan to consult on problems of implementation.

In view of the willingness of the Government of Japan to consult on this issue, in accordance with the understanding, I have determined that the appropriate action to take at this time in response to the Japanese import restrictions is to direct the USTR to seek measures from the Government of Japan to ensure the full implementation of the understanding and to report on the results of these efforts within six months. This period of time is sufficient to make an assessment both of conditions in the U.S.-Japan leather market during the period the understanding has been in effect and as to whether the U.S.-Japanese understanding is being fully implemented. Nothing in this determination precludes the United States Government from reinstituting the GATT dispute settlement procedures should it be found that the understanding has not been fully implemented.

This determination will be published in the **Federal Register**.

Jimmy Carter

THE WHITE HOUSE,
Washington, July 31, 1980.

[FR Doc. 80-23465
Filed 7-31-80; 12:21 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of July 31, 1980
Determination Under Section 301 of the Trade Act of 1974
Memorandum for the United States Trade Representative

Under the provisions of section 301(a)(2) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2411(a)(2)), I have determined that the action described below is an appropriate and feasible response to the practice of Canada in denying an income tax deduction to Canadian advertisers who contract with U.S. television and radio broadcasting stations located near the U.S.—Canadian border (border broadcasters) for advertising aimed primarily at the Canadian market.

STATEMENT OF REASONS

The Office of the United States Trade Representative initiated an investigation of September 6, 1978 (43 FR 39617) on the basis of a petition filed on behalf of 15 U.S. television licensees. As is reflected in the legislative history to the Trade Act and clarified in the amendment to section 301 in the Trade Agreements Act of 1979 (Pub. L. 96–39, Title IX; 93 Stat. 295), authority to act under section 301 extends to cases involving service industries.

Public hearings were conducted at the request of the petitioner on November 29, 1978, and consultations with the Government of Canada took place on August 15, 1979, in Ottawa. Public hearings relating to the remedies suggested by the petitioner were held on July 9, 1980, to provide an opportunity for parties who might be affected by such actions to comment.

After considering the recommendation of the United States Trade Representative and the evidence developed in the investigation and the hearings, I have determined that the Canadian tax practice with respect to advertising placed with U.S. border broadcasters is unreasonable and burdens and restricts U.S. commerce, within the meaning of section 301.

The longstanding business relationships between U.S. border broadcasters and their Canadian advertisers were disrupted by the enactment in Canada of Bill C–58 in 1976. The bill, which became section 19.1 of the Canadian Tax Law, was intended to strengthen the Canadian broadcast industry as an aspect of Canadian culture. However, while some Canadian broadcasters have benefitted from the law, it denies the U.S. border broadcasters access to a substantial portion of the advertising market in Canada, amounting to approximately $20 to $25 million annually, to which they previously had had access. The law, in effect, places the cost of attaining its objectives on U.S. companies and thus unreasonably and unnecessarily burdens and restricts U.S. commerce.

Consultations were held between U.S. and Canadian broadcasters and between the U.S. and Canadian government, in order to seek a solution which would address the Canadian cultural development objective without having an adverse impact upon the U.S. broadcasting stations. These consultations were not successful in finding a basis for the negotiation of a mutually acceptable solution.

I have determined that the most appropriate response to the Canadian practice is to propose legislation to the Congress which, when enacted, would mirror in U.S. law the Canadian practice. This legislation would amend the U.S. Internal Revenue Code to deny income tax deductions for the costs of

advertising primarily aimed at U.S. audiences and placed on broadcast stations located in a foreign country if a similar deduction under the income tax law of that country is denied for advertising principally aimed at its audience and placed on U.S. broadcast stations.

This measured response is most appropriate because it is directed at those interests in Canada which now benefit from the denial, resulting from enactment of C–58, of Canadian advertising revenues to U.S. border broadcasters.

The proposed U.S. law itself will apply to Canada only as long as, and to the degree that, the Canadian law applies. No disruption of other, unrelated markets will be created which might have adverse effects in other areas of the U.S. economy.

This determination is to be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, July 31, 1980.

[FR Doc. 80–23466
Filed 7–31–80; 12:22 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 45, No. 150
Friday, August 1, 1980

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.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Final Anti-Inflationary Price Standards; Amendment of Modified 2-Year Price Change for Gold and Silver Passthrough

AGENCY: Council on Wage and Price Stability.

ACTION: Amendment of the Final Price Standards for the Second Program Year.

SUMMARY: The Council is amending the Modified Two-Year Price Change for Gold and Silver Passthrough (6 CFR 705.79) to provide the average prices for gold and silver for the seventh program quarter and the dollar values for gold and silver ($P_g(7)$ and $P_s(7)$) that may be passed through in the seventh program quarter.

EFFECTIVE DATE: July 28, 1980.

FOR FURTHER INFORMATION CONTACT: Eugene Roberts, Office of Price Monitoring—(202) 456–7784 or Patrick Macfarland, Office of General Counsel—(202) 456–6286.

(Council on Wage and Price Stability Act, Pub. L. 93–387, as amended (12 U.S.C. 1904, note); E.O. 12092 (November 1, 1978); E.O. 12161 (September 28, 1979))

Issued in Washington, D.C., July 28, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

The Council is amending the last paragraph of § 705.79, Modified Two-Year Price Change for Gold and Silver Passthrough, to read as follows:

§ 705.79 Modified two-year price change for gold and silver passthrough.

* * * * *

Gold (silver) prices are calculated by taking the simple arithmetic averages of the closing prices on the COMEX in the base quarter. Thus, the base-quarter gold price is $203.030 per troy ounce ($5.472 per troy ounce for silver) and the prices for the 5th, 6th, and 7th program quarters are $413.117, $630.094, and $544.179 ($18.561, $32.512, and $14.318).

Thus,

$P_g(5) = \$413.117 - \$203.030 \times [(1.0 + .0854)] = \$192.78$,

$P_g(6) = \$630.094 - \$203.030 \times [(1.0 + .1025)] = \$406.253$,

$P_g(7) = \$554.179 - \$203.030 \times [(1.0 + .1206)] = \$316.664$,

$P_s(5) = \$18.561 - \$5.472 \times [(1.0 + .0777)] = \$12.664$,

$P_s(6) = \$32.512 - \$5.472 \times [(1.0 + .0939)] = \$26.526$,

$P_s(7) = \$14.318 - \$5.472 \times [(1.0 + .1104)] = \$8.242$.

The values of $P_g(8)$ and $P_s(8)$ will be calculated by the Council when the gold and silver prices in the eighth program quarter are known.

[FR Doc. 80-23137 Filed 7-31-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amendment 39]

National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On December 21, 1979, there was published in the **Federal Register** (44 FR 75648) a proposed amendment to 7 CFR Part 210, National School Lunch Program regulations, which eliminated the restriction on the use of program funds for out of state travel of school lunch personnel and deleted the language in the regulation which cited the purchase of passenger automobiles as a restricted program cost. This rule finalizes the proposal.

EFFECTIVE DATE: This rule shall be effective as of July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Chief, Program and Policy Development Branch, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–9069.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule on December 21, 1979 (44 FR 75648) to amend 7 CFR Part 210.7(b), entitled "Use of Funds." This section of the regulations currently states that only funds from sources other than Federal sources or children's payments for lunches shall be used to finance (1) out-of-State travel of school lunch personnel or (2) the purchase of passenger automobiles. The December proposal would have deleted both these provisions from the National School Lunch Program regulations. The rationale presented in the proposal for deleting these was that (1) travel of school lunch personnel is technically an allowable program cost under Office of Management and Budget Circular A–102 and Federal Management Circular 74–4 and should be permitted as an allowable cost and (2) the purchase of passenger automobiles, while not an allowable cost, is only one example of unallowable program costs which may not be claimed for Federal reimbursement. FNS Instruction 796–1 contains a list of such unallowable costs and includes passenger automobiles. Thus, current regulations are misleading. Also, the current Special Milk Program and School Breakfast Program regulations do not cite any examples of unallowable costs such as are found in the lunch regulations. Therefore, the Department proposed on December 21, 1979 to make the content and wording of the National School Lunch Program regulations consistent with the OMB and Federal Management Circulars, FNS Instructions, and the wording and intent of Special Milk and School Breakfast Program regulations.

Public Comments

Interested persons and groups were given 60 days in which to submit comments, suggestions or objections regarding the proposed amendment. A total of 12 comments were received by the close of the official comment period, February 19, 1980. Ten of these commentors fully supported the proposal, while the remaining two objected to the proposal and suggested that the restrictions be extended to the Special Milk and School Breakfast Programs.

Commentors who supported the proposal stated that eliminating the restrictions on the use of Federal school lunch funds and children's payments for travel of school lunch personnel, thus making the lunch regulations consistent with both the milk and breakfast programs (Parts 215 and 220,

respectively), would be more manageable and consistent where all three of these School Nutrition Programs are operated by an individual School Food Authority and where income accruing to each program is held by a single food service account.

One commentor who supported the proposed rule recommended that the rule be made retroactive to the beginning of the 1979–1980 school year upon final publication. We agree that eliminating this restriction on the use of lunch program funds would be beneficial to overall program operations. However, if this rule was made retroactive to the previous school year, considerable adjustments would have to be made to food service accounts. Therefore, the Department has determined that this rule will be effective July 1, 1980.

The two commentors who objected to the proposal stated that with increasing costs of food, these funds should be used solely for nutritional purposes for the students. It was also stated that at a time when fiscal accountability is receiving increased attention and an overall reduction in program funding is being proposed in USDA's FY 1980 budget, program funds should be focused on those areas which yield the greatest benefits to children. However, the Department believes the use of lunch program funds for the travel of school lunch personnel will increase the availability of funds needed for training, a very important part of program improvement which can have a major impact on the quality of services and benefits delivered to children, and thus, has retained the provision as proposed.

Comments received from several respondents supporting the proposal indicate that they believed the proposed amendment removed the restriction on the use of lunch program funds for the purchase of passenger automobiles.

However, this was not the intent, although the proposed preamble was not clear on this point. Capital expenditures for passenger automobiles and for other capital assets may not be claimed as allowable costs for federal reimbursement. FNS Instruction 796–1, Exhibit D, lists those costs which are not eligible for federal reimbursement and serves as the basis for this policy. Because the purchase of passenger automobiles was cited as an unallowable cost only in the lunch regulations we felt it was confusing since it is only one of several unallowable costs under each of the three School Nutrition Programs. This final rule will delete inconsistent and misleading regulatory wording from the lunch program regulations.

This final rule also deletes the wording which restricts the use of lunch program funds for out of state travel of school lunch personnel. As stated above and in the proposed rule, such a restriction is inconsistent with OMB Circular A–102 and FMC 74–4, which lists travel costs as allowable program costs. This change will bring the lunch regulation wording and intent into conformance with the School Breakfast and Special Milk Programs.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, 7 CFR Part 210 is amended as follows:

1. § 210.7(b) is amended to read as follows:

§ 210.7 Use of funds.

* * * * *

(b) Income accruing to the lunch program in any school shall be used only for Program purposes: *Provided, however,* That such income shall not be used to purchase land, to acquire or construct buildings, or to make alterations of existing buildings.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555, National Archives Reference Services)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis has been prepared and is available from Stanley C. Garnett, Program and Policy Development Branch, School Programs Division, USDA, FNS, Washington, D.C. 20250.

(Sec. 10, P.L. 89642, (80 Stat. 889))

Dated: July 24, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-22801 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 301

Domestic Quarantine Notices; Gypsy Moth and Browntail Moth; List of Hazardous Recreational Vehicle Sites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the list of gypsy moth hazardous recreational vehicle sites under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations by adding a site in Pennsylvania. This amendment is necessary as an emergency measure in order to prevent the artificial spread of gypsy moth.

DATES: Effective date of this amendment August 1, 1980. Written comments concerning this final rule must be received on or before October 1, 1980.

ADDRESS: Written comments concerning this final rule should be submitted to H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because of the possibility that gypsy moth could be spread artificially to noninfested areas of the United States. This situation requires immediate action to better control the spread of this pest.

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.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning the final rule. Comments should bear a reference to the date and page numbers of this issue of the **Federal Register**. All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a highly destructive pest of forest trees. The Gypsy Moth and Browntail Moth Quarantine and Regulations (7 CFR 301.45 *et seq.*) quarantines certain States because of the gypsy moth, including Pennsylvania, and restricts the interstate movement from quarantined States of articles designated as regulated articles because of the gypsy moth. Such restrictions are necessary for the purpose of preventing the artificial spread of the gypsy moth.

In § 301.45–1(v) of the regulations (7 CFR 301.45–1(v)) recreational vehicles and associated equipment are listed as regulated articles because of the gypsy moth if moving from hazardous recreational vehicle sites listed in § 301.45–2c of the regulations (7 CFR 301.45–2c). It is provided in § 301.45–2(d) of the regulations (7 CFR 301.45–2(d)) that the Deputy Administrator shall list as hazardous in § 301.45–2c of the regulations any recreational vehicle site in a quarantined State in which gypsy moth has been found by an inspector, or in which there is a risk of infestation of the gypsy moth because of the proximity of the site to infestation of the gypsy moth.

Based on findings of egg masses, larvae, and pupae of the gypsy moth by inspectors of the U.S. Department of Agriculture and State agencies of Pennsylvania, it has been determined that the Colonel Denning State Park, a recreational vehicle site in Cumberland County in Pennsylvania harbors infestations of the gypsy moth. Inspectors also found that this is a site where recreational vehicles and associated equipment are parked, or may be parked, and that the gypsy moth could hitchhike on and be spread by recreational vehicles and associated equipment moving from this site. Therefore, in order to prevent the artifical spread of gypsy moth, it is necessary as an emergency measure to add this recreational vehicle site to the list of hazardous recreational vehicle sites, and thereby impose restrictions on the interstate movement of recreational vehicles and associated equipment moving from such site.

Also, for purposes of information it should be noted that in documents published in the **Federal Register** on June 27, 1980 (45 FR 43366) and July 11, 1980 (45 FR 46784), the list of hazardous recreational vehicle sites was revised to read as follows:

Massachusetts

Barnstable County. Brewster: R. C. Nickerson State Park.

New Jersey

Burlington County. Shamong Township: Atsion Lake and Goshen Pond camping areas in Wharton State Forest.
Cape May County. Dennis Township: Belleplain State Forest.
Hunterdon County. Delaware Township: Bull's Island State Park.
Middlesex County. Old Bridge Township: Cheesequake State Park.
Monmouth County. Howell Township: Allaire State Park.
Sussex County. Hampton Township: Swartswood State Park.
Warren County. Pahaquary Township: Worthington State Forest.

Pennsylvania

Clinton County. Renovo: Evanco camping area.
Pike County. Dingman's Ferry: Bernie's Campground.

Accordingly, § 301.45–2c of the Gypsy Moth and Browntail Moth Quarantine and Regulations (7 CFR 301.45–2c), which, as noted above, was revised in documents published in the **Federal Register** on June 27 and July 11, 1980, is amended to read as follows:

§ 301.45–2c List of hazardous recreational vehicle sites.

The recreational vehicle sites listed below are designated as gypsy moth hazardous recreational vehicle sites within the meaning of the provisions of this subpart as indicated below.

Hazardous Recreational Vehicle Sites

Massachusetts

Barnstable County. Brewster: R. C. Nickerson State Park.

New Jersey

Burlington County. Shamong Township: Atsion Lake and Goshen Pond camping areas in Wharton State Forest.
Cape May County. Dennis Township: Belleplain State Forest.
Hunterdon County. Delaware Township: Bull's Island State Park.
Middlesex County. Old Bridge Township: Cheesequake State Park.
Monmouth County. Howell Township: Allaire State Park.
Sussex County. Hampton Township: Swartswood State Park.
Warren County. Pahaquary Township: Worthington State Forest.

Pennsylvania

Clinton County. Renovo: Evanco camping area.
Cumberland County. Colonel Denning State Park.
Pike County. Dingman's Ferry: Bernie's Campground.

(Secs. 8 and 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32, 71 Stat. 33; 7 U.S.C. 161, 162, 150dd, 150ee; 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 25th day of July 1980.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 80–23103 Filed 7–31–80; 8:45 am]
BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 910

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the rules and regulations to permit the optional use of upward adjustments by handlers in Districts 1 and 3 during the 1980–81 season of not to exceed 100 percent of their average weekly pick. This would allow such handlers the option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule 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." On June 24, 1980, notice was published in the **Federal Register** (45 FR 42313) inviting written comments on a proposed amendment to the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100–910.180) currently effective pursuant to the

applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was recommended by the Lemon Administrative Committee, established under the order as the agency to administer its terms and provisions.

Under the order the prorate base of each handler is based upon the handler's average weekly pick (the average weekly amount of lemons harvested and delivered to such handler's packinghouse during a specified number of weeks preceding the computation date). In recognition of the fewer number of weeks during which lemons are harvested in Districts 1 and 3, the order provides that the handlers in such districts may request and be granted an upward adjustment in their average weekly pick to accelerate their receipt of allotment during the first half of their season, subject to payback during the last half of their season of the extra allotment received. The order provides in § 910.53(h) that the percentage of adjustment, specified in §§ 910.53(f)(1) and 910.153(e)(3), may be changed. Provision for 100 percent upward adjustment of average weekly pick of handlers in Districts 1 and 3 is currently in effect through July 31, 1980. Unless extended, the maximum upward adjustment permitted is 50 percent. The committee recommended that the current provision be extended to permit the optional use of upward adjustments by handlers in Districts 1 and 3 of not to exceed 100 percent of their average weekly pick during the 1980–81 season. This would allow such handlers the continued option of receiving a larger proportion of their allotment earlier in the season, and enable them to use their proportionate share of the marketing opportunity more advantageously.

This added flexibility would be provided by an amendment to § 910.153 (e)(3) Subpart—Rules and Regulations (7 CFR Part 910.100–910.180).

After consideration of all relevant matters presented, including the proposal in the notice and other available information, it is hereby found that amendment of said rules and regulations is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) the handling of lemons is now in progress subject to regulated weekly allotment provisions of the order and to be of maximum benefit the provisions of this amendment should become effective at the time specified herein, (2) the recommendation of the committee was made at a public meeting at which all interested parties were afforded an opportunity to express their views, (3) no objection was received about the terms of the amendment or the effective time in response to the notice published in the **Federal Register**, (4) the amendment continues in effect the current more liberal provisions for upward adjustment of allotments, and (5) the effective time hereof will not require of handlers any preparation that cannot be completed prior thereto.

Therefore, the first sentence in § 910.153(e)(3) is revised to read as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(3) *Granting of upward adjustment for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1) the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of such handler's average weekly pick: *Provided, however,* That during the period August 1, 1980, through July 31, 1981, upon request of any such handler, the committee shall adjust such handler's average weekly pick in the amount requested but not in excess of 100 percent. * * *

* * * * *

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

Dated July 28, 1980, to become effective August 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23100 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 263]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 3–9, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 3, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is 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 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 July 29, 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 week. The committee reports the demand for lemons is easier.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 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). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.563 Lemon Regulation 263.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 3, 1980, through August 9, 1980, is established at 275,000 cartons.

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

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

Dated: July 30, 1980.

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

[FR Doc. 80-23373 Filed 7-31-80; 8:45 am]

7 CFR Part 917

[Pear Reg. 10]

Fresh Pears, Plums, and Peaches Grown in California; Grade, Size, and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, and container requirements for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears. The regulation takes into consideration the marketing situation facing the California pear industry and is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: August 1, 1980, through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant". On July 14, 1980, notice was published in the **Federal Register** (45 FR 47154) inviting written comments on proposed grade, size, and container requirements applicable to California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears during the 1980 season. No such material was submitted.

This regulation is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. 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 Pear Commodity Committee, and upon other available information.

The regulation is based upon an appraisal of the current and prospective market conditions for California pears. The committee estimates that 3,705 cars of pears will be available for fresh shipment during the 1980 season compared to actual shipment of 2,968 cars last season.

Under the regulation, shipments of Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears must grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading U.S. No. 1 and be of a size not smaller than the size known commercially as size 165. Containers must be marked with the name of the variety. Pears when packed in closed containers must conform to the requirements of standard pack, except such pears may be fairly tightly packed. Pears when packed in other than closed containers must not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive. Volume fill cartons (pears not packed in rows and not wrap packed) must be well filled with pears uniform in size, packed fairly tight, include a top pad in each carton, and the top of the carton must be securely fastened to the bottom.

The grade and size requirements are designed to ensure the shipment of ample supplies of pears of the better grades and more desirable sizes in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller-size pears when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of pears are currently in progress and this regulation should be applicable to all shipments made during the season in order to effectuate the declared policy of the act; (2) the regulation is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Therefore, a new § 917.455 Pear Regulation 10 is added to read as follows: (§ 917.455 expires July 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 917.455 Pear Regulation 10.

(a) During the period August 1, 1980, through July 31, 1981, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, unless such box or container conforms to the requirements of standard pack; except, that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive: *Provided*, That 10 percent of the containers in any lot may fail to meet the requirements of this paragraph; and

(6) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each carton that will cover the fruit with no more than ¼ inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom:

Provided, That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(3) "Standard pear box" means the container so designated in § 1380.19 of the regulations of the California Department of Food and Agriculture.

(4) "U.S. No. 1", "U.S. Combination", and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (summer and fall) 7 CFR 2851.1260–2851.1280.

(5) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g. an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

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

Dated: July 30, 1980, to become effective August 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23374 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 921

[Peach Regulation 17]

Fresh Peaches Grown in Designated Counties in Washington; Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation specifies minimum grade and size requirements for fresh shipments of Washington peaches for the 1980–81 marketing season. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: August 1, 1980, through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* 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." Notice of rulemaking was published in the **Federal Register** on June 24, 1980 (45 FR 42313) that the Secretary was considering issuance of a handling regulation designed to promote orderly marketing of peaches grown in the production area. The notice allowed interested persons until July 21, 1980, to submit written comments pertaining to the proposals. None were received.

This regulation is issued under the marketing agreement, as amended, and Order No. 921, as amended (7 CFR Part 921), regulating the handling of fresh peaches grown in Washington. 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 Washington Fresh Peach Marketing Committee and upon other information.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

The regulation is based upon the Department's appraisal of the current and prospective crop and marketing conditions. Fresh shipments of Washington peaches in 1980 are estimated at 9,300 tons compared with 8,628 tons last season. The grade and size requirements are necessary to prevent the shipment of Washington peaches of a lower grade and smaller size than specified and are necessary to provide ample supplies of good quality peaches in the interest of producers and consumers pursuant to the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as herein specified, was published in the **Federal Register**, and no objection to this regulation or such effective date was received; (2) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of peaches are expected to be in progress on and after the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act.

Accordingly, it is found that the requirements for handling of peaches should be and are established as follows: (§ 921.317 Peach Regulation 17 expires July 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 921.317 Peach Regulation 17.

(a) During the period August 1, 1980 through July 31, 1981, no handler shall handle any lot of peaches unless such peaches meet the following applicable requirements, or are handled in accordance with subparagraph (5) of this paragraph.

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided,* That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the western lug box or the standard peach box.

(2) *Minimum size.* (i) Such peaches of any variety, except peaches of the Elberta varieties, when packed in any container except the standard peach box, shall measure not less than 2⅜ inches in diameter;

(ii) Such peaches of any variety when packed in the standard peach box shall measure not less than 2¼ inches in diameter; and

(iii) Such peaches of the Elberta varieties when packed in any container shall measure not less than 2¼ inches in diameter.

(3) *Uniform firmness.* Such peaches in individual containers shall have a reasonably uniform degree of firmness.

(4) *Pack.* (i) Such peaches in loose or jumble packs shall be in containers of a capacity equal to or greater than that of a western lug box and shall contain not less than 26 pounds net weight of peaches: *Provided,* That such containers of peaches having less than 26 pounds net weight may be handled if such containers are well filled; and

(ii) Such peaches other than peaches in loose or jumble packs in any containers shall meet the standard pack requirements as set forth in the Washington Standards for Peaches.

(Order No. 1212), or the U.S. Standards for Peaches (7 CFR 2851.1210 *et seq.*).

(5) Notwithstanding any other provisions of this section, any individual shipment of peaches sold by the producer or at an established packinghouse which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 921.41 (Assessments), and of § 921.55 (Inspection and Certification) if:

(i) The shipment consists of peaches sold for home use and not for resale; and

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of peaches.

(b) The terms "Washington Extra Fancy Grade," and "Washington Fancy Grade," shall have the same meaning as when used in the Washington Standards for Peaches (effective October 18, 1971), issued by the State of Washington Department of Agriculture; the term "loose or jumble pack" shall mean that the peaches are not placed in the container in rows, cups, compartments, or otherwise are not placed in the containers in symmetrical order; the term "standard peach box" shall mean a container with inside dimensions of 4¼ to 6 by 11½ by 16 inches; the term "western lug box" shall mean any container with inside dimensions of 7 by 11½ by 18 inches; the term "well filled" shall mean the level of fruit is filled at least to the top edge of the container; the term "diameter" shall mean the greatest distance measured through the center of the peach at right angles to a line running from the stem to the blossom end; and all other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: July 29, 1980, to become effective August 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23249 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 924

[Prune Regulation 18]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oreg.; Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation prescribes minimum grade and size requirements on the handling of fresh Washington-Oregon prunes during August 1, 1980, through July 31, 1981. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: August 1, 1980, through July 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* 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." Notice of rulemaking was published in the **Federal Register** on June 24, 1980 (45 FR 42314) that the Secretary was considering issuance of a handling regulation designed to promote orderly marketing of prunes grown in the production area. The notice allowed interested persons until July 21, 1980, to submit written comments pertaining to the proposals. None were received.

This regulation is issued under the marketing agreement, as amended, and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon. 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 Washington-Oregon Fresh Prune Marketing Committee and upon other information.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

The regulation is based upon the Department's appraisal of the current and prospective crop and marketing conditions. Fresh shipments of Washington-Oregon prunes in 1980 are estimated at 18,000 tons compared with 16,247 tons last season. The grade and size requirements are necessary to prevent the shipment of Washington-Oregon prunes of a lower grade and smaller size than specified and are necessary to provide ample supplies of good quality prunes in the interest of producers and consumers pursuant to the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation, with an effective date as herein specified, was published in the **Federal Register**, and no objection to this regulation or such effective date was received; (2) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of prunes are expected to be in progress on and after the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such prunes in order to effectuate the declared policy of the act.

Accordingly, it is found that the requirements for handling prunes should be and are established as follows: (§ 924.318 expires July 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 924.318 Prune Regulation 18.

(a) During the period August 1, 1980, through July 31, 1981, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless:

(1) Such prunes grade at least U.S. No. 1, except that only two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided,* That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fails to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay, or

(2) Such prunes are handled in accordance with paragraph (b) of this section.

(b) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds

net weight, of prunes of the Stanley or Merton varieties of prunes, or 350 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 2851.1520–2851.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 29, 1978), and in the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

(d) Prune Regulation 17 (44 FR 44145) is hereby terminated August 1, 1980.

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

Dated July 29, 1980 to become effective August 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23247 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 948

Irish Potatoes Grown in Colorado—Area No. 2; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the Colorado Area No. 2 Potato Committee for the 1980–81 fiscal period. It enables the committee to collect assessments from first handlers on assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: *Findings.* 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."

Pursuant to Marketing Order No. 948, as amended (7 CFR Part 948), regulating the handling of potatoes grown in Colorado, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other information, it is found that the expenses and rate of assessment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable potatoes from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open public meeting of the committee held June 26, 1980, in Monte Vista. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

7 CFR Part 948 is amended by adding a new § 948.284 as follows:

§ 948.284 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1980, by the Area No. 2 Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $25,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be $0.003086 per hundredweight or equivalent quantity of assessable potatoes handled by him as the first handler during the fiscal period except seed potatoes and potatoes for canning, freezing and "other processing" as defined in the act shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 948.78.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: July 29, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23250 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 948

Irish Potatoes Grown in Colorado—Area No. 3; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Colorado—Area No. 3 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE. August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Final Impact Statement relative to this final rule 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."

Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 3 Potato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the July 18, 1980, **Federal Register** (45 FR 48153) inviting comments by July 28, 1980. None was received.

This regulation is based upon recommendations made by the committee at its public meeting in Greeley, Colorado, on June 10, 1980.

The grade, size, maturity and inspection requirements specified herein

are similar to those issued during the previous season. They are necessary to prevent potatoes of low quality or less desirable sizes form being distributed to fresh market outlets. They will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments are permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed likewise are exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are likewise exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling may be handled without regard to maturity requirements since skinning of such potatoes is of no consequence. Also, the maturity requirements terminate on December 31, 1980, because at that stage of the marketing season potatoes are generally mature with skins firmly set.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the Colorado Area No. 3 Potato Committee, established pursuant to said marketing agreement and order, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

7 CFR Part 948 is amended by adding a new § 948.383 as follows:

§ 948.383 Handling regulation.

During the period August 1, 1980, through June 30, 1981, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b) and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Grade and size requirements—All Varieties.* U.S. No. 2 or better grade, 1⅞ inches minimum diameter or 4 ounces minimum weight. However, Size B may be handled if U.S. No. 1 grade.

(b) *Maturity (skinning) requirements—All varieties.* Through December 31, 1980, for U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned"; thereafter no maturity requirements.

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy if made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing, and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per shipment without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 2851.1540–2851.1566) including the tolerances set forth therein. The term "prepeeling" means the commercial preparation in a prepelling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 2852.2421–2852.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1980, through June 4, 1981, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

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

Dated July 29, 1980 to become effective August 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-23248 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export and Import of Nuclear Equipment and Material; Commission Review of Export License Application

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission has amended its regulations to narrow and clarify those classes of export license applications which will require Commissioner review. The Commission has determined that certain classes of nuclear export license applications do not raise issues which require review by the Commission.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301–492–8155).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has reviewed its processing of nuclear export license applications under the Atomic Energy Act of 1954, as amended, and the Nuclear Non-Proliferation Act of 1978 and determined that certain classes of nuclear export license applications do not raise issues which require review by the Commissioners. Therefore, the Commission has amended § 110.40(b)(5) of 10 CFR Part 110 to delegate additional authority to the NRC staff to act upon certain classes of applications without prior consultation with the Commissioners.

Presently, the Commissioners review all proposed exports to countries to which they had not previously authorized an export pursuant to the Nuclear Non-Proliferation Act of 1978. Under the amended paragraph, the Commissioners will review only applications for licenses to export source or special nuclear material for peaceful nuclear uses, or components, items and substances subject to section 109b. of the Atomic Energy Act of 1954, as amended, to such countries. In addition the Commission has amended § 110.40(b) (2) and (4) to clarify their intent.

Because these amendments relate solely to matters of internal agency management, notice of proposed rulemaking and public procedure thereon are not required by section 553 of Title 5 of the United States Code.

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

1. Section 110.40(b)(2), (4) and (5) are revised to read as follows:

§ 110.40 Commission review.

* * * * *

(b) License applications for export of the following will be reviewed by the Commissioners:

* * * * *

(2) One effective kilogram or more of high enriched uranium and uranium-233 and plutonium (except plutonium comprised of 80% or more of Pu–238);

* * * * *

(4) NRC-licensed export cases involving reprocessing, enrichment or heavy water activities;

(5) Any other proposed export of source or special nuclear material for nuclear use if the export would be to a country to which the Commissioners have not previously authorized such an export pursuant to the Nuclear Non-Proliferation Act.

* * * * *

(Sec. 161 p., Pub. L. 83–703, 68 Stat. 948; Pub. L. 85–507, 72 Stat. 327 (42 U.S.C. 2201 (p.); sec. 201, Pub. L. 93–438, 88 Stat. 1243 (42 U.S.C. 5841)))

Dated at Washington, D.C., this 28th day of July 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-23257 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 79F-0463]

Adhesives; Indirect Food Additives: Adhesive Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of ethylene-vinyl acetate-carbon monoxide terpolymer as a component of adhesives in articles for food-contact use. This action is based on a food additive petition filed by E.I. du Pont de Nemours & Co.

DATES: Effective August 1, 1980. Objections by September 2, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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: A notice published in the **Federal Register** of January 8, 1980 (45 FR 1690) announced that a food additive petition (FAP 9B3456) had been filed by E.I. du Pont de Nemours & Co., Wilmington, DE 19897, proposing to amend § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of ethylene-vinyl acetate-carbon monoxide terpolymer as a component of adhesives in articles for food-contact use.

FDA has evaluated data in the petition and other relevant material and finds that § 175.105 should be amended as set forth below to include the petitioned additive.

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 an environmental impact statement, therefore, is not required. The agency's finding of no significant impact and the evidence supporting this finding, including a statement of exemption under 21 CFR 25.1(f)(1)(v), may be seen in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4:30 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.105(c)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Ethylene-vinyl acetate-carbon monoxide terpolymer (CAS Registry No. 26337-35-9), containing not more than 15 weight percent of units derived from carbon monoxide.	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 2, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with partcularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 1, 1980.

(Secs. 201(s), 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371))

Dated: July 25, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–23142 Filed 7–31–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1169]

Obstetrical and Gynecological Devices; Classification of Scented or Scented Deodorized Menstrual Pads

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations that classify scented menstrual pads. The agency is changing the name of the device to "scented or scented deodorized menstrual pads" and is clarifying the intent of the regulation.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Adminisration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 3, 1979 (44 FR 19964), FDA proposed to classify scented deodorized menstrual pads into class II (performance standards).

In the final rule classifying this generic type of device, (45 FR 12713, February 26, 1980), FDA, on its own accord, deleted the word "deodorized," from the name of the device. Manufacturers have pointed out that the deletion of the word "deodorized," from the device name, together with the discussion in paragraph 4 of the preamble to the final rule imply that menstrual pads represented to be deodorized are misbranded unless they are treated with an antimicrobial agent or other drug. This was not the agency's intent. Also, such an interpretation is contrary to a rule published in the Federal Register of March 3, 1975 (40 FR 8926) in which the term "deodorized" was defined. The agency is issuing this clarification of § 884.5425 to distinguish between "scented" and "scented deodorized" pads and to correct the misimpression it may have created that "deodorized" pads currently on the market are misbranded. Therefore, the following paragraph is substituted for paragraph 4 of the preamble to the final rule:

4. This regulation is intended to include menstrual pads which have scent added for an aesthetic effect (scented pads) and menstrual pads which have scent added as a masking agent to achieve a deodorizing effect (scented deodorized pads). A scented deodorized pad is one that has the effect of masking or neutralizing odor. Any menstrual pad product that is labeled as "deodorized" or whose labeling uses words to convey the same meaning, and that does not achieve that effect, is misbranded because its labeling is false or misleading. Menstrual pads treated with an antimicrobial agent or other drug would be regulated as drug products, not as devices.

FDA has clarified that the regulation also applies to sterile scented menstrual pads for medically indicated conditions, such as those used in hospitals.

Elsewhere in this issue of the Federal Register, FDA is issuing a correction to the final rule that sets forth general provisions applicable to the classification of obstetrical and gynecological devices.

This amendment only clarifies § 884.5425 of the February 26, 1980 final rule. Thus, for good cause, the Commissioner of Food and Drugs finds that under the Administrative Procedure Act (5 U.S.C. 553(b)(B)), notice and public procedure are unnecessary and contrary to the public interest.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 884 is amended in § 884.5425, by revising the section heading and paragraph (a) to read as follows:

§ 884.5425 Scented or scented deodorized menstrual pad.

(a) *Identification.* A scented or scented deodorized menstrual pad is a device that is a pad made of cellulosic or synthetic material which is used to absorb menstrual or other vaginal discharge. It has scent *(i.e.,* fragrance materials) added for aesthetic purposes (scented menstrual pad) or for deodorizing purposes (scented deodorized menstrual pad). This generic type of device includes sterile scented menstrual pads used for medically indicated conditions, but does not include menstrual pads treated with added antimicrobial agents or other drugs.

* * * * *

Effective date. This regulation shall be effective September 2, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: July 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–22796 Filed 7–31–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1171]

Obstetrical and Gynecological Devices; Classification of Scented or Scented Deodorized Menstrual Tampons

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations that classify scented

menstrual tampons. The agency is changing the name of the device to "scented or scented deodorized menstrual tampon" and is clarifying the intent of the regulation.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1979 (44 FR 19965), FDA proposed to classify scented deodorized menstrual tempons into class II (performance standards).

In the final rule classifying this generic type of device (45 FR 12715; February 26, 1980), FDA, on its own accord, deleted the word "deodorized" from the name of the device. Manufacturers have pointed out that the deletion of the word "deodorized" from the device name, together with the discussion in paragraph 6 of the preamble to the final rule imply that menstrual tampons represented to be deodorized are misbranded unless they are treated with an antimicrobial agent or other drug. This was not the agency's intent. Also, such an interpretation is contrary to a rule published in the **Federal Register** of March 3, 1975 (40 FR 8926) in which the term "deodorized" was defined. The agency is issuing this clarification of § 884.5460 to distinguish between "scented" and "scented deordorized" tampons and to correct the misunderstanding it may have created that "deodorized" tampons currently on the market are misbranded. Therefore, the following paragraph is substituted for paragraph 6 of the preamble to the final rule:

6. This regulation is intended to include menstrual tampons which have scent added for an aesthetic effect (scented tampons) and menstrual tampons which have scent added as a masking agent to achieve a deodorizing effect (scented deodorized tampons). A scented deodorized tampon is one that has the effect of masking or neutralizing odor. Any tampon product that is labeled as "deodorized" or whose labeling uses words to convey the same meaning, and that does not achieve that effect, is misbranded because its labeling is false or misleading. Tampons treated with an antimicrobial agent or other drug would be regulated as drug products, not as devices.

Also, because tampons are made from both cotton and wood pulp materials that are cellulosic, FDA has changed the identification to show the device is made from "cellulosic" rather than "cotton" materials.

Elsewhere in this issue of the **Federal Register**, FDA is issuing a correction to the final rule that sets forth general provisions applicable to the classification of obstetrical and gynecological devices.

This amendment only clarifies § 884.5460 of the February 26, 1980 final rule. Thus, for good cause, the Commissioner of Food and Drugs finds that under the Administrative Procedure Act (5 U.S.C. 553(b)(B)), notice and public procedure are unnecessary and contrary to the public interest.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 884 is amended in § 884.5460 by revising the section heading and paragraph (a) to read as follows:

§ 884.5460 Scented or scented deodorized menstrual tampon.

(a) *Identification.* A scented or scented deodorized menstrual tampon is a device that is a plug made of cellulosic or synthetic material that is inserted into the vagina and used to absorb menstrual or other vaginal discharge. It has scent (*i.e.*, fragrance materials) added for aesthetic purposes (scented menstrual tampon) or for deodorizing purposes (scented deodorized menstrual tampon). This generic type of device does not include menstrual tampons treated with added antimicrobial agents or other drugs.

* * * * *

Effective date. This regulation shall be effective September 2, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: July 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–22796 Filed 7–31–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1106]

Obstetrical and Gynecological Devices; General Provisions Applicable to Classification; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule regarding general provisions applicable to the classification of obstetrical and gynecological devices to change the names of two devices that were being classified.

EFFECTIVE DATE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–5745 appearing at page 12682 in the **Federal Register** of Tuesday, February 26, 1980, FDA published a final rule regarding general provisions applicable to the classification of obstetrical and gynecological devices. Manufacturers have pointed out possible misinterpretations that may be drawn from changes in the names of two devices. In reponse to these comments, the agency is changing the names of these two devices. Elsewhere in this issue of the **Federal Register** the agency is publishing clarifications of the final rules classifying these two devices.

Therefore, effective September 2, 1980, the list of obstetrical and gynecological therapeutic devices in the preamble of the final rule appearing at 45 FR 12683 is corrected by changing the names of two devices to read as follows:

Section	Device	Docket No.	Class
*	* * * *		
	SUBPART F—OBSTETRICAL AND GYNECOLOGICAL THERAPEUTIC DEVICES		
*	* * * *		
884.5425	Scented or scented deodorized menstrual pad.	78N–1169	11
884.5460	Scented or scented deodorized menstrual tampon.	78N–1171	11
*	* * * *		

Dated: July 22, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–22797 Filed 7–31–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R–80–780]

Loans for Housing for the Elderly or Handicapped; Cost Limits

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

ACTION: Final rule.

SUMMARY: This Amendment will update the presently established cost limits (zero to 2-bedroom units) for the Section 202 direct loan program for housing for the elderly and handicapped.

Additionally, it establishes cost limits for three and for four or more bedroom units to accommodate the non-elderly handicapped with large families.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Jr., Director, Office of Multifamily Housing Development, Washington, D.C. 20410. Telephone (202) 755-5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 11, 1980, a proposed revision to update the cost limits in the Section 202 program regulation (24 CFR Part 885) was published in the **Federal Register** at 45 FR 24903 for public comment. The deadline for submitting comments was May 12, 1980. HUD received no comments by the deadline and is adopting this final rule as it was published.

Many Section 202 program clients are currently encountering cost problems throughout the country because of the outdated cost limits contained in the present regulations. Moreover, the problem will be aggravated if construction is not underway by the end of the fiscal year due to the prospect of increased interest rate in fiscal year 1981. Since the amendment contained in this Final Rule is intended to alleviate this situation, the Department has determined that there is good cause for not requiring a 30-day delay in the effective date after publication of this Rule. Accordingly, this Final Rule becomes effective on the date set forth above.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. In addition, the Chairman 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 delay of effective date required by Section 7(o)(3) of the Department of Housing and Urban Development Act. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Part 885, § 885.410 is amended by deleting (b)(1), (2), and (3) and (c)(1), (2), and (3) and adding new (b)(1)–(5) and (c)(1)–(5) to read as follows:

Note.—The latest revision of § 885.410 appeared in the **Federal Register** of March 1, 1978 (43 FR 8492).

§ 885.410 Amount and terms of financing.

* * * * *

(b) For such part of the property or project attributable to dwelling use (excluding exterior land improvement as defined by the Assistant Secretary) the maximum loan amount, depending on the number of bedrooms shall be:

(1) $22,900 per family unit without a bedroom,

(2) $26,550 per family unit with one bedroom,

(3) $31,500 per family unit with two bedrooms,

(4) $37,100 per family unit with three bedrooms, restricted to non-elderly handicapped families,

(5) $42,000 per family unit with four or more bedrooms, restricted to non-elderly handicapped families.

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit as provided in paragraph (b) of this section, not to exceed:

(1) $26,400 per family unit without a bedroom,

(2) $30,550 per family unit with one bedroom,

(3) $36,200 per family unit with two bedrooms,

(4) $42,750 per family unit with three bedrooms, restricted to non-elderly handicapped families,

(5) $48,700 per family unit with four or more bedrooms, restricted to non-elderly handicapped families.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., July 16, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-23256 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Parts 11 and 1999

National Environmental Policy Act (NEPA) Compliance Procedures

AGENCY: Department of Labor.

ACTION: Final rulemaking.

SUMMARY: These proposed rules set out procedures to be used by Department of Labor agencies to insure compliance with the National Environmental Policy Act of 1969 (NEPA) in accordance with regulations issued by the Council on Environmental Quality. These procedures would replace 29 CFR Part 1999, "OSHA's Procedures for the Preparation and Circulation of Environmental Impact Statements," with a new Part (29 CFR Part 11) applicable to all Department of Labor agencies.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Copeland, Director, Office of Health and Disability, ASPER, Room S-2121, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202-523-7303).

SUPPLEMENTARY INFORMATION: The Department received three comments from two sources on its proposed rules. One encouraged the use of newspapers as a method of giving notice under proposed 29 CFR 11.13. The second suggested the use of State Clearinghouses for the same purpose. The third suggested two changes to insure properties listed in, or eligible for listing in, the National Register of Historic Places, would be covered by the regulations.

Consistent with CEQ regulations on giving notice in the case of an action with effects primarily of local concern, 40 CFR 1506.6(b)(3), the notice section of the DOL regulations, has been altered to assure that DOL agencies are aware they are to use clearinghouses and newspapers as well as other means to obtain public distribution of appropriate notices and proposals. The use of newspapers is to be limited, however, to press release or other notice to such papers, rather than the purchase of advertising space. This applies also to the use of other media.

Most DOL agencies are not likely to encounter a problem involving the National Register of Historic Places. Since proposed 29 CFR 11.1(a) stated that the DOL regulations supplement CEQ's regulations, and the CEQ regulations note how to take such a problem into account should it arise (40 CFR 1508.27), the Department finds no

need to deal with this issue in a general sense. This concern is, however, more likely to arise in the case of certain real property actions. Proposed 29 CFR 11.11(c)(5) has therefore been altered to assure attention to this matter, and to assure consistency with an existing Job Corps regulation on this matter (20 CFR 684.24a).

The references in the proposal to Job Corps actions affecting real property have been expanded to encompass any Department action of this nature to assure that all agencies recognize their obligations in this regard. References to Departmental procedures implementing Executive Orders 11988 and 11990, in connection with floodplains and wetlands protection, have been inserted in this context to eliminate any confusion that might arise in this regard.

In addition, the circumstances under which socioeconomic factors are to be considered in connection with such real property actions have been clarified, consistent with CEQ regulations and judicial decision. As explained in 40 CFR 1508.14: "Economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment." This is consistent with the decision of the United States Court of Appeals for the Eighth Circuit in a case involving the Job Corps, *Como-Falcon* v. *U.S. Department of Labor*, 609 F.2d 342 (1979), cert. denied, 48 L.W. 3733 (1980). In the proposal, however, 29 CFR 11.11(c) may have implied that despite this limitation, environmental assessments used to determine whether an environmental impact statement must be prepared *had* to explore social and economic factors. Obviously this was not the intent. The proposal did intend, however, to encourage DOL agencies to analyze these factors as early as possible, as they are important for Departmental decisionmaking apart from their significance in connection with NEPA requirements. The final rule has been clarified in this regard so as not to impose any legal requirements in connection with NEPA that go beyond the interpretation of CEQ and the courts.

This document was prepared under the direction of Ray Marshall, Secretary of Labor, U.S. Department of Labor, Room S–2018, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to the NEPA (42 U.S.C. 4321, *et seq.*), Executive Order No. 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977), and the Council on Environmental Quality's Regulations entitled National Environmental Policy Act, Implementation of Procedural Provisions (40 CFR Parts 1500–1508), Title 29 of the Code of Federal Regulations is amended, as set forth below, by adding a new Part 11 containing Departmental procedural rules for the implementation of NEPA, and by revoking Part 1999 containing procedural rules in this connection applicable only to OSHA.

Signed at Washington, D.C. this 24th day of July 1980.

Ray Marshall,

Secretary of Labor.

1. A new Part 11, and subparts thereto, are added to Title 29 of the Code of Federal Regulations, reading as follows:

PART 11—DEPARTMENT OF LABOR NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE PROCEDURES

Subpart A—General Provisions

Sec.

11.1 Purpose and scope.
11.2 Applicability.
11.3 Responsible agency officials.

Subpart B—Administrative Procedures

11.10 Identification of agency actions.
11.11 Development of environmental analyses and documents.
11.12 Content and format of environmental documents.
11.13 Public participation.
11.14 Legislation.

Authority: NEPA, (42 U.S.C. 4321 *et seq.*), Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977) and Council on Environmental Quality Regulations (National Environmental Policy Act, Implementation of Procedural Provisions) 40 CFR Parts 1500–1508 (43 FR 55978).

Subpart A—General Provisions

§ 11.1 Purpose and scope.

(a) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) directs that, "to the fullest extent possible, * * * the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policies set forth" in the Act for the preservation of the environment. As a means for achieving this objective, Executive Order 11991 of May 24, 1977 (amending E.O. 11514 of March 5, 1970) directed the Council on Environmental Quality (CEQ) to issue uniform regulations for implementation of NEPA by all Federal agencies. These regulations were published in final form on November 29, 1978 (43 FR 55978) as 40 CFR Parts 1500–1508. The CEQ's NEPA regulations require that each Federal agency adopt implementing procedures to supplement their regulations (40 CFR 1507.3). Accordingly, the purpose of this Part is to prescribe procedures to be followed by Department of Labor agencies when such agencies are contemplating actions which may be subject to the requirements of NEPA. These regulations do not replace 40 CFR Parts 1500–1508; rather they are to be read together with, and as a supplement to, the CEQ's regulations.

(b) It is the responsibility of each agency to comply with the policies set forth in NEPA to the fullest extent possible and consistent with its statutory authority. Each agency shall comply with all applicable requirements of this Part except where compliance would be inconsistent with other statutory requirements. However, no trivial violation of, or noncompliance with, these procedures shall give rise to an independent cause of action (cf. 40 CFR 1500.3 and 1507.3(b)).

§ 11.2 Applicability.

Although all Department of Labor agencies are subject to NEPA, only three of its agencies routinely propose or consider actions which may require the preparation of environment assessments or environmental impact statements. These are the Occupational Safety and Health Administration (OSHA), which acts pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, *et seq.*); the Mine Safety and Health Administration (MSHA), which acts pursuant to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801, *et seq.*); and the Employment and Training Administration (ETA) (through one of its major programs, the Job Corps) which purchases and leases land and constructs Job Corps centers pursuant to the Comprehensive Employment and Training Act (29 U.S.C. 801, *et. seq.*). Therefore, these procedures have been designed primarily with the duties and rulemaking processes of these agencies in mind. If and when other Department of Labor agencies propose actions requiring environmental impact analyses, they shall use these procedures, to the extent that they are applicable, in performing such analyses.

§ 11.3 Responsible agency officials.

(a) The Assistant Secretary of Labor for Policy, Evaluation and Research (ASPER) shall be responsible for the following:

(1) Overall review of Department of Labor agency compliance with the requirements of NEPA, the CEQ's regulations and these Departmental procedures;

(2) Maintaining contacts with CEQ and the Environmental Protection Agency (EPA) as the Departmental NEPA liaison; and

(3) Preparing and coordinating Departmental comments in response to environmental impact statements prepared by other Federal agencies which have been submitted to the Department for review, as required by 40 CFR 1503.2.

(b) Assistant Secretaries of Labor and other officials of equivalent rank or responsibility (hereinafter "agency heads") shall be responsible for their agencies' compliance with NEPA.

(1) These responsibilities shall include the following:

(i) Assuring that the agencies under their control observe the requirements of 40 CFR 1507.2 on compliance capability;

(ii) Preparing environmental impact assessments and statements in accordance with the requirements of these regulations and 40 CFR Parts 1501 and 1502, and advising private applicants, or other non-Federal entities, of the possible need for information foreseeably required for later Federal action pursuant to 40 CFR 1501.2(d);

(iii) Assuring public participation in the NEPA process in accordance with 40 CFR Parts 1503 and 1506;

(iv) Commenting on environmental impact statements prepared by other agencies, when their agencies have jurisdiction by law or special expertise with respect to any environmental impacts connected with a proposed action, as required by 40 CFR Part 1503;

(v) Assuring that environmental documents prepared by their agencies accompany proposed actions through existing agency review processes, and that, along with other relevant materials, and consistent with 40 CFR 1505.1(e), the full range of alternatives discussed in these documents are considered in the planning of agency actions and in the making of decisions and that the alternatives considered are encompassed by those discussed in the documents; and

(vi) Assuring, where possible, the mitigation of adverse environmental effects of agency actions.

(2) In accordance with 40 CFR 1506.5(c), agency heads will also be responsible for assuring the quality of environmental impact statements prepared by their agencies. Where environmental impact statements will be prepared by a contractor, the agency heads will assure that their agencies furnish guidance to the contractor, participate in the document's preparation, independently evaluate the statement prior to approval and take responsibility for the scope and contents.

(c) Agency heads may designate program offices or individuals as NEPA contacts for their agencies. The name and address of the NEPA contact shall be included on the cover sheet of each environmental document published by the agency, or if no cover sheet is provided, the name and address of this office or individual shall be included with any instructions to the public on obtaining further information or submitting comments on the document.

(1) It shall be the duty of an agency's NEPA contact to know the status of all environmental documents being prepared by the agency or in cooperation with another agency.

(2) The NEPA contact shall receive and respond to inquiries concerning the status of all environmental documents being prepared within the agency or in cooperation with another agency.

Subpart B—Administrative Procedures

§ 11.10 Identification of agency actions.

Pursuant to the CEQ definition of "major Federal action" (40 CFR 1508.18) and 40 CFR 1507.3(b)(2), the following paragraphs identify and classify Department of Labor actions which: normally will not require preparation of an environmental document (i.e. an environmental assessment or an environmental impact statement); or usually will require preparation of an environmental document.

(a) *OSHA/MSHA actions.* Actions of the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) are classified as follows:

(1) *Categorically excluded actions.* OSHA/MSHA actions listed in the following Table will normally qualify for categorical exclusion from NEPA requirements: i.e., such actions do not require preparation of either an environmental assessment or an environmental impact statement, because they do not have a significant impact on the quality of the human environment. Classification as a categorical exclusion, however, does not prohibit OSHA or MSHA from preparing an environmental assessment or environmental impact statement on any of the following actions when OSHA or MSHA determines it to be appropriate. Also, in extraordinary circumstances where a normally excluded action is found to have a potentially significant environmental effect, OSHA or MSHA shall prepare an environmental assessment and/or an environmental impact statement as required

OSHA/MSHA Categorical Exclusions

Type of action	Reason for exclusion
(i) Promulgation, modification or revocation of any safety standard. Examples of these actions are: machine guarding requirements, safety lines, warning signals, etc.	Safety standards promote injury avoidance by means of mechanical applications or work practices, the effects of which do not impact on air, water or soil quality, plant or animal life, the use of land or other aspects of the human environment.
(ii) Approval of petitions for variances from MSHA/OSHA safety standards or OSHA health standards.	Variances are taken from existing standards. Thus environmental documents, as appropriate, will already have been prepared. In terms of worker health and safety, any variance must be at least as effective as the original standard.
(iii) Agency legislative requests for appropriations.	Exempted by 40 CFR 1508.17.
(iv) Recordkeeping and reporting requirements.	No possibility of significant environmental impact.
(v) Routine agency personnel actions.	Such actions typically involve small numbers of individuals and have no possibility of significant environmental impact.
(vi) Training of employers, employees, agency personnel and others in the recognition, avoidance or abatement of occupational hazards. Providing consultative services to industry.	These actions involve educational activities which have no possibility of significant environmental impact.
(vii) Enforcement proceedings.	Exempted by 40 CFR 1508.18.
(viii) Equipment approvals	No possibility of significant environmental impact.
(ix) State grants under Sec. 503 of the Federal Mine Safety and Health Act.	These grants assist States in developing and implementing laws to improve mine safety and health and to promote coordination between State and Federal governments. They have no possibility of significant environmental impact.
(x) Certification or qualification proceedings.	No possibility of significant environmental impact.

(2) *Actions requiring environmental assessment.* Several classes of OSHA/MSHA actions normally require the preparation of an environmental assessment prior to determining whether either a finding of no significant impact or an environmental impact statement must be prepared. (However, OSHA or MSHA may proceed to prepare an environmental impact statement, without first preparing an environmental assessment, if it determines such action to be appropriate or necessary, as provided by 40 CFR 1501.3(a)). Actions in this classification include:

(i) Promulgation, modification or revocation of a health standard; and

(ii) Approval or revocation of State plans for the enforcement of safety and health standards (not applicable to MSHA).

(3) *Actions requiring preparation of an environmental impact statement.* Preparation of an environmental impact statement will always be required for

proposals for promulgation, modification or revocation of health standards which will significantly affect air, water or soil quality, plant or animal life, the use of land or other aspects of the human environment.

(4) *Emergency temporary standards.* Situations requiring the issuance of emergency temporary standards (issued for a period of up to six months, pursuant to Sec. 6(c) of the Occupational Safety and Health Act of 1970, and for a period of up to nine months, pursuant to Sec. 101(b) of the Federal Mine Safety and Health Act of 1977) are of such nature that the provisions of 40 CFR Parts 1500 *et seq.* may not be strictly observable. Pursuant to 40 CFR 1506.11, however, OSHA and MSHA will consult with the Council on Environmental Quality in connection with such situations, and will, in any event, prepare environmental assessments or environmental impact statements, as appropriate, on any proposed permanent regulation to be promulgated for the purpose of replacing the temporary action.

(b) *Real property actions.* Actions that will involve construction, or the purchase or lease of property, in connection with the establishment or substantial alteration of a Job Corps center, of any similar Job Corps facility, or other property actions of a similar character by another agency, will normally require the preparation of an environmental assessment prior to determining whether either a finding of no significant impact or an environmental impact statement must be prepared.

(c) *Other Departmental actions.* Certain actions taken to implement other Department of Labor programs will normally qualify for categorical exclusion from NEPA requirements. These matters are excluded because the possibility of environmental impact is remote. However, classification as a categorical exclusion does not prohibit or release an agency from preparing an environmental assessment or environmental impact statement when the agency determines it to be appropriate. These actions include:

(1) U.S. Employment Service activities and related placement, counseling, recruitment, information, testing, certification and associated actions;

(2) Apprenticeship activities and related certification and technical assistance actions;

(3) Training activities, other than Job Corps, including work experience, classroom training and public service employment;

(4) Unemployment insurance, trade adjustment assistance, workers' compensation programs, retirement programs, employee protection programs, and related employees benefit programs or activities involving the replacement or regulation of employee wages;

(5) Wage and hour programs to protect low-income workers, eliminate discriminatory employment practices, prevent curtailment of employment and earnings for certain groups of workers, minimize loss of income due to indebtedness, protect farm and migrant labor and related activities;

(6) Contract compliance programs to ensure equal employment opportunity and related actions;

(7) Labor-management relations activities and activities of labor organizations, employers and their officers or representatives;

(8) Research, evaluation, development and information collection projects related to any of the aforementioned activities;

(9) Labor statistics programs; and

(10) Matters involving personnel policy, procurement policy, freedom of information and privacy policy, and related matters of Departmental management.

§ 11.11 Development of environmental analyses and documents.

(a) Potential environmental effects of agency actions shall begin to be examined at the time a topic for potential action is submitted to the agency staff for research, proposal development, or other consideration. During this stage the agency shall determine whether the type of action which may be proposed may be categorically excluded from NEPA environmental analysis requirements pursuant to § 11.10. If the type of action being considered is not categorically excluded, or is an extraordinary case of a normally excluded action which may have significant environmental impacts, development of the information needed to make an environmental assessment shall begin. Actions described in § 11.10(b) shall be submitted to the Assistant Secretary for Administration and Management at this point, pursuant to applicable Departmental procedures, for appropriate review, including a determination with respect to whether or not the action is located in or near a floodplain or wetlands area in connection with the requirements of Executive Orders 11988 and 11990.

(b) When information gathered during the early stages of proposal development indicates that preparation of an environmental impact statement will be required, the agency shall begin preparation of such a document by initiating the scoping process in accordance with 40 CFR 1501.7. However, if the information is not clearly indicative of the need for preparation of an environmental impact statement, an environmental assessment shall be prepared.

(c) Agencies are encouraged, in developing environmental assessments, to explore all factors which it may become necessary to examine should it be determined that preparation of an environmental impact statement is necessary, even though some of those factors, such as economic and social effects, "are not intended by themselves to require preparation of an environmental impact statement" (40 CFR 1508.14). Thus in making environmental assessments of real property actions described in § 11.10(b), agencies are encouraged to consider the following factors, among others:

(1) The nature and degree of any former use of a proposed facility and the number of individuals the facility formerly served, as compared with its use and population to be served under the new proposal;

(2) The population of the area (numbers, density and makeup);

(3) Community facilities and services, taking into consideration capacity and present and former use, including: health services (hospitals, physicians), business and community development policy, recreational facilities (parks, theaters), fire and police protection, schools, energy resources, waste disposal, water, traffic and roadway systems, sewage systems, communications, and public transportation;

(4) The proximity of the facility to residential areas;

(5) The potential impact on the quality of drinking water, air quality, noise levels, designated scenic areas, land use, soil quality (including drainage or erosion problems), buildings valued for their design or which are otherwise locally significant, the listing or eligibility for listing of a site in the National Register for Historic places, consistent with the requirements of 20 CFR 684.24a where applicable, neighborhood character, and health and safety of residents;

(6) The potential impact on natural systems and resources including rivers and streams, forests, wetlands, floodplains, wilderness areas or places, and species designated for preservation, including species of plants and animals and their critical habitats as identified in regulations published by the Secretary of the Interior (50 CFR Chapter I, Part 17), and by the Secretary

of Commerce (50 CFR Chapter II, Parts 217, 222.23, 223, and 227.4); and

(7) Other considerations appropriate in light of the nature and size of the project.

(d) If an agency determines, on the basis of an environmental assessment, that preparation of an environmental impact statement is not required, notice of a finding of no significant impact and the availability of the environmental assessment shall be prepared and published in the **Federal Register.** In the case of proposed rulemaking, the notice of a finding of no significant impact may be published in the **Federal Register** at any time prior to the publication of the proposed action, or it may be included in the **Federal Register** notice of proposed rulemaking. Issuance of a finding of no significant impact at the proposal stage of rulemaking shall not foreclose further consideration of environmental issues during the rulemaking proceedings. Therefore the Department of Labor notes that, consistent with 40 CFR 1500.3, the finding shall not be considered final until promulgation of the rule involved (the action affecting the environment).

(1) If it is determined that preparation of an environmental impact statement is not required for an action, but that action is one which would normally require the preparation of an environmental impact statement, an action closely similar to one which would normally require the preparation of an environmental impact statement, or an action without precedent in this regard, the agency shall make a preliminary finding of no significant impact available for public review and comment. In accordance with 40 CFR 1501.4(e)(2), this finding shall be made available for at least 30 days before a final determination is made as to whether an environmental impact statement will be prepared, and before any public record may be closed and the proposed action may become effective.

(2) Although not required by 40 CFR 1501.4(e)(2), an agency may use the procedure described in § 11.11(d)(1) whenever the agency determines it to be appropriate.

(e) If it is determined on the basis of an environmental assessment, prepared in connection with an action described in § 11.10(b), that preparation of an environmental impact statement is required, or that public review is required in connection with actions in floodplains or wetlands that do not require environmental impact statements under E.O. 11988 or E.O. 11990, the agency shall consider altering the proposed action or changing the site of the proposed project, and shall proceed with preparation of an environmental impact statement or appropriate public review actions only after obtaining written authorization from the Assistant Secretary for Administration and Management.

(f) Filing of any draft environmental impact statement with the Environmental Protection Agency (EPA), pursuant to 40 CFR 1506.9, and circulation to the public, will ordinarily coincide with publication of the proposed agency action, which is the subject of that document, in the **Federal Register.** In any event, the statement will be made available for public comment for at least a 45-day period.

(g) The final decision on the proposed action shall be made not earlier than 90 days following publication of EPA's notice of the filing of the draft environmental impact statement, and, except as provided below, not earlier than 30 days following publication of EPA's notice of the filing of the final environmental impact statement.

(1) In accordance with 40 CFR 1506.10, an agency engaged in rulemaking under the Administrative Procedure Act or other statute, for the purpose of protecting the public health or safety, may waive the 30-day time period noted above and publish a decision on a final rule simultaneously with publication of the notice of the availability of the final environmental impact statement. Therefore, Departmental agencies (such as OSHA and MSHA) meeting these requirements, may file and circulate the final environmental impact statement at the same time a notice of decision is being published, provided that the final rule or action may not become effective for at least 30 days from the date of publication of the EPA's notice of filing of the final environmental impact statement.

(2) If a supplement to a final environmental impact statement is prepared, it shall be incorporated into the rulemaking record. If the supplement is prepared following the close of the rulemaking record and is based on, or introduces, new data or major new alternatives or analyses, the rulemaking record will be reopened for at least 30 days to receive public comments. The final action may not become effective for at least 30 days following EPA publication of the filing of the supplemental statement.

(h) In accordance with 40 CFR 1505.2, when an agency prepares a final environmental impact statement, the agency shall prepare a concise public record of decision detailing what the decision was, what alternatives were considered (specifying the environmentally preferable alternative), how those considerations entered into the decision, and whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, the reason they were not. This record may be contained in, or integrated with, the preamble to the **Federal Register** notice of final action or in any other public document considered appropriate by the agency.

§ 11.12 Content and format of environmental documents.

(a) An environmental assessment may be prepared in any format considered effective by the agency involved. When such a document is prepared in connection with a proposed action, it must be made readily available to the public either by placement into the public record (with public notice provided in accordance with 40 CFR Part 1506) or by publication in the **Federal Register.** The preamble to the **Federal Register** notice of proposed rulemaking may be considered the environmental assessment provided that the document contains the elements required by 40 CFR 1508.9(b).

(b) A finding of no significant impact (40 CFR 1508.13) may be prepared in any format considered to be effective or necessary by the agency involved in the proposed action.

(c) The finding of no significant impact, and the environmental assessment on which it was based, as well as any comments received in response to these documents shall be included in the public record of the proposed action.

(d) Department of Labor agencies shall comply with the format requirements for environmental impact statements as set forth at 40 CFR 1502.10, except when an agency determines that there is a compelling reason to do otherwise, such as more effective communication or reduced duplication of effort and paperwork (40 CFR 1506.4). For example, in OSHA/MSHA informal rulemaking proceedings, environmental documents may be combined with the **Federal Register** notice of proposed or final rulemaking. Filing and circulation of the combined preamble/environmental document shall be in accordance with the requirements of 40 CFR 1506.9.

(e) The final environmental impact statement shall contain any changes in information or supplemental information

received since the filing and circulation of the draft environmental impact statement, as well as a summary, or copies of the substantive comments received in response to the draft environmental impact statement. If such changes and comments are minor, an agency may circulate only the changes and comments, including responses to the comments, rather than the entire impact statement, to the extent permitted by 40 CFR 1502.19. However, the entire document, with a new cover sheet, shall be filed with EPA and placed in the rulemaking record.

§ 11.13 Public participation.

(a) When an agency has determined that preparation of an environmental impact statement is required, the agency shall publish a notice of intent to prepare an environmental impact statement in the **Federal Register** and shall invite public participation in the agency's scoping process as required by 40 CFR 1501.7.

(b) When the draft environmental impact statement has been prepared and filed with the EPA pursuant to § 11.11(f), comments on the document shall be solicited from appropriate Federal, State and local agencies, Indian tribes, and other persons or organizations who may be interested or affected, as required by 40 CFR 1503.1.

(c) In the case of an action with effects primarily of local concern, agencies shall consider the use of clearinghouses, newspapers and other public media likely to generate local participation in the agency process as ways of supplementing the notices otherwise specified in this Part. The use of such public media does not, however, require or authorized the use of paid advertising.

§ 11.14 Legislation.

Notwithstanding any provisions of this Part, environmental assessments or impact statements prepared in connection with requests for new legislation or modification of existing statutes shall be handled in accordance with applicable OMB and Department of Labor procedures on the preparation and submission of legislative proposals and the requirements of 40 CFR 1506.8.

PART 1999—PROCEDURE FOR THE PREPARATION AND CIRCULATION OF ENVIRONMENTAL IMPACT STATEMENTS [REVOKED].

2. Part 1999 of Title 29 (29 CFR Part 1999) is revoked.

[FR Doc. 80-23120 Filed 7-31-80; 8:45 am]
BILLING CODE 4510-23-M

29 CFR Part 40

Farm Labor Contractor Registration; Documents Acceptable as Evidence of a Bona Fide Inquiry Into Employability Status

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends the reference in 29 CFR 40.51(p) to the Alien Registration Receipt Card as acceptable evidence of employability. This change is necessary to reflect the change made by the Immigration and Naturalization Service by Final Rule published in the **Federal Register** May 19, 1980 (45 FR 32657) with effective date June 18, 1980, designating the Alien Registration Receipt Card "I–551" in place of the former designation "I–151."

EFFECTIVE DATE: June 18, 1980.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Office of Child and Farm Labor, Wage and Hour Division, Room S–3504, U.S. Department of Labor, 200 Constitution Avenue, Northwest, Washington, D.C. 20210, Telephone 202–523–7531.

SUPPLEMENTARY INFORMATION: By final rule published in the **Federal Register** on May 19, 1980, with effective date June 18, 1980 (45 FR 32657), the Immigration and Naturalization Service has redesignated the Alien Registration Receipt Card (old I–151) as Form I–551. Alien Registration Receipt Cards Issued on form I–151 continue to be valid; new cards will be issued on form I–151. The Department of Labor therefore hereby amends the reference in 29 CFR 40.51(p) to the Alien Registration Receipt Card to reflect this change. Since this technical revision to the Department's regulations is purely procedural and involves no change in the substance of the rule, the Department finds that notice and public comment under the Administrative Procedure Act are unnecessary.

Accordingly, Title 29, Subtitle A, of the Code of Federal Regulations is amended by changing § 40.51 as set forth below.

Signed at Washington, D.C. this 24th day of July, 1980.

Donald Elisburg,

Assistant Secretary for Employment Standards.

PART 40—FARM LABOR CONTRACTOR REGISTRATION

§ 40.51 [Amended]

Section 40.51, *Obligations of a farm labor contractor,* is amended in paragraph (p)(2) by changing "I–151" to "I–151 or I–551."

(Sec. 14, 78 Stat. 924 (7 U.S.C. 2050c), and sec. 17, 88 Stat. 1659 (7 U.S.C. 2053); Secretary's Order No. 16–75, 40 FR 55913; and Employment Standards' Order 2–75, 40 FR 56743.)

[FR Doc. 80-23278 Filed 7-31-80; 8:45 am]
BILLING CODE 4510-27-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules and Regulations, Series 8

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: These amendments provide that the associate chief judges in the newly established offices of the National Labor Relations Board in Atlanta, Georgia and New York, New York exercise the same authority and perform functions similar to those performed by the chief judge in Washington, D.C. and the associate chief judge in San Francisco, California.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: George A. Leet, Associate Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570, Telephone: 254–9430.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in it by the National Labor Relations Act approved July 5, 1935, 49 Stat. 449; 29 U.S.C. 151–166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151–167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141–168), and act of July 26, 1974 (88 Stat. 395–397; 29 U.S.C. 152, 158, 169, 183), the National Labor Relations Board hereby promulgates the following revised rules which it finds necessary to carry out the provisions of said Acts.

To effect the amendments and to provide the same authority to the associate chief judges in Atlanta, Georgia and New York, New York, §§ 102.24, 102.25, 102.30(c), 102.34, 102.36, 102.37 and 102.42 are revised to read as follows:

§ 102.24 Motions: where to file; contents; service on other parties; promptness in filing and response.

All motions under sections 102.16, 102.22, and 102.29 made prior to hearing shall be filed in writing with the regional

director issuing the complaint. All motions for summary judgment made prior to hearing shall be filed in writing with the Board pursuant to the provisions of section 102.50. All other motions prior to hearing shall be filed in writing with the chief administrative law judge in Washington, D.C., with the deputy chief judge in San Francisco, California, with the associate chief judge in New York, New York, or with the associate chief judge in Atlanta, Georgia, as the case may be. All motions made at the hearing shall be made in writing to the administrative law judge or stated orally on the record. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to section 102.45, shall be filed with the administrative law judge, care of the chief administrative law judge in Washington, D.C., the deputy chief judge, San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be. All motions made subsequent to transfer of the case to, and while it is pending before, the Board shall be filed with the executive secretary of the Board in Washington, D.C., as provided in § 102.47. Motions shall briefly state the order or relief applied for and the grounds therefor. All motions prior to transfer of the case to the Board shall be filed by the moving party in an original and four copies and a copy thereof shall be immediately served on the other parties. Unless otherwise provided in these rules, motions and response thereto shall be filed promptly and within such time as not to delay the proceeding.

§ 102.25 Ruling on motions.

An administrative law judge designated by the chief administrative law judge, by the deputy chief judge in San Francisco, California, by the associate chief judge in New York, New York, or by the associate chief judge in Atlanta, Georgia, as the case may be, shall rule on all prehearing motions (except as provided in sections 102.16, 102.22, 102.29, and 102.50), and all such rulings and orders shall be issued in writing and a copy served on each of the parties. The administrative law judge designated to conduct the hearing shall rule on all motions after opening of the hearing (except as provided in section 102.47), and any orders in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases the administrative law judge shall issue such rulings and orders in writing and shall cause a copy of the same to the served on each of the parties, or shall make his ruling in his decision. Whenever the administrative law judge has reserved his ruling on any motion, and the proceeding is thereafter transferred to and continued before the Board pursuant to section 102.50, the Board shall rule on such motion.

§ 102.30 Examination of witnesses; deposition.

Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a complaint, testimony may be taken by deposition.—

* * * * *

(c) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered or certified mail to the regional director or the administrative law judge, care of the chief administrative law judge in Washington, D.C., the deputy chief judge, in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be.

* * * * *

§ 102.34 Who shall conduct; to the public unless otherwise ordered.

The hearing for the purpose of taking evidence upon a complaint shall be conducted by an administrative law judge designated by the chief administrative law judge in Washington, D.C., or *by* the deputy chief judge, San Francisco, California, by the associate chief judge in New York, New York, or by the associate chief judge in Atlanta, Georgia, as the case may be, unless the Board or any member thereof presides. At any time an administrative law judge may be designated to take the place of the administrative law judge previously designated to conduct the hearing. Such hearing shall be public unless otherwise ordered by the Board or the administrative law judge.

§ 102.36 Unavailability of administrative law judges.

In the event the administrative law judge designated to conduct the hearing becomes unavailable to the Board after the hearing has been opened, the chief administrative law judge, in Washington, D.C., the deputy chief judge, in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be, may designate another administrative law judge for the purpose of further hearing or other appropriate action.

§ 102.37 Disqualification of administrative law judges.

An administrative law judge may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the administrative law judge, at any time following his designation and before filing of his decision, to withdraw on ground of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constituate grounds for disqualification. If, in the opinion of the administrative law judge, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the administrative law judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or, if the hearing has closed, he shall proceed with issuance of his decision, and the provisions of section 102.26, with respect to review of rulings of administrative law judges, shall thereupon apply.

§ 102.42 Filings of briefs and proposed findings with the administrative law judge and oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the administrative law judge who may fix a

reasonable time for such filing, but not in excess of 35 days from the close of the hearing. Requests for further extensions of time shall be made to the chief administrative law judge in Washington, D.C., to the deputy chief judge, in San Francisco, California, to the associate chief judge in New York, New York, or to the associate chief judge in Atlanta, Georgia, as the case may be. No request will be considered unless received at least 3 days prior to the expiration of the time fixed for the filing of briefs or proposed findings and conclusions. Notice of the request for any extension shall be immediately served on all other parties, and proof of service shall be furnished. Three copies of the brief or proposed findings and conclusions shall be filed with the administrative law judge, and copies shall be served on the other parties, and a statement of such service shall be furnished.

Dated: Washington, D.C., July 28, 1980.

By direction of the Board:

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[FR Doc. 80-23293 Filed 7-31-80; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2550

Fiduciary Responsibility; Statutory Exemption for Certain Acquisitions, Sales, or Leases of Property

AGENCY: Department of Labor.

ACTION: Adoption of regulation.

SUMMARY: This document sets forth a regulation under the Employee Retirement Income Security Act of 1974 (Act) relating to certain acquisitions, sales, or leases of property by an employee benefit plan. The regulation is intended to clarify the scope of provisions of the Act which exempt such transactions if certain conditions are met. The regulation affects participants and beneficiaries of employee benefit plans, plan fiduciaries, employers and other persons who engage in these transactions.

DATE: The regulation is effective as of January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, telephone (202) 523-8658. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On August 28, 1979, notice was published in the **Federal Register** (44 FR 50367) that the Department had under consideration a proposal to adopt a regulation, 29 CFR 2550.408e, under section 408(e) of the Act. On the basis of the comments received concerning the August 28, 1979 proposal, the Department has decided to adopt, with certain modifications, § 2550.408e as proposed. Set forth below is a discussion of the regulation as adopted, the changes from the proposed regulation, and the principal views expressed in the public comments.

A. Summary of Statutory Provisions

Provisions of the Act generally prohibit any acquisition or sale by a plan of "employer securities" (as defined in section 407(d)(1) of the Act), and any acquisition, sale or lease by a plan of "employer real property" (as defined in section 407(d)(2) of the Act). Section 408(e) provides an exemption from these provisions with regard to transactions involving "qualifying employer securities" (as defined in section 407(d)(5) of the Act) and "qualifying employer real property" (as defined in section 407(d)(4) of the Act) if certain conditions are met. These conditions are (1) the acquisition, sale or lease must be for adequate consideration, (2) no commission may be charged with respect thereto, and (3) in the case of an acquisition of qualifying employer securities and an acquisition or lease of qualifying employer real property by a plan other than an "eligible individual account plan" (as defined in section 407(d)(3) of the Act), such acquisition or lease must comply with the requirements of section 407(a) of the Act and the regulations thereunder.[1]

B. Scope of Exemption—Section 406(b)

In the proposed regulation, the Department took the position that section 408(e) provides an exemption from the restrictions of section 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account) and section 406(b)(2) of the Act (relating to fiduciaries in their individual or any other capacity acting in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interest of the plan or the interests of its participants or beneficiaries). However, under the proposal, section 408(e) would not provide an exemption from section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving assets of the plan). Consistent with the approach taken in regulations under other sections of the Act which provide statutory exemptions,[2] the proposal treated the receipt of such consideration as a separate transaction not described in the statutory exemption. It was the Department's view, as expressed in the preamble to the proposed regulation, that relief from section 406(b)(3) was not necessary to achieve the purposes of section 408(e).

Commentators urged the Department to expand its interpretation of the scope of section 408(e) to include an exemption from the prohibition of section 406(b)(3). These commentators argued that such an interpretation is necessary to exempt transactions which might be viewed as technical violations of that section. One commentator described situations where both the plan and plan fiduciaries hold qualifying employer securities of a closely held corporation and the employer decides to redeem the securities for a stated price, or create a new class of preferred stock and permit all shareholders of common stock to exchange up to a certain percentage of their common stock for preferred stock. Assuming that these transactions meet the relevant requirements of section 408(e) (*e.g.*, that the transaction is for adequate consideration), the commentator suggested that the plan fiduciaries, merely by responding both personally and on behalf of the plan, might be receiving consideration—the redemption price—for their personal account from a party dealing with the plan (*i.e.*, the employer) in connection with a transaction involving assets of the plan, thereby violating section 406(b)(3). If, in the types of situations described above, the fiduciaries' decision to participate personally in the transaction (or to refrain from doing so) would not adversely affect the plan's ability to participate in, or benefit from, the transaction, it appears to the Department that, in such cases, the fiduciaries would not be receiving consideration "in connection with a transaction involving plan assets," within the meaning of section 406(b)(3).[3]

[1] Section A of the preamble to proposed § 2550.408e ("Background"), 44 FR 50368, contains a detailed discussion of the statutory provisions and terms referred to in this paragraph.

[2] *See* 29 CFR 2550.408b-3(b)(1), 2550.408b-4(a), and 2550.408b-6(a).

[3] This should, however, be contrasted with those situations where there would be a "connection" between the fiduciaries' personal receipt of consideration and their decision as to the plan's participation. For example, if the plan fiduciaries'

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Another commentator was concerned about the legality under section 406(b)(3) of a situation where an affiliate of the employer sells qualifying employer securities to a plan maintained by the employer and later remits the proceeds of the sale to the employer by means of a dividend. It appears to the Department that under these circumstances the mere payment of a dividend by the affiliate would not necessarily give rise to a section 406(b)(3) violation.

Accordingly, it does not appear to the Department that the commentators have demonstrated that extension of the section 408(e) exemption to provide relief for actions described in section 406(b)(3) is appropriate to achieve the purposes of section 408(e).[4] Nor does it appear, in light of the potential for abuse to which transactions in qualifying employer securities and qualifying real property are subject, that such an extension would be desirable from the perspective of protecting the interests of plan participants and beneficiaries. For these reasons, the regulation, as adopted, does not provide relief from the restriction of section 406(b)(3).

C. Sales by Plans Other Than Eligible Individual Account Plans

The regulation being adopted, like the one proposed, states that section 408(e) provides an exemption for the sale of qualifying employer securities and qualifying employer real property by all plans, including those which are not eligible individual account plans. Prior to the adoption of this regulation, there was some uncertainty as to whether the section 408(e) exemption extended to sales of qualifying employer real property and qualifying employer securities by plans other than eligible individual account plans.[5] The Department did not receive any comment adverse to this aspect of the proposal.

D. Commissions

Under the proposed regulation, generally, no commission, fee, or similar charge could be paid in connection with the transaction. However, in accordance with Congressional intent, the proposal provided that when a purchase is made from an underwriter who assumes the risk of market fluctuations after the award date, the underwriter's margin would be specifically excluded from the definition of "commission" for purposes of section 408(e). In addition, the Department specifically invited comment on whether there are additional types of charges which should be excluded from the definition of "commission" for purposes of section 408(e). The proposal described certain exclusions which did not appear to present the type of abuse with which the prohibition on the payment of commissions was intended to deal.

Commentators urged the Department to adopt the proposed exclusions for the reasons stated in the proposal.[6] Commentators also requested that "commission" be defined to include only those fees which would be charged to a plan in connection with a transaction. It was argued that the proposal was unduly restrictive in denying the availability of the exemption where a charge is paid by the party dealing with the plan, even when such payment would not affect what the plan receives or pays in connection with the transaction and would not involve any assets of the plan. In light of these comments, the Department has determined that it would be appropriate to interpret the prohibition against payment of commissions to constitute a ban only on commissions paid directly or indirectly by a plan, and has drafted the final regulation accordingly. In this regard, the Department generally would not view as a commission paid indirectly by a plan a fee paid to an intermediary by a party buying or selling property from or to a plan where the consideration received or paid by the plan would not be affected by the other party's payment to the intermediary.[7]

It was pointed out in comment letters that the proposed definition of "commission" could include expenditures made by a plan before entering into the contemplated transaction for the purpose of evaluating the merits of the transaction. Commentators requested that the final regulation make clear that payments for this purpose would not be considered "commissions" and that such expenditures by a plan would not affect the availability of the section 408(e) exemption. In this connection, it was not the Department's intention to include payments for appraisals and similar aids to investment decisions as "commissions," and the final regulation has been clarified to reflect this view.

E. Adequate Consideration

Comments were received which raised questions concerning application of the requirement that a transaction be for adequate consideration in order to qualify for exemption under section 408(e) in situations involving contributions of qualifying employer securities or qualifying employer real property to a plan.[8] Commentators requested that the Department state its views as to whether, for example, adequate consideration would not be present where qualifying employer securities for which there is no generally recognized market are contributed by the employer to a plan and the employer takes a tax deduction for the contribution in a dollar amount which is later determined by the Internal Revenue Service to be excessive. It appears that questions of whether adequate consideration has been given with regard to contributions arise in a

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decision to personally participate in a stock redemption would detrimentally affect either the plan's ability to participate, or the consideration received by the plan as a result of its participation, then the fiduciaries' conduct would be in connection with a transaction involving plan assets and the receipt of the consideration would appear to violate section 406(b)(3).

[4] In contrast, as noted in the preamble to proposed § 2550.408e, it appears that section 408(e) by its terms is intended to provide relief for transactions between a plan and, among others, an employer of employees who are covered by the plan. *See* H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. 318(1974). Because the employer often is a fiduciary with respect to the plan, it appears appropriate, and consistent with Congressional intent, to interpret section 408(e) to provide an exemption from section 406(b) (1) and (2) to permit fiduciaries to participate in the transactions described in section 408(e).

[5] One of the statutory conditions for the availability of the exemption, found in section 408(e)(3)(B), is that, in the case of a plan which is not an eligible individual account plan, the acquisition of lease of qualifying employer real property or the acquisition of qualifying employer securities not be prohibited by section 407(a). While section 408(e)(3)(B) could be interpreted to limit the applicability of the exemption so that it would not apply to sale transactions unless they were made by eligible individual account plans, in the Department's view the section should not be construed to limit the scope of the exemption in that manner. A discussion of the Department's reasons for taking this position is set forth in section B.2. of the preamble to the proposed regulation, 44 FR 50368.

[6] The Department suggested that these exclusions might be appropriate because, *inter alia*, the fees involved would not result from private, negotiated transactions between, for example, a plan and the sponsoring employer, where there would be no apparent justification for the payment of a commission; the transactions would be public in nature, with unrelated persons participating on the same terms as the plan; and the amount paid or received by a plan generally would be unaffected by the payment of any fee described in the conmtemplated exclusions.

[7] If the intermediary is a fiduciary with respect to the plan, however, section 406(b)(3) may prohibit such payment. *See*, section B., above.

[8] In this regard, it should be noted that § 2550.408e(b) defines the term "acquisition" to include an acquisition in connection with the contribution of such securities or real property to the plan. Accordingly, an exemption is provided from the above described prohibited transaction provisions of the Act for such contributions if the conditions of section 408(e) (including adequate consideration) are met. For example, under the regulation, section 408(e) may exempt the contribution to a plan of real property described in section 407(d)(4) which is subject to a lease to the employer.

number of different ways.[9] In this regard, it appears to the Department that, because adequate consideration concerns the relative values of what the plan relinquishes and what it receives, the amount claimed by an employer for such contributions is not necessarily material to the detemination of whether adequate consideration was present. It is the position of the Department that a determination as to whether a particular transaction is for adequate consideration should be made in good faith by the appropriate plan fiduciaries on the basis of relevant facts and circumstances.[10] However, the issue of deductability may become relevant in some cases. For example, where a plan relinquishes rights of a certain value in exchange for an employer's contribution of qualifying employer securities and the employer deducts an amount equal to the value of the rights relinquished by the plan, a finding that the employer claimed an excessive deduction obviously raises questions as to the plan fiduciaries' initial valuation of the securities. Such a determination, however, may not necessarily be conclusive on the question of whether there was "adequate consideration" for purposes of section 408(e). One commentator suggested that the final regulation should state specifically that property may be sold to a plan "at a bargain." The Department believes that this concept was sufficiently embodied in paragraph (d) of the proposal, wherein adequate consideration was phrased in terms of a price "not less favorable to the plan" than the price determined under relevant provisions of the Act. Accordingly paragraph (d) has been adopted without change.[11]

[9] For example, an employer might be required to contribute a dollar amount to the plan and decide to contribute stock in an equivalent value; or an employer who is under no obligation to make a contribution may decide to contribute a number of shares equal to a certain dollar amount, or simply contributer a certain number of shares.

[10] *See*, section 3(18) of the Act. Although the Department generally will not issue advisory opinions with respect to what constitutes adequate consideration (*See*, section 5 of ERISA Proc. 76–1, the ERISA Advisory Opinion Procedure (41 FR 36281, August 27, 1976)), it should be noted that the Department would deem the adequate consideration requirement to have been met where a plan does not relinquish anything in exchange for a contribution of qualifying employer securities or qualifying employer real property.

[11] In this regard, the U.S. Treasury Department has noted that "the purchase of a plan asset by the employer for an amount in excess of its fair market value will constitute a contribution to the plan to the extent of such excess. The deductibility of such a contribution by the employer must be determined in accordance with generally applicable Federal income tax rules."

F. Transactions With Persons Who Are Not "Parties in Interest"

The proposed regulation stated that section 408(e) provides an exemption for certain acquisitions, sales and leases by a plan "from or to a party in interest" if relevant conditions are met. One commentator suggested that, because under the proposal the section 408(e) exemption would apply only to transactions involving a plan dealing with a party in interest, clarification was needed regarding the status of the purchase by a plan of a "marketable obligation" (*i.e.*, a debt instrument, issued by an employer, described in section 407(e) of the Act) from a person who is not a party in interest with respect to the plan. The commentator was concerned because such a purchase could be viewed as a prohibited extension of credit by the plan to the employer, even though the employer's obligation was acquired from an unrelated party.[12] Under this analysis, the regulation as proposed would have the anomolous effect of exempting a plan's purchase of a marketable obligation from a party in interest but denying an exemption where the purchase is from a non-party in interest. This commentator proposed that the final regulation state that such purchases from a non-party in interest are not prohibited under section 406(a) of the Act.

In light of the above, the Department has decided to delete from the final regulation the restrictive phrase "from or to a party in interest," with the result that it is now clear that the section 408(e) exemption covers the purchase by a plan of a "marketable obligation" from a party other than a party in interest. The Department believes that this approach is appropriate because it preserves the Congressional intent to treat as a "prohibited loan" the "acquisition by the plan of a debt instrument (such as a bond or note) which is an obligation of a party in interest" (H.R. Rep. No. 93–1280, 93d Cong. 2d Sess. 308(1974)), while at the same time providing the relief necessary to achieve the purposes of section 408(e). In addition, this approach eliminates uncertainty regarding the applicability of section 408(e) to certain acquisitions by a plan from a non-party in interest of parcels of real property which are subject to a lease to an employer of employees covered by the plan. If such parcels of real property otherwise meet the conditions of section 407(d)(4) of the Act, section 408(e) would cover the acquisition of the property subject to the lease because, in this situtation, the plan would be acquiring "qualifying employer real property", albeit not from the employer or any other party in interest.

[12] In relevant part, section 406(a) of the Act provides that:

(1) A fiduciary with respect to a plan shall not cause the plan to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—* * *

(B) Lending of money or other extension of credit between the plan and a party in interest; * * * or

(E) Acquisition, on behalf of the plan, of any employer security or employer real property in violation of section 407(a).

G. Other Matters

One commentator requested clarification of the statement in § 2550.408(b) that an "acquisition" of a security, for purposes of section 408(e), shall not be deemed to have occurred if a plan acquires the security as a result of a stock dividend or stock split. This commentator asked whether this statement means that such an acquisition is not considered by the Department to be a prohibited transaction or whether it means that such an acquisition is considered a prohibited transaction for which no exemption under section 408(e) is available. The provision in question was included because the Department does not view an acquisition of stock by means of a stock dividend or stock split as a prohibited transaction and because, under 29 CFR § 2550.407a–2(b), the term "acquisition" is defined in the same manner for purposes of section 407(a).

It should be noted that section 408(e) does not exempt any separate transaction, such as an extension of credit, which is related to an exempt acquisition, sale or lease. Thus, although section 408(e) may permit a plan to sell qualifying employer securities to a party in interest if the plan receives adequate consideration and no comission is charged with respect to the sale, that section does not provide an exemption to allow the plan to accept a note or other promise to pay from the party in interest in exchange for the qualifying employer securities.[13] The extension of credit by the plan to the party in interest would constitute a separate transaction prohibited under section 406(a)(1)(B) which is not exempt under section 408(e).

Because section 408(e) refers only to transactions involving qualifying employer securities and qualifying employer real property it does not provide any exemption (whether or not

[13] The stated general proposition is subject to an exception in the case where the obligation of the party in interest is itself a qualifying employer security (*i.e.*, a marketable obligation), and its acquisition would not contravene the restrictions of section 407(a) of the Act.

the plan involved is an eligible individual account plan) from the prohibitions of sections 406(a)(1)(E), 406(a)(2), or 407(a)(1) of the Act, insofar as they relate to the acquisition, disposition or holding of employer securities which are not qualifying employer securities, or employer real property which is not qualifying employer real property.

It should be noted that applicability of section 408(e) to a transaction does not relieve a fiduciary with respect to the plan from 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 interests of plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the act;[14] nor does it affect the requirement of section 401(a) of the Internal Revenue Code of 1954 that a plan must be operated for the exclusive benefit of employees and their beneficiaries. The provisions of section 408(e) are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

Authority: The regulation set forth herein is adopted pursuant to sections 408(e) and 505 of the Act. Accordingly, Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by adding in the appropriate place the following:

§ 2550.408e Statutory exemption for acquisition or sale of qualifying employer securities and for acquisition, sale, or lease of qualifying employer real property.

(a) *General.* Section 408(e) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of section 406(a) and 406(b)(1) and (2) of the Act any acquisition or sale by a plan of qualifying employer securities (as defined in section 407(d)(5) of the Act), or any acquisition, sale or lease by a plan of qualifying employer real property (as defined in section 407(d)(4) of the Act) if certain conditions are met. The conditions are that

(1) The acquisition, sale or lease must be for adequate consideration (which is defined in paragraph (d) of this section);

(2) No commission may be charged directly or indirectly to the plan with respect to the transaction; and

(3) In the case of an acquisition or lease of qualifying employer real property, or an acquisition of qualifying employer securities, by a plan other than an eligible individual account plan (as defined in section 407(d)(3) of the Act), the acquisition or lease must comply with the requirements of section 407(a) of the Act.

(b) *Acquisition.* For purposes of section 408(e) and this section, an acquisition by a plan of qualifying employer securities or qualifying employer real property shall include, but not be limited to, an acquisition by purchase, by the exchange of plan assets, by the exercise of warrants or rights, by the conversion of a security, by default of a loan where the qualifying employer security or qualifying employer real property was security for the loan, or in connection with the contribution of such securities or real property to the plan. However, an acquisition of a security shall not be deemed to have occurred if a plan acquires the security as a result of a stock dividend or stock split.

(c) *Sale.* For purposes of section 408(e) and this section, a sale of qualifying employer real property or qualifying employer securities shall include any disposition for value.

(d) *Adequate Consideration.* For purposes of section 408(e) and this section, adequate consideration means:

(1) In the case of a marketable obligation, a price not less favorable to the plan than the price determined under section 407(e)(1) of the Act; and

(2) In all other cases, a price not less favorable to the plan than the price determined under section 3(18) of the Act.

(e) *Commission.* For purposes of section 408(e) and this section, the term "commission" includes any fee, commission or similar charge paid in connection with a transaction, except that the term "commission" does not include a charge incurred for the purpose of enabling the appropriate plan fiduciaries to evaluate the desirability of entering into a transaction to which this section would apply, such as an appraisal or investment advisory fee.

[14] Thus, while a plan may be able to acquire qualifying employer securities under the provisions of section 408(e) and this regulation, if the acquisition were not prudent (because, for example, of the poor financial condition of the employer), or not for the exclusive purpose of benefiting participants and beneficiaries (such as an acquisition which is primarily to finance the employer), the appropriate plan fiduciaries would remain liable for any loss resulting from a breach of fiduciary responsibility. *See* H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 320 (1974). Similarly, securities purchases or sales by a plan to manipulate the price of the security to the advantage of a party in interest would violate the fiduciary responsibility provisions of the Act. *id.* at 308.

Signed at Washington, D.C. this 25th day of July, 1980.

Ian D. Lanoff,

Administrator, Pensions and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23022 Filed 7-29-80; 4:43 pm]

BILLING CODE 4510-29-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

Cost of Living Adjustment for Compulsory Royalty Rates Paid by Non-Commercial Broadcasting

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal announces that the cost of living adjustment to be applied to the compulsory royalty rates paid by non-commercial broadcasting for the use of certain copyrighted works is 14.4%.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Lou Burg, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 8, 1978 (43 FR 25068) the Copyright Royalty Tribunal published a final rule announcing the terms and rates of royalty payments to be paid by non-commercial broadcasting for the use of certain copyrighted works. In that rule § 304.10 stated that:

(a) On August 1, 1979 the CRT shall publish in the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the first Index published subsequent to the effective date of this schedule of royalty payments to the last Index published prior to August 1, 1979.

On each August 1 thereafter the CRT shall publish a notice of the change in the cost of living during the period from the first Index published subsequent to the previous notice, to the last Index published prior to August 1 of that year.

(b) On the same date of the notices published pursuant to paragraph (a), the CRT shall publish in the **Federal Register** a revised schedule of rates which shall adjust those royalty amounts established in dollar amounts according to the change in the cost of living determined as provided in paragraph (a). Such royalty rates shall be fixed at the nearest dollar.

(c) The adjusted schedule of rates shall become effective thirty days after publication in the **Federal Register.**

Accordingly, it is announced that the change in the cost of living as determined by the Consumer Price Index (all urban consumers, all items) from the Index published June 26, 1979 to the last Index published prior to August 1, 1980, is 14.4%. (Last year's May Index was published June 26, 1979 and was 214.1; and this year's May Index was published June 23, 1980 and was 244.9) The rates published in the **Federal Register** on August 1, 1979 (44 FR 45130) are revised as shown below.

37 CFR Part 304 is amended as follows:

§ 304.3 [Amended]

1. Section 304.3(a) is amended by deleting the figure "$1,385,000" and inserting "$1,584,440."

2. Section 304.3(d) is amended by deleting the figure "$4,432" and inserting "$5,070."

§ 304.4 [Amended]

3. Section 304.4(a) is amended by deleting the paragraph containing dollar amounts and inserting the following:

* * * * *

(a) * * *

For the performance of such a work in a feature presentation of PBS	$127
For the performance of such a work as background or theme music in a PBS program	32
For the performance of such a work in a feature presentation of NPR	13
For the performance of such a work as background or theme music in a NPR program	3
For the performance of such a work in a feature presentation of a station of PBS	45
For the performance of such a work as background or theme music in a program of a station of PBS	13
For the performance of such a work in a feature presentation of a station of NPR	7
For the performance of such a work as background or theme music in a program of a station of NPR	2

* * * * *

§ 304.5 [Amended]

4. Section 304.5(c) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

* * * * *

(c) * * *

For all such compositions in the repertory of ASCAP, annually	$114
For all such compositions in the repertory of BMI, annually	114
For all such compositions in the repertory of SESAC, annually	25
For the performance of any other such composition	1

* * * * *

§ 304.6 [Amended]

5(a) Section 304.6(c)(1) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

* * * * *

(c) * * *

(1) * * *

For all such compositions in the repertory of ASCAP, annually	$229
For all such compositions in the repertory of BMI, annually	229
For all such compositions in the repertory of SESAC, annually	51
For the performance of any other such composition	1

* * * * *

(b) Section 304.6(c)(2) is amended by deleting the paragraphs containing dollar amounts and inserting the following:

* * * * *

(c) * * *

(1) * * *

For all such compositions in the repertory of ASCAP, annually	$572
For all such compositions in the repertory of BMI, annually	572
For all such compositions in the repertory of SESAC, annually	127
For the performance of any other such composition	1

* * * * *

6. In § 304.7(b) (1)–(4) the paragraphs containing the dollar amounts are deleted and the following inserted in lieu:

§ 304.7 Recording rights, rates and terms.

* * * * *

(b) *Royalty rate.*

(1) * * *

Feature	$63
Feature (concert) (per minute)	19
Background	32
Theme: Single program or first series program	32
Other series program	13

(2) * * *

Feature	$13
Feature (concert) (per ½ hour)	19
Background and Theme	3

(3) * * *

Feature	$25
Feature (concert) (per minute)	7
Background	13
Theme: Single program or first series program	13
Other series program	7

(4) * * *

Feature	$7
Feature (concert) (per ½ hour)	9
Background and Theme	2

* * * * *

7. Section 304.8(b)(1) is revised to read as follows:

§ 304.8 Terms and rates of royalty payments for the use of published pictorial, graphic, and sculptural works.

* * * * *

(b) *Royalty rate.* (1) The following schedule of rates shall apply to the use of works within the scope of this section:

For such uses in a PBS distributed program:	
For a feature display of a work	$38
For background and montage display	19
For use of a work for program identification or for thematic use	76
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule	25
For such uses in other than PBS distributed programs:	
For a featured display of a work	25
For background and montage display	13
For use of a work for program identification or for thematic use	51
For the display of an art reproduction copyrighted separately from the work of fine art from which the work was reproduced, irrespective of whether the reproduced work of fine art is copyrighted so as to be subject also to payment of a display fee under the terms of this schedule	13

* * * * *

Mary Lou Burg,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 80-22903 Filed 7-31-80; 8:45 am]

BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1544-8]

Approval of Revision of the State of Delaware Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rulemaking notice approves as a revision to the State Implementation Plan several regulatory changes to Delaware's Regulations governing the Control of Air Pollution. These changes are intended to eliminate certain outdated requirements relating to Regulations V, Particulate emissions from industrial process operations, and XVIII, particulate emissions from grain

handling operations, and to correct typographical errors relating to certain other regulations.

EFFECTIVE DATE: August 1, 1980.

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

U.S. Environmental, Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Attention: Patricia Sheridan.

Delaware Department of Natural Resources and Environmental Control, Tatnal Building, Capitol Complex, Dover, Delaware 19901. Attention: Robert French.

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

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the State of Delaware submitted to the Regional Administrator, EPA, a revision of the State of Delaware's State Implementation Plan (SIP).

The State requested approval of amendments which were adopted on September 26, 1978 pursuant to Order No. 78–A–2, issued by Austin P. Olney, Secretary, and which eliminate certain outdated requirements relating to Regulation V, Particulate Emissions from Industrial Process Operations. In § 5.1 of that regulation, Delaware deleted the clause "Except as provided for in § 5.2." Also deleted was Section 5.2 which currently reads as follows:

"If between July 1, 1973 and October 1, 1974, the national secondary ambient air quality standard for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a catalytic cracking operation located in New Castle County then after January 1, 1975, no person shall cause or allow particulate emissions from catalytic cracking operations into the atmosphere in excess of the quantities as indicated in Table 4." The State of Delaware has informed EPA via letter that they have no record of the national secondary ambient air quality standard for suspended particulates being exceeded within the Metropolitan Philadelphia Air Quality Control Region between July 1, 1973 and October 1, 1974 due to either a catalytic cracking operation or a prilling operation located in New Castle County, Delaware. Section 5.3 was renumbered to 5.2. Delaware also deleted Table 4, Allowable Mass Emission Rate from Catalytic Cracking Operations.

In § 6.1 of Regulation V, Delaware deleted the clause "Except as provided for in § 6.2." Also deleted was § 6.2 which reads as follows:

"If, between July 1, 1973, and October 1, 1974, the national secondary ambient air quality standard for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a prilling operation located in New Castle County then after January 1, 1975, no person shall cause or allow particulate emissions from prilling operations into the atmosphere in excess of the quantities as indicated in Table 7." Delaware also deleted Table 7, Allowable Mass Emission Rate from Prilling Operations.

For Regulation XVIII, Particulate Emissions from Grain Handling Operations, Delaware deleted §§ 1.2 and 2.3 which were valid only until September 1, 1974. Also deleted was § 3.1 which referred to a regulation effective date of 45 days for compliance by sources—a requirement no longer necessary. The remaining paragraphs were renumbered. Minor typographical errors which appear in Regulations III, VIII, X and XV were corrected.

The Regional Administrator invited comments in the notice published in the **Federal Register** on November 27, 1979, 44 FR 67674. A 30-day public comment period was provided during which time on pubic comments were received.

II. Control Strategy Demonstration

These modifications are regulatory changes rather than substantive changes. Because the modifications have no adverse impact on air quality, a control strategy demonstrating attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. Policy Issues

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the State of Delaware meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

EPA Evaluation

The revision submitted by the State of Delaware meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR Part 51.4, 51.6, and 51.11.

VI. Final Action

In view of this evaluation, the Administrator approves the above-described modifications to Delaware's Regulations Governing the Control of Air Pollution as a revision to the Delaware State Implementation Plan. The revision encompasses changes which eliminate certain outdated requirements that relate to dates which have since passed; they also correct typographical errors.

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

(42 U.S.C. 7401–642)

Dated: July 24, 1980.

Douglas M. Costle,

Administrator.

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

Subpart I—Delaware

1. In § 52.420 *Identification of Plan,* paragraph (c)(14) is added as follows:

§ 52.420 Identification of Plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified * * *

(14) A revision submitted by the State of Delaware on October 5, 1978 to eliminate certain outdated requirements relating to Regulations V and XVIII and correction of typographical errors relating to Regulations III, VIII, and XV.

[FR Doc. 80–23039 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1556–8]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is approving the transportation control measures schedules for the Denver and Larimer-Weld elements of the Colorado State Implementation Plan.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the Clean Air Act, Judicial review of this final rulemaking is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate Circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in the civil or criminal proceedings brought by EPA to enforce these requirements.

EPA finds good cause for making the action taken in this notice immediately effective for the following reasons: (1) Implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

In an October 5, 1979, final rulemaking on the Colorado State Implementation Plan (SIP), 44 FR 57401, EPA approved the Colorado Plan conditioned on submittal by January 1, 1980, of the transportation control measure schedules for Denver and Larimer-Weld areas.

On January 22 and February 6, 1980, the Governor of Colorado submitted schedules for the implementation of transportation control measures for the Denver and Larimer-Weld elements of the SIP, respectively.

On May 5, 1980, EPA proposed for comment in the **Federal Register** these revisions to the Colorado State Implementation Plan. No comments were received. Therefore, based on the rationale explained in the proposed rulemaking (45 FR 29596), EPA is approving the transportation control measure schedules for the Denver and Larimer-Weld elements of the Colorado SIP.

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

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: July 24, 1980.

Douglas M. Costle,

Administrator.

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

Subpart G—Colorado

1. Section 52.320 is amended by adding (c)(18) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(18) On January 22 and February 6, 1980 the Governor submitted schedules for the implementation of transportation control measures for Denver and Larimer-Weld elements of the State Implementation Plan, respectively.

§ 52.327 [Amended]

2. In § 52.327, paragraph (a)(5) is deleted.

§ 52.328 [Amended]

3. In § 52.328, paragraph (a)(3) and (a)(4) are deleted.

[FR Doc. 80-23216 Filed 7-31-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[PP 8F2115/R256; FRL 1557-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2,2,5-Trimethyl-3-Dichloroacetyl-1,3-Oxazolidine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the inert ingredient 2,2,5-trimethyl-3-dichloroacetyl-1,3-oxazolidine applied to corn fields before corn plants emerge from the soil. The amendment to the regulations was requested by Stauffer Chemical Co. This rule will allow pesticide formulations containing the subject inert ingredient to be registered.

EFFECTIVE DATE: Effective on: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 (202/755–2196).

SUPPLEMENTARY INFORMATION: The EPA published on May 16, 1980 (45 FR 32338) a notice of proposed rulemaking in response to a pesticide petition (PP 8F2115) submitted to the Agency by Stauffer Chemical Co., 1200 S. 47th Street, Richmond, CA 94804. This petition proposed that 40 CFR Part 180 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the inert ingredient 2,2,5-trimethyl-3-dichloroacetyl-1,3-oxazolidine when used in formulations of the herbicides *S*-ethyl dipropylthiocarbamate, *S*-ethyl diisobutylthiocarbamate, and *S*-propyl dipropylthiocarbamate applied to corn fields before the corn plants emerge from the soil with a maximum of 0.5 pound of inert ingredient per acre. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR Part 180 should be adopted without change, and it has been determined that this regulation will protect the public health.

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

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

EFFECTIVE DATE: August 1, 1980.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(e)).

Dated: July 28, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore Subpart D of 40 CFR Part 180, is amended by adding the new § 180.1052 to read as follows:

§ 180.1052 2,2,5-trimethyl-3-dichloroacetyl-1,3-oxazolidine; exemption from the requirement of a tolerance.

2,2,5-trimethyl-3-dichloroacetyl-1,3-oxazolidine is exempted from the requirement of a tolerance when used as an inert ingredient in formulations of the herbicides *S*-ethyl dipropylthiocarbamate, *S*-propyl dipropylthiocarbamate, and *S*-ethyl diisobutylthiocarbamate applied to corn fields before the corn plants emerge from the soil with a maximum of 0.5 pound of the inert ingredient per acre.

[FR Doc. 80-23202 Filed 7-31-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Ch. 101

[FPMR Temp. Reg. B-5, Supp. 1]

Conversion of Federal Government Stationery From 8 by 10.5 inches to 8.5 by 11 inches

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends to July 15, 1982, the expiration date of FPMR Temporary Regulation B-5 (October 2, 1979; 44 FR 56699).

DATES: Effective date: August 1, 1980. Expiration date: July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Richard P. Stephenson, Mail and Correspondence Management Branch (202-376-8907).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

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

July 18, 1980.

Federal Property Management Regulations Temporary Regulation B-5 Supplement 1

To: Heads of Federal agencies.

Subject: Conversion of Federal Government stationery from 8 by 10.5 inches to 8.5 by 11 inches.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation B-5.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This supplement expires on July 15, 1982.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation B-5 is revised to July 15, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-23277 Filed 7-31-80; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Residency Training in General Internal Medicine or General Pediatrics

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for grants for residency training programs in general internal medicine or general pediatrics under section 784 of the Public Health Service Act.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources Administration, Center Building, Room 3-22, 3700 East-West Highway, Hyattsville, MD 20782 (301-436-6418).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 18, 1977 (42 FR 59500), the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, added a new Subpart FF, entitled "Grants for Residency Training in General Internal Medicine or General Pediatrics" to Part 57 of Title 42 of the Code of Federal Regulations. These Interim-Final regulations established requirements for grants for residency training in general internal medicine or general pediatrics under section 784 of the Public Health Service Act, 42 U.S.C. 295g-4, as amended by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484). In order to provide guidance to grantees and potential applicants under this program, these regulations were published as Interim-Final regulations, without benefit of proposed rulemaking procedures. Interested persons were invited to submit comments on the Interim-Final regulations not later than January 17, 1978. Six letters were received, commenting on various aspects of the Interim-Final regulations. The comments in the letters, the Department's response to the comments, and the revisions made in the regulations are indicated below. For clarity, the comments and responses have been arranged according to the section of the Interim-Final regulations to which they pertain.

Section 57.3102—Definitions

One commenter suggested that the definition "approved residency training programs" be omitted. The commenter argued that including this definition would establish the Liaison Committee on Graduate Medical Education (LCGME) as an official accrediting body, although it has not received recognition by the Department of Education.

The law clearly states that grants under this section may be awarded only to approved residency programs without mention of the approving body. There are currently no alternatives to the LCGME which are nationally recognized within the medical profession. Therefore, the Department will continue to recognize LCGME accreditation for purposes of this grant program.

Another commenter suggested that the phrase "longitudinal and comprehensive (including preventive and psychosocial) health care" in the definition of "practice of general internal medicine or general pediatrics" as well as in the project requirement section (§ 57.3105(k)(1)) be altered. The commenter suggested as an addition, "It is understood that, by definition, comprehensive health care includes preventive and psychosocial health care." The Department feels that both statements confer the same meaning, and therefore, the more concise version has been retained. (§ 57.3105(j)(1) of the Final regulations.)

Section 57.3103—Eligibility

Another commenter questioned the criteria for eligibility and suggested that it be broadened to include nonprofit medical centers. Because the statute limits eligibility to schools of medicine and osteopathy, this recommendation cannot be accepted. However, while a center cannot directly apply for grants under this program, a medical center may participate in projects if it has an

affiliation agreement with an eligible school of medicine or osteopathy which demonstrates that the school has supervisory responsibility for the residency training program.

Section 57.3105—Project requirements

A commenter questioned the requirement that individuals with formal training and experience in the behavioral sciences must participate in the project (§ 57.3105(e)). Instead, this commenter recommended that faculty be experienced in "biopsychosocial approaches to clinical care." It is not clear what is meant by the proposed alternative, and it is considered difficult to measure compliance with it. (§ 57.3105(d) of the Final regulations.)

Furthermore, the requirement has not been changed because the use of behavioral scientists is consistent with the broad approach taken by this grant program in order to stimulate educationally sound innovation and experimentation in curriculum design and content. Finally, since the role of the individual trained and experienced in behavioral sciences will be described by the applicant, the concern expressed about the necessity for behavioral scientists in planning residency training will be addressed.

One comment suggested that either all residents in training in the grant-supported programs should sign statements of their intention to specialize or work in the practice of primary care medicine or that no resident be required to make this declaration (§ 57.3105(g)). The statute requires that residents receiving financial assistance from this grant program will plan to specialize or work in the practice of general internal medicine or general pediatrics. To assist in the implementation of this requirement, if a resident is receiving stipend support from grant funds, it is necessary to require that resident to sign a statement of intent in order to obtain reasonable assurance that the statutory requirement will be fulfilled. If a resident is not receiving stipend support from grant funds, however, there is no basis to require that resident to sign a statement of intent to specialize or work in the practice of general internal medicine or general pediatrics. Therefore, we have not changed this requirement. (§ 57.3105(f) of the Final regulations.)

Several commenters recommended changes in the requirements in § 57.3105(l). With respect to the requirement that the resident be recognized by patients as their provider of longitudinal care, we would point out that there is no condition in this requirement that a resident must serve as a patient's "sole provider" of health care. Further, this grant program is for residency training which, by definition, occurs in an environment in which a trainee's work is clinically supervised, and the requirement does not rule out necessary sharing of patient care responsibilities with other residents and physician faculty members. Accordingly, no change has been made in the requirement. (§ 57.3105(k) of the Final regulations.)

The experience requirements in § 57.3105(l) pertaining to the percentage of the residency training time in settings which provide "longitudinal and comprehensive care" define quantitatively the minimum amount of this type of experience considered necessary to train residents in the practice of general internal medicine or general pediatrics. These directly assist the implementation of the statute authorizing the grant program. To allow flexibility, which the commenter requested, the requirements have been restated in terms of the minimum amount of experiences occurring in ambulatory care settings providing longitudinal and comprehensive care rather than in terms of time spent with a "panel of patients." This change will enhance the ability of program directors to schedule residents' time, accomplish the same primary care emphasis, and facilitate the Department's monitoring of grantee performance. (§ 57.3105(k) of the Final regulations.)

Another commenter recommended that the term "psychological" skills in § 57.3105(n)(2)(ii) be replaced with "biopsychosocial." Since "psychological skills" was printed in error, this has been changed to "psychosocial skills," a term which expresses the eductional component desired for the purpose of this grant program. (§ 57.3105(m)(2)(ii) of the Final regulations.)

One additional project requirement was added to these final regulations requiring that each progam develop and use systematic procedures to assess each individual resident's needs and to assist in the educational planning and evaluation of the resident's competence. (§ 57.3105(n) of the Final regulations.)

For clarification, § 57.3106(b)(2)(i) has been revised to specify the types of health personnel which will accord a funding preference to a project.

Under § 57.3106(b)(2)(iii), the special consideration for projects providing training in a health manpower shortage area has been broadened to include projects which conduct a substantial portion of their programs in Area Health Education Centers which are funded, at least in part, under section 781 of the Act. This addition underscores the importance of the Area Health Education Center program which provides a systematic approach to the coordination of educational activities in the community and ameliorates imbalances in the distribution of health professionals.

Section 57.3107(b) has been renumbered as § 57.3108 and has been amended to make clear that grant funds may not be used in place of other available funds, and may only be used to assist in meeting the deficit for a program.

The grants administration and nondiscrimination provisions (Interim Final §§ 57.3110–57.3111) have either been updated to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74). Finally, several changes of an editorial or technical nature have been made to further clarify the regulations, as published in Interim-Final.

Accordingly, the new Subpart FF of 42 CFR Part 57 is revised and adopted as set forth below.

Dated: June 22, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 28, 1980.

Patricia Roberts Harris,

Secretary.

Subpart FF—Grants for Residency Training in General Internal Medicine or General Pediatrics

Sec.

57.3101 To what projects do these regulations apply?
57.3102 Definitions.
57.3103 Who is eligible to apply for a grant?
57.3104 What activities must be addressed in an application?
57.3105 Project requirements.
57.3106 How will applications be evaluated?
57.3107 How long does grant support last?
57.3108 How is the amount of the grant award determined?
57.3109 For what purposes may grant funds be spent?
57.3110 What additional Department regulations apply to grantees?
57.3111 What other audit and inspection requirements apply to grantees?
57.3112 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690 as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 784 of the Public Health Service Act, 90 Stat. 2315 (42 U.S.C. 295g–4).

Subpart FF—Grants for Residency Training in General Internal Medicine or General Pediatrics

§ 57.3101 To what projects do these regulations apply?

The regulations of this subpart apply to the award of grants under section 784 of the Public Health Service Act (42 U.S.C. 295g–4) to schools of medicine and osteopathy to meet the costs of projects (a) to plan, develop and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics and (b) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in this type of program, and who plan to practice general internal medicine or general pediatrics.

§ 57.3102 Definitions.

For purposes of this subpart:

"Act" means the Public Health Service Act, as amended.

"Approved residency training program" or "program" is the entirety or that part of a residency training program which is fully or provisionally accredited by the Liaison Committee on Graduate Medical Education or approved by the American Osteopathic Association and which emphasizes the training of residents for the practice of general internal medicine or general pediatrics.

"Health manpower shortage area" means an area designated under section 332 of the Act.

"Nonprofit school" means a school no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Nurse practitioner" means a nurse practitioner as defined in 42 CFR 57.2402.

"Practice of general internal medicine or general pediatrics" means a practice which is limited to adult or child and adolescent medicine respectively, and in which the physician:

(1) Serves as physician of first contact with the patient and provides a timely means of entry into the health care system;

(2) Evaluates the patient's health needs, provides personal health care and refers the patient, if indicated, to appropriate sources of health care while preserving the continuity of care;

(3) Assumes with the patient responsibility for the patient's longitudinal and comprehensive (including preventive and psychosocial) health care and acts as coordinator of the provision of health services to the patient;

(4) Considers the patient's health care within the context of his or her environment including the community and family or comparable social units; and

(5) Where applicable, plans and shares the above functions with other physicians.

"Project director" means a fully licensed physician on the faculty of the grantee, designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

"School of medicine or osteopathy" means a public or private nonprofit school which provides training leading respectively to a degree of doctor of medicine or to a degree of doctor of osteopathy and which is accredited as provided in section 772(b) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3103 Who is eligible to apply for a grant?

Any school of medicine or osteopathy located in a State may apply for a grant under this subpart.

§ 57.3104 What activities must be addressed in an application?

In addition to other pertinent information which the Secretary may require, an application for a grant under this subpart must contain the following:

(a) A proposal for a project to plan, develop, and operate an approved residency training program or programs in internal medicine or pediatrics, or both (i) which emphasizes the training of residents for the practice of general internal medicine or general pediatrics, and (ii) which may provide financial assistance to residents who are participants in the program and who plan to practice general internal medicine or general pediatrics.

(b) A full and adequate description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart.

(c) A description of the resources to be used by the applicant for the conduct of the proposed project, including faculty, staff, equipment, facilities, and appropriate clinical practice settings (including those which are used to meet the requirements of § 57.3105(j) and (l)).

(d) A description of the type and amount of training to be offered to residents in each year of each residency program in accordance with the requirements of § 57.3105 with special attention to the requirements of § 57.3105(k).

(e) The number of residents to be enrolled in each program, at each level of training, for each year of the project period.

(f) A detailed budget for the proposed project and a justification of the amount of grant funds requested.

(g) Documentation showing that funds available from other sources will be insufficient to meet the costs of the project and that grant funds will not be used to supplant other available funds.

(h) If stipend support is requested by an applicant to provide a portion of the salary of residents enrolled in the program, documentation showing that income available from alternative sources, including income derived from the services of the residents in the program, will be insufficient to pay their salaries and that grant funds will not be used to supplant other available funds.

§ 57.3105 Project requirements.

For each residency program, a project must:

(a) Have a residency program director.

(b) Employ an individual with relevant experience or training who is responsible for curriculum development and evaluation.

(c) Employ faculty members experienced in the practice of general internal medicine or general pediatrics who participate as instructors at principal training settings.

(d) Employ individual(s) with formal education in behavioral sciences who participate in the preparation and implementation of the curriculum and in clinical consultation.

(e) Use a resident recruitment and selection process which assures that residents in the program have applied specifically for training in a program that emphasizes the practice of general internal medicine or general pediatrics.

(f) Provide financial assistance from grant funds only to residents who have signed statements of their intention to specialize or work in the practice of general internal medicine or general pediatrics.

(g) Have, in each program of a school of medicine, at least four residents in training by the beginning of the second year of Federal support, and at least 12 residents in training by the beginning of the fourth year of Federal support. By

the beginning of the fourth year of Federal support, a program may meet this requirement with less than 12 residents in training if the number of internal medicine or pediatric residents in primary care training is at least 50 percent of the total number of internal medicine or pediatric residents at the institution. The Secretary may suspend this requirement for a period which he or she finds appropriate if the Secretary determines that a grantee has made a good faith effort to comply with the requirement and has met the other requirements of this Subpart and the Act, but is unable to have the required number of residents in the program due to circumstances beyond its control.

(h) Have, in each program of a school of osteopathy, at least two residents in training by the beginning of the second year of Federal support; and at least six residents in training in 3-year programs and at least four residents in training in 2-year programs by the beginning of the fourth year of Federal support. The Secretary may suspend any of these requirements for a period which he or she finds appropriate if the Secretary determines a grantee has made a good faith effort to comply with the requirement and has met the other requirements of this Subpart and the Act, but is unable to have the required number of residents in the program due to circumstances beyond its control.

(i) Plan to have residents distributed so that there is no decrease in numbers of residents in successive levels of training by the time the program is fully operational.

(j) Use one or more ambulatory care training settings which actively promote the practice of general internal medicine or general pediatrics, and which:

(1) Attract patients for primarily longitudinal and comprehensive (including psychosocial and preventive) health care;

(2) Organize personnel, including residents, into functional units providing comprehensive health services and provide residents with experience working with various types of health personnel;

(3) Have systems for referring patients to other specialists, and subspecialists, which assure coordination with the patients' own practitioners of general internal medicine or general pediatrics;

(4) Use an appointment system which facilitates the assignment of patients to their practitioner of general internal medicine or general pediatrics or to a particluar team of practitioners; and

(5) Use a medical record system which:

(i) Gives practitioners of general internal medicine or general pediatrics ready access to a patient's medical records including data relating to members of the patient's family which is pertinent to the patient's care;

(ii) Is suitable for audit by organizations or individuals who perform this work with adequate safeguards against unauthorized disclosures; and

(iii) Assures systematic review of the records.

(k) Make provision for each resident to serve a panel of patients and/or families who recognize him or her as their provider of longitudinal and comprehensive (including preventive and psychosocial) health care. The panel must be sufficiently numerous and varied to provide the resident with broad clinical experience. The clinical experience must be scheduled principally in ambulatory care settings as described in paragraph (j) of this section. A resident's time in these settings must:

(1) Comprise at least 10 percent of his or her total training time (excluding vacation time) during each year in the program (i.e., at least one-half day per week);

(2) Comprise at least 25 percent of his or her total training time (excluding vacation time) for the entire residency training period; and

(3) Be scheduled in at least nine months of each year of training.

(l) Offer ambulatory care training relevant to general internal medicine or general pediatrics in settings such as emergency rooms and specialty clinics.

(m) Have a planned curriculum which:

(1) Supplements the residents' inpatient and ambulatory patient care experiences with related educational activities such as courses, presentations, discussions, and reading assignments;

(2) Emphasizes subjects pertaining to:

(i) Ambulatory care;

(ii) Psychosocial skills and topics; and

(iii) Non-clinical areas relevant to the practitioner of general internal medicine or general pediatrics; and

(3) Is annually evaluated, using previously established criteria and objectives in a manner which includes the participation of residents.

(n) Develop and use systematic procedures to assess the individual resident's needs and to assist in educational planning and evaluation of the resident's competence.

§ 57.3106 How will applications be evaluated?

(a) After consulting with the National Advisory Council on Health Professions Education, established under section 702 of the Act, the Secretary will approve projects which will best promote the training purposes of section 784 of the Act. The Secretary will take into consideration, among other factors:

(1) The degree to which the proposed project adequately provides for the project requirements set forth in § 57.3105;

(2) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

(3) The qualifications of the proposed staff and faculty;

(4) The potential of the project to continue on a self-sustaining basis.

(b) In determining the priority for funding of applications approved under paragraph (a) of this section, the Secretary will consider: (1) the relative merit of the proposed project based upon the factors in paragraph (a) of this section, and (2) the extent to which a proposed project contains any of the following elements:

(i) Substantial training experience in settings where physician assistants or nurse practitioners, or both, are used as part of a health care team.

(ii) Coordination of administrative and educational resources to be used by a program of general internal medicine and a program of general pediatrics which are both to be conducted within a single project.

(iii) Substantial portions of the project are conducted in a health manpower shortage area(s), and in particular, in a health manpower shortage area(s) which is located in a Standard Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or in an area health education center funded, at least in part, under section 781 of the Act.

§ 57.3107 How long does grant support last?

(a) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed five years.

(b) Generally, the grant will initially be funded for one year, and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that

continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of Federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.3108 How is the amount of the grant award determined?

The amount of any award will be limited to that portion of the annual program costs which the Secretary determines, on the basis of the documentation required in the application, cannot reasonably be paid from other available funds. Further, the amount of any stipend will be limited to that portion of the annual amount normally paid to other residents by the applicant which the Secretary determines, on the basis of the documentation required in the application, cannot reasonably be paid from other available funds, including the incomes derived by the hospital from the residents' services.

§ 57.3109 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

§ 57.3110 What additional Department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR PART 50—PHS grant appeals process
45 CFR PART 16—Department grant appeals process
45 CFR PART 46—Protection of human subjects
45 CFR PART 74—Administration of grants
45 CFR PART 75—Informal grant appeals procedures (indirect cost rates and other cost allocations
45 CFR PART 80—Nondiscrimination under programs receiving Federal assistance from the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR PART 81—Practice and procedure for hearings under Part 80
45 CFR PART 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR PART 84—Nondiscrimination on the basis of handicap in federally-assisted programs
45 CFR PART 86—Nondiscrimination on the basis of sex in federally-assisted education programs
45 CFR PART 91 [1]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance

§ 57.3111 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

§ 57.3112 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-23294 Filed 7-31-80; 8:45 am]
BILLING CODE 4110-83-M

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42 CFR Part 57

Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Educational Programs

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth criteria for the Health Professions Capitation Grants Program, as amended by the Health Professions Educational Assistance Act of 1976. These grants are made annually to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, podiatry and pharmacy for support of their educational programs.

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: John R. Westcott, Grants Management Officer, Bureau of Health Professions, 3700 East-West Highway, Center Building, Room 4-27, Hyattsville, Maryland 20782 (Telephone: 301-436-6564).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 27, 1979, the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to add a new Subpart JJ to Part 57 of Title 42 of the Code of Federal Regulations to implement the amendments made by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484, October 12, 1976) to the existing authority for Health Professions Capitation Grants in Title VII of the Public Health Service Act.

Interested persons were invited to submit comments on the proposed regulations on or before June 26, 1979. Five letters were received in response to the proposed regulations. The summary of the comments received and the Department's response are set forth below. For clarity, the comments have been arranged according to the section numbers and titles of the proposed regulations to which they pertain.

Section 57.3505 What assurances are required of all applicants for capitation grants?

Comments were received relating to the required first-year enrollment assurances necessary for eligibility for capitation support, particularly of the schools of pharmacy and the schools of public health. The respondents expressed concern that these requirements would jeopardize and perhaps even lower the standards for student acceptance, and, therefore, it was proposed that the requirements be deleted.

Assurances concerning maintenance of enrollment are required of all schools under section 771(a) of the Act. In addition to the general requirements, sections 771(e)(1) (A) and (B) of the Act establish enrollment increase requirements specifically for schools of public health. However, section 771(e)(2) of the Act provides that in the case of schools of public health, the Secretary may waive (in whole or in part) the enrollment increase requirements of section 771(e)(1) (A) or (B) if the Secretary determines, after receiving the

[1] When issued.

written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Secretary of Education), that compliance by a school of public health with the requirement will prevent it from maintaining its accreditation. Since these requirements are statutory, no changes have been made to the regulation.

Section 57.3508 What additional requirements apply to schools of dentistry?

The "Nurse Training Amendments of 1979" (Pub. L. 96–76) were signed into law September 29, 1979. Section 207 of this Public Law amended section 771(d)(5) of the Act relating to eligibility of schools of dentistry for capitation grants. Section 771(d)(5) had previously authorized the Secretary to waive any requirement of section 771(d). As amended, the provision also allows the Secretary to waive, with respect to schools of dentistry, the requirement of section 771(a)(1) that any school maintain an enrollment which had been increased in order to meet previous capitation requirements. This amendment is reflected in the new paragraph (c) of § 57.3508 of the regulations.

Section 57.3514 How will the number of students at each school be determined?

One comment related to the definition of a first-year student at a school of public health in paragraph (b)(2) of § 57.3514. The respondent believes that in the case of part-time students two interpretations are possible: The first uses the calendar year as the basis for determining a first-year student; only students enrolling for the first time in their currrent degree program at the school during the year in question would be counted as first-year students. The second interpretation would define a first-year student in terms of progress made toward fulfillng degree requirements. Thus, the respondent's concern is that in meeting assurance requirements a student could be counted as a first-year student on more than one capitation grant application. Section 57.3514 describes how the number of students will be determined for purposes of meeting required enrollment assurances. Only full-time students are counted in meeting the assurance requirements. Since full-time equivalents do not apply toward the assurance requirements, it is not possible to count a part-time student for assurance purposes.

The Department believes that the process used to arrive at the number of students for each school is adequate; therefore, no changes have been made.

Section 57.3520 What provision of 45 CFR Part 74 apply to grantees?

One commenter recognized an inconsistency between § 57.3520 of the proposed rules, which required the application of the cost principles of 45 CFR Part 74, and section A.3.b. of OMB Circular A–21, "Cost Principles for Educational Institutions," which exempts capitation grants. Although the final regulations still indicate that 45 CFR Part 74 applies to grantees, the inconsistency no longer exists because the Department's amendment to 45 CFR Part 74, published on May 22, 1980 (45 FR 34272), incorporated the OMB Circular A–21 of February 26, 1979 (44 FR 12368) into Part 74 by reference.

The regulations also include revisions based "Operation Common Sense," the Department's initiative to improve the quality and readability of its regulations. These include revisions or deletions of grants administration and nondiscrimination provisions to reflect current policy or to conform with the Department's grants administration regulation (45 CFR Part 74).

With the publication of the new Subpart JJ, Subpart F is superceded. Accordingly, Subpart F is repealed and a new Subpart JJ as set forth below is added to 42 CFR Part 57.

Dated: June 6, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 28, 1980.

Patricia Roberts Harris,

Secretary.

Subpart JJ—Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Education Programs

Sec.

57.3501 To whom do these regulations apply?
57.3502 Definitions.
57.3503 Who is eligible to apply for a health professions capitation grant?
57.3504 What assurances are required of all applicants for capitation grants?
57.3505 What additional requirements apply to schools of medicine?
57.3506 What additional requirements apply to schools of osteopathy?
57.3507 What additional requirements apply to schools of dentistry?
57.3508 What additional requirements apply to schools of public health?
57.3509 What additional requirements apply to schools of veterinary medicine?
57.3510 What additional requirements apply to schools of optometry?
57.3511 What additional requirements apply to schools of podiatry?
57.3512 What additional requirements apply to schools of pharmacy?
57.3513 How will the number of students at each school be determined?
57.3514 Under what circumstances and in what amounts may these grants be made?
57.3515 What expenses are allowable under these capitation grants?
57.3516 What additional Department regulations apply to grantees?
57.3517 What audit inspection and reporting requirements apply to grantees?
57.3518 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216) Secs. 770–72 of the Public Health Service Act, 90 Stat. 2290 as amended by 91 Stat. 391 and 91 Stat. 1503, and 92 Stat. 3456 and 3457 (42 U.S.C. 295f).

Subpart JJ—Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Education Programs

§ 57.3501 To whom do these regulations apply?

The regulations in this subpart apply to the award of annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the educational programs of these schools.

§ 57.3502 Definitions.

"Act" means the Public Health Service Act, as amended.

"Ambulatory care setting" means a facility in which health care is delivered to persons who are ambulatory and who are not patients in a hospital or other inpatient care facility for the purpose of receiving the particular care being provided.

"Construction" means (a) the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architects' fees, acquisition of land, offsite improvements, and the initial equipping of buildings); and (b) the remodeling, alteration and repair of existing buildings.

"Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

"Dental specialty program" means a program in any dental specialty which is accredited by a body or bodies recognized for this purpose by the Secretary of Education and is at least one academic year in length. For purposes of this subpart a residency training program in the general practice of dentistry is considered a dental specialty.

"Fiscal year" means the Federal fiscal year beginning October 1 and ending the following September 30.

"Full-time course of study" means a course of study in which the student is enrolled for a sufficient number of credit hours in a semester or other academic term to enable the student to complete the course of study within not more than the number of semesters or other academic terms normally required to complete the course of study on a full-time basis.

"Full-time student" means a student as defined in section 770(c) of the Act.

"Medically underserved population" means a population group designated under section 332(b) of the Act, a population group served by a facility designated under that section, or a population group residing in an area designated under that section.

"Resident of a State" means one who was residing in that State at the time of his or her application to the school.

"School" means a public or other nonprofit school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry as defined in section 701(4) of the Act and which is accredited as provided in section 772(b) of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

"State" means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3503 Who is eligible to apply for a health professions capitation grant?

Any school which is located in a State may apply for a grant under this subpart.

§ 57.3504 What assurances are required of all applicants for capitation grants?

In accordance with the requirements of section 771(a) of the Act, each school must furnish reasonable assurances satisfactory to the Secretary that:

(a) The first-year enrollment of full-time students in the school, in the school year beginning in the fiscal year in which the grant applied for is to be made, will not be less than the first-year enrollment of full-time students in the school in the preceding school year or in the school year which began in the fiscal year ending September 30, 1976, whichever is greater.

(b) The applicant will spend an amount of funds from non-Federal sources (other than funds for construction) in carrying out its functions as a school during the fiscal year for which the grant is sought, which is at least as great as the amount of funds spent by the applicant for this purpose (excluding expenses of a nonrecurring nature) in the fiscal year preceding the fiscal year for which the grant is made.

§ 57.3505 What additional requirements apply to schools of medicine?

Medical residency training program requirements: Under section 771(b)(2) of the Act (42 U.S.C. 295f–1(b)(2)), the Secretary must determine as of July 15 of each year, the percentage of filled first year positions in direct or affiliated medical residency training programs that are filled first year positions in primary care in all schools in the States. If the percentage for all schools nationwise is not 50 percent on July 15, each individual school of medicine, in order to be eligible for a grant, must have on July 15 of the following year at least 50 percent of its filled first year positions in its direct or affiliated medical residency training programs in filled first year positions in primary care. The Secretary will publish a notice in the **Federal Register** announcing the results of his or her annual determination and whether individual schools will be required to comply with the provisions of this paragraph.

(a) For the purpose of making this determination:

(1) "Medical residency training program" means a medical residency training program which is approved or provisionally approved by the Liaison Committee on Graduate Medical Education.

(2) "Direct or affiliated medical residency training program" means a medical residency training program conducted in facilities owned by the applicant school or its parent organization or a medical residency training program which has an arrangement with the school or one of the school's constituent units, providing for any of the following:

(i) The exchange of three or more students enrolled in the school of medicine for a total of at least 12 months of education within any given school year; or any exchange of at least one medical resident for at least one year; or

(ii) The exchange of faculty between the school of medicine or one of its constituent units and the residency program; or the appointment to any faculty position at the school of medicine of any individual on the staff of the entity sponsoring the residency program who has any responsibility for the program (term "faculty" excludes individuals who receive no financial compensation for their teaching activities or who have no responsibility for the instruction of students or residents in the medical residency training program); or

(iii) The provision or receipt by the school of medicine or one of its constituent units of any funds for the residency program.

(3) "Filled first-year position" means any filled position in:

(i) The first year of a medical residency training program sponsored by a residency program in family practice, internal medicine, pedistrics, obstetrics and gynecology, pathology or general surgery;

(ii) The first year of medical residency training program jointly sponsored by two or more medical residency training programs, or

(iii) Any position in any other type of medical residency training program in which a resident is enrolled in his or her first year of graduate medical education.

(4) "Filled first-year position in primary care" means all filled positions in:

(i) The first year of medical residency training program sponsored by a residency program in family practice, internal medicine or pediatrics; and

(ii) The first year of medical residency training programs jointly sponsored by any combination of residency programs in family practice, internal medicine, or pediatrics.

§ 57.3506 What additional requirements apply to schools of osteopathy?

Each school of osteopathy must also submit, or participate in the joint submission of, a plan for the Secretary's approval to train full-time students in ambulatory care settings either in areas geographically remote from the main site of the teaching facilities of the applicant school or schools, or in areas in which medically underserved populations reside. An ambulatory care setting is considered to be geographically remote if it is physcially removed from the facility or facilities where the major part of the educational program of the school is conducted and should, to the maximum extent feasible, be located in areas in which medically underserved populations reside. The training must occur in the school year beginning in the fiscal year for which the grant is made and in each subsequent school year for which a grant is made. In the case of a joint submission of a plan by two or more schools, the plan must detail the specific responsibilities of each school submitting the plan, and must be signed

by an authorized official of each school. In addition, each grantee must provide evidence of adequate progress in implemening the plan approved in the fiscal year immediately preceding the year of re-application.

§ 57.3507 What additional requirements apply to schools of dentistry?

(a) Each school of dentistry must also meet the requirements of section 771(d)(2) of the Act and, at the option of the school of dentistry, the requirements of either section 771(d)(3) or section 771(d)(4) of the Act. Where a school elects to meet the requirements of section 771(d)(4) of the Act, the school must submit, or participate in the joint submission of, a plan for the Secretary's approval to train full-time students in ambulatory care settings either in areas geographically remote from the main site of the teaching facilities of the school or in areas in which a medically underserved population resides. An ambulatory care setting is considered to be geographically remote if it is physically removed from the facility or facilities where the major part of the educational program of the school is conducted and should to the maximum extent feasible be located in areas in which there is a need for dentists. The clinical training must occur in a health care delivery setting which enables the student, under practitioner-instructor supervision, to integrate and assume the roles, functions, and responsibilities that characterize a dental practitioner and that trains the student to provide primary dental care.

(b) The Secretary may waive requirements for a school of dentistry under section 771(d) of the Act if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies approved for this purpose by the Secretary of Education, that compliance with the requirements would prevent the school from maintaining accreditation.

(c) The Secretary may, in the case of a school of dentistry which increased its enrollment of full-time first-year students in accordance with section 771(d)(3) of the Act, waive (in whole or in part and under such conditions as the Secretary may prescribe) application of the requirement of subsection 771(a)(1) of the Act that it maintain its increased enrollment of such students.

§ 57.3508 What additional requirements apply to schools of public health?

Each school of public health must also meet the requirements of section 771(e)(1) of the Act with respect to increasing its enrollment of full-time first-year students.

§ 57.3509 What additional requirements apply to schools of veterinary medicine?

Each school of veterinary medicine must also meet the requirements of section 771(f)(2) and, at the option of the school of veterinary medicine, either section 771(f)(3) or section 771(f)(4) of the Act. A school of veterinary medicine will meet the requirements of section 771(f)(2) of the Act relating to emphasizing care to food-producing or fiber-producing animals if over 50 percent of the total credits or contact hours of both the clinical aspects of the basic biomedical sciences and the clinical care training programs consist of treating food-producing and/or fiber-producing animals.

§ 57.3510 What additional requirements apply to schools of optometry?

A school of optometry must also meet the requirements of either section 771(g)(2) or section 771(g)(3) of the Act at the option of the school of optometry.

§ 57.3511 What additional requirements apply to schools of podiatry?

A school of optometry must also meet the requirements of either section 771(h)(2) or section 771(h)(3) of the Act at the option of the school of podiatry.

§ 57.3512 What additional requirements apply to schools of pharmacy?

A school of pharmacy must also meet the requirements of section 771(i) of the Act.

§ 57.3513 How will the number of students at each school be determined?

(a) The number of full-time students enrolled in a school, or the number of full-time, first-year students enrolled in a school, for any year, will be the number of students enrolled in the school on September 15 of the fiscal year in which the grant is made except that in the case of a school of pharmacy or school of medicine with a course of study of more than 4 years; (1) full-time students mean only those students enrolled in the last four years of the school, and (2) full-time first-year students mean those students enrolled in the first of the last four years. The Secretary may, upon application, approve a date other than September 15 as the official counting date for schools whose academic calendars make the September 15 date inappropriate.

(b) The classification of a full-time student as a first-year student will be in accordance with the policies of the particular school, except that for the purpose of the assurances required by section 771 of the Act:

(1) A student may not be counted as a first-year student more than once, except that a student who, for other than academic reasons, withdraws from a year class before the end of an academic year or does not complete an academic year shall not be considered as having been enrolled in a year class in that academic year.

(2) A first-year student enrolled in a school of public health is one who is enrolled in the first year of a course of study leading to a master's degree or in the first year of a course of study leading to a doctoral degree for which no post-baccalaureate studies are a prerequisite for admission into the program.

§ 57.3514 Under what circumstances and in what amounts may these grants be made?

(a) The Secretary will award a capitation grant to each applicant whose application is found by the Secretary, after consultation with the Council, to meet the requirements of the applicable provisions of the Act and of this subpart.

(b) The amount of each capitation grant will be an amount computed in accordance with the formula set forth in section 770(a) of the Act. If the amount of funds appropriated under section 770(e) of the Act for any category of health professions schools for any fiscal year is less than the total of the amounts so computed for each school in that category with an approved application, the grant awarded to each such school will be reduced proportionately in accordance with section 770(b) of the Act.

§ 57.3515 What expenses are allowable under these capitation grants?

(a) Capitation grant funds may be obligated by the school at any time before the end of the 24-month period specified in the grant award document for any purpose related to the educational program of the school, except as otherwise provided in paragraph (b) of this section. Any funds not obligated must be refunded to the Federal Government.

(b) Capitation grant funds may not be expended for the following purposes:

(1) Construction, except that grant funds may be used for remodeling, alteration and repair of existing buildings;

(2) Student assistance; or

(3) Sectarian instruction or any religious purpose.

§ 57.3516 What additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

45 CFR Part 46 Protection of human subjects

45 CFR Part 74 Administration of Grants
45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department-Implementation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81 Practice and procedure for hearings under Part 80
45 CFR Part 83 Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84 Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86 Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91 [1] Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 57.3517 What audit inspection, and reporting requirements apply to grantees?

(a) Each school which receives a capitation grant must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

(b) Each school which receives a capitation grant must meet the requirements of section 708(c) of the Act, concerning reporting information on students who attend the school.

§ 57.3518 Additional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of funds.

[FR Doc. 80-23273 Filed 7-31-80; 8:45 am]
BILLING CODE 4110-83-M

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42 CFR Part 58

Grants for Graduate Programs in Health Administration

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule sets forth requirements for Programs for Grants for Graduate Programs in Health Administration under section 791 of the Public Health Service Act (42 U.S.C. 295h), as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

EFFECTIVE DATE: August 1, 1980.

FOR FURTHER INFORMATION CONTACT: David B. Hoover, Acting Director, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (301-436-6838).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 20, 1978 (43 FR 26443), the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, established a new Part 58 of Title 42 of the Code of Federal Regulations entitled "Grants for Training of Public Health and Allied Health Personnel" and a new Subpart A within that part entitled "Grants for Graduate Programs in Health Administration."

Interested persons were invited to submit comments on or before August 21, 1978. Eleven comments were received. A discussion of the comments and the Department's response to the comments is set forth below. Also discussed are related comments submitted earlier in response to a request to participate in the regulation's development published in the *Health Resources News* (Vol. 4, August 1977). For clarity the comments and responses have been arranged according to the section of the Interim-final regulations to which they pertain.

Section 58.3 Eligibility.

Comments from the Council on Social Work Education and from 7 individual schools of social work objected to the Secretary's determination that the only body currently recognized to accredit graduate programs in health administration is the Accrediting Commission on Education for Health Services Administration. These objections focused on the following arguments:

1. Schools of social work are specifically identified as eligible for grants under this section.

2. The Council on Social Work Education is recognized by the Secretary of Education for the accreditation of schools of social work, and is therefore the appropriate accrediting body for health administration components within such schools.

3. The application of an accreditation requirement, in addition to that for the school of social work as a whole, places an unreasonable burden on educational institutions.

One respondent was of the opinion that accreditation that has been achieved through schools of business and medicine, and the university accreditation as a whole, was sufficient evidence that prerequisite quality standards exist, and that an additional accreditation requirement was not necessary.

Another respondent from a school of social work suggested that accreditation should be addressed by a "coordinating council on graduate education in medical sciences, or by the relevant regional accrediting body for higher education."

Nine respondents to the August 1977 invitation to comment on the regulation's development had supported the Accrediting Commission on Education for Health Services Administration as the appropriate agency to accredit health administration programs, including health planning and policy analysis. Position papers were submitted at that time by the Council on Education for Public Health and the Accrediting Commission on Education for Health Services Administration in support of the accreditation process specified under section 791. The salient points reflected in these papers are: 1) health administration, planning and policy are integrally related aspects of health services administration curricula; 2) educational programs in health administration must include content in these three areas to the extent that distinct content is identifiable; 3) programs offering broadly inclusive educational experiences should be supported and professional separatism discouraged; 4) the Accrediting Commission on Education for Health Services Administration offers accreditation services to Health Services Administration programs in all university settings; and 5) although other standards and accrediting agencies may be qualified in administration, it is essential to apply health-oriented criteria to education programs in health services administration, planning and policy.

Another respondent at that time indicated that accreditation by the regional education accrediting bodies should be the only requirement except for those programs located in schools of social work. With respect to programs in schools of social work, this respondent thought that accreditation should be required by the Council on Social Work Education. He admitted, however, that neither of these accreditation procedures is specific to programs in health administration or health planning. Another respondent commented relative to accreditation by regional bodies that, although it would be in his own school's interest, he was of the opinion that this accreditation was of a very low level, of questionable merit, and hardly parallel to that for programs in health administration.

Section 791 of the Act specifies that in order to be eligible to apply for a grant, an applicant must offer a graduate educational program which has been

[1] When issued.

accredited "*for the training of individuals for health services administraton, hospital administration or health planning by a recognized body or bodies approved for such purpose by the Secretary of Education.*" (Emphasis added.) The Secretary has determined that the only body currently "approved for such purpose by the Secretary of Education" is the Accrediting Commission on Education for Health Services Administration. It should be noted that under the regulations as written, if another body were given initial or expanded recognition by the Secretary to accredit programs in these fields of study, institutions with graduate programs in these fields which were accredited by this body would automatically be eligible for grants under this subpart. Consequently, no changes in the wording of the accreditation requirement of the eligibility provision were considered necessary.

Another respondent, representing a school of business, questioned the limitation of eligibility to graduate programs. It was his opinion that undergraduate programs should not be arbitrarily excluded from consideration for support. Since the statute delineates "graduate educational programs," the suggestion has not been adopted.

Another respondent to the *Health Resources News* invitation to comment proposed that for demonstration purposes, serious consideration be given to a federally qualified HMO which might be able to qualify as a "nonprofit private educational entity." Because the eligibility provisions and the definition of an educational entity as stated in the Interim-Final regulations would not exclude a program conducted in an HMO under the auspices of an educational entity, no change was considered necessary.

Section 58.5 Assurances required.

Three respondents submitted comments objecting to the requirement that at least 25 individuals must be graduated from the individual programs per year. One respondent indicated that the requirements also include qualified part-time students. One respondent indicated that it was not planning to ever graduate 25 persons per year, as its obligation as a State-supported university was to provide educational opportunities predominately for residents of its State. One respondent was concerned that the requirement that 25 individuals be graduated each year, and that at least $100,000 from non-Federal funds be expended in the program, would exclude most schools of social work, a result that they hoped was not intended. Another respondent also objected to the non-Federal $100,000 requirement. Since these requirements are based on the statute, no changes have been made.

The final regulations have been restructured and portions rewritten based on "Operation Common Sense", the Department's initiative to improve the quality and readability of its regulations. The provisions have also been reorganized consistent with a standardized format being developed for health personnel grant regulations. The grants administration and nondiscrimination provisions (Interim-final §§ 58.6–58.13) have either been revised to reflect current policy or deleted as duplicative of the Department's grants administration regulation (45 CFR Part 74).

Accordingly, the existing Subpart A of 42 CFR Part 58 is revised and adopted as set forth below.

Dated: June 16, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary.

Subpart A—Grants for Graduate Programs in Health Administration

Sec.

58.1 To what grant program do these regulations apply?
58.2 Definitions.
58.3 Who is eligible to apply for a grant?
58.4 What assurances must be provided in an application?
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58.9 What additional Department regulations apply to grantees?
58.10 What other audit and inspection requirements apply to grantees?
58.11 Additional conditions.

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); section 791 of the Public Health Service Act, 90 Stat. 2303 (42 U.S.C. 295h).

Subpart A—Grants for Graduate Programs in Health Administration

§ 58.1 To what grant program do these regulations apply?

These regulations appy to the award of grants under section 791 of the Public Health Service Act to public or nonprofit private educational entities (including schools of social work and excluding schools of public health) to support graduate educational programs in health administration, hospital administration, and health planning.

§ 58.2 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended (42 U.S.C. 201 et. seq.).

"Council" means the National Advisory Council on Health Profession Education established by section 702 of the Act.

"Educational entity" means a school, college or university which is accredited by a body or bodies recognized for this purpose by the Secretary of Education.

"Graduate educational program" means a program of education leading to a master's degree or equivalent, or a doctoral degree or equivalent.

"Nonprofit," as applied to any entity, means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"School of public health" means a school which provides training leading to a graduate degree in public health or an equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

"School year" means the traditional approximately 9-month September to June annual session at an educational institution.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department to whom the authority involved has been delegated.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 58.3 Who is eligible to appy for a grant?

Any public or nonprofit educational entity (excluding schools of public health) located in a State is eligible to apply for a grant to support a graduate educational program which has been accredited for the training of individuals for health services administration, hospital administration, or health planning by a recognized body or bodies approved for this purpose by the Secretary of Education.

§ 58.4 What assurances must be provided in an application?

(a) The application must contain assurances satisfactory to the Secretary that:

(1) At least 25 individuals will complete the graduate educational programs of the applicant for which the

application was made in the school year beginning in the fiscal year for which an applicant receives a grant;

(2) The applicant will expend or obligate at least $100,000 in funds from non-Federal sources to conduct the graduate educational program for which the application was made (excluding expenditures for construction, but not excluding expenditures for alterations and renovation) in the school year beginning in the fiscal year for which an applicant receives a grant;

(3) The applicant will maintain for the school year beginning in the fiscal year ending September 30, 1978, and for each subsequent school year for which a grant is applied for, a first year enrollment of full-time students in the graduate educational programs for which the application was made which exceeds the number of full-time first year students enrolled in that program in the school year beginning in the fiscal year ending September 30, 1976 by (i) 5 percent of that number if the number of full-time first-year students enrolled was 100 or less; or (ii) the greater of 2.5 percent of that number, or 5 students if the number of full-time first year students enrolled was more than 100. For purposes of this section the term "full-time student" means a student who is enrolled in an educational entity on a full-time basis as determined by the educational entity. The number of students enrolled in an educational entity for any year shall be the number enrolled as of October 15 of that school year. The classification of a full-time student as a first year student will be made in accordance with the usual policies of the educational entity, except that no student may be counted more than once as a first year student.

(b) The Secretary may, after consultation with the Council, waive in whole or in part the requirements of paragraph (a)(3) of this section relating to increases in enrollment upon written notification by the appropriate accreditation body or bodies that compliance with that paragraph will prevent the educational entity from meeting that body or bodies accrediting standards with respect to the graduate educational programs for which the application was made. In deciding whether to give a waiver under this paragraph the Secretary will consider the extent to which the educational entity has means available to it by which it could meet the increased enrollment requirements without failing to meet the accreditation standards.

§ 58.5 What activities must be addressed in an application?

Each application submitted under these regulations must include a plan, in the form the Secretary may prescribe, describing at least three of the following activities that will be undertaken to strengthen the applicant's graduate educational programs in health administration, hospital administration, or health planning:

(a) Providing training which will prepare health administrators and health planners for employment in a wide variety of settings, including public and voluntary agencies, extended care facilities, ambulatory facilities and health planning agencies;

(b) Developing or expanding special curriculum content in health planning, policy and regulation, health economics, quantitative methods and financial management;

(c) Providing field training in settings described in paragraph (a) of this section and which involves experience related to the curricular areas described in paragraph (b) of this section;

(d) Providing field training in settings designed to provide mid-career development for practicing health administrators and planners;

(e) Developing programs designed to provide regional educational opportunities in areas where there are no accredited programs in health services administration or in which there are documented shortages of trained health services administrators or planners.

§ 58.6 How is the amount of the grant award determined?

(a) The Secretary after consultation with the Council, will award grants annually to those educational entities which meet the requirements of section 791 of the Act, and of this subpart.

(b) The amount of each grant will be equal to the total amount of funds available for this purpose divided by the number of educational entities with approved applications.

§ 58.7 How long does grant support last?

(a) Each notice of grant award specifies the period during which funds from that annual award are available for obligation by the grantee. This period will not exceed two years. If at any time during the period of the grant it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, exceeds the grantee's needs for that period, the Secretary may adjust the amounts awarded by withdrawing the excess.

(b) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government to make any additional, supplemental, or other award with respect to any approved application or portion of an approved application.

§ 58.8 For what purposes may grant funds be spent?

(a) A grantee may spend grant funds it receives under this subpart for any purpose related to its graduate educational program in health administration, hospital administration, or health planning in accordance with the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction or for any religious purpose.

(c) Grant funds may not be expended for construction (except that grant funds may be used for alterations and renovation) or student assistance.

§ 58.9 What additional Department regulations apply to grantees?

Several other regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50—PHS grant appeals process
45 CFR Part 16—Department grant appeals process
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures (indirect cost rates and other cost allocations)
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department—Implements Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
45 CFR Part 84—Nondiscrimination on the basis of handicap in Federally assisted programs
45 CFR Part 86—Nondiscrimination on the basis of sex in Federally assisted education programs
45 CFR Part 91 [1]—Nondiscrimination on the basis of age in Department programs or activities receiving Federal financial assistance.

§ 58.10 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

[1] When issued.

§ 58.11 Additional conditions.

The Secretary may impose additional conditions in the grant award before or at the time of the award if he or she determines that these conditions are necessary to assure or protect advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 80-23271 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-83-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5859]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4 (Presently appearing at its former 24 CFR 1915.4).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

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

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR Part 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Arkansas	Yell	City of Dardanelle	Dardanelle Post-Dispatch, Oct. 17, 1979, Oct. 24, 1979.	Hon. Dana Meritt, Mayor, city of Dardanelle, 502 South Second Street, Office 116 South Front, Dardanelle, Ark.	June 3, 1980	050233C
Georgia	Fulton	City of College Park	The South Fulton Neighbor, June 18, 1980, June 25, 1980.	Hon. T. Owen Smith, Mayor, city of College Park, P.O. Box F, College Park, Ga. 30337.	June 13, 1980	130086 0005C
Illinois	Lake	Village of Fox Lake	Fox Lake Press, Oct. 25, 1979, Nov. 1, 1979.	Hon. Richard Hamm, Mayor, Village of Fox Lake, 301 South Route 59, Fox Lake, Ill. 60020.	June 13, 1980	170362 0005D
New Mexico	San Juan	City of Farmington	Farmington Daily Times, Oct. 22, 1979, Oct. 23, 1979.	Hon. Robert S. Culpepper, Mayor, city of Farmington, P.O. Box 900, Farmington, N. Mex. 87401.	June 17, 1980	350067 0005C 0010C
New Jersey	Ocean	Borough of Point Pleasant	Ocean County Leader, Oct. 25, 1979, Nov. 1, 1979.	Hon. Peter Marone, Mayor, borough of Point Pleasant, 2233 Bridge Road, Point Pleasant, N.J. 08742.	June 13, 1980	345313 0001B
Texas	Galveston	City of Galveston	Galveston News, Oct. 26, 1979, Oct. 29, 1979.	Mr. Thomas H. Muehlenbeck, city manager, city of Galveston, P.O. Box 779, Galveston, Tex. 77553.	June 13, 1980	485469 0001-0045C
Illinois	Cook	Village of Riverdale	The South Suburban Opinion, May 10, 1980, May 17, 1980.	Hon. Frank J. Heenan, Mayor, village of Riverdale, 142nd and Stewart, Riverdale, Ill. 60627.	May 16, 1980	170150 0001C

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Mississippi	Monroe	City of Amory	The Amory Advertisor, July 8, 1979, July 15, 1979.	Hon. Billy Glasgow, Mayor, city of Amory, City Hall, P.O. Box 6, Amory, Miss. 38821.	May 30, 1980	280116 0001C 0002C
New Jersey	Mercer	Township of Hopewell	Hopewell Valley News, May 22, 1980, May 29, 1980.	Hon. Richard G. Van Noy, Mayor, township of Hopewell, Route 56 at Scotch Road, Titusville, N.J. 08560.	May 30, 1980	345298 0015C
New York	Cattaraugus	City of Olean	Times-Herald, May 2, 1980, May 9, 1980.	Hon. William O. Smith, Mayor, city of Olean, Olean Municipal Building, Olean, N.Y. 14760.	May 9, 1980	360088 0001B
North Carolina	Craven	City of New Bern	The Sun Journal, May 23, 1980, May 30, 1980.	Hon. Leander R. Morgan, Mayor, city of New Bern, P.O. Box 1129, New Bern, N.C. 28560.	May 23, 1980	370074 0001C
Ohio	Cuyahoga	City of Rocky River	Sun Herald, June 26, 1979, July 5, 1979.	Hon. Earl Martin, Mayor, city of Rocky River, 2130 Northview, Rocky River, Ohio 44116.	May 16, 1980	395372 0001-0003B
Texas	Harris	City of Taylor Lake Village	Daily Citizen, Sept. 20, 1979, Sept. 21, 1979.	Hon. Albert C. Richmond, Mayor, city of Taylor Lake Village, 1202 Kirby Road, Seabrook, Tex. 77586.	June 6, 1980	485513 0001B

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator).

Issued: July 15, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-23011 Filed 7-31-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Correction

In FR Doc. 80-18993 appearing at page 43187 in the issue for Thursday, June 26, 1980; on page 43199, in the table, the second entry in the fifth column for Wisconsin was omitted, it should read "*859".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1003, 1045A, 1056, 1062, 1100, 1130, and 1150

[Ex Parte No. 55 (Subs. 43 and 44)]

Rules Governing Applications for Operating Authority and Rules Governing Applications Filed by Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments for interim rules and requests for comments.

SUMMARY: Enactment of the Motor Carrier Act of 1980 necessitated modifications of the Commission's rules and regulations for handling applications. In Ex Parte No. 55 (Sub-43), the Commission proposes new rules govening the application process (to be use on an interim basis), deletion of general findings of public convenience and necessity from existing rules, the effect of the Act on pending applications, and appropriate new forms for applications. Public comments were requested. In Ex Parte No. 55 (Sub-44), revised procedures are proposed (also to be used on an interim basis) for applications filed by motor carriers to consolidate, purchase, merge, or lease operating rights and properties, or to acquire control of motor carriers, and to obtain temporary authority to engage in operations under 49 U.S.C. § 11349. Public comments were also requested in that proceeding.

Notice of the interim rules and requests for comments were published in the **Federal Register** on July 3, 1980, at 45 FR 45534 and 45529, respectively, and parties were given 45 days from that date in which to file comments.

The Motor Carrier Lawyers Association and National Tank Truck Carriers, Inc., have requested that the comment filing date in these two proceedings be extended to September 2, 1980. That date would allow for a 60-day comment period, and coincides with the due date for comments on a closely related proceeding, Ex Parte No. 55 (Sub-43A), published July 3, 1980, at 45 FR 45545. The extension of time will allow the public to prepare more thoughtful and complete comments and will not unduly delay the proceedings.

National Tank Truck Carriers, Inc., also requests that consolidated pleadings be accepted in Sub-Nos. 43 and 43A. This would be administratively undesirable for the reasons stated in Ex Parte No. MC-135, *Master Certificates and Permits*, 44 FR 57139 (October 4, 1979). However, parties are free to submit the same comments in more than one proceeding in separately identified pleadings.

DATES: Written comments should be filed with the Commission on or before September 2, 1980.

ADDRESSES: Send an original and, if possible, 15 copies of comments, to:

Ex Parte No. 55 (Sub-43), Room 5416, Interstate Commerce Commission, Washington, DC 20423.

Ex Parte No. 55 (Sub-44), Room 5414, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., 202-275-7292.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Dated: July 24, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23189 Filed 7-31-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 150
Friday, August 1, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 359

Removal, Reinstatement, and Guaranteed Placement in the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would establish the procedures for conducting reduction-in-force actions in the Senior Executive Service established by the Civil Service Reform Act of 1978. They would also establish an appeal right to the Merit Systems Protection Board for career appointees who are removed from the Senior Executive Service under such actions.

DATE: Comment Date: Written comments will be considered if received no later than September 2, 1980.

ADDRESS: Send or deliver written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W. Room 6R48, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Neal Harwood, (202) 632–7676.

SUPPLEMENTARY INFORMATION: Because of the extensive review process which was involved in drafting the proposed regulations, and the need to provide final regulations to agencies facing reduction-in-force situations as soon as possible, the Director of the Office of Personnel Management finds that good cause exists for shortening the comment period to 30 days.

The Civil Service Reform Act exempts members of the Senior Executive Service from coverage under the reduction-in-force provisions of chapter 35 of title 5, and 5 CFR was earlier revised in § 351.201(g) to exclude positions in the Senior Executive Service from coverage under Part 35 (Reduction in Force). These regulations would establish the procedures under which all reduction-in-force actions affecting members of the Senior Executive Service will have to be taken.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is proposing to add Subpart J to 5 CFR Part 359 to read as follows:

PART 359—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

Subpart J—Reduction in Force in the Senior Executive Service

Sec.

359.1001 General provisions.
359.1002 Scope of competition: competitive area and competitive field.
359.1003 Retention standing.
359.1004 Release from competitive field.
359.1005 Placement rights.
359.1006 Transfer of function.
359.1007 Notice.
359.1008 Appeals.
359.1009 Allocation of Senior Executive Service spaces.
359.1010 Grade and pay retention.
359.1011 Records.

Authority: 5 U.S.C. 3132 and 3595.

Subpart J—Reduction in Force in the Senior Executive Service

§ 359.1001 General provisions.

(a) This subpart covers release of an appointee in the Senior Executive Service from a competitive field, as described in § 359.1002(b), if the release is required because of lack of work, shortage of funds, reorganization, the exercise of reemployment or restoration rights by another member of the Senior Executive Service, determination that the appointee's position no longer meets the definition for a Senior Executive Service position in 5 U.S.C. 3132(a)(2) as set out in § 214.101 of this title, because of a change in duties or responsibilities, or the withdrawal of Senior Executive Service spaces by the Office of Personnel Management.

(b) Each agency shall follow all the provisions of this subpart unless the Office of Personnel Management has approved other provisions for the agency.

(c) For the purpose of this subpart:

(1) "Agency" has the meaning given that term by § 214.201, except that the military departments are considered separate agencies.

(2) A reemployed annuitant shall be treated as a noncareer appointee although holding a career appointment.

(d) This subpart does not apply to a former career appointee who elected to retain Senior Executive Service pay and benefits under 5 U.S.C. 3392(c) while serving under a Presidential appointment with the advice and consent of the Senate.

(e) A removal of a career appointee from the Senior Executive Service under this subpart may not be made effective within 120 days after:

(1) The appointment of a new agency head; or

(2) The appointment in the agency of the career appointee's most immediate supervisor who:

(i) Is a noncareer appointee; and

(ii) Has the authority to remove the career appointee.

§ 359.1002 Scope of competition: competitive area and competitive field.

(a) The competitive area in which appointees compete for retention under this subpart shall include all Senior Executive Service positions in the agency, if the agency has less than 150 such positions authorized. If the agency has 150 or more positions authorized, it may restrict a competitive area to a primary subdivision of the agency provided the subdivision has its own administrative authority.

(b) Each agency shall establish competitive fields within its competitive areas. These fields shall consist of all positions which are sufficiently alike in qualification requirements, duties, and responsibilities so that the agency normally may assign the incumbent of any one position to any of the other positions without unduly interrupting the work program and with the expectation that the incumbent will be able to perform in a fully successful manner.

(1) Separate competitive fields shall be established for career reserved and general positions.

(2) Limited appointees are not considered competing employees under this subpart. They shall not be placed in competitive fields with other employees and may be removed in any order.

(3) Separate competitive fields may be established for positions at different organizational levels.

§ 359.1003 Retention standing.

(a) Prior to a reduction in force, each agency shall place competing appointees on a retention register in the following groups on the basis of their current performance ratings within the Senior Executive Service. The current performance rating is the rating of record on the date the reduction-in-force notices will be issued.

(1) Group I. Appointees with a current performance rating above the first fully successful level, when such a level exists.

(2) Group II. Appointees with a current performance rating at the first fully successful level.

(3) Group III. Appointees with a current performance rating of minimally satisfactory.

(4) Group IV. Appointees with a current performance rating of unsatisfactory.

(b) As an alternative to the establishment of groups under paragraph (a) of this section, an agency may:

(1) Establish separate groups for each fully successful rating level, followed by groups for the minimally satisfactory and unsatisfactory rating levels, or

(2) Establish separate groups for the fully successful (Group I), minimally satisfactory (Group II), and unsatisfactory (Group III) rating levels.

(c) Within each group, there shall be a subgroup A consisting of all the career appointees and a subgroup B consisting of all the noncareer appointees. If groups are established on the basis set forth in paragraph (b)(2) of this section, subgroups I–A and I–B shall be further subdivided into:

(1) Above first fully successful level and at first fully successful level, or

(2) A separate subdivision for each fully successful rating level.

(d) Until an appointee receives his or her first performance rating within the Senior Executive Service, the appointee shall be place in the group containing the first fully successful level. For the period from July 13, 1979, to the agency's first Senior Executive Service performance ratings, however, the agency may provide that any appointee with a current performance rating above satisfactory under Part 430 in a position that went into the Senior Executive Service shall be placed in a group above the one containing the first fully successful level.

(e) Each agency shall establish a career appointee's relative standing on the retention register within a subgroup as stated in this paragraph. Noncareer appointees need not be rank ordered within a subgroup.

(1) Credit one point for each full year of Federal civilian service.

(i) An agency may credit two points for each full year of service within the Senior Executive Service or in a position at the equivalent of GS–16 or higher.

(ii) An agency may provide partial credit for less than a full year of service.

(iii) An agency may limit the credit for service to a maximum of 20 points or more.

(2) Add 10 points for the award of the rank of Distinguished Executive, or 5 points for the award of the rank of Meritorious Executive, within the last five years, with a maximum of 10 points.

(3) Subtract 10 points for an unsatisfactory rating in the Senior Executive Service within the last five years, or five points for a minimally satisfactory rating in the Senior Executive Service within the last three years.

(f) Any appointee who has received two unsatisfactory ratings within the last five years, or two less than fully successful ratings within the last three years, is not a competing employee under this subpart and must be removed from the Senior Executive Service in accord with the provisions of Subpart E of this part prior to a reduction-in-force action affecting any other appointee in the competitive field.

§ 359.1004 Release from competitive field.

(a) Each agency shall select appointees for release from a competitive field in the inverse order of retention standing, beginning with the appointee in the lowest subgroup with the lowest standing on the retention register. When appointees in the same retention group or subgroup are tied for release from a competitive field, the agency may select any tied appointee for release.

(b) When an agency will abolish all positions in a competitive area within three months, it shall release appointees in subgroup order, but may release them regardless of retention standing within a subgroup. If an agency releases a appointee under this paragraph, the notice to the appointee shall so state and also shall give the date the abolishment will be completed.

(c) The following exceptions apply to the selection sequence in paragraph (a) of this section:

(1) An agency may make a permanent exception to the selection sequence when needed:

(i) To retain an appointee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an appointee with higher retention standing; or

(ii) To release a noncareer appointee when such release is required by a reduction in the noncareer allocation given the agency by the Office of Personnel Management.

(2) An agency may make a temporary exception for not more than 90 days to the selection sequence when needed:

(i) To retain an appointee to continue an activity without undue interruption for that period,

(ii) To satisfy a Government obligation to the retained appointee, or

(iii) When the temporary retention of the lower standing appointee does not adversely affect the rights of any higher-standing appointee who is released ahead of him or her.

The temporary retention of a lower-standing appointee on sick leave as a permissive exception may exceed 90 days, but may not exceed the date of exhaustion of the sick leave.

(3) There shall be appropriate documentation on the record for the exception. The agency shall notify in writing each higher-standing appointee reached for release from the competitive field of the reasons for the exception.

§ 359.1005 Placement rights.

(a) A career appointee, other than one with a current unsatisfactory rating, released from a competitive field is entitled to be offered any vacant Senior Executive Service position in the agency for which the appointee meets the qualification requirements. If there is more than one vacancy, the agency has the option of which position to offer the appointee; and if two or more released appointees are qualified for the same vacancy, the agency has the option of which appointee to offer the vacancy.

(b) A released appointee does not have a right to displace any other Senior Executive Service appointee, except that a limited or noncareer appointee may be displace by a career appointee if the agency's regulations so provide.

(c) A career appointee who cannot be placed in a position in the Senior Executive Service following release from a competitive field, or a position at GS–16, 17, or 18 (or the equivalent) on a voluntary basis, is entitled to be offered a continuing position in the agency at GS–15 (or the equivalent) unless the agency is due to be abolished within three months. If this action would cause the separation or demotion, however, of another employee at GS–15 (or the equivalent), the appointee coming from the Senior Executive Service shall be subject to the reduction-in-force regulations in Part 351 to detemine to

what, if any, position, the appointee is entitled.

(d) A carrer appointee who is removed from the Senior Executive Service under this subpart and whose performance rating at the time of removal is fully successful is entitled for a two-year period after removal to priority consideration for any Senior Executive Service vacancy in the agency for which qualified. If the agency fails to select the individual for the vacancy, it must document the reasons.

(e) A released noncareer or limited appointee does not have any placement rights.

§ 359.1006 Transfer of function.

(a) "Transfer of function" means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area.

(b) Before a reduction in force is made in connection with the transfer of any or all of the functions of an agency to another continuing agency, each appointee in a position identified with the function or functions shall be transferred to the continuing agency without change in tenure. An appointee whose position is transferred solely for abolishment, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing appointee for other positions in the receiving agency.

§ 359.1007 Notice.

(a) Each appointee selected for release from a competitive field is entitled to a specific written notice at least 30 calendar days before the effective date of the release.

(b) The notice shall state:

(1) The action to be taken and its effective date;

(2) The appointee's competitive area, competitive field, and retention group;

(3) The number of retention points assigned the appointee;

(4) The place where the appointee may inspect the regulations and records pertinent to the action;

(5) The appointee's appeal rights, including the time limit for appeal and the location of the Merit Systems Protection Board office to which an appeal should be sent; and

(6) Any placement rights under § 359.1005(c) following removal from the Senior Executive Service.

(c) An appointee is entitled to a new written notice of at least 30 calendar days if the agency decides to take an action more severe than first specified.

(d) An agency must inform the Office of Personnel Management at the time of issuance of any specific reduction-in-force notice or amendment. The information is to include any position which will be abolished, how placement of any affected executive was attempted, and whether the executive would like to be referred by the Office for placement consideration in Senior Executive Service positions in other agencies.

§ 359.1008 Appeals.

(a) A career appointee who has been removed from the Senior Executive Service and who believes that this subpart has not been correctly applied may appeal to the Merit Systems Protection Board under procedures established by the Board.

(b) Noncareer and limited appointees do not have an appeal right to the Merit Systems Protection Board under this subpart.

§ 359.1009 Allocation of Senior Executive Service spaces.

At the time of the notification of the Office of Personnel Management under § 359.1007(d), an agency shall also inform the Office what it intends to do with the space of any position whose occupant is proposed for removal from the Senior Executive Service. If the agency cannot justify use of the space elsewhere, it shall return the space to the Office when the removal is effective; and the agency's space allocation shall be reduced accordingly.

§ 359.1010 Grade and pay retention.

If an appointee is placed under this subpart in a position to which the provisions of Part 536 of this title are applicable, the appointee is entitled to grade and pay retention in accordance with the provisions of that part.

§ 359.1011 Records.

Each agency shall maintain current records needed to determine the retention standing of its competing appointees. The agency shall allow the inspection of its retention registers and related records by an appointee to the extent that they have a bearing on the appointee's situation. The agency shall preserve intact all registers and records relating to a reduction-in-force action for at least two years from the effective date of the action.

[FR Doc. 80-23188 Filed 7-31-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 178]

Food Stamp Program; Resource Exclusion of Trust Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This amendment revises 7 CFR 273.8(e)(8) of current Food Stamp Program (FSP) Regulations to further clarify conditions under which a trust fund can be considered inaccessible to the household and excluded from consideration as resources. The amendment allows for a resource exclusion of trust funds, established by a nonhousehold member from nonhousehold funds (third-party), when the fund is administered by a court or other specific entity. The amendment also amends 7 CFR 273.9(b)(2) to provide that any withdrawals from trust funds would be considered income to the household.

DATES: Comments must be received on or before October 1, 1980 to be assured of consideration.

ADDRESS: Comments should be forwarded to Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Room 658, 500 12th Street, S.W., Washington, D.C. (202) 447-8325.

FOR ADDITIONAL INFORMATION CONTACT: Larry Carnes, Supervisor, Policy and Regulations Section, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Room 678, 500 12th Street, S.W., Washington, D.C. (202) 447-9075. 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: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

In a recent courtsuit filed in the State of New Jersey, *Whye v. Bergland,* plaintiffs allege that the Department's current rules regarding resource determinations of trust funds resulted in the denial of food stamp eligibility of the plaintiffs. In each case, the denial was based on excessive resources because a

court-administered trust fund established for the benefit of a minor household member as a result of accident or injury settlements, was counted as available resources to the households involved.

Section 273.8(e)(ii) of current FSP regulations states that trust funds are considered inaccessible and thus excluded from consideration as a resource if, among other things, the "trustee uses the funds solely to * * * pay the educational expenses of any person named in the trust created by the household * * *." In the case of the plaintiffs in New Jersey, the trusts involved were established solely for the benefit of the minor household member. Because the funds were not limited to pay for educational expenses of the person named the entire amount of the trust was considered accessible for FSP purposes. Thus the households involved had FSP benefits terminated because the amount of the trust caused the households' resources to exceed the limit set by the Food Stamp Act of 1977.

A consent order in the *Whye* case requires the New Jersey State agency to cease the practice of counting, as resources, court-administered trust funds established for the benefit of a minor or incompetent, pending promulgation of a rule. The consent order reflects an agreement by the Department to issue proposed rules which would exclude as a resource a court-administered trust fund for the benefit of a minor or incompetent. The proposed rule also excludes certain other trust funds established by a third-party with nonhousehold funds. Additionally, any funds drawn from trusts would be considered available income to the household in the month received, unless otherwise exempt.

The Department encourages careful public scrutiny of this proposed rule. The Department is especially interested in learning if other States are excluding or treating court-administered trust funds in the same manner as New Jersey. We would also like to have an estimate of the frequency of such types of resources among FSP households and comments on the applicability of the proposed rule to other situations. The Department is also interested in comments on the advantages and disadvantages of the proposed rule.

Accordingly, Parts 272 and 273 are being amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. In subsection 272.1, a new subparagraph (21) is added to paragraph (g) of that subsection to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(21) Amendment 178. State agencies shall implement the provisions of § 273.8 and § 273.9 of this amendment for all new applicants on the first of the month 60 days after publication of the final regulations. States shall convert the current caseload to the new rules at recertification or at the time the case is otherwise reviewed, whichever comes first.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. In § 273.8, subparagraphs (8) and (8)(i) through (8)(v) of paragraph (e) of that subsection are amended to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

(8) Resources having a cash value which is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. The State agency may verify that the property is for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as a advertisement for public sale in a newspaper of general circulation of a listing with a real estate broker. Any funds in a trust or transferred to a trust, and the income produced by that trust, shall be considred inaccessible to the household if:

(i) The trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(ii) The trustee administering the funds is a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member;

(iii) Trust investments made on behalf of the turst do not directly involve or assist any business or corporation under the control, direction, or influence of the household member; and

(iv) The funds held in trust are: (A) established from household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational expenses of any person named by the household creating the trust, or (B) established from nonhousehold funds by a nonhousehold member.

* * * * * *

2. In § 273.9, paragraph (b) is amended by adding a new subparagraph (2)(vi) to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

* * * * *

(2) * * *

(vi) Monies withdrawn by a household from trust funds considered to be excludable resources under § 273.8(c)(8). Such trust withdrawals shall be considered income in the month received, unless otherwise exempt under the provisions of § 273.9(c).

* * * * *

(91 Stat.958 (7 U.S.C. 2011–2027))

(Cagalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: July 29, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-23308 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-30-M

Food Safety and Quality Service

7 CFR Parts 2858 and 2871

Inspection and Grading Services and Standards of Manufactured or Processed Dairy Products

AGENCY: Food Safety and Quality Services, USDA.

ACTION: Notice of regulations review.

SUMMARY: The Food Safety and Quality Service (FSQS) plans to review its existing regulations concerning inspection and grading of dairy products, approved plants, standards for grades, and sanitary inspection of process or renovated butter. The review will examine the effectiveness of the regulations in meeting the following goals: (1) addressing consumer concerns regarding health and food safety, (2) eliminating unnecessary burdens on consumers and industry, (3) achieving consistency with legislative goals, (4) creating an efficient structure for achieving intended results, (5) minimizing overlapping jurisdiction with other Federal agencies, (6) providing a presentation of material in clear, understandable language, and (7) improving methods in light of new scientific and technological innovations. In order to conduct a thorough and meaningful review, the Department is soliciting the views of consumers, the industry, Federal, State, and local agencies, and other interested parties on

such regulations, as well as recommendations for improvements in these areas.

DATE: Comments must be received on or before September 30, 1980.

ADDRESS: Written comments to: Regulations Coordination Division, Annie Johnson, Food Safety and Quality Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C. 20250. (See also comments under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Webber, Dairy Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7473.

SUPPLEMENTARY INFORMATION:

Significance

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

Comments

Interested persons are invited to submit written comments concerning this notice. Comments must be sent in duplicate to the office of the Regulations Coordination Division and 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 Regulations Coordination Division during regular business hours.

Background

Executive Order 12044, "Improving Government Regulations," (43 FR 12661) in part directs each Executive Agency to adopt procedures to improve and periodically review its existing regulations. In respone, the Department of Agriculture issued Secretary's Memorandum No. 1955, "Improving USDA Decisions and Regulations." This departmental memorandum implemented the President's prescribed measures for improving the Federal Government's rules and regulations by establishing procedures designed to minimze unnecessary burdens on the public while achieving maximum effectiveness in all decisions including rulemaking and regulatory review processes. Public participations was noted to be an important source for obtaining ideas and information to better serve the public in this undertaking. All agencies were, therefore, directed to solicit actively public comment and to obtain the greatest possible public input. Furthermore, each USDA agency was to develop a plan to assure that regulations which have existed more than 5 years would be reviewed.

Pursuant to these directives the Administrator, FSQS, has adopted a plan for the review of existing regulations and has appointed a Regulatory Review Task Force to conduct such review. The FSQS plan covers the entire review process and includes a detailed discussion of the following categories: (1) Background and Requirements for the Review, (2) Regulations Subject to the Review, (3) Review Criteria and Priorities, (4) Public Comment and Organization, and (5) Schedule for Review of Existing Regulations. A copy of the plan is available for public inspection in the office of the Regulations Coordination Division during regular hours of business.

The Regulatory Review Task Force is responsible for:

1. Coordinating the overall review.
2. Establishing the final criteria to be used in reviewing each regulation.
3. Selecting FSQS personnel to participate in the review.
4. Setting a schedule and monitoring operations within this schedule.
5. Establishing the priority for reviewing all Agency regulations.
6. Certifying to the Administrator and Assistant Secretary that each regulation has been thoroughly reviewed within the guidelines of Executive Order 12044 and Secretary's Memorandum No. 1955.
7. Recommending a "Significant" or "Not determined to be Significant" designation.
8. Establishing a date for the next review of the regulation.
9. Other related duties.

As the FSQS Task Force commences its review of specific sections of Agency regulations, the Department will publish a notice in the **Federal Register** inviting public comments on those particular regulations to be reviewed.

This Notice

The Task Force is reviewing the daily products inspection and grading regulations for approved plants, standards for grades of dairy products, and the sanitary inspection of process or renovated butter (7 CFR Parts 2858 and 2871).

The Department is inviting comments from consumers, the industry, Federal, State, and local agencies, and other interested parties to assist the Task Force in identifying and reconsidering those portions of the aforementioned regulations which:

1. Present consumer concerns with respect to health and food safety.
2. Impose unnecessary burdens on the public or industry.
3. Are not consistent with legislative goals.
4. Are difficult to enforce, i.e., those found inefficient in achieving the intended results.
5. Indicate unnecessary overlapping jurisdiction with other Government agencies.
6. Are unclear, difficult to understand, or are duplicative of, or inconsistent with, other regulations.
7. May be improved by use of new scientific and technological innovations.

All comments received will be carefully considered by the FSQS Regulations Review Task Force. In the event that it appears changes in the existing regulations are necessary, amendments will be proposed in the **Federal Register** in conformance with established rulemaking procedures.

Done at Washington, D.C., on: July 29, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-23246 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL TRADE COMMISSION

16 CFR Part 705

Reasonable Duties Under a Full Warranty; Extension of Time for Submission of Written Comments Concerning Recommended Final Rule

AGENCY: Federal Trade Commission.

ACTION: Extension of time for submission of written comments.

SUMMARY: On June 2, 1980, the Commission published in the **Federal Register** (45 FR 37386) a Recommended Final Rule concerning Reasonable Duties Under a Full Warranty, and a Notice of Opportunity to File Written Comments. Because the staff recommended several substantive changes in the proposed rule, the Commission determined that additional written comment on the recommended final rule is appropriate. The closing date of the submission of written comments is extended from August 1, 1980 to September 2, 1980.

DATE: Written comments must be received on or before September 2, 1980.

ADDRESS: Send written comments to James P. Greenan, Presiding Officer (GP), Federal Trade Commission, Washington, D.C. 20580, 202–724–1045.

FOR FURTHER INFORMATION CONTACT: Edwin F. Dosek, Attorney, Bureau of Consumer Protection (PR), Federal Trade Commission, Washington, D.C. 20580, 202–523–3510.

SUPPLEMENTARY INFORMATION: On August 3, 1977, the Commission published in the **Federal Register** [42 FR 39223] a Notice of Inquiry and Proposed Rule in accordance with the provisions of the Magnuson-Moss Warranty Act, Pub. L. 93–637 [15 U.S.C. 2304]. Section 104(b)(1) of the Act authorizes the Federal Trade Commission to make rules defining what is an unreasonable duty when imposed by a warrantor on a consumer as a condition of securing a remedy under a full warranty of any consumer product which malfunctions, is defective, or does not conform to the written warranty.

Following publication of the Notice of Inquiry and Proposed Rule, written comments, including data, views or arguments on any issue of fact, law or policy, which may have had some bearing upon the proposed rule were received until September 30, 1977. In addition, a total of 14 days of public hearings were held in Chicago, Illinois, Los Angeles, California, and Washington, D.C. At the close of public hearings on December 13, 1977, the Presiding Officer authorized the filing of written rebuttal submissions until January 31, 1978. All written comments, rebuttal statements and transcripts of testimony have been made a part of the public record of the proceeding, [public record No. 215–58].

A report, setting forth a summary of the record was prepared by the Presiding Officer assigned to the proceeding. In addition, a report containing an analysis of the record and setting forth recommendations has been prepared by the staff.

In order to assist interested persons in preparing comments on the staff's recommended final rule, the Commission directed that the Report of the Presiding Officer, dated August 1, 1978 and the Staff Report, dated May 1980, be placed on the public record and copies of these two documents made available for general distribution.

Because the staff recommended several substantive changes in the proposed rule, the Commission determined that additional written comment on the recommended final rule is appropriate prior to final consideration of this matter. In addition, the analysis of the public record in the proceeding to date has raised a series of questions regarding the possible effects of any rule on manufacturers and others to which staff seeks public comment and response.

While interested persons are invited to address any issues of fact, law or policy which they feel may have bearing upon the Recommended Final Rule, please refer to 45 FR 37386 for the text of the rule and the series of questions relating to the possible effects on warrantors and others that may result as a consequence of Commission action to adopt the Recommended Final Rule. The closing date for the submission of these written comments was August 1, 1980. The closing date for submission of these written comments has been extended to September 2, 1980. All other information contained in the Commissions' Notice dated June 2, 1980 remains the same.

Issued July 25, 1980.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80–23274 Filed 7–31–80; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273, and 274

[Docket No. RM 80–50]

High-Cost Natural Gas: Production Enhancement Procedures

Issued: July 25, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby gives notice that it proposes to adopt regulations providing a special incentive maximum lawful price for certain natural gas produced from wells upon which production enhancement work is performed after May 29, 1980. This proposed rule would be applicable only to natural gas that is subject to section 105 of the Natural Gas Policy Act of 1978 (NGPA) on the date of application for determination. The proposal would allow parties to negotiate a price no greater than the maximum lawful price specified in section 109 of the NGPA.

In addition, the Commission consolidates here Docket Nos. RM80–41 and RM80–50 under one docket number, No. RM80–50.

DATE: Written comments by August 25, 1980. Public Hearing to be held August 26, 1980.

ADDRESS: Send written comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Reference Docket No. RM80–50. The public hearing will be held at the same location.

FOR FURTHER INFORMATION CONTACT:

Jeffrey H. Fink, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8111, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8460.

Roger Coven, Office of the General Counsel, Room 4001, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–9124.

The Federal Energy Regulatory Commission (Commission) hereby proposes regulations that would establish a special incentive maximum lawful price for certain natural gas produced from wells upon which production enhancement work is performed. These regulations are proposed pursuant to the Commission's authority under section 107 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. § 3317, to designate certain natural gas as "high-cost natural gas" and to establish incentive prices for such gas. This proposed rule would be applicable only to natural gas that is subject to section 105 of the NGPA on the date of application. The proposal specifies the types of production enhancement procedures that, if applied to a well after May 29, 1980, would result in eligibility for the incentive price. The proposal would allow parties to negotiate a price no greater than the maximum lawful price specified in section 109 of the NGPA. The purpose of the proposed rule is to encourage the production of natural gas that would not be forthcoming under the othewise applicable maximim lawful price.

I. Background

A. Statutory Authority

Under section 107(b) of the NGPA, the Commission has authority to prescribe for any first sale of any high-cost natural gas a maximum lawful price which exceeds the otherwise applicable maximum lawful price to the extent necessary to provide reasonable incentives for the production of such gas. The term "high-cost natural gas" is defined in section 107 of the NGPA to mean, *inter alia*, "natural gas determined in accordance with section 503 to be . . . produced under such conditions as the Commission determines to present extraordinary risks or costs," section 107(c)(5) of the NGPA. The Commission may provide a maximum lawful price higher than the

otherwise applicable maximum lawful price if it determines that the availability of the higher price is required to encourage production of gas which presents extraordinary risks or costs.

The Conference Report [1] suggests examples of natural gas which the Commission might determine are produced under conditions of extraordinary risk or cost: gas from acreage submerged in more than 500 feet of water; tight formation gas; and gas from hydropressured brine. Such sources of natural gas are high-cost gases because of the nature of the geological formation and surrounding geographical conditions from which they are produced. Such formations present especially difficult drilling problems.

The Conference Report continues:

> This authority is intended by the conferees to be exercised in advance of drilling activity, in order to create price incentives. * * *
>
> For example, some new wells will produce from depths close to 15,000 feet and some reentries will produce from depths below 15,000 feet, both possibly involving costs greater than normal, but neither qualifying as high cost gas under sec. 107(c). The Commission may determine that such wells should receive special price treatment under this section. The Commission could also determine that stripper natural gas wells with more than *de minimis* associated oil production qualify for treatment under this section.

It is apparent that the objective behind section 107 is to create an incentive ceiling price for gas supplies that the Congress or the Commission has determined will not be produced under other available maximum lawful prices because of their special expense. In the case of gas produced as a result of production enhancement work, the incentive ceiling price will be allowed on the basis of the risky or costly production techniques that must be applied. The cost of enhancement techniques such as reentry, deeper drilling, and new perforation, when considered against the size of the remaining reserves and the otherwise applicable price, is often prohibitive.[2]

B. Notice of Inquiry

The Commission issued on June 13, 1979, a "Notice of Inquiry Regarding the Implementation of Section 107 (b) and (c) of the Natural Gas Policy Act of 1978." [3] This notice initiated the Commission's efforts to identify categories of high-cost natural gas and correlative incentive prices by seeking general suggestions from the public.

Several responses to that notice of inquiry are relevant to this rulemaking. Some comments remarked that certain reentries and redrillings of old wells involve substantial costs, but that natural gas which might be produced from such old wells must be sold under the NGPA at prices that are often inadequate to compensate for such drilling costs. According to these comments, reentries present high risks to the producer because they involve drilling activity for which ultimate costs cannot be determined until the drilling has terminated. The commenters made the point that without a special incentive price producers will tend to drill new wells rather than reenter old wells, and thereby will fail to conserve drilling resources and to reduce damage to the environment caused by further drilling.[4]

C. Sun Petition

Late in February of 1980, Sun Gas Company ("Sun Gas") petitioned this Commission for a rulemaking.[5] Docket as No. RM80–41, this petition urged the Commission to classify natural gas produced as a result of "supply enhancement procedures" as high-cost natural gas pursuant to section 107(c)(5) of the NGPA and to prescribe a special incentive price for such gas.[6] By "supply enhancement procedures," Sun Gas included "procedures designated to provide additional supplies, enhance production, or maximize ultimate recovery with respect to gas reserves." [7]

Sun Gas pointed out that current regulations do not allow sufficient flexibility to contracting parties to amend, to modify, or to renegotiate contracts in order to provide for supply enhancement work.[8] Although Commission approval of some contractual arrangements is possible through special relief procedures, Sun Gas described these as inappropriate and too cumbersome.

Further, Sun Gas argued that Congress did not intend to inhibit production of natural gas by preventing contract renegotiation. Sun Gas contends that Congress intended section 107(c)(5) to allow renegotiation of contracts to provide special incentive price treatment for certain production risks. Procedures such as acidizing, fracturing, and workovers have "extraordinary" risks associated with them "Even if a procedure is designed with the best available technology and is operationally successful when performed, it may not stimulate the production or add the reserve volumes necessary to recover the cost of the work which has been done." [9]

Supply enhancement procedures often become necessary in order to maintain or to increase the production from a depleting well or a well in which production has become marginal. There are many instances in which some form of fracturing is a prerequisite to production but that will not be performed absent an appropriate incentive price. Certain producers who have older, fixed rate intrastate contracts are precluded from modifying the price term of their contract in order to cover this additional cost.[10]

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[1] Joint Explanatory Statement of the Committee on Conference, H.R. Rep. No. 95–1752, 95th Cong., 2nd Sess. (1978).

[2] Inclusion of stripper natural gas signifies Congressional willingness to define high-cost natural gas on the basis of low production and the need to encourage enhancement of such production.

[3] Docket No. RM 79–44.

[4] Comments of Sun Gas Company, filed July 16, 1979 at 4–7, 11; Damon Oil Co., filed July 16, 1979; State of Ohio Department of Natural Resources, filed September 25, 1979 and November 27, 1979 (Ohio suggested allowing an incentive ceiling price at least equal to the section 103 maximum lawful price); Maram Energy Co., filed September 25, 1979; Guernsey Petroleum Corp., filed September 25, 1979; Jerry C. Olds, filed September 25, 1979; Monroe and Keusink, Inc., filed September 26, 1979; and Phillips Products Co., filed September 27, 1979.

[5] Petition of Sun Gas Co. for Rulemaking, In the Matter of Determining Whether Natural Gas Production Achieved as a Result of Supply Enhancement Procedures Should Be Classified as High-Cost Natural Gas Under Section 107(c)(5) of the NGPA, filed February 27, 1980. (Hereinafter "Sun Petition").

[6] *See generally* section 501 of the NGPA relating to the Commission's rulemaking authority.

The incentive price would be applicable by virtue of section 101(b)(5) of the NGPA: "If any natural gas qualifies under more than one provision of [title I of the NGPA] providing for any maximum lawful price . . . with respect to any first sale of natural gas, the provision which would result in the highest price shall be applicable."

[7] Sun Petition at 2.

[8] [U]nder Section 105 of the Natural Gas Policy Act of 1978, first sellers of natural gas under existing contracts dedicated in intrastate commerce are entitled to collect no more than the lower of the contract price or the section 102 price. Under contracts having no escalation or price redetermination or price renegotiation provision ("fixed price contracts"), there is no mechanism to allow negotiation and collection of a higher rate (not to exceed the section 102 price) prior to the expiration of the existing intrastate contract and the negotiation of a rollover contract where such an increase is dictated by increased expenses incurred in keeping a well or wells producing.

Delhi Gas Pipeline Co., Memorandum in Support of Petition for Rulemaking of Sun Gas Co., filed April 24, 1980 at 6–7. (Hereinafter "Delhi Memo")

[9] Sun Petition at 4. "Failure in this sense means that the procedure, when applied to the particular well will not have the anticipated effect of stimulating production sufficiently to add reserves necessary to recover the costs." Delhi Memo at 3–4. Delhi suggests, as an example of the above, hydraulic fracturing, which is associated with a high risk of casing cement failure.

[10] In addition to those listed above, expressions of support for the Sun Petition have been received in Docket No. RM80–41 from: Jim Mattox, House of Representatives (Texas), filed April 23, 1980 ("The establishment of a new 'high cost' supply enhancement category under Section 107 of the [NGPA] would allow purchasers and producers to determine, subject to an appropriate ceiling, what

Footnotes continued on next page

II. Summary of Proposed Rule [11]

A. Applicability

The rule proposed in this notice would establish an incentive price, under the authority of sections 107(b) and 107(c)(5) of the NGPA, for "qualified production enhancement gas." Subject to additional restrictions discussed below, the proposed rule would allow the purchaser and the seller to negotiate a price no more than the maximum lawful price permitted under section 109. This incentive price would be available for gas that is subject to section 105 of the NGPA on the date of application and that is produced from a well upon which certain production enhancement work is performed on or after May 29, 1980.

B. Maximum Lawful Price

The maximum lawful price proposed under this rule is the lesser of the section 109 price or the negotiated contract price. A negotiated contract price is required by § 271.703(j)(2) of the proposed rule to be in effect on the date of application and must remain in effect. Any modification of the negotiated contract price requires a new application and new jurisdictional agency determination. "Negotiated contract price" is defined in the existing regulations as "any price established by a contract which either specifically references the incentive pricing authority of the Commission under section 107 of the NGPA or contains a fixed rate or a fixed escalator clause." [12]

This requirement is intended to insure that the price for qualified production enhancement gas is set by agreement of all the contract parties. [13] It also will allow some projects to qualify that would be precluded by the cost cap [14] if the maximum lawful price were to be set simply as the section 109 ceiling price. Parties to the contract generally would have to amend their contracts before filing an application with the jurisdictional agency. In addition, the filing requirements state that the portion of the gas sales contract which authorizes collection of the maximum lawful price established in § 271.702(c)(1) must be included in the application. The contract language which must be included in the application will generally be an amendment which has been executed in contemplation of a determination of eligibility under this proposed rule.

An incentive ceiling price not more than the section 109 maximum lawful price is proposed because this ceiling, easily ascertainable and applicable to all eligible projects, is the most administratively convenient to apply and to monitor for compliance. Further, the section 109 ceiling price appears sufficiently high to the Commission to encourage a very large proportion of possible production enhancement projects.

Several commenters suggested that the Commission establish a maximum lawful price greater than the section 109 price. Such suggestions included the section 102 and section 103 ceiling prices. The Commission specifically requests comment on a reasonable incentive price appropriate to the type of high-cost natural gas which is the subject of this proposed rule. In addition, the Commission would find useful any information on the nature and percentage of production enhancement projects which would require a price in excess of the section 109 price as a reasonable incentive to performance, and any projections of additional production that would result if a higher maximum lawful price were established.

The Commission does not believe that Congress intended it to deregulate natural gas subject to section 105 that, but for the proposed rule, would not be sold for a price in excess of $1.00 on December 31, 1984. Therefore, under § 271.702(c)(3) of the proposed rule, the increase in the price paid for the natural gas by virtue of this rule will not result in the elimination of price controls under section 121(a)(3) of the NGPA. Elimination of price controls under that section will occur only if, and when, such elimination would have occurred under the price that would have been applicable but for this rule. The Commission invites comment on this provision and suggestions regarding alternative treatment.

C. Timing

The proposed rule is designed to allow a seller of natural gas to obtain a final determination of eligibility before commencing production enhancement work. The Commission believes that this procedure is necessary to provide a producer with certainty that gas from the subject well will qualify for the incentive price before the producer expends what in many cases will be a considerable investment. On the other hand, the Commission does not wish to promote delay in the performance of such projects. Accordingly, any production enhancement work commenced on or after May 29, 1980, [15] which meets the qualifications of the rule finally adopted by the Commission will not be excluded from eligibility for the incentive price.

Although the seller may receive a final determination of eligibility before the production enhancement work is commenced, the maximum lawful price established by this proposed rule could not be charged or collected until the production enhancement work is fully

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Footnotes continued from last page
price is reasonable for the additional gas expected as a result of specific projects."); Amoco Production Co. (co-signed by attorneys representing at least nine other companies), filed April 30, 1980; Friends of the Earth, filed March 19, 1980; Mustang Fuel Corp., an intrastate pipeline company in Oklahoma, filed May 7, 1980 ("[R]ulemaking which Sun requests would give producers and pipe line purchasers the necessary flexibility to reach mutual agreements on prices for additional gas producers by supply enhancement projects."); Chevron U.S.A Inc., filed May 6, 1980; Amerada Hess Corp., filed May 6, 1980; Energy Reserves Group, Inc., Wichita, Kansas, filed May 5, 1980; the Environmental Policy Center, filed May 9, 1980; Independent Petroleum Assoc. of America, filed May 29, 1980; Oklahoma Natural Gas Company, filed May 28, 1980; and letter from eight senators, dated March 19, 1980 (in support of the type of rulemaking recommended by the petition). To date, no comments opposing the rulemaking have been filed. Pennzoil Co. and Pennzoil Producing Co., as producers of natural gas by supply enhancement procedures, identified their interest in this proceeding and moved for leave to intervene.

[11] It should be noted that the Commission directed the Staff to place the draft approved by the Commission, with a few minor changes, in the public file and to discuss the draft in informal conferences with state jurisdictional agencies and with interested members of the public. Two drafts were thereafter placed in the public file in Docket No. RM80-50: the draft approved in principle on May 29, 1980 and a subsequent draft, dated June 4, 1980, which included minor changes as instructed by the Commission. On June 12, 1980, the Secretary of the Commission issued a Notice of Availability of the Staff draft of the proposed rule in Docket No. RM80-50 and of informal conferences. The informal conferences were announced as an opportunity for interested members of the public to meet with the Staff to discuss the Staff draft of the proposed rule prior to issuance in a Notice of Proposed Rulemaking. The Staff received informal comments on the draft from various state agency representatives and interested members of the public. Members of the public who participated included representatives of Sun Gas Company, Independent Petroleum Association of New Mexico, Mitchell Energy Corporation, Texas Independent Producers and Royalty Owners Association, Natural Resources Corporation, Maguire Oil Company, Loudon Properties of Pennsylvania, and Tenneco. Descriptions of these informal conferences have been placed in the public file.

Upon recognition that Docket Nos. RM80-41 and RM80-50 are addressed to the same goal, the Commission consolidates these two dockets in this Notice under the single docket number No. RM-80-50.

[12] 18 CFR § 271.703(e). The precise wording of this definition may change when the Commission issues a final rule relating to high-cost natural gas produced from tight formations in Docket No. RM79-76.

[13] It is noteworthy that purchasers, such as Delhi and Mustang Fuel Corp., *see* notes 8 and 12 *supra*, support the establishment of this higher, incentive ceiling price. Delhi asked, however, that the proposed rule permit "bilateral amendments" of the contracts. Delhi Memo at 8-10.

[14] *See "Cap on Unit Cost of Incremental Production" infra.*

[15] May 29, 1980 is the date that the Commission approved in principle the issuance of this Notice of Proposed Rulemaking.

completed. If the work is not completed on the date of filing, § 271.702(c)(2) of the proposed rule requires the seller to file an affidavit stating that the production enhancement work upon which the application was based has been completed. This affidavit must be filed with the purchaser, the jurisdictional agency,[16] and the Commission before the seller may charge or collect the newly applicable maximum lawful price.

An application for a jurisdictional agency determination may be based on any work, commenced after May 29, 1980, which otherwise satisfies the requirements of the rule. Collection of payments on an interim basis may begin after the date of application or the date that the production enhancement work is completed, whichever is later.[17] The maximum lawful price provided by this proposed rule may not be collected for deliveries of gas produced from a well before the production enhancement work is fully completed. The Commission requests comment on this affidavit requirement or any other method of insuring that the maximum lawful price is not collected prior to completion of the production enhancement work.

This notice also proposes an amendment to § 273.204(a)(1) of the Commission's regulations governing retroactive collections after a final determination of eligibility. The proposed amendment would allow retroactive collections for first sales of natural gas delivered on or after the date production enhancement work was fully completed. As stated above, collections of the maximum lawful price prescribed in § 271.702(c)(1) will not be allowed for first sales of natural gas delivered before production enhancement work is fully completed. If the work was completed before the date of application, but was commenced on or after May 29, 1980, then collection for deliveries between the dates of completion of work and of filing may be collected retroactively after a determination of eligibility becomes final.

D. Qualified Production Enhancement Gas

The definition of qualified production enhancement gas proposed in § 271.703(j) involves five qualifications. First, the gas must be produced from a well upon which production enhancement work was or will be commenced on or after May 29, 1980. Second, a negotiated contract price must be in effect for the sale of the gas at the time of application and must remain in effect. Third, the gas must be otherwise subject to section 105 of the NPGA at the time of application. Fourth, the special price must be necessary as an incentive for the production of the gas. Finally the incentive price may not result in excessive incremental revenues. This final qualification imposes a cap on the unit cost of the incremental production.

1. *Production Enhancement Work.* Production enhancement work, as defined in § 271.703(k) of the proposed rule, is any work described in one or more of five defined categories. The first category is reentry into a well which has been plugged and abandoned. If a well has been drilled in the past, the drilling equipment has been removed, and the well has been plugged and abandoned, the process of reentering that well to prepare it for production would qualify as production enhancement work. It does not matter whether the well ever has produced gas in the past.

The second category is reentry into a well for the purpose of deeper drilling, or sidetracking, to a new completion location. Under this category, the well need not have been plugged and abandoned.

The third category is recompletion by reperforation of a zone from which natural gas has been produced or by perforation of a new zone. If a well had been drilled originally through a reservoir and completed in a deeper formation, the process of recompleting the well to produce the gas from the upper reservoir would qualify as production enhancement work.

The fourth category is the repair or replacement of faulty or damaged casing, tubing or related downhole equipment.

The final category is fracturing, acidizing or the installation of compression equipment. The Commission recognizes that these types of production enhancement projects often affect more than one well. For example, the process of installing compression equipment upon several wells would constitute production enhancement work with respect to each well affected.

The Commission invites comment on the relative costs and merits of, and the current practices regarding, leasing and buying of compression equipment. In addition, comment is requested regarding the costs and risks of upgrading compression equipment. Much of production enhancement compression might be defined as "production-related" costs under Subpart K of Part 271 of the Commission regulations regarding the NGPA. The regulations covering such allowances will be issued shortly in the rehearing of Order No. 68, Docket No. RM80-14 (January 24, 1980) (45 FR 5678) and in Docket No. RM80-47 (amendments to be made to interim regulations). If cost allowances are permitted for such compression under Subpart K, treatment will not be provided under this proposed rule. Comment is invited on the appropriate treatment of compression of this type.

Although application for determination is to be made on a well-by-well basis, this in no way precludes work that is performed on a field-wide basis.

2. *Other Types of Production Enhancement Work.* During the informal conferences, various interested persons suggested other categories of production enhancement work to be included in § 271.703(k). Such other categories include the cycling of natural gas, nitrogen injection techniques, procedures to control sand or water production or disposal problems, and the installation of artificial lifts such as down-hole pumps. Comment on the costs, risks and possible inclusion of these techniques is requested.

Several commenters also suggested that § 271.703(k) should permit jurisdictional agencies to approve projects involving work not specifically listed in that section. The Commission wishes to avoid the complexities attendant in defining production enhancement work on a case-by-case basis but requests further comment on this suggestion. Suggestions regarding guidelines for the exercise of jurisdictional agency discretion, for example, minimum investment thresholds,[18] would be helpful. Futher, the Commission wishes to consider whether jurisdictional agencies are willing, and have the resources necessary, to make such determinations.

The Commission contemplates that the defined categories of production enhancement work could be expanded

[16] Representatives of various jurisdictional agencies supported the suggestion that the affidavit be filed with them also.

[17] *See* 18 C.F.R. §§ 273.101-273.302 (rules governing interim collections and refund obligations).

[18] Northwest Resources suggested that special incentive price treatment should be limited to producers who incur a level of expense above a specified investment threshold for enhanced recovery of gas from an existing, producing well. Northwest proposed the requirements that the well must be producing for at least one year prior to recovery enhancment and that the treatment must cost at least $100,000 in total or $1,000 for every Mcf of natural gas produced daily from the well before it was treated. Northwest suggested an incentive ceiling price equal to the section 102 maximum lawful price. Comments of Northwest Resources, October 3, 1979.

by Commission amendment should additional technologies be identified. Comment is specifically requested on all of the suggestions discussed above and on any other types of projects which commenters believe should be included.

3. *Eligible Categories of Natural Gas.* Several comments recommended that gas subject to section 104 (natural gas dedicated to interstate commerce) and section 106 (natural gas sold under rollover contracts) also should qualify for an incentive price under the proposed rule. These parties indicated that the special relief procedures (which apply, or will apply, to gas subject to sections 104, 106 and 109 of the NGPA) will not provide a reasonable incentive for production enhancement projects because of the expense and case-by-case method of application.[19] Although the Commission believes that the need for this proposed rule is most urgent with respect to gas which is subject only to section 105 on the date of application, the Commission specifically requests comment on whether the rule should be broadened to include other categories of natural gas. Discussion by commenters should address those considerations associated with gas that is subject to sections 104 and 106, but not section 105. For instance, such gas may be purchased by interstate pipelines. Special relief is available regarding such gas. In addition, Congress may have expressed an intent to limit the price of "behind-the-pipe gas" that is subject to section 104 to rates previously set by the Federal Power Commission, regardless of the subsequent cost of producing such gas, *see* section 102(c)(1)(C) of the NGPA.

4. *The Reasonable Incentive Requirement.* The fourth component of the proposed definition of qualified production enhancement gas involves the requirement that the special price be necessary as a reasonable incentive. The Commission is authorized under section 107(b) of the NGPA to establish a maximum lawful price applicable to the first sale of high-cost natural gas only "to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas." This statutory standard is implemented through three separate requirements.

First, the seller must file an oath statement, required by § 274.205(g)(7), that the price prescribed in § 271.702(c)(1) is necessary as a reasonable incentive and that the production enhancement work would not be performed but for the availability of such price. Several comments were made in the informal conferences to the effect that producers often will find it difficult to swear that *no* work would have been done. Lease requirements and the exigencies of keeping the buyer/seller relationship intact often will act as an incentive to performance of enhancement work of some degree. Under the proposed rule, the producer need not swear that no work would have been done, but must swear that this work or work of similar type and expense would not have been done absent the incentive price. Of course, as will be discussed, the jurisdictional agencies can examine this oath and the surrounding circumstances.

Second, the purchaser must file a similar oath statement made by the seller, required by § 274.205(g)(8), based on the purchaser's best knowledge or belief. The Commission believes that this oath is useful to evidence compliance with the incentive requirements of section 107 of the NGPA. It simply reflects the decision made by the purchaser when he negotiates to purchase the gas at the incentive price.[20]

Finally, under § 271.703(j)(4) the jurisdictional agency must find a reasonable basis to conclude that the assertions contained in these two oath statements are reasonable. This final requirement gives the jurisdictional agency discretion to make a negative finding on an application if the jurisdictional agency believes that the special price is not necessary as a reasonable incentive for the increase in production of gas. A jurisdictional agency could find, for example, that a project which would not involve significant expense would be done without the availability of the special incentive price.

5. *Cap on Unit Cost of Incremental Production.* Finally, qualified production enhancement gas is defined as natural gas that will result in a projected increase in revenue, which when divided by the projected increase in units of production (MMBtu's), does not exceed the imported oil equivalent price for the month the application is filed. In other words, if the total projected increase in revenue is attributed only to the projected increase in units of production, the revenue from each such unit of production cannot exceed the equivalent price for imported crude oil. This requirement is intended to insure that the actual cost to the purchaser, and thus to the consumer, of the increase in gas supply does not exceed the cost of alternative fuels.

The calculations which form the basis of the this cost cap are based on estimates filed with the application. The applicant must file two estimates with the jurisdictional agency.[21] First, the applicant must estimate the total units of production (MMBtu's) which would be produced from the well over a five year period from the month of application if the production enhancement work that is the subject of the application is not or was not performed. In some cases, for example, where a well which has been plugged and abandoned, this estimate will be zero. The applicant also must estimate the total units of production (MMBtu's) which would be produced from the well over the same five year period if the production enhancement work had been completed by the date of application. Naturally, these estimates may be made before any work is commenced on the well. The estimates must be as accurate as is reasonably possible at the time of application. Nevertheless, this calculation is not a pricing mechanism, but a test of reasonableness regarding the claim of an incentive. The Commission is aware that some projects may fall short of estimated production or may fail completely to enhance production.

Once these estimates are made, "projected increase in units of production" can be calculated simply by subtracting the first estimate from the second. To calculate "projected increase in revenue," the applicant must multiply the first estimate (units of production if no work performed) by the maximum lawful price otherwise applicable to first sales of gas from the well on the date of application. The applicant must then multiply the second estimate (units of production if work completed on date of application) by the negotiated contract price (if such price is less than the section 109 price and if such price does not increase, for example, by any escalator) or by the section 109 price in any other case. Projected increase in revenue is the second product less the first product.

Finally, the applicant must divide projected increase in revenue by

[19] *See* Notice of Proposed Rulemaking, Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978, Docket No. RM79-67 (May 9, 1980). Special relief is not available to sales of natural gas that are subject to section 105.

[20] Comments were made in the informal conferences both in favor and against this purchaser oath. One commenter stated that most contracts give the purchaser the right to examine the producer's reserves data.

[21] These estimates are required to be made for a projected five year period. Comment is invited on the usefulness of this time period, as compared with a shorter or longer period. In addition, the Commission would find helpful data regarding the average remaining producible life of wells which would be affected by this rule.

projected increase in units of production. The resulting figure, expressed in dollars per MMBtu, may not exceed the "imported oil equivalent price" for the month the application is filed. Imported oil equivalent price is defined in § 271.703(n) as the national average refinery acquisition cost of imported crude oil, calculated and published pursuant to 10 CFR § 211.67(i) by the Department of Energy in the Monthly Entitlements Notice, divided by a Btu conversion factor of 5.8.

It is important to note that a project which is disqualified by this cost cap when the section 109 price is used to calculate projected increase in revenue may still qualify for an incentive price under this proposed rule. An applicant may bring a marginal project into the scope of the rule by negotiating a price below the section 109 price.

The Commission realizes that the projected increase in revenue must be claculated based on a series of approximations. Not only is the total production over the five year period estimated, but the ceiling prices applied are those for the month of application rather than those which would apply for each month over the five year period.[22] Nevertheless, the Commission believes that the calculations required will be sufficiently accurate to suit the purpose for which they are intended.

Most of these requirements for qualification as production enhancement gas are to test the legitimacy of any project and to determine whether the new maximum lawful price is necessary as a reasonable incentive. The Commission welcomes comment on these safeguards in the proposed rule or suggestions regarding any other safeguards.[23]

III. Public Procedure

Any interested persons may submit data, views or arguments regarding this proposed rulemaking. An original and 14 copies of such comments should be filed by August 25, 1980, with the Secretary, Federal Energy Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Each submission should include the name and address of the person submitting the comments, should refer to Docket No. RM80–50, and should include the reasons for any recommendations. Comments should state the name, title, mailing address, and telephone number of one person to whom the communications concerning the amendment may be addressed. Written comments will be placed in the Commission's public file and will be available for public inspection during regular business hours at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D..C 20426

A public hearing concerning this proposal will be held at the offices of the Commission at 825 North Capitol Street, N.E. Washington, D.C. on August 26, 1980, beginning at 10:00 a.m., and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m. on August 21, 1980.

Requests to participate in the hearing should reference Docket No. RM80–50, and should include a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted with the request to participate to the Secretary of the Commission. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 100 copies of their testimony to the hearing.

An additional public hearing may be held in an appropriate city outside of Washington, D.C. if sufficient interest in such a hearing is expressed.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. The presentation will be made before a panel whose members will be designated by the Chairman of the Commission. The panel may question persons presenting statements and any interested persons may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rule will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Department of Energy Organization Act, 42 U.S.C. §§ 7107–7352; E.O. 12009, 42 *Fed. Reg.* 46267; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3422.)

In consideration of the foregoing, the Commission proposes to amend Subpart G of Part 271, Subpart B of Part 273, and Subpart B of Part 274, Subchapter H, Chapter I, Title 18 of the Code of Federal Regulations set forth below. In addition, Docket Nos. RM80–41 and RM80–50 are hereby consolidated under one docket heading, Docket No. RM80–50.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

1. Section 271.701 is revised to read as follows:

§ 271.701 Applicability.

This subpart implements section 107 of the NGPA and applies to the first sale of natural gas which a jurisdictional agency determines, in accordance with Parts 274 and 275, is one of the following:

(a) New tight formation gas.

(b) [Reserved].

(c) Qualified production enhancement gas.

2. Section 271.702 is amended by adding a new paragraph (c) to read as follows:

§ 271.702 Maximum lawful prices.

* * * * *

(c) *Qualified production enhancement gas.* (1) *Maximum lawful price.* The maximum lawful price, per MMBtu, for the first sale of qualified production enhancement gas shall be the lesser of:

(i) the negotiated contract price; or

(ii) the maximum lawful price specified for Subpart I of Part 271 in Table I of § 271.101(a).

(2) *Requirement of completed production enhancement work.* If the production enhancement work has not been completed on or before the date that the application is filed, the maximum lawful price provided in paragraph (c)(1) of this section shall not apply until the seller has filed an affidavit with the purchaser, the jurisdictional agency, and the Commission, stating that the production enhancement work, upon which the application for determination of eligibility was based, has been completed.

(3) *Elimination of price controls.* For purposes of determining the price paid under section 121(a)(3) of the NGPA, any amount paid solely by virtue of a

[22] Naturally, the true ceiling prices for each month could not be calculated until the inflation factor is established for every succeeding month.

[23] Several comments were made in the informal conferences asserting, for instance, that the relative bargaining strength of the purchasing pipeline will maintain low incentive prices.

maximum lawful price allowed by this section shall be disregarded.

(4) *Cross reference.* For the special rule on retroactive collections for qualified production enhancement gas, see § 273.204(a) of this chapter.

3. Section 271.703 is amended by adding new paragraphs (j), (k), (l), (m), and (n) to read as follows:

§ 271.703 Definitions.

* * * * *

(j) "Qualified production enhancement gas" means natural gas:

(1) That is produced from a well upon which production enhancement work was commenced, or will be commenced, on or after May 29, 1980;

(2) For which a negotiated contract price is effective including the time at which the application is filed;

(3) For which the maximum lawful price at the time of application is prescribed by Subpart E of Part 271;

(4) For the production of which the seller asserts, the purchaser concurs, and there is a reasonable basis, grounded in part on the amount of the investment, to conclude that:

(i) the price prescribed in § 271.702(c)(1) is necessary as a reasonable incentive; and

(ii) but for the availability of the price prescribed in § 271.702(c)(1), the production enhancement work would not have been performed or will not be performed; and

(5) As calculated by the seller (for a five year period beginning from the month of application, based on estimates filed pursuant to § 274.205(g)(4)) will result in a projected increase in revenue which, when divided by the projected increase in units of production, does not exceed the imported oil equivalent price for the month that the application is filed.

(k) "Production enhancement work" means any work that is performed for the purpose of one or more of the following:

(1) Reentry into a well which has been plugged and abandoned;

(2) Reentry into a well for the purpose of deeper drilling, or sidetracking, to a new completion location;

(3) Recompletion by reperforation of a zone from which natural gas has been produced or by perforation of a new zone;

(4) Repair or replacement of faulty or damaged casing, tubing, or related downhole equipment; or

(5) Fracturing, acidizing, or the installation of compression equipment.

(l) "Projected increase in revenue" means:

(1) the product (i) the estimated units of production (MMBtu's) which would be produced from the well over the five year period specified in § 271.703(j)(5) if production enhancement work had been completed on the day that the application is filed, times (ii) the negotiated contract price specified in § 271.702(c)(1)(i) (if such price is a fixed price which is less than the price provided in § 271.702(c)(1)(ii)) or the price specified in § 271.702(c)(1)(ii) in any other case, for the month that the application is filed, less

(2) the product of (i) the estimated units of production (MMBtu's) which would be produced from the well over the same five year period if the production enhancement work is not performed or had not been performed, times (ii) the maximum lawful price otherwise applicable to natural gas from the well as of the date the application is filed.

(m) "Projected increase in units of production" means

(1) the estimated units of production (MMBtu's) which would be produced from the well over the five year period specified in § 271.703(j)(5) if the production enhancement work had been completed on the day that the application is filed, less

(2) the estimated units of production (MMBtu's) which would be produced from the well over the same five year period if the production enhancement work is not performed or had not been performed.

(n) "Imported oil equivalent price" means the national average refinery acquisition cost of imported crude oil, calculated and published pursuant to 10 CFR 211.67(i) by the Department of Energy in the Monthly Entitlements Notice, divided by 5.8.

PART 273—COLLECTION AUTHORITY; REFUNDS

§ 273.204 [Amended]

4. Section 273.204 is amended in paragraph (a)(1) by deleting the word "and" at the end of clause (i), by inserting at the end of clause (ii) the word "and", and by adding the following clause: "(iii) in the case of qualified production enhancement gas (as defined in § 271.703(j)), of the production enhancement work has been completed before the date of application, the amount of such excess may be computed, charged, and collected for first sales of such natural gas delivered on or after the date that the production enhancement work was completed;"

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

5. Section 274.205 is amended by adding a new paragraph (g) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(g) *Qualified production enhancement gas.* A person seeking a determination for purposes of Subpart G of Part 271 that natural gas is qualified production enhancement gas shall file with the jurisdictional agency an application which contains the following items:

(1) FERC Form No. 121;

(2) A detailed description of the production enhancement work which has been performed on the well, including the dates such work was commenced and completed, or which will be performed on the well;

(3) Copies of invoices and bills necessary to verify the cost of performing the production enhancement work described in § 271.703(k) or, if the work has not yet been completed, estimates of such cost in lieu thereof;

(4) An estimate, for the five-year period beginning from the month in which the application is filed, of the units of production (MMBtu's) that:

(i) would be produced from the well if the production enhancement work had been completed on the day that the application is filed; and

(ii) would be produced from the well if the production enhancement work is not performed or had not been performed;

(5) Calculations, based on the estimates required by paragraph (g)(4) of this section and made in accordance with § 271.703(j)(5), which demonstrate that the projected increase in revenue from the well divided by the projected increase in units of production does not exceed the imported oil equivalent price, as defined in § 271.703(n), for the month that the application is filed;

(6) A copy of that portion of the sales contract that authorizes collection of the maximum lawful price specified in § 271.702(c)(1);

(7) A statement by the applicant, under oath, that:

(i) the price prescribed in § 271.702(2)(1) is necessary to provide a reasonable incentive for the performance of the production enhancement work;

(ii) but for the availability of the maximum lawful price prescribed in § 271.702(c)(1), the production enhancement work would not have been performed or will not be performed;

(iii) the production enhancement work was not commenced before May 29, 1980;

(iv) to the best of the applicant's knowledge and belief, the estimates required by paragraph (g)(4) of this section are reasonable; and

(v) the applicant has no knowledge of any other information not described in the application which is inconsistent with these conclusions and estimates;

(8) A statement by the purchaser, under oath, to the best of the purchaser's knowledge or belief, that:

(i) the price prescribed in § 271.702(c)(1) is necessary to provide a reasonable incentive for the performance of the production enhancement work; and

(ii) but for the availability of the price prescribed in § 271.702(c)(1), the production enhancement work would not have been performed or will not be performed; and

(9) If the jurisdictional agency so requires, certified copies of records upon which the applicant relied, including copies of the jurisdictional agency's official files.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 610, 660

[Docket No. 80N-0049]

Leukocyte Typing Serum; Revocation of Additional Standards; Transfer of Responsibility From the Bureau of Biologics to the Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) has determined that Leukocyte Typing Serum, a licensed biological product and also a medical device, is appropriately and efficiently regulated under the Medical Device Amendments of 1976 to the Federal Food, Drug, and Cosmetic Act. The agency concludes that, in light of the regulatory controls of the Amendments, the product should no longer be subject to the biologics licensing requirements of the Public Health Service Act. Consistent with this determination the agency believes that compliance with the additional standards for Leukocyte Typing Serum prescribed in FDA's regulations should no longer be required for the manufacture of the product, and proposes that these standards be revoked.

DATES: Comments by September 30, 1980. The proposed effective date of the final rule is 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Richard E. Fisher, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306; or

William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION:

Leukocyte Typing Serum is an in vitro diagnostic product prepared from blood or plasma of human donors or lower animals. It contains antibodies directed against tissue antigens on the surface of human peripheral leukocytes and is a valuable reagent for identifying suitable donors for platelet and leukocyte transfusion and organ transplants.

Since December 1974, Leukocyte Typing Serum has been licensed as a biological product under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262). The current biologics regulations in §§ 660.10 through 660.15 (21 CFR 660.10-660.15) prescribe additional standards for the manufacture of Leukocyte Typing Serum.

The Medical Device Amendments (Pub. L. 94-295) to the Federal Food, Drug, and Cosmetic Act (act) (21 U.S.C. 301-392) provide the agency with significant new and expanded authority to ensure the safety and effectiveness of medical devices intended for human use. Fundamental to this authority are the control provisions relating to adulteration (section 501), misbranding (section 502), registration (section 510), classification (section 513), good manufacturing practice (section 520(f)), and other general controls referred to below. These control provisions will enable the agency to regulate adequately the safety and effectiveness of Leukocyte Typing Serum as an invitro diagnostic product. The agency concludes that Leukocyte Typing Serum, which is both a biological product and a medical device, is more appropriately and efficiently regulated simply as a medical device under the act than under the biologics licensure requirements of section 351 of the PHS Act, and that the product no longer need be subject to the PHS Act or to the additional standards for the manufacture of Leukocyte Typing Serum specified in §§ 660.10 through 660.15 (21 CFR 660.10-660.15).

If this proposal is published in final form, Leukocyte Typing Serum shall be subject to the general control provisions of the act, including, but not limited to, provisions relating to adulteration (section 501), misbranding (section 502), registration (section 510), classification (section 513), banned devices (section 516), notification and other remedies (section 518), records and reports (section 519), possible restrictions on sale, distribution, or use (section 520(e)), and good manufacturing practice (section 520(f)).

Section 513 of the act (21 U.S.C. 360c) requires the classification of all medical devices into one of three regulatory classes, namely: Class I (general controls), class II (performance standards), or class III (premarket approval). Leukocyte Typing Serum has not yet been classified. The agency has requested the Immunology Device Section of the Immunology and Microbiology Devices Panel to make a recommendation to FDA on the classification of this device. After receipt of the Panel's recommendation, FDA will publish for comment a proposed classification regulation and, after considering comments, a final classification regulation. If Leukocyte Typing Serum is classified into class I, it will be subject only to the general controls mentioned earlier. If it is classified into class II, the product will be subject in the future to a performance standard as well as general controls. If it is classified into class III, the product will be subject in the future to premarket approval as well as general controls.

If a final regulation based on this proposal is made effective, manufacturers of Leukocyte Typing Serum will be required to register with the Bureau of Medical Devices, Food and Drug Administration, pursuant to § 807.20 (21 CFR 807.20) and section 510 of the act (21 U.S.C. 360). Manufacturers of the product shall continue to be subject to the labeling requirements for in vitro diagnostic reagents prescribed in § 809.10 (21 CFR 809.10) and the good manufacturing practice regulation in Part 820 (21 CFR Part 820). The agency believes that these and other general controls applicable to medical devices are sufficient to ensure the safety and effectiveness of the product. The appropriate regulatory status of the product will, of course, again be considered in the course of the rulemaking classifying the device.

Accordingly, the agency proposes to revoke the additional standards for the manufacture of Leukocyte Typing Serum specified in §§ 660.10 through 660.15 on

the ground that the licensure requirements of section 351 of the PHS Act are no longer necessary to ensure a safe and effective product.

Until the effective date of a final regulation based on this proposal, Leukocyte Typing Serum remains subject to the licensure requirements of section 351 of the PHS Act. If the proposal is adopted, the product will no longer require a product license; proceeedings will be promptly initiated to revoke all existing licenses; and manufacturers then distributing Leukocyte Typing Serum may continue to do so without notification to the Bureau of Medical Devices. All manufacturers not distributing the product at the time of the effective date of the final regulation will be required, before beginning commercial distribution of the product, to submit to the Bureau of Medical Devices a premarket notification as described in §§ 807.81, 807.87, and 807.90 (21 CFR 807.81, 807.87, and 807.90).

On the effective date of the final regulation based on this proposal the Bureau of Medical Devices will regulate these products solely as medical devices. All questions on regulatory matters should be addressed to the Bureau of Medical Devices. The Bureau of Medical Devices will consult, as necessary, with the Bureau of Biologics on such questions. Decisions will be issued by the Bureau of Medical Devices.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or collectively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Title 21 of Chapter 21 of the Code of Federal Regulations be amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.53 [Amended]

1. Part 610 is amended in § 610.53 *Dating periods for specific products,* in paragraph (a), by deleting the listing for "Leukocyte Typing Serum (Dried)."

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

§§ 660.10—660.15 [Revoked]

2. Part 660 is amended by revoking Subpart B—Leukocyte Typing Serum, consisting of §§ 660.10 *Leukocyte typing serum,* 660.11 *Potency tests,* 660.12 *Specificity test,* 660.13 *Processing,* 660.14 *Labeling,* and 660.15 *Samples, protocols, official release,* and reserving it for future use.

Interested persons may, on or before September 30, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20957, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rule making does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 21, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-22939 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[Docket No. R-80-852]

Community Development Block Grants and Urban Development Action Grants; Conforming Amendments

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 makes technical changes to 24 CFR Part 570 (Community Development Block Grant regulations) to conform the regulations to the Housing and Community Development Amendments of 1979.

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 Chairman 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 interim rulemaking document:

24 CFR Part 570—Community Development Block Grants and Urban Development Action Grants—Conforming Amendments

(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., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23170 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 570

[Docket No. R-80-849]

Community Development Block Grants; Innovative Grants Program; Transmittal of Interim Rule to Congress

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 sets forth complete and explicit guidelines for prospective applicants in the Innovative Grants

program. It amends the existing rule in its entirety.

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 Chairman 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 interim rulemaking document:

24 CFR Part 570—Community Development Block Grants—§ 570.406—Innovative Grants Program

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23172 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 865

[Docket No. R-80-853]

Public Housing Agencies; Utility Allowances and Surcharges; Transmittal of Interim Rule to Congress

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 rule would establish uniform standards and procedures for determining the amounts of utility allowances and surcharges applicable to tenants of dwelling units owned or leased by Public Housing Agencies and assisted by HUD.

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 865—Subpart D—Utilities—PHA-Owned Projects—Project Management

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23174 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 886

[Docket No. R-80-850]

Additional Assistance Program for Projects With HUD-Insured and HUD-Held Mortgages

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 permits Contract Rents to be adjusted by (1) applying on each anniversary date of the contract, the most recently published Automatic Annual Adjustment Factors, or (2) granting a written requested from the owner which is properly supported by substantiating evidence.

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 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 interim rulemaking document:

24 CFR Part 886—Subpart A—Additional Assistance Program for Projects with HUD-Insured and HUD-Held Mortgages

(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., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23169 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 888

[Docket No. R-80-851]

Section 8 Fair Market Rents for New Construction and Substantial Rehabilitation for the Battle Creek, Mich., Market Area

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed 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 a proposed rule which the Secretary is submitting to Congress for such review. This rule would amend the Section 8 Fair Market Rents applicable to New Construction and Substantial Rehabilitation for the Battle Creek, Michigan Market Area, published in the **Federal Register** on January 11, 1980, by adding a new structure classification relating to two, three and four bedroom units in detached structures.

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 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 888—Revised Section 8 Fair Market Rents for New Construction and Substantial Rehabilitation for the Battle Creek, Michigan Market Area

(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., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23171 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 889

[Docket No. R-80-848]

Section 8 Housing Assistance Payments Program; Computation of Gross Family Contribution; Transmittal of Interim Rule to Congress

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 implements the statutory changes required by Section 202 of the Housing and Community Development Amendments of 1979. This rule revises the monthly gross family contributions of two categories of families: Very large income families and other lower income families.

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 interim rulemaking document:

24 CFR Part 889—Section 8 Housing Assistance Payments Program, § 889.105—Computation of Gross Family Contribution

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., July 25, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23173 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Improving Government Regulations; Semiannual Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual agenda.

SUMMARY: This agenda contains a report on the status of the regulatory actions the Commission announced in its previous agenda published in the **Federal Register** (45 FR 9948) on February 14, 1980 as well as an announcement of the significant regulatory actions that EEOC plans to take during the six-month period July 31, 1980—January 31, 1981. The agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978), as amended by Executive Order 12221 (45 FR 44249) on July 1, 1980. The Commission's purpose in publishing the agenda is to allow interested persons an opportunity to participate in all stages of its rulemaking process. The items mentioned in this agenda will be coordinated as appropriate under Executive Order 12067 (43 FR 28967, July 5, 1978).

FOR FURTHER INFORMATION CONTACT: Karen M. Danart, Acting Director, Office of Policy Implementation, 202-634-6490. Francesta E. Farmer, Director, Office of Interagency Coordination, 202-653-6490.

Signed at Washington, D.C. this 29th day of July, 1980.

For the Commission.

Eleanor Holmes Norton,

Chair.

A. Status of Regulatory Actions Previously Listed

1. Guidelines for the Coordination and Consultation Required by Executive Order 12067

A draft of the guidelines was published in the **Federal Register** (44 FR 55907) on September 28, 1979 for comment. A revised draft of the guidelines, incorporating several of the comments received by the Commission, was mailed to heads of Federal agencies on March 6, 1980. Twenty-five agencies responded to EEOC as a result of the mailing, and further revisions to the guidelines were made. The final guidelines will be published shortly.

2. Government-wide Guidelines for Processing EEO Complaints Received by Title VI or Other Grantmaking Agencies and Programs

EEOC and Department of Justice (DOJ) staff have met several times to discuss the substance of the regulation and the latest DOJ draft was exchanged on May 9, 1980. This draft is currently being reviewed by EEOC staff. Once EEOC and DOJ reach agreement on a draft, it will be circulated to Title VI and other grantmaking agencies for comment. It will then be published for public comment. The final regualtion will be jointly issued by EEOC and DOJ as a regulation under Executive Order 12067 and Executive Order 11764 (39 FR 2575, January 23, 1974).

3. Consistent Definitions for Use in Federal EEO Programs

In an earlier regulatory agenda, EEOC indicated that it had compiled and would issue definitions of key equal employment opportunity terms and concepts. The original plan has been modified and scaled down to deal only with "affirmative action" terms. During the course of the past year, EEOC has found that agency submissions of proposed issuances dealing with affirmative action have been particularly inconsistent, and therefore, a draft regulation, which will include a listing and definitions for key affirmative action terms, is currently being prepared. The regulation in which these terms are included will give Federal agencies instructions on how affirmative action regulations should be prepared and what provisions should be included in such regulations.

4. Government-wide System of Notification to Federal Agencies of EEO Issuances Under Development

A draft Management Directive titled "Quarterly Bulletin by the Equal Employment Commission of EEO Issuances Under Development" was circulated to affected Federal agencies on June 4, 1980. Agency comments on the draft Directive were to be submitted to EEOC's Office of Interagency Coordination by June 27, 1980. Following a review and consideration of these comments, EEOC will submit a request to the National Archives and Records Service as required by EEOC Order 215 and the Federal Report of EEO Issuances Under Development".

5. Recordkeeping Regulations (29 CFR Part 1602 et seq.)

The Commission is continuing its reevaluation of the possible need for a regulatory analysis.

6. EEOC Regulations To Enforce Section 504 of the Rehabilitation Act, 29 U.S.C. 794

Proposed regulations were published for public comment in the **Federal Register** (44 FR 68482) on November 29, 1979. The comments received in response to the request for comments are still being reviewed by EEOC staff.

7. Amend 29 CFR 1613,706 and 1613.710 Which Deal With Procedures for Processing Handicap Discrimination Complaint

Proposed amendments were published in the **Federal Register** (45 FR 43794) on June 30, 1980.

8. Regulations for Processing Title VI Complaints Received by EEOC

The Commission's Title VI procedures are still being developed by Commission staff.

9. Equal Pay Act Interpretative Regulations

The Commission is still reviewing the Interpretative Regulations adopted by the Department of Labor (29 CFR Part 800 *et seq.*). When this review is completed EEOC will issue its own interpretations.

10. Age Discrimination in Employment Act Interpretative Regulations

EEOC is continuing its review of the Interpretative Regulations adopted by the Department of Labor (29 CFR Part 860 *et seq.*). This review includes a review of the Age Discrimination in Employment Act age exemptions. The comments received by the Commission in response to its proposed Interpretations of § 1625.1–9 published in the **Federal Register** (44 FR 68858) on November 30, 1979 continue to be reviewed and considered by Commission staff. Section 1625.1–9 contains several terms used within the Act.

11. Amend 29 CFR 1601.21(b), (d) and 1601.28 Which Deal With EEOC's Notices of Right-To-Sue and Reconsideration of Determination

The Commission approved these sections for publication as interim regulations at its meeting of July 15, 1980. The amendments were published in the **Federal Register** (45 FR 48614) on July 21, 1980, for 30 days of public comment.

12. Amend 29 CFR 1611.1 et seq., the Commission's Privacy Act Regulations

The Commission is still reviewing these regulations.

13. Regulations for Review of Discrimination Matters Considered in Grievances Negotiated Pursuant to 5 U.S.C. 7121

Development of these regulations continues at the staff level.

14. Regulations for Processing Complaints of Discrimination Under Section 205 of the Civil Service Reform Act of 1978, 5 U.S.C. 7702

The Commission is still developing regulations for Section 205 of the Civil Service Reform Act.

15. Procedures for EEO in the Federal Government

The Commission, having considered the existing Federal EEO regulations which it adopted from the Civil Service Commission, is in the process of preparing its own set of regulations in this area. A staff draft of proposed new regulations has been circulated for informal comment as required by Executive Order 12067. Following further circulation and consideration of comments, the Commission plans to publish regulations for notice and comment in the **Federal Register** late in 1980. Final regulations and necessary implementing directives are expected to be issued in early 1981. It is planned that these new regulations will initially be effective only at certain selected federal agencies. The remaining federal agencies will be subject to the existing federal regulations. The Commission will amend the existing regulations as is necessary to assure that there will be no difference in the basic rights afforded federal employees under either system of regulations.

The Commission has issued an additional interim Federal EEO regulation and continues to develop an additional proposed regulation. The interim regulation, which provides for the award of attorney's fees at the administrative level, was published in the **Federal Register** (45 FR 24130) on April 9, 1980. The proposed regulation would revise Federal EEO appellate procedures for individual and class complaints. The proposed regulation will appear in the **Federal Register** for public comment once Federal agency comments have been fully reviewed and considered by EEOC.

16. Amend the Commission's Regulations on Recognition of State and Local Deferral Authorities (29 CFR 1601.70 and 1601.73)

Final regulations were published in the **Federal Register** (45 FR 33605) on May 20, 1980.

17. Amend 29 CFR 1613.217 to Authorize Agencies to Provide Backpay as a Part of Informal Settlements

Commission staff is still developing this amendment.

18. Amend 29 CFR 1613.221 (b) and (d) and 1613.233 (a) and (b) Which Discuss Notification to Federal Complainants of Appeal Rights and Time Frames for Noting an Appeal to the EEOC and Filing Supporting Briefs

Commission staff are still developing this amendment.

19. Amend 29 CFR Part 1601 The Commission's "Guidelines on Discrimination Because of Sex", so That the Commisison Can Clarify Its Position on the Issue of Sexual Harassment in the Workplace

The Commission's Guidelines on Dicrimination Because of Sex were amended by an interim amendment published in the **Federal Register** (45 FR 25024) on April 11, 1980. The comments received in response to the request for comments made in that publication are still being reviewed by EEOC staff.

20. "Guidelines on Discrimination Because of Religion"

The Commission's present Guidelines have been reviewed; changes have been drafted; informal consultations with affected Federal agencies, as required by Executive Order 12067, have been conducted; and public comments have been sought and received (44 FR 53706). The comments received from the public are presently being reviewed by EEOC staff. The Commission's Office of Policy Implementation plans to submit a staff version of final regulations to EEOC's Commissioners for review and action soon.

21. "Guidelines on Discrimination Because of Exposure to Hazardous Substances"

The proposed Guidelines were approved by the Commission on January 29, 1980, and published in the **Federal Register** (45 FR 7514) for public comment on February 1, 1980. The period for comment was extended by the Commission to July 2, 1980 by Notice in the **Federal Register** (45 FR 36431) on May 30, 1980. The comments received are presently being reviewed by EEOC staff.

B. New Regulations

1. Regulations Reflecting the Commission's Proposed Revision of the Department of Labor's Interpretative Bulletin on Employee Benefit Plans.

a. *Need for the Regulation:* The Commission finds it necessary to promulgate its own regulations in order to reflect its proposed changes to Department of Labor's Interpretative Bulletin.

b. *Legal Basis:* Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621, *et seq.*

c. *Regulatory Analysis:* The Commission will solicit information to

see whether a regulatory analysis is necessary.

d. *Contact Person:* John Pagano, Legal Counsel Division, Office of the General Counsel, (202) 634–6595.

2. Age Discrimination in Employment Act Procedural Regulations

a. *Need for the Regulation:* Age Discrimination in Employment Act Procedural Regulations do not presently exist.

b. *Legal Basis:* Age Discrimination in Employment Act of 1967 as amended, 29 U.S.C. 612 *et seq.*

c. *Regulatory Analysis:* The Commission does not believe that a regulatory analysis will be necessary since the regulation will not have a significant economic impact.

d. *Contact Person:* John Pagano, Legal Counsel Division, Office of the General Counsel, (202) 634–6595.

3. Equal Pay Act Procedural Regulations for the Federal Sector

a. *Need for the Regulation:* Equal Pay Act procedural regulations for the Federal sector do not presently exist.

b. *Legal Basis:* Equal Pay Act, 29 U.S.C. 206(d).

c. *Regulatory Analysis:* The economic impact of these regulations has not been finally determined. It appears unlikely, however, that their impact will be great enough to require a regulatory analysis.

d. *Contact Person:* Anthony J. DeMarco, Legal Counsel Division, Office of General Counsel, (202) 634–6595.

C. Changes to Existing Regulations

1. Amend 29 CFR 1601.13 Which Deals With the Filing of Title VII Charges and Their Deferral to State and Local Agencies

a. *Need for the Regulation:* The present regulations need to be amended to conform with the Supreme Court's decision in *Mohasco Corp.* v. *Silver,* U.S. Sup. Ct. No. 79–616 (June 23, 1980).

b. *Legal Basis:* Section 706(c) and 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-5(c) and 12(a).

c. *Regulatory Analysis:* The regulation is not expected to have a great enough economic impact to require a regulatory analysis.

d. *Contact Person:* Anthony J. DeMarco, Legal Counsel Division, Office of General Counsel (202) 634–6595.

2. Amend 29 CFR 1601.16 Which Discusses Procedures for Access to and the Production of Evidence

a. *Need for the Regulation:* To coordinate Title VII subpoena enforcement with Equal Pay Act enforcement procedures.

b. *Legal Basis:* Section 710 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–9.

c. *Regulatory Analysis:* The economic impact of these regulations has not been finally determined. It appears unlikely, however, that the impact will be great enough to require a regulatory analysis.

d. *Contact Person:* Anthony J. DeMarco, Legal Counsel Division, Office of the General Counsel, (202) 634–6595.

3. Amend 29 CFR 1613.706, Which Deals with Preemployment Inquiries in Certain Federal Agencies Concerning the Existence, Nature, or Severity of a Handicap

a. *Need for the Regulation:* The regulations are needed so that certain federal agencies can collect applicant disability data for affirmative action purposes.

b. *Legal Basis:* Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); Reorganization Plan No. 1 of 1978 (43 FR 19807, May 9, 1978), and Executive Order 12106, Transfer of Certain Equal Employment Opportunity Enforcement Functions (44 FR 1053, January 3, 1979).

c. *Regulatory Analysis:* The amendment is not expected to have an economic impact great enough to require a regulatory analysis.

d. *Contact Person:* Clayton G. Boyd, Division of Programs for Handicapped Individuals, Office of Government Employment (202) 653–7638.

D. Regulations Scheduled for Review

EEOC will continue to review those regulations referred to in Section A of this Agenda. In addition, the Commission will review its *Guidelines on National Origin Discrimination* (29 CFR 1606.1) to determine whether amendments are necessary to clarify Title VII's requirements for the several new issues which have emerged in this area since these *Guidelines* were last amended in 1974.

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DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Parts 2520 and 2530

Reporting and Disclosure and Minimum Standards for Employee Pension Benefit Plans; Individual Benefit Reporting and Recordkeeping for Single Employer Plans

AGENCY: Department of Labor.

ACTION: Proposed rulemaking and withdrawal of previously proposed regulations.

SUMMARY: This document (1) withdraws previously proposed regulations (44 FR 8294, February 9, 1979), which dealt with reports that must be furnished to participants in pension plans (and, in some cases, to their beneficiaries) regarding their benefit entitlements, and with records that must be maintained to provide the information necessary for these reports, and (2) contains new proposed regulations applicable only to single employer plans (defined herein to include plans maintained by groups of employers under common control). The Employee Retirement Income Security Act of 1974 (the Act) imposes on certain pension plans the duty to furnish reports and maintain records regarding participants' benefit entitlements and authorizes the Secretary of Labor to prescribe regulations under these provisions. The proposed regulations, if adopted, would provide necessary guidance to employers maintaining such single employment pension plans and to plan administrators of such plans for compliance with the statutory provisions, and would enable participants in single employer plans to receive accurate, timely, and useful information.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor (the Department) on or before October 1, 1980. These regulations, if adopted, would become effective 120 days after adoption.

ADDRESSES: Written comments (preferably three copies) should be submitted to the Division of Reporting and Disclosure, Pension and Welfare Benefit Programs, Room N–4508, U.S. Department of Labor, Washington, D.C. 20216, Attention: Single Employer Individual Benefit Reporting and Recordkeeping Regulations. All comments should be clearly referenced to the section of the regulations to which they apply. All written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–9595, or Ronald D. Allen, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–8515. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor is withdrawing previously proposed regulations (44 FR 8294, February 9, 1979), and has under consideration new proposed regulations

applicable to single-employer plans[1] dealing with reports that must be furnished to individual participants (and, in some cases, their beneficiaries) regarding their benefit entitlements under employee pension benefit plans, and with records that must be maintained to provide the information necessary for these reports. These regulations are proposed under the authority contained in sections 105, 209, and 505 of the Act (Pub. L. 93–406, 88 Stat. 849, 865, and 894, 29 U.S.C. 1025, 1059, and 1135).

The Department has determined that these proposed regulations are "significant" within the meaning of Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

A. Statutory Provisions

Section 105(a) of the Act generally requires each administrator of an employee pension benefit plan to furnish to any plan participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information, the total benefits accrued and the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which such benefits will become nonforfeitable. Similarly, section 209(a)(1) of the Act generally requires the plan administrator of a pension plan subject to Part 2 of Title I of the Act to make a report, in accordance with regulations of the Secretary of Labor, to each employee who is a participant under the plan and who requests such report. The report required under section 209(a)(1) must be sufficient to inform the employee of his accrued benefits which are nonforfeitable. Under both sections 105(a) and 209(a)(1), no participant is entitled to more than one report on request during any single 12-month period. Section 209(a) also requires similar reports to be provided to a participant who terminates service with the employer or has a one-year break in service. Sections 105(d) and 209(a)(2) authorize the Secretary of Labor to prescribe regulations specifying the extent to which these reporting requirements apply to plans adopted by more than one employer. In addition, section 105(c) of the Act requires plan administrators to provide to participants with respect to whom registration statements are filed with the Internal Revenue Service under section 6057 of the Internal Revenue Code of 1954 (the Code) individual statements setting forth the information contained in the registration statements.

In order to enable employees' benefits to be determined, so that the reporting requirements of section 209 can be met, section 209(a)(1) generally requires records to be maintained by employers and authorizes the Secretary of Labor to prescribe regulations governing such records. The information necessary for individual benefit reporting is to be furnished by the employer to the plan administrator. In the case of a plan adopted by more than one employer, however, section 209(a)(2) requires records to be maintained by the plan administrator, based on information to be provided by each such employer.

B. Background

On February 9, 1979 (44 FR 8294), the Department published proposed regulations with respect to individual benefit statements and recordkeeping (referred to herein as "the 1979 proposal"). These regulations would have applied both to single employer plans and to multiple employer plans. A large number of public comments on the 1979 proposal were filed. Many of these comments suggested that substantial revisions should be made to the 1979 proposal. In particular, comments filed on behalf of single and multiple employer plans raised distinct issues.

Upon consideration of those comments, the Department has determined to withdraw the 1979 proposal and to propose the regulations set forth below which pertain only to single employer plans. Reporting and recordkeeping questions relating to other multiple employer plans, including multiemployer plans, are still under consideration by the Department. The Department contemplates that proposed regulations dealing with reporting and recordkeeping requirements for multiple employer plans will be published in the **Federal Register** in the future.

Of the regulations now being proposed, 29 CFR 2520.105–1 through 2520.105–2 deal with individual benefit reporting to participants and beneficiaries, while 29 CFR 2530.209–1 through 2530.209–2 deal with the maintenance by plans of records to serve as a basis for individual benefit statements.

In addition to substantive changes from the 1979 proposal, this new proposal contains language changes designed to clarify provisions or to improve readability.

These regulations are proposed under the authority in section 105, 209, and 505 of the Act (Pub. L. 93–446, 88 Stat. 849, 865, and 894, 29 U.S.C. 1025, 1059, and 1135).

C. Discussion of Proposed Individual Benefit Reporting Regulations

1. *Benefit statement.* Under these proposed regulations, the benefit statement is the basic document to be used for providing individual benefit information to participants upon request, upon termination or upon a one-year break in service. The benefit statement must state the amount of a participant's accrued benefit regardless of the extent to which it is nonforfeitable (i.e., "vested"), the percentage of the accrued benefit which is vested, and the amount of such accrued vested benefit. The regulations specify the form in which accrued benefits and accrued vested benefits must be reported. The new proposal is designed to ensure that the information provided to an individual participant is presented in a meaningful fashion, without imposing excessive administrative costs on plans.

Some of the comments received by the Department on the 1979 proposal raised objections to the degree to which that proposal would have required benefit statements to provide individualized information geared to each participant's particular circumstances. These comments suggested that the degree of individualization that would have been required would entail significant additional costs for plans, and that ultimately these costs would be borne to some extent by participants. These commentators pointed out that, in some cases, the individualized information might be misleading or of little value to recipients of benefit statements as a result of changes in participants' circumstances. At the same time, it appears to the Department that some degree of individualization is necessary if individual benefit statements are to serve the purposes which underlie the statutory requirements. In the new proposal the Department has struck what it believes to be a better balance between the need for individualization of benefit statements and the costs that individualization imposes.

In the case of defined benefit plans, the accrued benefit and the amount of the participant's accrued vested benefit may be expressed either in terms of a straight life annuity payable at normal retirement age, or in terms of the normal form of benefits offered by the plan (e.g., annuity for a term of years, lump-sum distribution, etc.). By contrast, the 1979 proposal would have required accrued

[1] The term "single employer plan" is defined in the proposed regulations to include plans maintained by a group of employers under common control. In discussions of the proposal throughout this document, the term "single employer plan" generally should be read to be consistent with this definition.

benefits to be stated either in the form of a straight life annuity payable at normal retirement age or, if the plan did not offer such a benefit, in the form of the primary option offered by the plan. If a participant had made any elections affecting the manner of payment of benefits, the 1979 proposal generally would have required accrued benefits to be stated in the form elected by the participant. The elimination in the new proposal of the requirement to state accrued benefits in the form elected by the participant is in keeping with the goal of reducing costs resulting from excessive individualization. It also reflects comments to the effect that the requirement to state accrued benefits in the form of a straight life annuity payable at normal retirement age might prove misleading to participants when this is not the normal form of benefits payable under the plan. One of the comments on the 1979 proposal suggested that the Department should prohibit explicitly inclusion in the benefit statement of benefit projections predicated on the assumption that a participant will work until retirement. The comment suggested that such projections would not satisfy the requirement that a benefit statement must report accrued benefits, vested percentage and accrued vested benefits as of the date of the statement. The Department has decided not to prohibit the inclusion of such projections, but notes that the benefit statement must be written in a manner calculated to be understood by the average plan participant or beneficiary and its format must not have the effect of misleading or misinforming participants or beneficiaries.

The new proposal would require the benefit statement to indicate that election of options under the plan might affect the participant's accrued benefits, and to refer the participant to the Summary Plan Description for information on available options. In addition, if the accrued benefit and accrued vested benefit are not expressed as amounts payable in the form of a joint and survivor annuity, the benefit statement must explain that the periodic benefit the participant will receive at retirement may be reduced on account of survivor benefits.

Social security offset plans must furnish the net benefit. In the case of benefit statements furnished on request or under the annual benefit statement alternative, the net benefit may be determined on the basis of assumptions about participants' earnings in service not covered by the plan, provided that the benefit statement indicates that the reported amounts are approximate. Benefit statements furnished upon termination or after a break in service must report the actual amounts of benefits to which the participant is entitled.

In the case of an individual account plan, the regulations make it clear that the participant's account balance is considered to be the accrued benefit.

In accordance with the statutory requirements, the benefit statement would be required to indicate the nonforfeitable (vested) percentage of the participant's accrued benefit. If the participant has no vested accrued benefits, the benefit statement must indicate the earliest date on which any benefits will become vested. Consistent with the goal of avoiding excessive administrative costs, the new proposal eliminates the requirement in the 1979 proposal that plans with "graded" vesting indicate the earliest dates on which a participant may attain each subsequent level of nonforfeitable accrued benefits derived from employer contributions. The new proposal also provides that class year plans would be required to indicate the nonforfeitable percentage of each portion of the participant's account balance, to which a separate nonforfeitable percentage applies.

The benefit statement would also be required to indicate the amount of the participant's nonforfeitable accrued benefit, in the same form as that in which the accrued benefit is reported.

The new proposal requires only a general reference to the Summary Plan Description. The 1979 proposal required more detailed information regarding circumstances that might result in the reduction or elimination of accrued or nonforfeitable benefits, including detailed references to the Summary Plan Description. The new proposal also eliminates the requirement in the 1979 proposal that the benefit statement include certain information concerning a participant's work history used as a basis for calculation of the participant's benefits. This change was made to reduce the degree to which benefit statements must be individualized. The eliminated information, however, must be available to a participant under the provisions of these regulations regarding inspection of records (§ 2530.209–2(f)), and, as under the 1979 proposal, the benefit statement must so indicate. As under the 1979 proposal, the benefit statement would be required to include a statement urging the participant to bring promptly to the attention of the plan administrator anything in the benefit statement that does not appear correct; information regarding the availability of plan records for inspection; the date as of which information is reported; and the participant's social security number (for the purposes of verification by the participant).

Like its predecessor, the new proposal would provide that the benefit statement must be written in a manner calculated to be understood by the average plan participant or beneficiary and that the format of the benefit statement must not have the effect of misleading or misinforming the participant or beneficiary. Under certain circumstances, plans must offer foreign language assistance to participants who are not literate in English to aid them in understanding their benefit statements, as is required under regulations relating to the Summary Plan Description (see 29 CFR 2520.102–2(c)).

The benefit statement must be based on the latest available information. As under the 1979 proposal, benefit statements based on records that meet the standards of sufficiency set forth in the proposed recordkeeping regulations will be deemed to be based on the latest available information. Although "sufficient", a plan's records may nevertheless be incomplete (i.e., if they do not include all items necessary to determine participants' benefit entitlements) if, for example, a plan did not maintain complete records prior to the adoption of these regulations. In these instances, the benefit statement must indicate that the records on which it is based are incomplete, and the participant or beneficiary must be offered an opportunity to provide other information relating to his benefit entitlements. The plan administrator must prepare a benefit statement based on such information although, to the extent that a benefit statement is based on such information, it may indicate that it is conditioned upon the accuracy of that information.

In the 1979 proposal the Department solicited comments on whether and to what extent it should adopt regulations concerning circumstances under which liability should be imposed for payment of benefits in accordance with the information provided in the benefit statement. Some comments supported the adoption of regulations imposing liability, while others suggested that liability should be limited, or objected to the imposition of any liability. Upon consideration of the comments, the Department has concluded that a judgment concerning the consequences of an incorrect benefit statement can properly be made only after account has been taken of all the facts and

circumstances. The Department believes, therefore, that it would be more appropriate to leave determinations of this sort to plan fiduciaries, whose actions are subject to review by means of the judicial process, than to attempt to deal with all conceivable factual situations in the context of regulations.

In the 1979 proposal, the Department also solicited comments on whether it should publish model benefit statements. In view of the multiplicity of plan provisions, it would be difficult for the Department to ensure that the format of a model statement would not be misleading under any circumstances. Accordingly, the Department has made a decision at this time not to publish model benefit statements.

2. *Furnishing benefit statements on request.* Both sections 105(a) and 209(a)(1)(A) of the Act require plan administrators of pension plans to furnish individual benefit information on request. The requirements of both statutory provisions are substantially similar in this regard; accordingly, these requirements are dealt with in a single section of the regulations (§ 2520.105–2(a)). The only significant difference between the two statutory provisions is that section 105(a) applies to requests by both participants and their designated beneficiaries, while section 209(a)(1)(A) applies only to requests by participants. The regulations, therefore, apply to requests by both participants and beneficiaries, so as to cover the broadest range of circumstances under which benefit statements must be furnished on request.

In response to suggestions made in comments on the 1979 proposal, the new proposal provides that a plan administrator subject to these regulations need not provide a benefit statement upon request to certain classes of participants and beneficiaries. These include participants and beneficiaries currently receiving benefits; participants and beneficiaries to whom paid up insurance policies representing their full benefit entitlements have been distributed; participants and beneficiaries who have received a full distribution of their benefits or who are receiving benefits under the plan; beneficiaries of participants who are entitled to benefit statements; and participants with deferred vested benefits who have received benefit statements on termination or after having incurred a one-year break in service without returning to service with any employer maintaining the plan, and their beneficiaries. The Department believes that it would be superfluous to require benefit statements to be furnished to these participants and beneficiaries.

The plan administrator may establish a simple and convenient procedure for the submission of requests for benefit statements. If such a procedure is established and communicated to participants and beneficiaries (for example, in the Summary Plan Description), the plan administrator, under certain conditions, need not comply with requests that do not conform to the procedure. If no such procedure is established, however, the plan administrator must comply with any request in writing by a participant or beneficiary. The plan administrator may not require information regarding a participant's employment record as a condition for furnishing the benefit statement (although such information may be requested). The new proposal would, however, allow plan administrators to require the furnishing of certain items of information identifying the participant about whom information is requested.

Many of the comments on the 1979 proposal urged that the Department permit benefit statements to report benefits as of the end of the plan year. The comments suggested that this approach would relieve individual account plans of the expense of conducting a valuation whenever a participant or beneficiary requests a benefit statement. Defined benefit plans might also face lower administrative costs if an end-of-plan-year approach were adopted because it might enable these plans to gear data processing systems to a single date. In light of these comments, the new proposal would require a benefit statement to report benefits as of a date not earlier than the end of the plan year preceding the plan year in which a participant or beneficiary requests the statement.

The end-of-plan-year approach, however, entails changes in the deadlines for furnishing benefit statements on request. The new proposal is designed to permit a reasonable period of time after the end of the plan year for the processing of information. Under the new proposal, a benefit statement must be furnished to a participant or beneficiary on request within the later of 60 days of the date of the request or 120 days after the end of the plan year which immediately precedes the year in which the request was made. The Department recognizes that this scheme would provide participants and beneficiaries who request benefit statements towards the end of the plan year with a statement that contains relatively old information based on the prior plan year (as much as 14 months old), while participants and beneficiaries who request statements during the earlier part of the plan year may be required to wait a substantial period (up to four months) to receive their statements. Nevertheless, the Department believes that the proposed scheme strikes an appropriate balance between providing participants with timely information and reducing administrative costs.

As under the 1979 proposal, the plan administrator would not be required to furnish more than one benefit statement to a participant or beneficiary on request during any 12-month period.

The original proposal appeared to require plans to furnish a complete benefit statement to a non-vested participant if the annual alternative was used. The new proposal would permit a plan to provide annually, as an alternative to furnishing benefit statements on request, a benefit statement to each vested participant and a statement of non-vested status to each non-vested participant. Permitting the furnishing of a statement of non-vested status under the annual alternative should reduce costs to plans electing the alternative, while providing sufficient disclosure to a non-vested participant. The plan administrator must furnish a complete benefit statement, however, to any non-vested participant who requests one after receiving the statement of non-vested status.

The annual benefit statement must be furnished within 180 days after the end of the plan year.

Despite comments objecting to the requirement in the 1979 proposal that the plan administrator furnish at least one duplicate of the annual benefit statement to any participant or beneficiary who requests it during the year, the Department has not eliminated this requirement. In some cases a participant or beneficiary may not receive an annual benefit statement mailed to him. Since it would be impracticable and unfair to require a participant or beneficiary to prove that he did not receive an annual statement in order to obtain a duplicate, the regulations allow all participants or beneficiaries entitled to receive a benefit statement on request at least one duplicate if the annual alternative is used.

3. *Furnishing benefit statements upon termination and after one-year breaks in service.* The benefit statement must report benefits as of the end of the plan year in which the termination or the one-year break in service occurs. Consistent with end-of-the-year benefit

reporting, the new proposal requires statements to be furnished within 180 days after the end of the plan year in which the termination or break in service occurs. The 180 day period would allow plans to satisfy the requirement to furnish benefit statements upon termination or break in service through the use of the annual benefit statement alternative, which is required to be furnished in the same time period.

A participant who receives a benefit statement in connection with termination of service, and thereafter incurs a one-year break in service, is not entitled to receive an additional benefit statement if the information in the second benefit statement would be the same as in the first. Similarly, a participant who receives a benefit statement upon incurring a one-year break in service and thereafter terminates service with the employer, or incurs a subsequent one-year break in service, is not entitled to receive an additional benefit statement if the information in the second benefit statement would be the same as that in the first.

In the case of participants who have no vested benefits, the new proposal, like the 1979 proposal, would permit plan administrators of single employer plans to satisfy the requirements to furnish individual benefit information upon termination by furnishing a statement of non-vested status. The statement of non-vested status informs the participant that he has no nonforfeitable benefits. It does not, however, provide information regarding accrued benefits. Thus, the statement of non-vested status does not require extensive calculations and may be presented to all participants entitled to it in a standardized form, with no need for preparation of an individual statement for each. However, the statement of non-vested status must inform the participant that he may request a benefit statement with more detailed information regarding his individual accrued (non-vested) benefits. Such a request must be treated as a request for a benefit statement.

4. *Corrections to the benefit statement.* As under the 1979 proposal, a participant who raises a question with regard to the accuracy of a benefit statement must be given an opportunity to furnish information regarding his benefit entitlements to the plan administrator. Within a reasonable time, the plan administrator must make a decision with regard to the question raised by the participant and notify the participant of the decision, the basis for the decision, and any change in benefit entitlements as a result of the decision. The plan administrator is not required to prepare a benefit statement based on the information furnished by the participant except, as noted above, in situations where the benefit statement is based on incomplete records.

5. *Statement of deferred vested benefits.* Under section 105(c) of the Act, each plan administrator required to register with the Internal Revenue Service under section 6057 of the Code shall furnish a statement of deferred vested benefits to each participant described in section 6057(a)(2)(C) (i.e., to each participant who, during the plan year for which registration is required, is separated from service covered under the plan, is entitled to a deferred vested benefit under the plan as of the end of the plan year, and with respect to whom retirement benefits were not paid under the plan). Section 6057(e) of the Code requires plan administrators to furnish similar individual statements to the same class of participants. The requirements of section 105(c) will be deemed to be satisfied if, in accordance with section 6057(e) of the Code and regulations thereunder, the plan administrator furnishes to the participant the individual statement required under the latter section.

6. *Manner of furnishing individual benefit reporting documents.* Like the 1979 proposal, the new proposal would require a plan to furnish individual benefit documents to a participant or beneficiary either by first class mail to his last known address, or by personal delivery. The new proposal makes it clear that personal delivery may be accomplished by another party under the plan administrator's supervision.

The new recordkeeping proposal would require a participant's individual benefit records to include current address information. Although some comments suggested that plans should not be required to maintain current address information on file, and should be permitted to use less reliable modes of delivery than first-class mail and personal delivery, the Department believes that these requirements represent the only means of assuring that individual benefit reporting documents will actually reach participants and beneficiaries in most cases.

D. Proposed Individual Benefit Recordkeeping Regulations

1. *Duty to maintain records.* In the case of a single employer plan, the duty to maintain individual benefit records would be imposed on the employer maintaining the plan. As under the 1979 proposal, the employer would be required to furnish to the plan administrator the information necessary to enable the latter to comply with the individual benefit reporting requirements.

2. *Sufficiency of records.* The individual benefit records maintained in connection with a single employer plan will be deemed to be sufficient if they contain all information relevant to the determination of each employee's benefit entitlements under the plan with respect to service with the employer who maintains the plan after the effective date of the regulations. In the case of a plan adopted after the effective date, records must contain all information relevant to a determination of each employee's benefit entitlements under the plan relating to such service after the date of adoption. Certain information with respect to service before the initial recordkeeping date specified in the regulations will be relevant in determining vested accrued benefits. The proposed regulations would not require records of this information to be compiled, but if such records were in existence as of February 9, 1979, the date on which the 1979 proposal was published in the **Federal Register**, they must be retained. In the Department's view, the 1979 proposal was sufficient to put plan administrators on notice that existing records would not be permitted to be destroyed.

3. *Retention, preservation and inspection of records.* As under the 1979 proposal, individual benefit records must be retained as long as a possibility exists that they might be relevant to a determination of the benefit entitlements of a participant or beneficiary. However, if they are lost or destroyed due to circumstances beyond the control of the person responsible for their maintenance, they will not be deemed insufficient solely for that reason. They must be maintained in a safe and accessible place at the offices of the employer, or at special recordkeeping offices.

The proposal makes clear that original records may be disposed of at any time if microfilm, microfiche or similarly reproduced records which are clear reproductions of the original documents are retained, and adequate viewing equipment is available for inspecting them. (The 1979 proposal appeared to allow microfilm reproduction only.)

Individual benefit records, including original documents, must be available for inspection by participants, beneficiaries, and their representatives.

The period within which plan records must be made available for inspection after a request to do so has been

extended from 72 hours, as under the 1979 proposal, to 10 working days. This change was made in response to comments noting the difficulties which would have been involved under the previous proposal.

In response to some public comments, provisions have been added to this proposal requiring the employer maintaining the records to bear the cost of converting records into a form accessible for inspection, although reasonable charges for copying may be imposed, not exceeding the actual cost. Inspection of records may be made only by those persons entitled to receive a benefit statement, and their representatives. Representatives of the Department have the authority to inspect plan records under the circumstances specified in section 504 of ERISA.

If an employer ceases to be responsible for the maintenance of individual benefit records, they must be transferred to the person who becomes responsible for their maintenance.

4. *Definition of "single employer plan".* The Department has tentatively decided to extend the term "single employer plan", for the purposes of these regulations, to a plan adopted by a group of employers under common control. In the case of these plans, the new proposal would impose the recordkeeping requirements on the individual employers, rather than on a central recordkeeping agent such as the plan administration, but would make it clear that the individual employers may enter into cooperative centralized recordkeeping arrangements. The Department believes that for these plans it is unnecessary to impose on the employers a legal obligation, such as might be appropriate in the case of a plan maintained by a group of unaffiliated employers, to participate in such arrangements because the central management of the control group is able to require employers maintaining the plan to adhere to efficient recordkeeping arrangements.

E. Effective Dates

The Department has received a number of comments in response to the 1979 proposal suggesting that some plans may need to effect changes to their existing reporting and recordkeeping systems to comply with the proposed regulations. In order to allow for orderly preparations for compliance with the regulations, therefore, the Department contemplates providing an effective date which would be 120 days after the adoption of the regulations, instead of 30 days after adoption as previously proposed.

F. Drafting Information

The principal author of these proposed regulations is Mary O. Lin of the Plan Benefits Security Division, Office of the Solicitor, Department of Labor. However, other persons in the Department of Labor participated in developing the proposed regulations, both on matters of substance and style.

G. Proposed Regulation

Accordingly, proposed regulations 29 CFR 2520.105–1 through 2520.105–11 and proposed regulations 29 CFR 2530.209–1 through 2530.209–9 (44 FR 8294, February 9, 1979) are hereby withdrawn, and it is proposed to amend Chapter XXV of Title 29 of the Code of Federal Regulations as follows:

1. By adding to Part 2520 new §§ 2520.105–1, 2520.105–2, and 2520.105–3 to read as follows:

Subpart G—Individual Benefit Reporting

Sec.
2520.105–1 General.
2520.105–2 Individual Benefit Reporting for Single-Employer Plans.
2520.105–3 [Reserved].

Authority: Secs. 105, 209 and 505 of the Act (Pub. L. 93–406; 88 Stat. 849, 865 and 894, 29 U.S.C. 1025, 1059 and 1135).

Subpart G—Individual Benefit Reporting

§ 2520.105–1 General.

(a) *Scope and purpose.* Sections 105 and 209 of the Employee Retirement Income Security Act of 1974 (the Act) impose on plan administrators of employee pension benefit plans certain requirements to report to plan participants and beneficiaries information regarding their individual benefit entitlements. Section 105 of the Act provides, among other things, that each plan administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary who so requests in writing, a statement of certain information relating to his individual benefit entitlements. Section 209(a) of the Act provides, among other things, that the plan administrator shall make a report regarding individual benefit entitlements, in accordance with regulations prescribed by the Secretary of Labor, to each employee who is a participant under the plan and who either requests such report in accordance with regulations issued by the Secretary of Labor, terminates service with the employer, or has a one-year break in service (as defined ion section 203(b)(3)(A) of the Act). In addition, section 105(c) provides that a plan administrator who is required to register under section 6057 of the Internal Revenue Code of 1954 (the Code) shall furnish to certain plan participants individual statements relating to their deferred vested benefits. Sections 2520.105–2 and 2520.105–3 contain provisions relating to the reporting of individual benefit entitlements under sections 105 and 209(a) of the Act. Section 2520.105–2 applies to "single employer plans", while section 2520.105–3 applies to "multiple employer plans". The paragraphs of §§ 2520.105–2 and 2520.105–3 are parallel. Recordkeeping requirements relating to information necessaary for determining individual benefit entitlements are set forth in §§ 2530.209–1, 2530.209–2 and 2530.209–3.

(b) *Individual benefit reporting documents.* Sections 2520.105–2 and 2520.105–3 deal with three types of documents, collectively referred to as "individual benefit reporting documents":

(1) The benefit statement that must be furnished to plan participants or beneficiaries upon request, upon termination of employment or upon a one-year break in service;

(2) The statement of non-vested status that may be substituted for the benefit statement under certain circumstances; and

(3) The statement of deferred vested retirement benefits that must be furnished to participants in connection with certain filings by the plan administrator under section 6057 of the Code.

§ 2520.105–2 Individual benefit reporting for single employer plans.

(a) *Furnishing statements on request.*—(1) *General.* The administrator of a single employer employee pension benefit plan (as defined in § 2520.105–2(k)) subject to Part 1 or 2 of Title I of the Act shall furnish a benefit statement which satisfies the requirements of this paragraph and paragraphs (c) through (i) of § 2520.105–2 to all plan participants or beneficiaries who request in writing information regarding their individual benefit entitlements under the plan, except:

(i) Participants and beneficiaries who are currently receiving benefits under the plan;

(ii) Participants and beneficiaries whose entire benefit entitlements under the plan are fully guaranteed by an insurance company, insurance service or insurance organization qualified to do business in a State: *Provided,* That the benefits are paid under an insurance policy or contract on which no further premiums are payable and which has

been distributed to the participant or beneficiary;

(iii) Participants and beneficiaries who have received all benefits to which they are entitled under the plan;

(iv) Beneficiaries of a participant who is entitled to a benefit statement on request; and

(v) Participants with deferred vested benefits who have received benefit statements on termination or after incurring a one year break in service and who have not returned to service with any employer maintaining the plan, and beneficiaries of such participants.

(2) *Procedure for submission of requests for benefit statements.* The plan administrator may establish a simple procedure, convenient to participants and beneficiaries, for the submission of requests for benefit statements. The plan administrator will not be required to comply with a request made in a manner which does not conform to such a procedure which has been communicated in writing to participants and beneficiaries, provided that the plan administrator informs the requesting participant or beneficiary that he has failed to comply with the procedure and explains how to comply with the procedure. A procedure shall be deemed to be communicated to participants and beneficiaries if a description of the procedure is included in the Summary Plan Description of the plan or in any other document distributed to all plan participants. If no such procedure is established, any request in writing to the plan administrator or plan office by a participant or beneficiary for information regarding his benefit entitlements under the plan shall be deemed a request to the plan administrator for the purposes of this section.

(3) *Information obtained from participant or beneficiary.* A participant or beneficiary who requests a benefit statement may not be required to furnish information regarding the participant's employment record as a condition to receiving the benefit statement, but may be required to furnish the following information: Name, address, date of birth, Social Security account number and, if relevant to information provided in the benefit statement, marital status and date of birth of spouse.

(4) *Date of furnishing.* A benefit statement shall be furnished to a participant or beneficiary who requests such a statement, no later than (i) 60 days after receipt of the request or (ii) 120 days after the end of the plan year which immediately precedes the plan year in which the request is made, whichever is later.

(5) *Date as of which information is provided.* A benefit statement furnished at the request of a participant or beneficiary shall report benefits as of a date not earlier than the end of the plan year preceding the plan year in which the request is made.

(6) *Annual benefit statement alternative.* (i) The requirement to furnish a benefit statement on request to a participant or beneficiary, as set forth in § 2520.105–2(a)(1), shall not apply if within one year before the request the plan administrator has furnished to such participant or beneficiary an annual benefit statement, or a "statement of non-vested status" described in § 2520.105–2(f), as appropriate, which is based on information as of the end of the plan year preceding the plan year in which it is furnished, and it is furnished within 180 days after the end of that plan year.

(ii) Notwithstanding the provisions of paragraph (a)(6)(i) of this section, the plan administrator shall furnish a complete benefit statement meeting the requirements of § 2520.105–2 (d) and (e) to a participant who requests information on his accrued benefits after receiving a statement of non-vested status, and shall furnish upon request a duplicate of the most recent annual benefit statement, or statement of non-vested status, as appropriate, to any participant or beneficiary who was entitled to such a statement but claims but to have received one.

(b) *Furnishing statements upon termination and after one-year breaks in service.*—(1) *Furnishing statements upon termination.*—(i) *General.* Except as provided in § 2520.105–2(c), the plan administrator of a single employer employee pension benefit plan that is subject to Part 2 of Title I of the Act shall furnish a benefit statement to a participant who terminates service with the employer, unless the participant is reemployed by the employer before the date on which the benefit statement must be furnished under paragraph (b)(1)(iii) of this section.

(ii) *Non-vested participants.* In the case of a terminated participant who has no nonforfeitable benefits under the plan, the plan administrator will comply with the requirements of section 209(a)(1)(B) of the Act and this section if the plan furnishes such participant a "statement of non-vested status" described in § 2520.105–2(f).

If a participant is furnished a statement of non-vested status under this paragraph, and requests information concerning his accrued benefits under the plan, the plan administrator shall furnish a benefit statement meeting the requirements of § 2520.105–2 (d) and (e) to the participant no later than the later of 60 days after such request or 180 days after the end of the plan year in which the participant's termination occurred.

(iii) *Date of furnishing.* A benefit statement or statement of non-vested status shall be furnished within 180 days after the end of the plan year in which the participant terminates service with the employer. This requirement may be satisfied by furnishing to the participant an annual benefit statement described in § 2520.105–2(a)(6), which reports the participants benefits as of the end of the plan year in which termination occurred.

(iv) *Date as of which information is provided.* A benefit statement furnished upon termination of service shall report benefits as of a date no earlier than the date of termination.

(2) *Furnishing statements after one-year breaks in service*—(i) *General.* Except as provided in § 2520.105–2(c), a plan administrator of a single employer employee pension benefit plan, that is subject to Part 2 of Title I of the Act and provides that participants may suffer adverse consequences on incurring a one-year break in service, shall furnish a benefit statement to a participant who incurs a "one-year break in service", as defined in paragraph (b)(2)(v) of this section.

(ii) *Non-vested participants.* In the case of a participant who has no nonforfeitable benefits under the plan and who incurs a one-year break in service, the plan administrator will comply with the requirements of section 209(a)(1)(B) of the Act and this section if the plan furnishes such participant a "statement of non-vested status" as described in § 2520.105–2(f).

If a participant who incurs a one-year break in service is furnished a statement of non-vested status under this paragraph, and requests information concerning his accrued benefits under the plan, the plan administrator shall furnish a benefit statement meeting the requirements of § 2520.105–2 (d) and (e) to the participant no later than the later of 60 days after such request or 180 days after the end of the plan year in which he incurs a one year break in service.

(iii) *Date of furnishing.* A benefit statement or statement of non-vested status shall be furnished within 180 days after the end of the plan year in which a participant incurs a one-year break in service. This requirement may be satisfied by furnishing to the participant an annual benefit statement described in § 2520.105–2(a)(6), which reports the participant's benefits as of the end of the plan year in which the one-year break in service occurred.

(iv) *Date as of which information is provided.* A benefit statement furnished

after a one-year break in service shall report benefits as of the end of the plan year in which the one-year break in service occurs.

(v) *Definition of "one-year break in service".* For purposes of this section, the term "one-year break in service" shall mean a one-year break in service for vesting purposes as defined in the plan documents, or in the case of a plan under which service is credited for purposes of vesting according to the elapsed time method permitted under 26 CFR 1.410(a)–7, a one-year period of severance for vesting purposes, as defined in 26 CFR 1.410(a)–7(c)(4).

(c) *Frequency of benefit statements.* (1) A plan administrator is not required to furnish to a participant or beneficiary more than one benefit statement upon request under § 2520.105–2(a) in any 12-month period.

(2) Where a participant receives a benefit statement upon termination or upon incurring a one-year break in service, a plan administrator is not required to furnish a second benefit statement upon a subsequent one-year break in service or termination, respectively, or upon a request by the participant, if the information that would be contained in a second benefit statement would be the same as that contained in the earlier benefit statement.

(d) *Style and format of benefit statements*—(1) *General.* Individual benefit reporting documents shall be written in a manner calculated to be understood by the average plan participant or beneficiary. The format of these documents must not have the effect of misleading or misinforming the participant or beneficiary.

(2) *Foreign language assistance*—(i) The plan administrator of a plan described in paragraph (d)(2)(ii) of this section shall communicate to plan participants, in the non-English language common to such participants, information relating to any procedure for requesting benefit statements that may have been established by the plan administrator in accordance with § 2520.105–2(a)(2). In addition, the plan administrator shall provide these participants with either a benefit statement in such non-English language, or an English language benefit statement or statement of non-vested status which prominently displays a notice, in the non-English language common to these participants, explaining how they may obtain assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants.

(ii) The plan administrators of the following plans are subject to the foreign language requirement of paragraph (d)(2)(i) above:

(A) A plan that covers fewer than 100 participants at the beginning of the plan year, and in which 25 percent or more of plan participants are not literate in English and are all literate in the same non-English language, or

(B) A plan which covers 100 or more participants at the beginning of the plan year, and in which the lesser of 500 or more participants, or 10% or more of all plan participants, are not literate in English and are all literate in the same non-English language.

(e) *Contents of the benefit statement*—(1) *General.* In accordance with paragraphs (e)(2), (e)(3), (e)(4) and (e)(5) of this section, each benefit statement shall contain the following information:

(i) The participant's total accrued benefits;

(ii) The nonforfeitable percentage of the participant's accrued benefits;

(iii) The amount of the participant's nonforfeitable accrued benefits; and

(iv) Additional information specified in § 2520.105–2(e)(5) below.

(2) *Total accrued benefits*—(i) *Defined benefit plans*—(A) *General.* In the case of a defined benefit plan, the accrued benefit shall be stated in the form of a straight life annuity payable at normal retirement age or in the normal form of benefit provided by the plan.

(B) *Contributory plans.* If a defined benefit plan requires contributions to be made by employees, the benefit statement shall separately indicate, in addition to the participant's total accrued benefit, either the amount of the participant's accrued benefit derived from employee contributions and the amount of the accrued benefit derived from employer contributions, or the percentages of the participant's total accrued benefit derived from employee contributions and from employer contributions. The portion of the accrued benefit derived from employer contributions and the portion derived from employee contributions shall be determined in accordance with section 204(c) of the Act (section 411(c) of the Internal Revenue Code of 1954 and Treasury Regulations thereunder).

(C) *Social Security offset plans.* If a participant's benefits under the plan are offset by a percentage of the participant's benefits under the Social Security Act, the benefit statement shall state the participant's accrued benefit after reduction by the applicable amount. In the case of a benefit statement furnished upon request or under the annual benefit statement alternative permitted under paragraph (a)(6) of this section, the amount of the offset may be determined on the basis of assumptions about the participant's earnings from service not covered under the plan, provided that the statement indicates that the stated amounts of the accrued and nonforfeitable accrued benefit are approximate. A benefit statement furnished when an employee terminates employment or incurs a break in service must indicate the actual amounts of the accrued benefit and nonforfeitable accrued benefit to which the participant is entitled.

(ii) *Individual account plans.* In the case of an individual account plan, the participant's accrued benefit shall be the fair market value of the participant's account balance on the date as of which benefits are reported.

(3) *Nonforfeitable percentage*—(i) *General.* The benefit statement shall indicate the percentage of a participant's accrued benefit which is nonforfeitable within the meaning of section 203 of the Act (and section 411(a) of the Internal Revenue Code of 1954 and Treasury Regulations thereunder). Except in the case of a plan described in paragraph (e)(3)(ii) of this section, if a participant has no nonforfeitable benefits, the benefit statement shall indicate the earliest date on which any benefits may become nonforfeitable; and if less than 100 percent of the participant's benefits are nonforfeitable, the benefit statement shall indicate the earliest date on which 100 percent of the participant's benefits may be nonforfeitable.

(ii) *Class year plans.* In the case of an individual account plan which provides for the separate nonforfeitability of benefits derived from contributions for each plan year, the benefit statement shall state each nonforfeitable percentage applicable to a portion of the participant's account balance and the value of that portion of the account balance.

(iii) *Contributory plans.* In the case of a plan which provides for employee contributions, the benefit statement shall indicate that the portion of the accrued benefits derived from the participant's contribution to the plan is nonforfeitable.

(4) *Nonforfeitable benefits*—(i) *Defined benefit plans.* The benefit statement shall indicate the amount of the participant's nonforfeitable benefit in the same form as the participant's total accrued benefit is reported under paragraph (b) of this section.

(ii) *Individual account plans.* In the case of an individual account plan, the benefit statement shall indicate the fair market value of the nonforfeitable

portion of the participant's account balance on the date as of which benefits are reported.

(5) *Other information.* A benefit statement shall include the following information:

(i) In the case of a defined benefit plan, a statement to the effect that the amount of benefits which may be received under the plan may be affected as a result of electing any option under the plan, and that further information on such options is contained in the Summary Plan Description.

(ii) In the case of a defined benefit plan, if the accrued benefit and nonforfeitable benefit are not stated in the form of an annuity for the joint lives of the participant and his spouse, an explanation to the effect that unless a married participant elects not to receive benefits in that form, the participants's nonforfeitable benefit may be reduced;

(iii) A statement to the effect that further information on the circumstances, if any, which may result in a reduction or elimination of accrued benefits or of nonforfeitable benefits is contained in the Summary Plan Description;

(iv) A statement urging the participant or beneficiary to bring promptly to the attention of the plan administrator anything in the statement that does not appear correct;

(v) A statement informing the participant or beneficiary that plan records upon which information in the benefit statement is based are available for inspection upon request, and the name, address and telephone number of the person or office to whom requests should be directed;

(vi) The date as of which benefit entitlements are reported; and

(vii) The participant's Social Security Account Number.

(f) *Statement of non-vested status.* A statement of non-vested status shall inform the participant that he does not have any nonforfeitable benefits under the plan, and that he may obtain upon request a benefit statement indicating his accrued benefits, if any, and the earliest date on which any benefits may become nonforfeitable.

(g) *Basis of benefit statement*—(1) *General.* A benefit statement shall be based on the latest available information. A benefit statement will be deemed to be based on the latest available information if it reports benefit entitlements as of the date benefits must be reported under paragraphs (a) or (b) of § 2520.105–2, as appropriate, or any subsequent date, and if it is based on plan records which comply with the requirements of paragraphs (b) and (c) of § 2530.209–2.

(2) *Benefit statement based on incomplete plan records.* A benefit statement based on incomplete plan records (i.e. records that do not contain all information necessary to determine the participant's benefit entitlements) shall so indicate. To the extent that the records of a plan are incomplete, an opportunity to provide information relating to benefit entitlements shall be offered to a participant or beneficiary entitled to a benefit statement, and the benefit statement shall be based on such information. A benefit statement based in whole or in part on information supplied by a participating may state that it is conditioned upon the accuracy of such information.

(h) *Manner of furnishing individual benefit reporting documents.* Individual benefit reporting documents shall be furnished either by first class mail to the participant or beneficiary at his last known address, or by personal delivery to the participant or beneficiary by the plan administrator or an individual under the plan administrator's supervision. In the event that the plan administrator learns that the participant or beneficiary has failed to receive a document by mail or personal delivery, the plan administrator shall employ any means of delivery reasonably likely to ensure the receipt by such participant of the document.

(i) *Corrections to the Benefit Statement.* A participant or beneficiary who raises questions regarding the accuracy of the benefit statement shall be given a reasonable opportunity to point out information in the benefit statement that he believe inaccurate, and to furnish to the plan administrator information which such participant or beneficiary believes relevant in determining his benefit entitlements. The plan administrator shall make reasonable attempts to determine whether the plan's records or the benefit statement are inaccurate and to verify the information furnished by the participant or beneficiary. Within a reasonable time after the plan administrator receives such a communication from a participant or beneficiary, the plan administrator shall notify him in writing of the plan's decision with respect to such matter, the basis for such decision, and any change in benefit entitlements as a result of the decision.

(j) *Statement of Deferred Vested Benefits.* Section 105(c) of the Act provides that each administrator required to file a registration statement under section 6057 of the Internal Revenue Code of 1954 (the Code) shall furnish to each participant described in section 6057(a)(2)(C) of the Code an individual statement setting forth the information with respect to such participant which is required to be contained in the registration statement. The requirements of section 105(c) of the Act will be satisfied if an individual statement is furnished to a participant in accordance with section 6057(e) of the Code and the regulations thereunder.

(k) *Definition of "single employer plan."* For purposes of §§ 2520.105–1 and 2510.105–2, the term "single employer plan" shall mean a plan adopted by a single employer or by a group of employers which are under common control.

§ 2520.105–3 [Reserved]

2. By adding to part 2530 new §§ 2530.209–1, 2530.209–2, and 2530.209–3 to read as follows:

Subpart E—Individual Benefit Recordkeeping

Sec.

2530.209–1 General.
2530.209–2 Individual benefit recordkeeping for single employer plans.
2530.209–3 [Reserved].

Subpart E—Individual Benefit Recordkeeping

§ 2530.209–1 General.

Section 209 of the Employee Retirement Income Security Act of 1974 (the Act) contains certain requirements relating to the maintenance of records for determining the benefits to which individual participants in employee pension benefit plans subject to Part 2 of Title I of the Act are or may become entitled. Section 2530.209–2 contains regulations applicable to single employer plans with respect to the individual benefit recordkeeping requirements set forth in section 209 of the Act. Section 2530.209–3 contains individual benefit recordkeeping regulations under section 209 of the Act applicable to multiple employer plans. The paragraphs of §§ 2530.209–2 and 2530.209–3 are parallel. In addition to individual benefit recordkeeping requirements, section 209 also contains provisions dealing with individual benefit reporting. Regulations relating to the individual benefit reporting provisions of section 209 are set forth in §§ 2520.105–1, 2520.105–2 and 2520.105–3.

§ 2530.209–2 Individual benefit recordkeeping for single employer plans.

(a) *Recordkeeping requirement.* For every single employer/employee pension benefit plan (as defined in § 2530.209–2(h)) subject to Part 2 of Title I of the Act, records shall be maintained

with respect to each employee covered under the plan. These records shall be sufficient to determine the benefits which are, or may become, due to such employee and shall include the name and address of each such employee.

(b) *Maintenance of records and furnishing of information.* The employer or employers maintaining the plan shall maintain the records required to be maintained by a single employer plan under § 2530.209–2(a). The employer shall furnish to the plan administrator information necessary to enable the plan administrator to comply with the individual benefit reporting requirements set forth in § 2520.105–2. If the plan is maintained by more than one employer, the employers may enter into arrangements under which the necessary records are furnished by the employers to the plan administrator and maintained by the plan administrator. Each employer, however, shall remain responsible for ensuring that the records are properly maintained.

(c) *Sufficiency of records.* Records required to be maintained by a single employer plan under § 2530.209–2(a) will be deemed to be sufficient if:

(1) With respect to service from the later of the date the employer adopts the plan or [effective date of regulation], they contain all information with respect to service with that employer that is relevant to a determination of each employee's benefit entitlements under the plan, and

(2) With respect to service before [effective date of regulation], if any, they include all records maintained by the employer on and after February 9, 1979, for the purpose of determining employee's benefit entitlements under the provisions of the plan.

(3) *Loss or destruction of records.* Notwithstanding the preceding paragraphs, records shall not be deemed to be insufficient solely because they have been lost or destroyed due to circumstances beyond the control of the person responsible for their maintenance under § 2530.209–2(b).

(d) *Period for which records must be retained.* The records which are required to be maintained under § 2530.209–2(a) shall be retained in a manner described in § 2530.209–2(e) as long as any possibility exists that they might be relevant to a determination of benefit entitlements. When it is no longer possible that records might be relevant to a determination of benefit entitlements, the records may be disposed of, unless they are required to be maintained for a longer period under any other law.

(e) *Preservation of records by employer and plan administrator.*—(1) *General.* The records which are required to be maintained under § 2530.209–2(a) shall be maintained in reasonable order in a safe and accessible place at the main offices of the plan administrator or the employer, or at recordkeeping offices established by the employer or the plan and customarily used for the maintenance of records.

(2) *Reproduction of records; disposal of original documents.* Original documents may be disposed of at any time if microfilm, microfiche, or similarly reproduced records which are clear reproductions of the original documents are retained, and adequate projection or other viewing equipment is available for inspecting such reproductions.

(3) *Electronic data processing.* Nothing in this section precludes the use of punch cards, magnetic tape or other electronic information storage material for processing information.

(f) *Inspection and copying.* The records required to be maintained under § 2530.209–2(a) with respect to any participant or beneficiary, including any original documents or reproductions thereof maintained under § 2530.209–2(e), shall be made available free of charge to such participant or beneficiary, or his representative, in a reasonably accessible form for inspection and copying. The records shall be made available during normal business hours within 10 working days after receipt of a request. A reasonable charge may be imposed for copying records, not exceeding the actual cost of copying them.

(g) *Transfer of records.* In the event that an employer ceases to be responsible under § 2530.209–2(b) for maintaining records, such employer shall transfer any records which continue to be potentially relevant to the determination of benefit entitlements to the appropriate successor employer or plan administrator responsible for their maintenance. The employer transferring such records is not required to retain copies of the records transferred. Nothing in this section, however, shall relieve an employer from any responsibility or liability for violations of the requirements of § 2520.209–1 through § 2530.209–2 which occur during the time such employer has control of and is responsible for maintaining, retaining or transferring the records as required by those sections.

(h) *Definition of "Single Employer Plan".* For purposes of this section, the term "single employer plan" shall mean a plan adopted by a single employer or by a group of employers which are under common control.

§ 2530.209–3 [Reserved]

Signed at Washington, D.C., this 25th day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80–22911 Filed 7–29–80; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 784 and 817

Surface Coal Mining and Reclamation Operations: Permanent Regulatory Program; Proposed Interpretive Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Proposed Interpretive Rules.

SUMMARY: The Office of Surface Mining is providing an interpretation of 30 CFR 784.15 and 817.133 to clarify OSM's position that an operator of a long duration underground coal mining operation may apply for approval of an alternative postmining land use through the permit revision procedures of 30 CFR 788.12 towards the end of the mine life rather than in the initial permit application.

DATES: Comments on this interpretive rule must be submitted to the address listed below, by the close of business, September 2, 1980.

ADDRESSES: Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, Room 153 South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ray Aufmuth, Division of Applied Research, Technical Services and Research, (202) 343–4022.

SUPPLEMENTARY INFORMATION: The present regulations (30 CFR 784.15 and 817.133) require underground mining operation applicants to demonstrate, in the permit application, the postmining land use of the area to be affected by surface operations or facilities. The regulations also include requirements for approval by the regulatory authority of an alternative postmining land use.

The plaintiffs in the permanent program litigation (D.C., D.C. No. 79–1144) complained that these sections fail to take into account the long duration of underground mines and that the regulations are impracticable because

underground mine operators will have to predict and account for events far in the future by providing detailed, definite plans far in advance of actual implementation. Notice of intent to publish these interpretive rules was published in the **Federal Register** on December 31, 1979 (44 FR 77454).

The criteria for alternative postmining land use approval and their application to underground mining operations are extensively discussed in the preamble to the permanent program regulations at 44 FR 15242–15245 and 44 FR 15277, March 13, 1979. While OSM believes that the regulations pertaining to postmining land use are sound, it believes that this interpretation will clarify when an underground coal mine operator may apply for an alternative postmining land use. The Office interprets 30 CFR 784.15 and 817.133 to allow an operator to apply for an alternative postmining land use towards the end of the mine life rather than with the initial permit application, if the original permit demonstrates that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a). The application for an alternative postmining land use may be submitted through the permit revision procedures 30 CFR 788.12 in accordance with the permit revisions filing deadlines of 30 CFR 771.21(b)(3) and the public participation requirements 30 CFR Part 786. See 30 CFR 788.12 (b) and (c).

A permit revision to change the postmining land use described in the original application and approved under the original permit to an alternative postmining land use shall constitute a significant alteration from the mining operation contempleted by the original permit. See 30 CFR 788.12(b)(2). If an application for an underground coal mine operation involves Federal lands then the approval for such a permit revision to facilitate an alternative postmining land use must be processed in accordance with the responsibilities assigned to the Director, OSM, in 30 CFR Chapter VII, Subchapter D.

Operators should be aware of the provisions of 30 CFR 805.14. This section provides for the adjustment of the performance bond amount under certain circumstances, including a change in standards of reclamation, methods of mining, or the cost of future reclamation or restoration. Operators are encouraged to coordinate permit revision applications with the regulatory authority to ensure there is no delay in processing the application for revision.

Dated: July 26, 1980.

Walter N. Heine,

Director, Office of Surface Mining and Reclamation.

Interpretative Rule 784.200: Interpretative Rules Related to General Performance Standards

The following interpretation of rules promulgated in Part 784 of this chapter has been adopted by the Office of Surface Mining Reclamation and Enforcement.

(a) *Interpretation of § 784.15: Reclamation Plan: Postmining Land Uses.* (1) The requirements of 30 CFR 784.15(a)(2), for approval of an alternative postmining land use, may be met by requesting approval through the permit revision procedures of 30 CFR 788.12 rather than requesting such approval in the original permit application. The original permit application, however, must demonstrate that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a).

An application for a permit revision of this type, (1) must be submitted in accordance with the filing deadlines of 30 CFR 771.21(b)(3), (2), shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall be subject to the requirements of 30 CFR Parts 786 and 787.

Interpretative Rule 817.200: Interpretative Rules Related to General Performance Standards

The following interpretation of rules promulgated in Part 817 of this chapter has been adopted by the Office of Surface Mining Reclamation and Enforcement.

(d) *Interpretation of § 817.133: Postmining Land Use.* (1) The requirements of 30 CFR 784.15(a)(2), for approval of an alternative postmining land use, may be met by requesting approval through the permit revision procedures of 30 CFR 788.12 rather than requesting such approval in the original permit application. The original permit application, however, must demonstrate that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a).

An application for a permit revision of this type, (1) must be submitted in accordance with the filing deadlines of 30 CFR 771.21(b)(3), (2) shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall be subject to the requirements of 30 CFR Parts 786 and 787.

[FR Doc. 80-23147 Filed 7-31-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Various Health Manpower Projects

AGENCY: Public Health Service, HHS.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would govern grants to public or nonprofit private entities for various health manpower projects. The specific types of health manpower projects for which support will be available will be announced from time to time in the **Federal Register.**

DATES: Comments must be received on or before September 30, 1980.

ADDRESS: Written comments may be addressed to the Director, Bureau of Health Professions, Health Resources Administration, 3700 East-West Highway, Center Building, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal Holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. John Heyob, Chief, Program Coordination Branch, Office of Program Support, Bureau of Health Professions Room 4–22 at the above address (telephone: 301–436–7458).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposes to add a new Subpart NN to Part 57 of Title 42 of the Code of Federal Regulations to implement section 788(d) of the Public Health Service Act (the Act). This section, added by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484), authorizes the Secretary to make grants to and enter into contracts with any health profession, allied health profession, nurse training institution, or any other public or nonprofit private entity for various

health manpower projects and programs. The statute cites as examples 21 types of projects which may be funded under this section: (1) speech pathology, audiology, bioanalysis, and medical technology; (2) establishing humanism in health care centers; (3) biomedical combined educational programs; (4) cooperative human behavior and psychiatry in medical and dental education and practice; (5) bilingual health clinical training centers; (6) curriculum development in schools of optometry, pharmacy, and podiatry; (7) social work in health care; (8) health manpower development; (9) environmental health education and preventive medicine; (10) the special medical problems related to women; (11) the development or expansion of regional health professions schools; (12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the States; (13) psychology training programs; (14) ethical implications of biomedical research; (15) establishment of dietetic residencies; (16) regional systems of continuing education; (17) computer technology; (18) training of professional standards review organization staff; (19) training of health professionals in human nutrition and its application to health; (20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and (21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

The scope and complexity of the authorized purposes make it impracticable for the Department to set out detailed funding criteria and requirements in these regulations.

Rather the proposed regulations state that the Secretary will announce priorities for funding and specific project requirements by publishing a notice in the **Federal Register** from time to time. These regulations propose general project requirements (§ 57.2205) and general criteria for evaluating applications (§ 57.2206).

Interested persons are invited to submit comments on the proposed regulations to the Director of the Bureau of Health Professions at the address given above. All relevant material received not later than September 30, 1980 will be considered before adoption of final regulations.

It is proposed to add a new Subpart NN as set forth below.

Dated: June 5, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 14, 1980.

Patricia Roberts Harris,

Secretary.

Subpart NN—Grants for Various Health Manpower Projects

Sec.

57.2201 To what projects do these regulations apply?
57.2202 Definitions.
57.2203 Who is eligible to apply for a grant?
57.2204 Program requirements.
57.2205 How will applications be evaluated?
57.2206 How long does grant support last?
57.2207 For what purposes may grant funds be spent?
57.2208 What additional Department regulations apply to grantees?
57.2209 What other audit and inspection requirements apply to grantees?
57.2210 Additional conditions.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 788(d) of the Public Health Service Act, 90 Stat. 2320 (42 U.S.C. 295g–8).

Subpart NN—Grants for Various Health Manpower Projects

§ 57.2201 To what projects do these regulations apply?

These regulations apply to grants under section 788(d) of the Public Health Service Act to public or nonprofit private health professions, allied health professions, or nurse training institutions, or other public or nonprofit private entities for various projects related to health manpower training. The Secretary will periodically announce in the **Federal Register** specific types of health manpower projects for which support will be available under this subpart.

§ 57.2202 Definitions.

"Act" means the Public Health Service Act, as amended.

"Nonprofit", as applied to any entity, means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of Health and Human Services, and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.2203 Who is eligible to apply for a grant?

Any public or nonprofit private entity located in a State is eligible to apply for a grant.

§ 57.2204 Program requirements.

(a) *General requirements.* A project supported undr this subpart must be conducted in accordance with the following requirements:

(1) Each project must have a project director who has relevant training and experience and has been approved by the Secretary to direct the project being supported under this subpart.

(2) Each project must systematically evaluate the program, including the degree to which program and educational objectives are met.

(b) *Specific requirements.* In addition to the requirements of paragraph (a) of this section, projects supported under this subpart will be subject to any specific requirements contained in the **Federal Register** notice described in § 57.2201.

§ 57.2205 How will applications be evaluated?

(a) After consulting with the National Advisory Council on Health Professions Education established by section 702 of the Act, the Secretary will decide which applications to approve by considering, among other factors:

(1) The degree to which the proposed project adequately provides for the project requirements described in § 57.2204;

(2) The adequacy of the qualifications and experience of the staff and faculty;

(3) The administrative and managerial ability of the applicant to carry out the proposed project in a cost-effective manner; and

(4) The potential of the project to continue on a self-sustaining basis.

(b) Within the limits of funds available, the Secretary will award grants to those approved applicants with projects that will best promote the purposes of section 788(d) of the Act.

§ 57.2206 How long does grant support last?

(a) The notice of grant award specifies how long the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed five years.

(b) Generally the grant will initially be funded for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation

awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Secretary provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.2207 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) Grantees may not spend grant funds for sectarian instruction for any religious purpose.

§ 57.2208 What additional Department regulations apply to grantees?

Several other regulations apply to these grants. They include, but are not limited to:

42 CFR Part 50	PHS grant appeals process.
42 CFR Part 16	Department grant appeals process.
45 CFR Part 46	Protection of human subjects.
45 CFR Part 74	Administration of grants.
45 CFR Part 75	Informal grant appeals procedures (indirect cost rates and other cost allocations).
45 CFR Part 80	Nondiscrimination under programs receiving Federal Assistance from the Department—Implements Title VI of the Civil Rights Act of 1964.
45 CFR Part 81	Practice and procedure for hearings under Part 80.
45 CFR Part 83	Nondiscrimination on the basis of sex in the admission of individuals to training programs.
45 CFR Part 84	Nondiscrimination on the basis of handicap in Federally assisted programs.
45 CFR Part 86	Nondiscrimination on the basis of sex in Federally assisted education programs.
45 CFR Part 91 [1]	Nondiscrimination on the basis of age in Department Programs or activities receiving Federal financial assistance.

[1] When issued.

§ 57.2209 What other recordkeeping, audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning audit and inspection.

§ 57.2210 Additional conditions.

The Secretary may impose additional conditions on any grant before or at the time of an award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

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BILLING CODE 4110-83-M

DEPARTMENT OF EDUCATION

45 CFR Part 190

Basic Educational Opportunity Grant Program; Family Contribution Schedules

AGENCY: Department of Education.

ACTION: Proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the 1981–82 Family Contribution Schedules of the Basic Education Opportunity Grant Program.

The regulations are being amended because the legislation governing this program requires that these schedules be submitted annually for public comment and for review by both Houses of Congress. The changes being proposed for 1981–82 in the Family Contribution Schedules are intended to accomplish several objectives. First, some changes are needed to update requirements of these regulations since—as annual regulations—they are written with respect to a given award period. Second, some changes are necessary to address concerns and possible inequities that have been identified by members of the financial aid community and Congress regarding the treatment of the income of dependent students.

DATES: Comments must be received on or before September 30, 1980.

ADDRESS: Comments should be addressed to William Moran, Chief, Basic Grant Policy Section, or Brian Kerrigan, Basic Grant Program Specialist, Division of Program Development, ROB–3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Moran or Brian Kerrigan, Telephone No. (202) 472–4300.

SUPPLEMENTARY INFORMATION:

General Background

These proposed changes in the Family Contribution Schedules for 1981–82 are being submitted for public comment. The final regulations resulting from this notice of proposed rulemaking will be in effect for the 1981–82 award period. The proposed changes are described below.

Summary of Proposed Changes

I. Changes Needed To Update the Regulations

The family size offsets included in the Family Contribution Schedules represent amounts needed to provide for basic family expenses which must be met before any contribution towards a student's educational costs can be expected. In order to establish a standard for determining the amount of these expenses, the Basic Grant program adopted during its initial year of operation the "Weighted Average Thresholds of Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census. These expenses are based on the food costs of families of given sizes, and on certain assumptions about additional expenses of shelter and other family needs. These baseline data have been updated annually to accommodate the increases in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

In applying for Basic Grants for the 1981–82 award period, applicants will report actual financial data for the calendar year 1980, i.e., the "base year" for the 1981–82 award period. To derive the family size offsets for the 1980 base year, those used for 1979 will be adjusted to correspond to the actual increase in the Consumer Price Index published by the Bureau of Labor Statistics at the end of the year. Since this notice of proposed rulemaking is published well before the conclusion of the year, the amounts in the 1981–82 Family Contribution Schedule are estimated by increasing those used for 1980–81 by 14 percent. When the final regulation is published, these estimated amounts will be replaced by family size

offsets based on the actual Consumer Price Index statistics for 1980 as published by the Department of Labor.

The dependent student offset is (a) an offset from the effective income of a dependent student and his or her spouse to meet the basic needs of the student and spouse, plus (b) the portion of negative parental discretionary income that will not be used to offset the normal contribution from parental assets. For a single dependent student, the part of the offset described in part (a) is derived by subtracting from the family size offset for a single independent student the average parental share for maintenance expenses for the student which is already a part of the parent's family size offset. The average parental share is the average increase in the family size offset for each family member above one in the family size. For a married dependent student, the part of the offset described in phrase (a) equals the family size offset for a single independent student.

The part of the dependent student offset described in part (a) is also being increased by 14 percent pending the determination of the actual rise in the Consumer Price Index in the same fashion as are the family size offsets.

One other figure that is being updated is the dollar support figure that is used in one of the criteria for determining the independent status of the student. For the 1980–81 award period, the determination of the student's independent status is based on negative answers to all of the following questions:

	In 1979		In 1980	
	Yes	No	Yes	No
Did or will the student live with the parents for more than six weeks	—	—	—	—
Did or will the parents claim the student as an income tax exemption	—	—	—	—
Did or will the student receive more than $750 worth of support from the parents	—	—	—	—

For 1981–82, of course, the years in question will be 1980 and 1981.

Of these three criteria for the determination of a student's independent status, the criterion that has been changed is the question of whether or not the student's parents have provided him or her with more than a certain amount of support. The amount in question has been raised from $750 to $1,000. The reason for this change is that the support amount has generally been tied to the Internal Revenue Service's personal exemption amount which has recently been increased to $1,000. In other words—with respect to this criterion—where previously a student would be dependent if his or her parents contributed more than $750 in support to him or her, for the 1981–82 award period, the student would be dependent only if the parents provided more than $1,000 in support.

This proposed change from $750 in support to $1,000 in support is to be considered a proposed change not only for the Basic Grant Program, but also for the three campus-based programs (the National Direct Student Loan, the College Work-Study, and the Supplemental Educational Opportunity Grant Programs).

II. Changes Related to the Assessment of Dependent Student Income

1. Expansion of the definition of "Dependent of the student's parents."

For the 1980–81 award period, a person meets the criteria of that definition if he or she is—

(a) The student,

(b) Any of the student's siblings who qualify as dependent students (with respect to the same parent(s) as the student is dependent on) and are attending an institution of higher education on at least a half-time basis, and

(c) Any of the following persons for whom the parents provide or will provide more than one-half support during the 1980–81 award period:

(1) Other children of the student's parents, or

(2) Other persons living with the parents.

For 1981–82 another category of persons will be added. If a dependent student has any dependents, his or her dependents (other than a spouse) will also be considered to be dependents of the student's parents. (Although the spouse of the student will not automatically be included as a dependent of the student's parents, it is possible that he or she may qualify as one under (c)(2) above.)

This expansion is being made in response to concerns expressed about the treatment of the earnings of dependent students who have their own incomes, but who also have dependents of their own. For the 1980–81 award period, the income of the dependent student is being assessed. However, while there is an offset against that income for both the student and his or her spouse, there are no additional offsets for additional dependents. Thus, in some cases, for those dependent students with dependents of their own, the 1980–81 formula produces an inequitable determination of their need.

Although we were aware that the occurrence of this inequity was a possibility when the 1980–81 rule was drafted, we anticipated that it would occur only rarely. Thus, since the program is formula based, and not expected to accommodate all possible situations, the decision was made not to provide additional offsets for dependents of the dependent student. However, based upon correspondence that we have received since the publication of the original 1980–81 final Family Contribution Schedules on April 30, 1980, we have become aware that dependent students with dependents exist in slightly greater numbers than we expected.

The Basic Grant application form does not collect data on the number of dependents that a dependent student has. While the number of dependent students having dependents of their own appears to be large enough to warrant action on the part of the Department of Education to help alleviate potential inequities in the determination of need, that number is not large enough to warrant a change in the Basic Grant application. The major thrust in the design and development of the application is to shorten and simplify it as much as possible. Thus, because of the relatively few dependent students who have dependents of their own, the Secretary has decided not to add an additional question on the application requesting that information. Rather, dependents of the dependent student will automatically be included in the family size of the parents of the dependent student. By including these extra dependents in the category of the student's parent's dependents, additional offsets will be allowed against the parental income.

2. Increase in the dependent student offset for those students whose parents have a negative discretionary income.

Actually, this does not represent a change from the 1980–81 formula, since the same concept was recently published as a revision to the 1980–81 formula. However, since it is a change from what was originally published as the 1980–81 formula, the following information is provided.

For the 1981–82 award period, the dependent student's offset is projected to be $3,000 for a single student and $4,400 for a married student.

The appropriate dependent student offsets will be increased in those instances where parental income is so low that it produces negative discretionary income. "Negative discretionary income", under the Basic Grant Family Contribution Schedule, is produced when the sum of the offsets

against income provided in § 190.34 plus the federal taxes paid by the parents exceeds the parents' income. In the current regulation the parents' negative discretionay income is used as an offset against any contribution from parental assets. (See section 190.35(d).) Under this revision the amount of negative discretionary income that will not be used as an offset against assets will be added to the normal dependent student offset.

For example, if the parental effective family income is $10,000 (adjusted gross income of $11,000 and Federal income tax paid of $1,000) and the sum of the family size offset and other offsets equals $12,000, the parents would have a negative discretionary income of $2,000 ($10,000 of income minus $12,000 of offsets).

If the parents have less than $25,000 in net assets, there would be no contribution from parental assets. Thus, none of the negative $2,000 would be used to offset the normal contribution from parental assets (§ 190.35). Therefore, the entire $2,000 amount of negative discretionary income would be added to the normal dependent student offset (either $3,000 or $4,400). This would make the dependent student offset for a married dependent student in this example $6,400 ($4,400 + $2,000 = $6,400.) That $6,400 figure would be subtracted from the dependent student income figure before the 25 percent assessment step is performed. For a single dependent student in this example, a $5,000 offset would be subtracted from dependent student income before the 75 percent assessment step is performed ($3,000 + $2,000 = $5,000).

This revision is intended to address the situation where a dependent student with a fairly substantial income of his or her own is a member of an impoverished family and, consequently, uses a portion of his or her own income to help support that family. The additional offset for that dependent student takes into consideration the contribution by the student of a portion of his or her income to help support the family. In other words, the additional amount of the student's income that is not considered to be available for purposes of meeting the student's educational expenses is that amount needed to bring his or her family's (parental) income up to the amount needed by that family for basic needs.

3. Addition of a Supplemental Condition for earned dependent student income.

One of the criticisms of the 1980–81 Family Contribution Schedules was that while the formula assessed dependent student income (usually earned income) no provision was made to take into account the situation where a dependent student's reported income resulted from a full-time job that he or she no longer had.

This is, for the 1980–81 award period, a dependent student is not allowed to apply for a Basic Grant with a Supplemental Form (i.e., with estimated income figures) in those situations where he or she suffered the loss of a full-time job. The reason for that decision was that it was projected that very few dependent students would have full-time jobs in the base year and subsequently lose them. Further, for part-time employment that might be lost, the normal dependent student offset was (and is) expected to adequately take care of the majority of situations.

After reviewing both the dependent student data for 1980–81 and numerous suggestions by financial aid administrators that such a condition is needed, we are proposing for the 1981–82 award period that dependent students who work full-time in the base year, but who are not working full-time in the first year of the award period be able to estimate their earnings in filing for a Basic Grant. This Supplemental Condition will parallel the similar condition that exists for independent students.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this Preamble. All comments received on or before September 30, 1980 will be considered in the development of the final regulations. All comments received in response to these proposed regulations will be available for public inspection during and after the public comment period in Room 4318, ROB–3, 7th & D Streets, S.W., Washington, D.C. between 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except for Federal holidays.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 13.539, Basic Educational Opportunity Grant Program. Part I of OMB Circular A–95 does not apply)

Dated: July 29, 1980.

Shirley M. Hufstedler,

Secretary of Education.

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations are proposed to be revised to read as follows:

Subpart C—Expected Family Contribution for a Dependent Student

Sec.

190.31 Indicators of financial strength.
190.32 Special definitions.
190.33 Effective family income.
190.33a Effective student income.
190.34 Computation of the expected family contribution for a dependent student from the effective family income.
190.34a Computation of the expected family contribution for a dependent student from the effective student income.
190.35 Computation of the expected contribution from parental assets.
190.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.
190.37 Computation of the expected contribution from the assets of the dependent student (and spouse).
190.38 Computation of the total expected family contribution.
190.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

Subpart D—Expected Family Contribution for an Independent Student

190.41 Indicators of financial strength.
190.42 Special definitions.
190.43 Effective family income.
190.44 Computation of the expected family contribution for an independent student from the effective family income.
190.45 Computation of the expected contribution from the assets of the independent student (and spouse).
190.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.
190.47 [Reserved]
190.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

Subpart C—Expected Family Contribution for a Dependent Student

§ 190.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of

the following elements of financial strength will be considered in determining the family contribution for a dependent student;

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s).

(b) The number of family members in the household of the student's parent(s).

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of (1) the student and his or her spouse, and (2) the student's parent(s).

(e) The marital status of the student.

(f) The unusual medical expenses of the student's parents.

(g) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed.

(h) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(B)(ii))

§ 190.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means (a) the student, (b) any of the student's dependents (other than a spouse), (c) any of the student's siblings who qualify as dependent students (with respect to the same parent(s) as the student is dependent on) and are attending an institution of higher education on at least a half-time basis, and (d) any of the following persons for whom the parents provide or will provide more than one-half support during the 1981–82 award period:

(1) Other children of the student's parents, or

(2) Other persons living with the parents.

"Dependent student" means any student who does not qualify as an independent student as defined in § 190.42(a).

"Dependent student offset" means (a) an offset from the effective income of a dependent student and his or her spouse to meet the basic needs of the student and spouse, plus (b) the portion of negative parental discretionary income that will not be used to offset the normal contribution from parental assets.

"Effective family income" and "effective income of the student and spouse" are described in §§ 190.33 and 190.33a respectively.

(20 U.S.C. 1070a(a)(3)(B)(iii))

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(20 U.S.C 1070a(a)(3)(B)(ii)(V))

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

(20 U.S.C. 1070a(a)(3)(B)(iii))

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code that were paid in 1980, unless the student files an application with the Secretary under the provisions of § 190.39. In that case the expenses reported are those paid in 1981.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered to be the student's mother or father.

(20 U.S.C. 1070a(a)(3)(B) unless otherwise noted)

§ 190.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), and (g) of this section, and § 190.39—

(1) The sum received in 1980 by the student's parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the parent filed an income tax return;

(ii) Investment income upon which no Federal income tax need by paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, income from income maintenance programs such as welfare benefits, and Social Security benefits;

(2) Any Social Security benefits paid to the student in 1980; and

(3) One-half of any veteran's benefits to be paid to the student under chapters 34 and 35 of the United States Code for the 1981–82 award period

(c) For a Native American student, the annual adjusted family income does not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(d) For a student whose parents are divorced or separated, the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Report only the income, as described in paragraph (b) of this section, of the parent with whom the

student resided for the greater portion of the 12 month period preceding the date of the application

(2) If the preceding criterion does not apply, report only the income of the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application.

(3) If neither of the preceding criteria apply, report only the income of the parent who provided the greater support for the period commencing January 1, 1980 and ending 12 months prior to the date of application.

(e) If either of the parents have died, the student shall report only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1980 or 1981, the student—

(1) Has received or will receive financial assistance of more than $1,000 in either of those years from that spouse, or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance except those veteran's benefits cited in paragraph (b)(3) of this section.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.33a Effective student income.

(a) Effective student income is the annual adjusted income of the student (and spouse for a married student) minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted income of the student and spouse" means, except as provided in paragraphs (c), (d) and (e) of this section, and § 190.39—

(1) The sum received in 1980 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return;

(ii) Investment income upon which no income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) With the exception of Social Security benefits for the student, other income upon which no Federal income tax need be paid. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits.

(c) For a Native American student, the annual adjusted income of the student and spouse does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the "annual adjusted income of the student and spouse".

(e) The annual adjusted income of the student and spouse does not include any student financial assistance.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parents' discretionary income by deducting the following offsets from the effective family income:

(1) A family size offset in the amount specified in the following table:

Family Size Offsets

Family members:	Amount
2	$5,700
3	6,900
4	8,800
5	10,300
6	11,700
7	12,950
8	14,300
9	15,700
10	16,950

Plus $1,300 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(ii) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(iii) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those people referenced in paragraph (a)(1)(ii) of this section, the new spouse and any dependents of the new spouse if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective income of the parents. The expenses that may be reported are those expenses paid by the student's parents during 1980, unless the student files an application with the Secretary under the provisions of § 190.39. In that case, the expenses reported will be those paid in 1981. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1500 or 50 percent of his or her earned income. The earned income figure to be used in all casee is that figure for 1980 unless the student files an application with the Secretary under the provisions of § 190.39. In that case, the figure to be used is the one for 1981.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1980 unless the student files an application with the Secretary under the provisions of § 190.39. In that case, the tuition reported will be that paid in 1981.

(b) If the parents' discretionary income is a positive amount, multiply it by 10.5 percent to determine the expected contribution from the effective family income. If the parent's discretionary income is negative, there is no expected contribution from the effective family income.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.34a Computation of the expected family contribution for a dependent student from the effective student income.

The expected family contribution for a dependent student from effective student income is calculated as follows:

(a) Determine the student's discretionary income by deducting from the effective student income the relevant dependent student offset.

(1) If the parental discretionary income is positive, the offset is as follows:

Dependent Student Offset

Single student	$3,000
Married student	4,400

(2) If the parental discretionary income is negative, the relevant offset in paragraph (1) is increased by the amount of that negative parental discretionary income minus any amount of the negative parental discretionary income that will be used as an offset against the contribution from parental assets in § 190.35(d).

(b) If the student's discretionary income is a positive amount, multiply it by one of the following figures to determine the expected contribution from effective student income:

(1) 75 percent for the single dependent student, or

(2) 25 percent for the married dependent student.

(c) If the student's discretionary income is negative, there is no expected contribution from the effective student income.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.35 Computation of the expected contribution from parental assets.

The expected contribution from parental assets is determined in the following manner:

(a) If the net assets do not include farm or business assets, deduct an asset reserve of $25,000 from the net assets.

(b) If the net assets include farm or business assets as defined in § 190.32, deduct an asset reserve from the net assets as follows—

(1) If farm or business assets are less than farm or business debts, deduct an asset reserve of $25,000 from the net value of all assets.

(2) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is *$25,000 or more,* deduct an asset reserve of,

(i) $25,000 from non-farm and non-business assets, and

(ii) $25,000 from farm and business assets.

(3) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is *less than $25,000,* deduct an asset reserve of $50,000 from the net value of all assets.

(4) If the result obtained in paragraphs (b) (1), (2)(ii), or (3) is a negative amount, it shall be changed to zero.

(c) Normally the expected contribution from parental assets equals five percent of the remainder obtained in paragraph (a) or (b).

(d) However, if the calculation of discretionary income required by § 190.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (c) of this section, shall be reduced by the amount of that negative discretionary income, or by the amount obtained in paragraph (c) of this section, whichever is less.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 190.33, the assets of that parent's spouse shall also be included.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined in § 190.34(b) is added to the amount expected from parental assets as determined in § 190.35.

(b)(1) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4	40 percent of the contribution determined in paragraph (a).

(2) Family members are those persons referenced in § 190.34(a)(1).

(20 U.S.C. 1070a(a)(3)(B))

§ 190.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student equals 33 percent of the amount of those assets.

(b) The expected contribution from the net assets of the married dependent student and spouse is determined in the following manner.

(1) Deduct an asset reserve of $25,000 from the net assets. If the result in negative, it shall be changed to zero.

(2) The expected contribution from the net assets of the dependent student and spouse equals five percent of the remainder obtained in paragraph (1) of this section.

(3) If the married dependent student is separated, only his or her assets shall be considered.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the effective family income and parental assets as determined in § 190.36,

(b) The expected contribution from effective student income as determined in § 190.34a, and

(c) The expected contribution from the student's (and spouse's) assets as determined in §190.37.

(20 U.S.C. 1070a(a)(3)(B))

§ 190.39 Extraordinary circumstances affecting the expected family contribution determination for a dependent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1981 for effective family income, but using income data from 1980 for effective student income, if—

(1) A parent or stepparent whose 1980 income from work must be reported under § 190.33 has lost his or her job for at least 10 weeks during 1981,

(2) A parent or stepparent whose 1980 income from work must be reported under § 190.33 has been unable to pursue normal income-producing activities for at least 10 weeks during 1981 because of the occurrence—in 1980 or 1981—of (i) a disability, or (ii) a natural disaster,

(3) A parent or stepparent whose income must be reported under § 190.33 received unemployment compensation or nontaxable income in 1980 and had a complete loss for at least 10 weeks in 1981 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or

private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, court ordered child support, etc.

(4) The parent(s) of the student have become separated or divorced after the student submitted his or her application. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 190.33 for this condition to apply, or

(5) A parent or stepparent whose 1980 income must be reported under § 190.33 has died after the submission of an earlier application for 1981–82. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to § 190.42, the student must file an application under § 190.48(a)(7) if he or she wishes to use income data from 1981.

(b) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1981 for effective student income, but using income data from 1980 for effective family income, if he or she—

(1) Was employed full-time in 1980 (at least 35 hours per week for a minimum of 30 weeks in 1980); and

(2) Is no longer employed full-time.

(c) For an application submitted under paragraph (a) or (b) of this section, where 1981 income data is called for, the student (and parent) shall include the income already received for 1981 and an estimate of the income to be received for the remainder of that year.

(d) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her family has suffered a loss of or damage to assets resulting from natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V))

Subpart D—Expected Family Contribution for an Independent Student

§ 190.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for an independent student:

(a) The effective family income of the independent student and spouse.

(b) The number of family members in the household of the student and spouse.

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the student and spouse.

(e) The unusual medical expenses of the student and spouse.

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(C))

§ 190.42 Special definitions.

The definitions of "assets", "business assets", "farm assets", "family size offset", "Federal income tax", "medical expense", "net assets", and "parent" are set forth in § 190.32.

"Dependent" means (a) the student's spouse (unless separated or divorced from the student), (b) any of the student's or spouse's children who qualify as dependent students (with respect to the student or spouse) and are attending an institution of higher education on at least a half-time basis, and (c) any of the following persons for whom the student or spouse provides or will provide more than one-half support during the 1981–82 award period:

(1) Other children of the student or spouse; or

(2) Other persons living with the student and spouse.

"Effective family income" is described in § 190.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" means:

(a) A student who for 1980 or 1981—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by the parent(s) for whom income must be reported according to § 190.33 for either of these years;

(2) Has not received and will not receive financial assistance of more than $1,000 from the parent(s) for whom income must be reported according to § 190.33 in either of these years; and

(3) Has not lived and will not live for more than six weeks in the home of the parent(s) for whom income must be reported according to § 190.33 in either of these years.

(20 U.S.C. 1070a(a)(3)(B)(iii))

§ 190.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income tax paid or payable for the year that adjusted gross income is used in the calculation of the student's Basic Grant.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 190.48—

(1) The sum received in 1980 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, and income from income maintenance programs such as welfare benefits and Social Security benefits.

(2) One-half of any veteran's benefits to be paid to a student under Chapters 34 and 35 of the United States Code for the 1981–82 award period.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veteran's benefits cited in subparagraph (b)(2).

(20 U.S.C. 1070a(a)(3) (B) and (C))

§ 190.44 Computation of the expected family contribution for an independent student from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1) A family size offset in the amount specified in the following table.

Family Size Offsets

Family members:	Amount
1	$4,400
2	5,700
3	6,900
4	8,800
5	10,300
6	11,700
7	12,950
8	14,300
9	15,700
10	16,950

Plus $1,300 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) Family members normally include the student and spouse and their dependents.

(ii) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1980, unless the student files an application with the Secretary under the provisions of § 190.48. In that case, the expenses reported will be those paid in 1981. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1500 or 50 percent of the earned income (income earned by work) of the person with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1500 or 50 percent of his or her earned income.

The earned income figure to be used in all cases is that figure for 1980, unless the student files an application with the Secretary under the provisions of § 190.48. In that case the figure to be used is the one for 1981.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1980, unless the student files an application with the Secretary under the provisions of § 190.48. In that case the tuition reported will be that paid in 1981.

(20 U.S.C. 1070a(a)(3)(B))

(b) If the discretionary income is a positive amount, multiply it by one of the following figures to determine the expected family contribution from the effective family income of the student and spouse:

(1) 75 percent for the single independent student with no dependents; or

(2) 25 percent for the independent student with one or more dependents (including a spouse).

If the discretionary income is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(C))

§ 190.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) Normally, the expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) However, if the calculation of discretionary income required by § 190.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income, or the amount obtained in paragraph (a)(1) of this section, whichever is less.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the net assets do not include farm or business assets, deduct an asset reserve of $25,000 from the net assets.

(2) If the net assets include farm or business assets as defined in § 190.32, deduct an asset reserve from the net assets as follows—

(i) If farm or business assets are less than farm or business debts, deduct an asset reserve of $25,000 from the net value of all assets.

(ii) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is *$25,000 or more,* deduct an asset reserve of,

(A) $25,000 from non-farm and non-business assets, and

(B) $25,000 from farm and business assets.

(iii) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is *less than $25,000,* deduct an asset reserve of $50,000 from the net value of all assets.

(iv) If the result obtained in paragraphs (b)(2)(i), (2)(ii)(B), or (2)(iii) of this section is a negative amount, it shall be changed to zero.

(3) Normally, the expected contribution from the net assets of the independent student with dependents equals five percent of the remainder obtained in paragraph (b) (1) or (2) of this section.

(4) However, if the calculation of discretionary income required by § 190.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(3) of this section shall be reduced by the amount of that negative discretionary income, or the amount obtained in paragraph (b)(3) of this section, whichever is less.

(5) If the married independent student with dependents is separated, only his or her assets shall be considered.

(20 U.S.C. 1070a(a)(3) (B) and (C))

§ 190.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 190.44 is added to the amount expected from assets as determined in § 190.45.

(b) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 190.44(a)(1).

(20 U.S.C. 1070a(a)(3)(C))

§ 190.47 [Reserved]

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for an independent student.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1981 for effective family income if—

(1) The student was employed full-time in 1980 (at least 35 hours per week for a minimum of 30 weeks during 1980) and is no longer employed full-time,

(2) A spouse whose 1980 income from work must be reported under § 190.43 has lost his or her job for at least 10 weeks during 1981,

(3) The student or spouse whose 1980 income from work must be reported under § 190.43 has been unable to pursue normal income-producing activities for at least 10 weeks during 1981 because of the occurrence—in 1980 or 1981—of (i) a disability or (ii) a natural disaster,

(4) The student or spouse whose income must be reported under § 190.43 received unemployment compensation or nontaxable income in 1980 and had a complete loss for at least 10 weeks in 1981 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, court ordered child support, etc. They would not, however, include veterans' educational benefits under chapters 34 and 35 of the United States Code,

(5) The student has become separated or divorced after he or she submitted his or her application,

(6) A spouse whose 1980 income must be reported under § 190.43 has died after the submission of an earlier application for 1981 or 1982, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 190.42 has died.

(b) For an application submitted under paragraph (a), the student shall include the effective family income already received for 1981 and an estimate of the effective family income to be received for the remainder of that year.

(c) The student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a (a)(3)(B)(i)(V) and (a)(3)(C))

[FR Doc. 80-23168 Filed 7-31-80; 8:45 am]

BILLING CODE 4000-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-176]

Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule: Extension of time.

SUMMARY: In response to a motion by Western Union International, Inc., the Common Carrier Bureau granted a three week extension of time for submission of comments in the International Resale and Shared Use proceeding, CC Docket 80-176 relating to regulatory policies concerning resale and shared use of common carrier international communications services (45 FR 41986, June 23, 1980).

DATES: Comments must be received on or before August 15, 1980. Reply comments must be received on or before September 12, 1980.

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

FOR FURTHER INFORMATION CONTACT: Helen Golding, Common Carrier Bureau, (202) 632-6917.

Adopted: July 18, 1980.

Released: July 22, 1980.

By the Chief, Common Carrier Bureau.

1. Before us is a motion by Western Union International, Inc. (WUI), asking for an additional four weeks, from July 25, 1980 to August 22, 1980, in which to file initial comments in the above-captioned proceeding. WUI asserts it requires and extension because of conflicting commitments of its legal and support staff in international consultative meetings, court appeals, and other Commission proceedings.

2. While we believe the public interest requires that we conduct proceedings as expeditiously as possible, we are also concerned that persons participating in this proceeding have the opportunity to fully address all relevant issues. Good cause having been shown for a grant of some additional time, we will extend the date for submission of initial comments by three weeks, until August 15, 1980. Reply comments will be due on September 12, 1980.

3. We also call the attention of interested persons to a letter, dated June 20, 1980, from the Director of the International Consultative Telegraph and Telephone Committee (CCITT) to the U.S. Department of State, Office of International Communications, addressing the resale issue. A copy of this letter has been placed in the public docket. Interested persons may wish to comment on matters raised in this letter.

4. Accordingly, it is ordered, pursuant to delegated authority under § 0.291 of the Commission's Rules, 47 CFR 0.291, that Western Union International, Inc.'s motion for an extension of time is granted to the extent indicated and is otherwise denied.

5. It is further ordered that copy of this order be published in the **Federal Register.**

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-23268 Filed 7-31-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 15

[Gen. Docket No. 80-284]

Verification and Methods of Measurement of Computing Devices; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time to file comments and reply comments.

SUMMARY: The Commission has extended the time in which parties can file comments and reply comments on the proposed rule making relating to the verification and methods of measurement of computing devices published at 45 FR 42347, June 24, 1980.

DATES: Comments are due by September 2, 1980, reply comments by September 19, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Herman Garlan, Office of Science and Technology, 202-653-8121.

Adopted: July 8, 1980.

Released: July 14, 1980.

By the Chief Scientist.

The Computer and Business Equipment Manufacturers Association (CBEMA), through its attorneys, filed a motion on June 27, 1980 to extend the time for filing comments in the subject rule making from July 30, 1980 to

September 15, 1980 and for reply comments from August 15, 1980 to October 15, 1980.

CBEMA argues that the measurement procedures proposed by the Commission in this proceeding contain several critical departures from that proposed by CBEMA in its comments on the Commission's rulemaking to set limits for computing devices.[1] The effect of these departures, CBEMA says, requires further study and analysis which cannot be completed in the short time provided by the Commission for comments.

We recognize the validity of CBEMA's request. At the same time, we are faced with the need to finalize the measurement procedures proposed in the proceeding at the earliest possible time in view of our requirement (Section 15.834(a)) that personal computers manufactured after January 1, 1981 must be certificated.

In view of the above, we can only grant CBEMA's request in part and we hereby extend the comment and reply comment dates to September 2, 1980 and September 19, 1980, respectively.

This action is taken under the authority delegated to the Chief Scientist by FCC Rules § 0.241(d).

S. J. Lukasik,

Chief Scientist.

[FR Doc. 80-23269 Filed 7-31-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Docket 20780: First Report and Order-Technical Standards for Computing Equipment (44 FR 59530, October 16, 1979); Order Granting in Part Reconsideration (45 FR 24154, April 9, 1980).

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47 CFR Parts 2, 21, 74 and 94

[Gen. Docket No. 80-112, Gen. Docket No. 80-113, Gen. Docket No. 80-116]

Amending Rules Regarding the Multipoint Distribution Service; Order Extending Time for Filing Comment and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: This Order extends the time for filing comments and reply comments to the *Notice of Inquiry, Proposed Rulemaking* and Order in Gen. Docket 80-112 (FCC 80-136, 45 F.R. 29 323, May 2, 1980) relating to the multipoint distribution service published at 45 FR 45601, July 7, 1980.

DATE: Comments are due on or before September 26, 1980 and reply comments are due on or before October 27, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kevin Kelley, Domestic Facilities Division, Common Carrier Bureau, (202) 632-6430.

In the matter of amendment of parts 2, 21, 74 and 94 of the Commission rules and regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and Private Operational Fixed Microwave Service [Gen. Docket No. 80-112 (45 FR 45600)]; and Amendment of Parts 21, 74 and 94 of the Commission rules and regulations with regard to technical requirements applicable to the Multipoint Distribution Service, the Instructional Television Fixed Service and the Private Operational-Fixed Microwave Service (OFS) [Gen. Docket No. 80-113 (45 FR 45601)]; and Amendment of Part 21 of the Commission rules to permit the use of alternative procedures in choosing applicants for radio authorizations in the Multipoint Distribution Service [CC Docket No. 80-116 (45 FR 45600)]; Order extending time for filing comments and reply comments.

Adopted: July 17, 1980.

Released: July 17, 1980.

By the Chief, Common Carrier Bureau.

1. In the above-captioned proceedings the Commission initiated actions which it hoped would reduce the substantial backlog of applications for licenses in the Multipoint Distribution Service (MDS). Docket No. 80-112 proposes, *inter alia*, to reallocate the 2500-2690 MHz band to permit shared use by MDS and the Private Operational Fixed Microwave Service. The band presently is allocated almost exclusively to the Instructional Television Fixed Service. Docket 80-113 proposes technical standards for MDS stations which are designed to alleviate technical problems of co- and adjacent channel interference and increase the number of stations which can operate in any particular area. The docket also inquires into applying the technical rules proposed for MDS to the 2500-2690 band with a view to expanding the number of channels which would be technically feasible. Finally, Docket 80-116 proposes alternatives to the present system of adjudicatory, trial-type hearings to enable more efficient selections from among mutually-exclusive MDS license applicants.

2. Since the issues in each proceeding were sharply focused and thoroughly discussed, and the size of the MDS backlog steadily increasing, expeditious pleading cycles were established. The documents, released May 2, 1980, provided that comments should be filed in Docket 80-112 by June 16, 1980 (replies July 16); in Docket 80-113 by August 1, 1980 (replies September 2); and in Docket 80-116 by July 1, 1980 (replies August 15).

3. Numerous motions for extension of time were filed. Parties argued that the matters raised in the dockets are complex and of a highly technical nature. They also contended that the proceedings are interrelated, and the established deadlines would not allow sufficient time for an adequate response. In balancing the need to afford all parties a sufficient opportunity to comment with the need to move forward at a reasonable pace, the Chief, Common Carrier Bureau, acting on delegated authority, granted extensions for all proceedings. Comment periods were established as: Docket 80-112, August 18, 1980 (replies September 16); Docket 80-113, September 2, 1980 (replies October 1); and Docket 80-116, July 18, 1980 (replies September 5).

4. Motions for further extensions and a petition for review of the extension granted in Docket 80-112 have been filed. Upon consideration of all the matters at issue, it appears that a further extension of time in Docket 80-112 would be in the public interest, while further extensions in the other proceedings would not.

5. Docket 80-112 is the focus of most of the requests for further extension, and is the subject of the application for review filed by the San Francisco Archdiocese of the Roman Catholic Church.[1] The Archdiocese presents the most extensive argument for additional time, emphasizing that the reallocation proceeding is of enormous importance to a wide range of educational ITFS users. It contends that group lacks the resources available to commercial pleaders, and that the coordination necessary for preparation of comments is especially difficult during the summer months. It emphasizes the necessity of providing all ITFS users a reasonable opportunity to comment. It recommends that the comment period be extended to November 3, 1980.

6. As stated in the prior extension orders, the need to provide sufficient time for comment must be balanced against the need for reasonable

[1] Commission (as opposed to Bureau) consideration of the application prior to the presently established comment date would not be possible due to pleading cycle constraints. While the Chief, Common Carrier Bureau, may not act on an application for review, it is appropriate in these circumstances that the Archdiocese's arguments be considered.

dispatch. Dispatch is especially important in the instant proceeding given the apparent demand for MDS stations.[2] Docket 80–112 may increase the availability of channels for MDS use, or, if not, may suggest other possible solutions. However, because this proceeding appears to be of greatest interest to ITFS users, and to ensure that all who are interested have an opportunity to participate, a further extension will be granted. Comments shall be due on September 26, 1980 and reply comments on October 27, 1980. Presumably, a considerable amount of work already has been done by commentors in the sixteen weeks since the Commission announced these proceedings; another nine weeks should provide ample time to complete that work.

7. No further time will be granted in Docket 80–113. The technical rules are not proposed for the 2500–2690 MHz band. Rather, the docket only inquires whether such rules could be imposed. Thus, another proceeding may be necessary before the rules were finalized. Moreover, the present deadline for initial comment—September 2—provides more than 4 months since the Commission order in this proceeding was released. Although the issues presented deal with technical matters of radio propagation, none of the parties seeking extensions point to studies or tests either contemplated or being conducted which require additional time. In these circumstances, no further extension is warranted. Comments in Docket 80–113 are due September 2, 1980 and reply comments October 1, 1980.

8. Nor is any further extension warranted in Docket 80–116. The issues there are less factual and technical than legal. The Commission's Order fully analyzes the bases which it believes would support alternative selection methods for MDS license applicants and the proposals made are specific. No individual facts have been presented which would justify the need for additional time, particularly in view of the increasing number of mutually exclusive MDS applications. Comments in Docket 80–116 are due on July 18, 1980 and reply comments on September 5, 1980.

9. In view of the foregoing, It is ordered, That the date for filing comments in Gen. Docket No. 80–112 is extended to and including September 26, 1980 and the date for filing reply comments is extended to and including October 27, 1980. I1110. It is further ordered, That the dates for filing comments and reply comments in General Docket No. 80–113 and CC Docket 80–116 are retained.

11. 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 Section 0.281 of the Commission's Rules.

12. The Secretary shall cause this order to be published in the **Federal Register**.

Federal Communications Commission.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80–23270 Filed 7–31–80; 8:45 am]

BILLING CODE 6712–01–M

[2] The backlog of mutually exclusive situations for Channel 1 have increased from 131 as of May 2, 1980 to 165 as of July 15, 1980.

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9

Organizational Conflicts of Interest [1]; Availability and Request for Comment on Draft Federal Acquisition Regulation

AGENCY: Office of Federal Procurement Policy, Ofice of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal acquisition regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment, a segment of the draft Federal Acquisition Regulation regarding Organizational Conflicts of Interest. Availability of additional segments for comment will be announced on later date. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before October 1, 1980.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 45, No. 125, June 26, 1080, p. 43236 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist (202) 395–3300.

[1] Subpart 9.5 is filed as a part of the original document.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subpart of the draft Federal Acquisition Regulation is available upon request for request for public and Government agency review and comment.

Subpart 9.5—Organizational Conflicts of Interest

This subpart prescribes responsbilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest. It also provides examples to assist contracting officers in applying these rules and procedures to individual contracting situations. It combines and integrates the current coverage of organizational conflicts of interest under DAR 1–113.2 and Appendix G. The FPR contains no corresponding coverage.

Subpart 9.5 includes considerable restructuring and rewriting of DAR material; however, the concepts, rules, procedures, and examples have been retained, except as described below.

(a) Most of the "Preamble" of Appendix G has been omitted as unnecessary for the FAR. Two examples were omitted for the reasons stated in the footnotes. All examples were grouped at the end of the subpart to provide a more concise and readable presentation and to better differentiate their status as examples from the rules, as such.

(b) DAR Rules 2 and 3 on preparing specifications and statements of work were combined because they involve substantially the same considerations and DAR Rule 3 refers to Rule 2 for part of its explanation. A new rule was drafted to meet the long standing need to more specifically recognize the potential for conflicts in contracts involving technical evaluation or consulting services. A section on information sources was added, primarily to serve the information needs of this new rule.

(c) A definition of "organizational conflict of interest" was added as an aid to understanding the rules and procedures in the subpart.

(d) Coverage was added alerting contracting officers to the contracting

situations more likely than others to give rise to conflicts. In addition, the FAR draft makes it clear that documentation is not required in the many routine contracting actions in which no substantive issue of potential conflict arises.

(e) Four new examples were added, three of which illustrate the new rule on technical evaluation and consulting services.

Dated: July 28, 1980.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 80-23238 Filed 7-31-80; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

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

ACTION: Extension of Time for Filing Exceptions to the Administrative Law Judge's Recommended Decision in Docket No. MMPAH 1980-1.

SUMMARY: The deadline for filing exceptions to the Administrative Law Judge's recommended decision on proposed regulations to govern the taking of marine mammals incidental to commercial fishing operations (February 15, 1980; 45 FR 10552), which was published July 18, 1980, was moved from July 28 to August 8, 1980 by the Acting Administrator to allow all parties to the formal rulemaking a reasonable opportunity to submit exceptions to the Judge's decision.

DATES: Exceptions to the recommended decision are due August 8, 1980.

ADDRESSES: The decision may be reviewed in the Washington, D.C. office of the National Marine Fisheries Service, and copies may be ordered from the same address. Exceptions to the decision must be sent to Docket No. MMPAH 1980-1, Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Telephone: 202/634-1792. Office location: Room 412A, Page Building 2, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: July 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23264 Filed 7-31-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 655

Atlantic Squid Fishery; Request for Comments

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

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: These regulations are proposed to implement the reserve provisions of Amendment No. 1 to the Atlantic Squid Fishery Management Plan (FMP). They provide a schedule and procedure for the Regional Director to project the domestic annual harvest after several months of the fishing year and to allocate appropriate amounts of squid to the foreign fisheries.

DATE: Comments on the proposed regulations are invited for a 45-day period. All comments must be submitted in writing on or before September 14, 1980.

ADDRESS: All comments should be sent to: Mr. Allen E. Peterson, Jr., Regional director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Mark: "Comments on Proposed Squid Regulations" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr. (at the above address); Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Mid-Atlantic Fishery Management Council (Council) and approved by the Assistant Administrator on June 6, 1979, in accordance with the Fishery Conservation and Management Act of 1976, as amended. Final regulations implementing the FMP were published on December 31, 1979 (44 FR 77174).

On March 18, 1980, the Assistant Administrator partially approved Amendment No. 1 to the FMP. The approved provisions of the amendment: (1) Extend the FMP indefinitely; (2) maintain the optimum yield (OY) for short-finned squid *(Illex illecebrosus)* at 30,000 metric tons (mt) and the OY for long-finned squid *(Loligo pealei)* at 44,000 mt; (3) reduce the expected domestic annual harvest (DAH) of *Illex* from 10,000 mt to 5,000 mt and the total allowable level of foreign fishing (TALFF) of *Illex* from 20,000 mt to 12,000 mt; (4) reduce the expected DAH of *Loligo* from 14,000 to 7,000 mt and the TALFF of *Loligo* from 30,000 mt to 18,000 mt; and (5) establish a reserve of *Illex* of 13,000 mt and a reserve of *Loligo* of 19,000 mt, which are available for distribution to the foreign fisheries if not expected to be harvested by the domestic fisheries. Regulations implementing Amendment No. 1 took effect June 30, 1980 (45 FR 45296). Section 655.22 ("Allocation") was reserved because these proposed regulations had not yet been prepared.

The Assistant Administrator disapproved the part of Amendment No. 1 which set the criteria and procedures for allocation of squid from the reserves to TALFF. On May 19, 1980, the Council submitted a revision to the disapproved provision. The revision would have allowed the Assistant Administrator to allocate the entire reserve on the basis of the domestic and foreign harvest levels. In addition, the Council changed the time when the U.S. *Illex* fishery would be reviewed from the sixth to the fifth month of the fishing year (April 1-March 31), while the review of the U.S. *Loligo* fishery would remain at six months.

For *Loligo* there is no problem in allocating from the reserve to TALFF after the sixth month, as recommended by the Council. *Loligo* are readily available to foreign fishermen in the winter/early spring period. In the case of *Illex*, however, the timing and criteria contained in the Council's revision would have still prevented a timely in-season allocation from the reserve to TALFF, because the foreign fishery is practically over by October or November (depending on stock abundance). For this reason, the Assistant Administrator has disapproved the revision. He has prepared these regulations to implement the amended FMP's reserve provisions.

These proposed regulations would establish a mechanism which allocates squid from the reserves to TALFF in a manner which is consistent with the provisions of the Act. As proposed, the Northeast Regional Director would review the U.S. squid harvest during August for *Illex*, and during September for *Loligo*, and project the total amounts of each species which would be harvested by domestic fishermen during the remainder of the fishing year.

The projections would be derived from use of multiplication factors developed from reported monthly domestic landings for the fishing year 1979–80. Considering the short-lived nature of the species, recent increases in stock abundance, and considerable harvest fluctuations during the past several years (with the largest harvest taken during the last fishing season), the multiplication factors developed from the 1979–80 season appear to be the best predictors for the 1980–81 season. *Illex* landings for April through July would be multiplied by a factor of 2.9 to obtain the projected annual harvest. Similarly, *Loligo* landings from April through August would be multiplied by a factor of 1.3 to obtain the projected annual harvest for that species. Any amounts of squid authorized for "joint ventures" would be added to the projections. Based on the projections, the Regional Director would allocate *Illex* by September 1 and *Loligo* by October 1 by publishing a notice in the **Federal Register.** He could also make allocations later in the year, if the projections prove to be inaccurate. If the projections are found to be an unsatisfactory method of allocation at the end of the 1980–81 season, a new method of projection will be proposed.

A Supplemental Environmental Impact Statement (SEIS) for Amendment No. 1 was prepared (see Notice of Availability, 45 FR 37275). This proposed action is a regulatory change under the amended FMP. The Assistant Administrator has determined that it does not alter the context or intensity of impacts described in the SEIS. This portion of the amendment (the allocation mechanism) is viewed as nonsignificant under the National Environmental Policy Act of 1969. Therefore, pursuant to NOAA Directive 02–10, neither an Environmental Assessment nor an SEIS was prepared regarding these proposed regulations.

The amendment was determined to be nonsignificant under Executive Order 12044 and NOAA Directives Manual Chaper 21, Section 24. This proposed action to institute an allocation mechanism is also nonsignificant.

The proposed mechanism to allocate the reserve to TALFF is set forth below as an amendment to Part 655. Because the allocation mechanism also affects the foreign fisheries, the regulations are proposed as amendments to Part 611, as well.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 28th day of July 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 655—SQUID FISHERY OF THE NORTHWEST ATLANTIC OCEAN

50 CFR Part 655 is proposed to be amended as follows:

§ 655.2 [Amended]

1. Section 655.2 is amended by adding, between the definitions of "fishing week" and "operator", the following definition:

* * * * *

Joint venture harvest means U.S. harvested squid transferred to foreign processing vessels.

* * * * *

2. Section 655.22 is proposed to read as follows:

§ 655.22 Allocations.

(a) *Projections.* During August in the case of *Illex,* and during September in the case of *Loligo,* the Regional Director shall project the total amounts of squid that will be harvested by U.S. fishermen during the entire fishing year. For *Illex,* the monthly catches from April through July (exclusive of joint venture harvest) shall be multiplied by a factor of 2.9 to obtain a projected annual harvest. For *Loligo,* the monthly catches from April through August (exclusive of joint venture harvest) shall be multiplied by a factor of 1.3 to obtain a projected annual harvest.

(b) *Joint ventures.* If any permits authorizing receipt of U.S. harvested squid have been issued to foreign processing vessels by August 15 (for *Illex*) or by September 15 (for *Loligo*), the Regional Director shall add to the projected annual harvest the amounts of squid authorized to be received by such permits.

(c) *Allocation of reserves.* If the projected amount of either species of squid to be harvested by U.S. fishermen, including joint venture harvest, exceeds the initial level of harvest specified in § 655.21(a), the Regional Director shall leave the excess in the reserve to allow the U.S. fishery for that species to continue without closure throughout the year. The Regional Director shall allocate the rest of the reserve for that species to the total allowable level of foreign fishing (TALFF).

(d) *Notice of allocation.* By September 1 for *Illex,* and by October 1 for *Loligo,* the Regional Director shall:

(1) Notify the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Councils of his decision; and

(2) Publish a notice of the decision on allocation in the **Federal Register.**

(e) *Subsequent allocations.* After the initial allocation decision is made, the Regional Director may allocate any remaining portion of the reserve to TALFF, if he determines that the domestic harvest, including joint venture harvest, will not attain the level projected under paragraphs (a) and (b) of this section plus any joint venture harvest authorized after the initial decision. Notice of subsequent allocations shall be made according to the procedures in paragraph (d) of this section.

PART 611—FOREIGN FISHING

50 CFR Part 611 is proposed to be amended as follows:

§ 611.50 [Amended]

Section 611.50 is proposed to be amended by adding a new paragraph (f):

* * * * *

(f) *Squid allocations.*—(1) *Definition.* For purposes of this paragraph, "joint venture harvest" means U.S. harvested squid transferred to foreign processing vessels.

(2) *Projections.* During August in the case of *Illex,* and during September in the case of *Loligo,* the Regional Director shall project the total amounts of squid that will be harvested by U.S. fishermen during the entire fishing year. For *Illex,* the monthly catches from April through July (exclusive of joint venture harvest) shall be multiplied by a factor of 2.9 to obtain a projected annual harvest. For *Loligo,* the monthly catches from April through August (exclusive of joint venture harvest) shall be multiplied by a factor of 1.3 to obtain a projected annual harvest.

(3) *Joint ventures.* If any permits authorizing receipt of U.S. harvested squid have been issued to foreign processing vessels by August 15 (for *Illex*) or by September 15 (for *Loligo*), the Regional Director shall add to the projected annual harvest the amounts of squid authorized to be received by such permits.

(4) *Allocation of reserves.* If the projected amount of either species of squid to be harvested by U.S. fishermen, including joint venture harvest, exceeds the initial level of harvest specified in § 655.21(a), the Regional Director shall leave the excess in the reserve to allow the U.S. fishery for that species to continue without closure throughout the year. The Regional Director shall allocate the rest of the reserve for that species to the TALFF.

(5) *Notice of allocation.* By September 1 for *Illex*, and by October 1 for *Loligo*, the Regional Director shall:

(i) Notify the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Councils of his decision; and

(ii) Publish a notice of the decision on allocation in the **Federal Register.**

(6) *Subsequent allocations.* After the initial allocation decision is made, the Regional Director may allocate any remaining portion of the reserve to TALFF, if he determines that the domestic harvest, including joint venture harvest, will not attain the level projected under paragraphs (f) (2) and (3) of this section, plus any joint venture harvest authorized after the initial decision. Notice of subsequent allocations shall be made according to the procedures in paragraph (f)(5) of this section.

(16 U.S.C. 1801 et seq.)

[FR Doc. 80-23136 Filed 7-31-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 150
Friday, August 1, 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

Food Stamp Program Policy Interpretation Response System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final notice.

SUMMARY: This notice advises the public of revisions in the Policy Interpretation Response System established by the December 26, 1979 **Federal Register** notice (44 FR 76329).

EFFECTIVE DATES: The procedure described in this notice is effective immediately.

FOR FURTHER INFORMATION CONTACT: Joseph Pinto, Supervisor, Policy Section, Program Policy and Analysis Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Services, Washington, D.C. 20250, 202–447–8156.

Introduction

The Policy Interpretation Response System (PIRS) described in the December 26, 1979 notice went into effect immediately. However, at that time we requested that comments and suggestions on the adequacy of the system be sent to us for consideration prior to February 25, 1980. We were particularly interested in knowing whether in the view of public commenters the system would result in policy interpretations being made on a timely basis and whether the public would be made sufficiently aware of these interpretations.

Nine State agencies and one FNS Regional Office expressed concern about the implications of the PIRS on the quality control error rate statistics of State agencies in situations where a State agency takes administrative action on an issue that FNS has determined must be resolved through the rulemaking process. We would like to reassure these concerned commenters that quality control reviews have been and will continue to be based only on existing regulations. Therefore, a State agency is not subject to a quality control error for actions it takes on an issue that is not addressed in final regulations. Further, once the rulemaking process is complete, a State agency would not be subject to a quality control error on actions taken prior to the effective date of the rulemaking even if its action was contrary to the procedure in the final rulemaking.

Two State agencies and two FNS Regional Offices expressed concern that the PIRS could cause delays in replies to category 3 inquiries. While we can see no reason why the PIRS would cause reply times to be greater than those prior to the establishment of the PIRS, we can understand the desire for a time standard on replies to category 3 inquiries. In developing the PIRS, every effort was made to design a system that would minimize delays. As the PIRS becomes established, we are confident that the efficiency of the policy inquiry service to State agencies will be greatly enhanced. We did not believe that the suggestion made by four State agencies and one FNS Regional Office to allow FNS Regional Offices to reply to category 3 inquiries without first consulting the FNS National Office would be the most effective way to speed replies to State agencies. In addition to the possibility of duplication of effort by FNS Regional Offices and State agencies such a procedure might result in regional variation in the way the Food Stamp Program is administered.

Based on what FNS feels must be a misunderstanding of the nature and amount of category 2 material, one FNS Regional Office and one State agency suggested that this material have a regular schedule for publication in the **Federal Register.** We do not anticipate much of this material and most of it will be informational in nature. We have not, therefore, adopted the suggestion that category 2 material have a publication schedule. We have, however, acted on the suggestion of two State agencies and one local agency and increased to 90 days the time allowed for implementation unless otherwise specified in each notice.

Policy Interpretation Response System

Effective immediately, all policy interpretation inquiries submitted by FNS Regional Offices will be screened according to the 4 categories listed below. The procedures for determining the categories and handling the inquiries were developed in consultation with the Department's Office of General Counsel.

The 4 categories are:

1. Inquiries that require rulemaking;
2. Inquiries that embody interpretation of the Act or regulations, or statements of policy of major importance and general applicability;
3. Inquiries that embody interpretations or clarifications of the Act or regulations of a limited nature, or dealing with particular factual situations which are common to a group of households; and
4. Inquiries that can be answered by direct reference to the Act or regulations or refer to the application of the regulations to the factual circumstances of a particular household.

FNS Regional Offices will screen inquiries from State agencies and other sources in accordance with the 4 categories listed above. Inquiries falling into category 4 should be answered by the FNS Regional Office without first forwarding them to the FNS National Office. Inquiries into categories 1 through 3 shall be forwarded by the FNS Regional Office to the FNS National Office for response in the form of a Policy Memo, notice in the **Federal Register** or a regulation change or addition as appropriate.

When the FNS National Office receives an inquiry that requires a regulation to resolve the issue, no answer to the question will be provided until the issue is resolved through a final publication in the **Federal Register.** For instance, an inquiry might bring to light a procedural defect, an area where no procedure exists to handle a situation, or an unintended result of an existing procedure that needs correction.

Answers to questions embodying interpretations of the Act or regulations, or statements of policy of major importance and general applicability will be issued as notices of general applicability and will be published in the **Federal Register** as the need for the notice arises. As with questions which require rulemaking, no answer will be provided until the notice is printed in the **Federal Register.** Unless otherwise

specified, each notice will become effective 90 days from its date of publication.

These interpretations will be numbered sequentially by fiscal year and updated periodically to delete obsolete material. It is anticipated that the amount of material of this type will not be large. An example of the type of material that might be issued as a notice would include an interpretation of a policy that needs special emphasis or a clarification of an apparently widely misunderstood policy that affects many participants.

Responses to questions embodying interpretations or clarifications of the Act or regulations of a limited nature, or dealing with particular factual situations which are common to a group of households (as opposed to applying policy to the factual circumstances of a single household) will be binding on State agencies but will not be published in the **Federal Register.** Copies of each such response will be sent by the FNS National Office to each FNS Regional Office which will in turn provide each of the State agencies within its area with a copy.

In addition, these responses will be numbered sequentially by fiscal year and included quarterly in the FNS Index of Records available to the public. This Index is prepared in accordance with the Freedom of Information Act. Free copies of the current Index and copies of specific policy interpretations may be obtained by writing or visiting the FNS offices listed in 7 CFR 271.6(b).

Responses to questions that can be answered by direct reference to the Act or regulations need not be indexed nor published and will require no general distribution. In addition, advice given to a FNS Regulation Office on how the Act or regulations apply to the unique circumstances of a particular household will not be indexed.

FNS believes the above procedures satisfy the requirements of the Administrative Procedures Act (5 U.S.C. 553) and E.O. 12044 in regard to those policy interpretations that require formal rulemaking, and also ensure that interpretations of general applicability and those that should be binding on all State agencies are available to all interested parties.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: July 11, 1980.

Robert Greenstein,

Administrator.

[FR Doc. 80-23155 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-30-M

Rural Electrification Administration

Cajun Electric Power Coop., Inc., New Roads, La.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $475,500,000 to Cajun Electric Power Cooperative, Inc., (Cajun) of New Roads, Lousiana. These loan funds will be used to partially finance a 30 percent undivided ownership interest in Gulf States Utilities' River Bend Nuclear Unit No. 1, approximately 34 miles of 500 kV transmission line and related terminal facilities.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule of advances to the borrower of the guaranteed loan funds from Mr. James R. Smith, General Manager, Cajun Electric Power Cooperative, Inc., P.O. Box 578, New Roads, Lousiana 70760.

In order to be considered, proposals must be submitted by September 2, 1980 to Mr. Smith. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Cajun and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 24th day of July 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-23157 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-15-M

East Kentucky Power Cooperative, Inc., Winchester, Ky.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $1,725,000,000 to East Kentucky Power Cooperative, Inc., of Winchester, Kentucky. These loan funds will be used to finance a project consisting of two 600 MW net-rated coal-fired steam generating units; approximately 49 miles of 138 kV, approximately 30 miles of 161 kV, and approximately 120 miles of 345 kV transmission line; and related generation and transmission facilities.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Donald R. Norris, Manager, East Kentucky Power Cooperative, Inc., P.O. Box 707, Winchester, Kentucky 40391.

In order to be considered, proposals must be submitted by September 2, 1980 to Mr. Norris. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as East Kentucky Power and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 24th day of July 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-23156 Filed 7-31-80; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council's Advisory Subpanel; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council's advisory Subpanel public meeting notice, published in the **Federal Register**, Volume 45, No. 136, page 47180, dated July 14, 1980, is amended as follows:

The meeting dates and times have been changed from convening on Wednesday, August 13, 1980, at approximately 1 p.m., and adjourning on Thursday, August 14, 1980, at approximately 12 noon. The meeting will now convene on Wednesday, August 13, 1980, at 9 a.m., and will adjourn at approximately 4:30 p.m. All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: July 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23261 Filed 7-31-80; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council's Stone Crab Subpanel; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council's Stone Crab Subpanel public meeting notice, published in the **Federal Register**, Volume 45, No. 140, page 48179, dated July 18, 1980, is amended as follows:

The meeting date have been changed from convening on Tuesday, August 19, 1980, at approximately 8:30 a.m., and adjourning at approximately 5 p.m. The meeting will now convene on Wednesday, August 20, 1980. All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 338–2815.

Dated: July 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-23282 Filed 7-31-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from Procurement List 1980 a commodity produced by and a service provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: August 1, 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: On June 6, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 38098) of proposed deletions from Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodity and service are hereby deleted from Procurement List 1980:

Class 5660

Fencing, Wire & Wood Picket
5660–00–257–3860

SIC 7349

Janitorial Service,
Federal Building,
275 Chestnut Street,
Manchester, New Hampshire.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-23210 Filed 7-31-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 1, 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: On April 18, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (45 FR 26411) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1980:

SIC 5812

Food Service, Sheppard Air Force Base, Texas.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-23211 Filed 7-31-80; 8:45 am]

BILLING CODE 6820-33-M

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 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 3, 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 commodity listed below from workshops for the blind or other severely handcapped.

It is proposed to add the following commodity to Procurement List 1980, November 27, 1979 (44 FR 67925):

CLASS 5140

Bag, Tool
5140-00-473-6256

C. W. Fletcher,

Executive Director.

[FR Doc. 80-23212 Filed 7-31-80; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to the Coffee "C" Contract of the Coffee, Sugar & Cocoa Exchange, Inc.

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 12, 92 Stat. 871 (1978), has determined that the proposed amendments set forth below to Coffee Trade rules 8.00 and 8.23 of the Coffee "C" contract submitted by the Coffee, Sugar & Cocoa Exchange, Inc. are of major economic significance. The proposed amendments to the Coffee "C" contract add unwashed arabica coffee from Ethiopia to the deliverable supply. The grading standard for this coffee will be more lenient than that for the other growths deliverable on the contract. In addition, the unwashed Ethiopian coffee will be deliverable at a discount of 8 cents per pound.

The amendments to Coffee Trade rules 8.00 and 8.23 of the Coffee "C" contract are printed below, showing deletions in brackets and additions in italic:

Rule 8.00.

(b) The following text is effective with respect to the [July 1980] delivery month and all delivery months thereafter.

Contract "C" Mild Coffee Contract

New York ——— 19——

(Deliver to) ——— (have) (has) this day (bought) (sold) and agreed to (receive from) ——— 37,500 lbs. of washed arabica COFFEE of the growths of Mexico, Salvador, Guatemala, Costa Rica, Nicaragua, Honduras, Colombia, Kenya, Tanzania, Uganda, New Guinea, Peru, Venezuela, Dominican Republic, Borundi, Ecuador, India, and Rwanda *or unwashed arabica coffee of the growth of Ethiopia.* [at the price of ——— cents per pound for] Growths of Mexico, Salvador, Guatemala, Costa Rica, Nicaragua, Kenya, Uganda or Tanzania *shall be deliverable at par.* [, with additions or deductions for grades, and] *All other* growths *shall be priced for delivery* according to the differentials established by the Rules of the Exchange, adopted in accordance with the provisions of Coffee Trade Rule 8.00. [, and with] *The price of all Coffee shall be subject to* additions or deletions for *grade and* delivery points according to discounts and premiums as shall be established by the Board.

Delivery [to be] *must* be made from licensed warehouse in the Port of New York District, the Port of New Orleans or such other ports as may from time to time be added by the Board as authorized by the rules [of said Exchange,] between the first and last days of ———, inclusive, the delivery within such time to be upon such notice to the buyer as may from time to time be prescribed in the Rules.

[The] Delivery must consist of Coffee of one growth and must be in sound condition.

Coffee shall be sweet in the cup, good roasting quality, and of bean size and color in accordance with the description established by the Exchange. No delivery *shall be* permitted of Coffee containing more than fifteen full imperfections below the basis for the respective growth, except that in the case of Colombian *and Ethiopian* Coffee no delivery shall be permitted of Coffee containing more than ten full imperfections below the basis *for each respective growth.* Imperfections shall be established on the basis of a grading schedule established by the Exchange.

Either party may call for margin as the variations of the market for like deliveries may warrant, which margin shall be kept good.

This contract is made in view of, and is in all respects subject to the Rules [of the Exchange].

(Brokers) ———

(Across the face is the following.)

For and in consideration of One Dollar to ——— in hand paid, receipt whereof is hereby acknowledged ——— accept this contract with all its obligations and conditions.

Rule 8.23.

Schedule C-1

The basis for Guatemala, Salvador, Mexico, Costa Rica, Nicaragua, Honduras, Kenya, Tanzania, Uganda, New Guinea, Peru, Venezuela, Dominican Republic, Burundi, Ecuador, India and Rwanda Coffees is eight (8) full imperfections.

The basis for Colombian Coffee is thirteen (13) full imperfections.

The basis for Ethiopian Coffee is fifty (50) full imperfections.

There will be a differential of ten (10) points for each full imperfection below the basis. No delivery of coffee containing more than fifteen (15) full imperfections below the basis shall be permitted, except that, in the case of Colombian *and Ethiopian* Coffee, no delivery containing more than ten (10) full imperfections below the basis shall be permitted.

[In] No [case shall] delivery of coffee containing more than twenty-three (23) full imperfections *shall* be permitted. Provided, *however, that in the case of delivery of Ethiopian coffee no delivery containing more than sixty (60) full imperfections shall be permitted.*

Schedule C-2

Difference in Value Between Grades and Growths

Mexico, Salvador Guatemala, Costa Rica, Nicaragua, Kenya, Tanzania, Uganda.	Basis
Colombia	Plus 200 pts.
New Guinea, Honduras	Minus 100 pts.
Peru, Venezuela	Minus 400 pts.
Dominican Republic, Burundi, Ecuador, India, Rwanda.	Minus 700 pts.

The following text of Schedule C-2 is effective with respect to the May 1981 delivery month and all delivery months thereafter.

Schedule C-2

Difference in Value Between Grades and Growths

Mexico, Salvador, Guatemala, Costa Rica, Nicaragua, Kenya, Tanzania, Uganda.	Basis
Colombia	Plus 200 pts.
New Guinea, Honduras	Minus 100 pts.
Peru, Venezuela	Minus 400 pts.
Dominican Republic, Burundi, Ecuador, India, Rwanda.	Minus 550 pts.

The following text of Schedule C-2 is effective with respect to the ——— delivery month and all delivery months thereafter.

Schedule C-2

Difference in Value Between Grades and Growths

Mexico, Salvador, Guatemala, Costa Rica, Nicaragua, Kenya, Tanzania, Uganda.	Basis
Colombia	Plus 200 pts.
New Guinea, Honduras	Minus 100 pts.
Peru, Venezuela	Minus 400 pts.
Dominican Republic, Burundi, Ecuador, India, Rwanda.	Minus 550 pts.
Ethiopian	Minus 800 pts.

Schedule C-3 is effective with respect to the July 1980 delivery month and all delivery months thereafter.

Schedule C-3

Difference in Value Between Delivery Ports

New York Port District	Basis
New Orleans Port District	Minus 125 pts.

Any person interested in submitting written data, views, or arguments on these rules should send his comments by September 2, 1980, to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C., on July 28, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-23154 Filed 7-31-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning the Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the signature of a protocol concerning the suspension of the application of safeguards by the IAEA under the trilateral Safeguards Agreement between the International Atomic Energy Agency, the Government of Switzerland and the Government of the United States of America signed on February 2, 1972. The application of IAEA safeguards in Switzerland under this trilateral agreement shall be suspended during the time the Switzerland-IAEA NPT Safeguards Agreement of September 6, 1978 remains in force and safeguards specified in that Agreement are being applied. IAEA safeguards in the U.S.A. shall be applied under the U.S.–IAEA voluntary safeguards agreement when it enters into force, and the application, as required, of IAEA safeguards in the U.S.A. under the trilateral safeguard agreement shall be suspended during the time that the U.S.–IAEA voluntary safeguards agreement remains in force and safeguards specified in that agreement are being applied. The protocol will be signed in Vienna, Austria by representatives of the U.S., Switzerland and the IAEA. The U.S. and Switzerland will also exchange letters setting forth certain understandings of the two parties concerning this arrangement.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 18, 1980.

For the Department of Energy.

Dated: July 28, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-23139 Filed 7-31-80, 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) on the Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the signature of a Project and Supply Agreement and related documents concerning the proposed transfer from the U.S.A. to Malaysia through the IAEA of the following equipment and special nuclear material:

One TRIGA Mark II research reactor, with fuel elements containing approximately 24.76 kilograms of uranium enriched to about 19.9% in U–235, and neutron detectors containing approximately 7.6 grams of uranium enriched to about 93% in U–235.

Export of the TRIGA research reactor and its fuel and neutron detectors will require an export license issued by the U.S. Nuclear Regulatory Commission, and will be subject to all the terms and conditions of the U.S.–IAEA Agreement for Cooperation, as recently amended to incorporate all the requirements of the Nuclear Non-Proliferation Act of 1978.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than August 18, 1980.

For the Department of Energy.

Dated: July 28, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-23140 Filed 7-31-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Portugal Concerning the Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves the signature of a protocol concerning the suspension of the application of safeguards by the IAEA under the trilateral Safeguards Agreement between the International Atomic Energy Agency, the Government of Portugal and the Government of the United States of America signed on July 11, 1969. The application of IAEA safeguards in Portugal under this trilateral agreement shall be suspended during the time the Portugal-IAEA NPT Safeguards Agreement of June 14, 1979 remains in force and safeguards specified in that Agreement are being applied. IAEA safeguards in the U.S.A. shall be applied under the U.S.–IAEA voluntary safeguards agreement when it enters into force, and the application, as required, of IAEA safeguards in the U.S.A. under the trilateral safeguards agreement shall be suspended during the time that the U.S.–IAEA voluntary safeguards agreement remains in force and safeguards specified in that agreement are being applied. The protocol will be signed in Vienna, Austria by representatives of the U.S., Portugal and the IAEA. The U.S. and Portugal will also exchange letters setting forth certain understandings of the two parties concerning this arrangement.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: July 28, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-23141 Filed 7-31-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-019]

Husky Oil Co.; Application for Certification of the Use of Natural Gas to Displace Fuel Oil

On May 27, 1980, Husky Oil Company (Husky) 600 South Cherry Street, Denver, Colorado 80222, filed an application for certification of an eligible use of natural gas, as amended July 15, 1980, to displace fuel oil at its refinery facility in Cody, Park County, Wyoming, pursuant to 10 CFR Part 595 (44 47920, August 16, 1979). More detailed information is contained in the

application on file with the Economic Regulatory Administration (ERA) and available for public inspection at the ERA, Docket Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Husky states that the volume of natural gas for which it requests certification is 125, 740 Mcf per year (344 Mcf daily). This volume is estimated to displace the use of approximately 20,000 barrels of No. 6 fuel oil (3.0 percent sulfur) per year at the Cody Refinery.

The eligible sellers are the Husky Oil Company and the Michigan Consolidated Gas Company, One Woodward Avenue, Detroit, Michigan 48226. The gas would be transported by the Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, and the Montana-Dakota Utilities, 400 North 4th Street, Bismarck, North Dakota 58501.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, August 10, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing by August 10, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necesssary, further notice will be given to Husky and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., July 25, 1980.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 80-23245 Filed 7-31-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Consumer Affairs

Consumer Affairs Advisory Committee and Subcommittees; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee and subcommittee meetings:

Title: Consumer Affairs Advisory Committee.

Date, time, and place: Monday, August 18, 1980 and Tuesday, August 19, 1980, Department of Energy, Room BE–069, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585. See agenda below for specific times and room numbers of full committee and subcommittee meetings.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252–5187.

Purpose of Committee: To provide the Secretary of Energy with diversified expert advice from qualified individuals relating to the identification and evaluation of the impact of proposed or existing energy policies and programs on consumers, the identification of areas where new policy initiatives or program change is needed, and planning, developing, and implementing equitable energy policies and programs.

Tentative Agenda

Monday, August 18, 1980

Full Committee Meeting—Room BE–069 Forrestal Building, 8:30 a.m.–12:30 p.m.

- Briefing on DOE FY81 Budget.
- DOE Implementation of Executive Order 12160.

1:30 p.m.–2:40 p.m.

- Update on Residential Conservation Service Program.
- Briefing on Energy Security Act.
- Public Comment (10 minute rule).

Subcommittee Meetings

2:45 p.m.–5:00 p.m.

Utilities and Resource Applications—Room BE–069A Forrestal Bldg.

- Update on Progress since last meeting.
- Voluntary Guidelines under PURPA.
- Consumer Protection.

Conservation and Appropriate Technologies—Room BE–069B Forrestal Bldg.

- Update on Progress since last meeting.
- Alternative Fuels Project Awards—Status Report.
- DOE Education Programs.

Special Energy Impacts—Room 7B192A Forrestal Bldg.

- Update on Progress since last meeting.
- Weatherization Assistance Program—New Regulations.
- Home Energy Assistance Program (HEAP).

Regulatory and Institutional Process—Room 7B192B Forrestal Bldg.

- Update on Progress since last meeting.
- Petroleum Data Consortium.
- Overcharges.

Tuesday, August 19, 1980

8:30–11:00 a.m.—Subcommittee Meetings (continued).

11:00–12:30 p.m.—Full Committee reconvened—Room BE–069.

- Subcommittee reports.

12:30–1:30 p.m.—Break.

1:30–5:00 p.m.—Full Committee.

- Subcommittee reports continued.
- Discussions/Recommendations.
- Public Comment (10 minute rule).
- Adjourn.

Public Participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued in Washington, D.C. on July 28, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-23138 Filed 7-31-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1555-7; OPTS-51096]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by: PMN 80–155, August 31, 1980. PMN 80–160, September 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Ann Radosevich, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51096]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 24, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–155.

Close of Review Period. September 30, 1980.

Importer's Identity. Amchem Products, Inc., Brookside Ave., Ambler, PA 19002.

Specific Chemical Identity. Cyclohexanehexacarboxylic acid, penta sodium salt.

The following summary is taken from data submitted by the importer in the PMN.

Use. Amchem Products, Inc. states that the PMN substance will be used for cleaning machined metal parts.

Import Estimates

	(kg 1 yr)	
	Minimum	Maximum
First year	7	33
Second year	13	132
Third year	20	396

Physical/Chemical Properties

Appearance	White powder.
Solubility	Soluble in water.
Melting point	288°C.

Toxicity Data.

Ecotoxicity

Values in mg. Active Substance/Liter

Algae inhibition	Daphnia			Fish		
	LDC	LD_{50}	LD_{100}	LDC	LD_{50}	LD_{100}
<300.00	60.0	180.0	300.0	120.0	199.0	300.0

Occupational Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Processing	Dermal, inhalation.	1	1	4	0–1	10–100

Worker could be exposed during charging of the substance to water in mixing vessel and in case of any accidental spill. Dust collector, connected to a scrubbing system, is provided in the manufacturing area.

Environmental Release/Disposal. The submitter claims that there will be no release of the PMN substance into the environment. Equipment will be washed after manufacture and washings discharged to an in-plant water treatment system and from there to a publicly owned treatment plant (POTW).

PMN 80–160.

Close of Review Period. October 6, 1980.

Manufacturer's Identity. Claimed confidential.

Specified Chemical Identity. Claimed confidential. Generic name provided: Hydrolyzed starch-poly(acrylonitrile)copolymer.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Fluid absorbent for use in personal care products (bed pads, diapers, etc.) and miscellaneous industrial applications.

Production Estimates

	(lb/yr)	
	Minimum	Maximum
First year	10,000	30,000
Second year	30,000	60,000
Third year	60,000	120,000

Physical/Chemical Properties.

Nitrogen	2–3 pct.
Ionic chloride	0.2–0.5 pct.
Moisture	5–10 pct.
Methanol	<1.0 pct.
Granulation:	
<30 mesh	100 pct. (min.).
<325 mesh	30 pct. (max.)
Disposition pH	7–8 pct.

Toxicity Data

Dermal toxicity (rabbits)—>2.0 g/kg.

Primary skin irritation (rabbits)—0.00 (Draize method, scale 0.00–8.00, nonirritating).

Eye irritation (rabbits)—Mildly irritating.

Occupational Exposure.

Activity	Route(s)	Number of potentially exposed workers	Maximum duration of exposure
Manufacture	Dermal	4 per shift	Accidental only.
	Inhalation	4 per shift	< ½ hr. per shift.
Processing	Dermal	Unknown	

Environmental Release/Disposal. The submitter claims that there will be no release of this PMN substance in to the environment during the manufacturing process.

[FR Doc. 80–23193 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1555–8; OPTS–51097]

Certain Chemicals, Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by September 5, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Rick Green, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, 202–426–2601.

SUPPLEMENTAL INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use

description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before September 5, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51097]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 24, 1980.

Douglas G. Bannerman

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–157.

Close of Review Period. October 4, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Halogenated polyimide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Insulating or protective coating for electronic, electrical and/or optical devices.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Skin irritation test (rabbits)—Slight to mild irritation. Eye irritation test (rabbits)—Mild irritation.

Occupational Exposure.

Activity and submitter's site	Route(s)	Number of potentially exposed workers	Maximum duration of exposure
Manufacture:			
Philadelphia, PA	Dermal	2/shift	1 shift/da; 8 hr/da; 4 da/yr.
Chicago, IL	Dermal	2/shift	1 shift/da; 8 hr/da; 4 da/yr.
Use/Processing: Any customer	Dermal	2	2 shifts/da; 16 hr/da; 250 da/yr.

The manufacturer states that the PMN material will not be a consumer product. It will be utilized by professional industrial customers who will apply the material on electronic, electrical, and/or optical devices by spin, spray, or dip coating in a controlled ventilated area and cure the coating in a vented circulating oven. Dermal contact would occur only in the event of careless handling or failure to wear protective equipment/clothing.

Environmental Release/Disposal

Submitter's site	Method(s) of disposal	Release to the environment
Philadelphia and Chicago.	Wash solvent drummed out and shipped to waste processor for recovery.	Incidental and minimal.

PMN 80–158.

Close of Review Period. October 4, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided: Manufacturing site—East-north central region, U.S. Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of: Epoxy resin, maleic anhydride, butanol, styrene, and methacrylic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The substance will be used in an open use that will release less than 50 kilograms (kg) of the substance to the environment per year. As a small component of a final formulation, the use may involve potential exposure to skin and eyes.

Production Estimates

	(kg/yr)	
	Minimum	Maximum
First year	500	1,000
Second year	1,000	10,000
Third year	10,000	20,000

Physical/Chemical Properties

	Polymer solution	Dried polymer
Solids content	25.3 pct	
Density	1.03 g/ml	1.24 g/ml.
Solubility in water		2 pct.
Number average molecular weight.	3,900–4,300	
Weight average molecular weight.	10,000–13,000	
Flash point (closed cup).	110° F	Above 212° F.
Residual monomers.	0.1 pct	
pK (a)	5.71	
Elemental analysis		percent C = 73.68. percent H = 7.04. percent O = 19.28.
Chemical oxygen demand.	985,000 $\mu gO_2/g$	
Biological oxygen demand.	211,500 $\mu gO_2/g$	

Toxicity of Raw Materials

Solid epoxy resin. The skin and eye exposure in rabbits has not been found to cause irritation or sensitization. The oral LD_{50} in rats is over 30 g/kg and the dermal LD_{50} in rabbits is over 14.4 g/kg.

Maleic anhydride. The oral LD_{50} in mouse is 60 mg/kg. The Threshold Limit Value (TVL) is 0.25 ppm. Inhalation of vapor can cause pulmonary edema. It causes burns to skin and eyes.

Styrene. The oral LD_{50} in rats is 5,000 mg/kg (minimally toxic). The American Conference of Government Industrial Hygienists (ACGIH) has established a TLV of 100 ppm to protect against narcosis and irritation.

Methacrylic acid. High vapor concentration may irritate eyes, nose, and throat. Liquid contact may cause severe eye damage and skin irritation as well as sensitization. The oral LD_{50} in rats is 2,000 mg/kg and the TLV is 20 ppm.

Butyl alcohol. Butyl alcohols have produced few cases of poisoning in industry because of their low volatility. The oral LD_{50} in rats is 790 mg/kg and the dermal LD_{50} in rabbits is 4,200 mg/kg.

Cumene hydroperoxide. Moderately toxic by oral route and severely toxic by inhalation. The oral LD_{50} in rats is 382 mg/kg and the inhalation LD_{50} in rats is 220 ppm per 4 hours. Skin contacts causes chemical burns.

Butyl cellosolve. The oral LD_{50} in rats is 1,480 mg/kg. The ACGIH has established a TLV of 50 ppm to protect against irritation and systemic effects.

Aqueous ammonia. Caustic to the skin and eyes. Produces mucous membrane irritation and may lead to pulmonary edema at high concentration. The ACGIH Short Term Exposure Limit (STEL) is 35 ppm and the TLV is 25 ppm.

Occupational Exposure

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/years	Average	Peak
Manufacture	Inhalation, dermal.	3	2	3	.....	1–10
Disposal	Inhalation, dermal.	1	2	1	0–1	.....

Environmental Release/Disposal.

Manufacturing	
Media	Amount/Duration of Chemical Released (kg/yr).
Air	Less than 10. 22 hr/da; 3 da/yr.

Each reactor at the manufacturing plant is equipped with an exhaust and fume condenser. The effluent (airborne) is also treated by an exhaust fume scrubber. Scrubber water goes to biological treatment lagoons with a 60-day retention period. Sludge is transported by State licensed carriers to a State licensed landfill.

Organic wash solvents are stored in drums for re-use in new batches.

[FR Doc. 80-23194 Filed 7-31-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1557-1]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of December 1, 1979 and December 31, 1979.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the EPA source of review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal Agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1979 report; the backlog of reports should be eliminated over the next six weeks.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, D.C. 20460, telephone 202/755–2808.

Copies of the draft and final environmental impact statements reference herein are available from the originating Federal department or agency.

Dated: July 24, 1980.

Thomas R. Sheckells,

Acting Director, Office of Environmental Review.

Appendix I.—*Draft Environmental Impact Statements for Which Comments Were Issued Between Dec. 1 and Dec. 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CIVIL AERONAUTICS BOARD		
D-CAB-A52145-OO	Multiple permissive entry policy	ER2	A
	CORPS OF ENGINEERS		
D-COE-G36078-OK	Mingo Creek Flood Protection, Tulsa, Oklahoma	LO1	G
D-COE-J34011-CO	Spinney Mountain Reservoir, Water Supply Project, Permit, Pike National Forest, Colorado	ER2	I
D-COE-J36018-CO	Westerly Creek Flood Protection, Colorado	LO1	I
D-COE-K32010-TT	Rota Harbor Navigation Improvements, Rota, Northern Marianas, Trust Territories	ER2	J
D-COE-K36039-HI	Waimea River Flood Control, Waimea, Kauai Island, Hawaii	ER2	J
	DEPARTMENT OF AGRICULTURE		
D-AFS-L01002-OR	Geothermal Leasing Belknap-Foley Area, Willamette National Forest, Lane and Linn Counties, Oregon.	ER2	K
D-AFS-L61132-WA	White Panther Land Management Plan, Gifford Pinchot National Forest, Skamania, Yakima and Klickitat Counties, Washington.	LO1	K
D-AFS-L65050-AK	1981-86 Timber Sale Operation Plan, Chatham and Stikine Areas, Tongass National Forest, Alaska.	ER2	K
D-SCS-G36079-NM	Corrales Watershed, Bernalillo and Sandoval Counties, New Mexico	LO1	G
	DEPARTMENT OF COMMERCE		
D-NOA-E64007-OO	Shrimp Fisherty of the Gulf of Mexico, Fishery Management Plan (FMP)	LO1	E
D-NOA-K90006-CA	Jack Mackerel Fishery Management Plan (FMP)	LO1	J
D-NOA-K90007-CA	Pacific Coast Groundfish, Fishery Management Plan (FMP)	LO1	J
	DEPARTMENT OF DEFENSE		
D-USA-D11012-MD	Fort George G. Meade, Ongoing Activities, Anne Arundel, Howard and Prince Georges Counties, Maryland.	LO1	D
D-USA-E11010-KY	Fort Knox Armor Center, Ongoing Mission, Fort Knox, Hardin, Meade and Bullitt Counties, Kentucky.	LO2	E
D-USA-F11006-IN	Fort Benjamin Harrison Ongoing Mission, Marion County, Indiana	LO2	F
D-USA-G11007-TX	Fort Sam Houston Overall Mission, San Antonio, Southcentral Texas	LO2	G
D-USN-D35020-VA	Wharf Construction, Associated Access Dredging and Upland Disposal, Dredged Material, Virginia Beach, Virginia.	ER2	D
	DEPARTMENT OF INTERIOR		
D-BLM-K60010-AZ	Crossman Peak Radar Installation, Mohave County, Arizona	ER2	J
D-NPA-G61011-OK	Chickasaw National Recreation Area, Murray County, Oklahoma	LO2	G
D-NPS-K61036-CA	Redwood National Park, General Management Plan, Del Norte and Humboldt Counties, California.	LO2	J
	DEPARTMENT OF TRANSPORTATION		
DS-FHW-A41121-NB	Fremont Northwest Bypass, US 77 to US 30, Dodge County, Nebraska (FHWA-NEBR-EIS-72-02-F-DS).	ER2	B
D-FHW-B40041-CT	CT-11, Salem, Montville and Waterford, New London County, Connecticut (FHWA-CONN-EIS-79-02-D).	ER3	B
D-FHW-B40042-CT	CT-34, New Haven, West Haven and Orange, New Haven County, Connecticut (FHWA-CONN-EIS-79-01-D).	ER2	B
D-FHW-F40140-IL	Madison Street Improvement, I-55 to FAP-662, West Belt, Springfield, Sangamon County, Illinois.	ER2	F
DA-FHW-H40074-NB	Corridors C and D Rail Relocation and Consolidation, Lincoln, Lancaster County, Nebraska (FHWA-NEBR-EIS-77-04-D-DS2).	ER2	H
DS-FHW-H40074-NB	Corridors C and D, Rail Relocation and Consolidation, City of Lincoln, Lancaster County, Nebraska (FHWA-NEBR-EIS—77-40-D-DS).	ER2	H
D-FHW-J40049-ND	US 2, Churches Ferry to Devils Lake, Benson and Ramsey Counties, North Dakota	ER2	I
D-FHW-K40071-CA	West Valley Transportation Corridor, CA-85, Santa Clara County, California	LO1	J
D-FRA-B53005-CT	Replacement of Mystic River Bridge and Approaches, Groton and Stonington, New London County, Connecticut.	LO2	B
D-UMT-C89004-NY	Broadway Plaza, Pedestrian and Transit Mall, New York City, New York	ER2	C
D-UMT-F54003-MI	Southeast Michigan Public Transportation Alternatives Analysis, Wayne, Oakland and Macomb Counties, Michigan.	ER2	F
	FEDERAL MARITIME COMMISSION		
D-FMC-A52146-OO	Pacific Westbound Conference Equalization and Absorption Rules and Practices (Docket 78-32)	LO2	A
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-D85020-MD	Chesterfield Subdivision, Anne Arundel County, Maryland	ER2	D
D-HUD-E61030-FL	Watson Island, Theme Park (UDAG), Miami, Dade County, Florida	ER2	E

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—Continued			
D-HUD-E85059-TN	Countrywood South Subdivision, Shelby County, Tennessee	LO2	E
D-HUD-F89006-WI	Wausau, Downtown Shopping Center, Marathon County, Wisconsin	3	F
D-HUD-G85143-TX	Landing Subdivision, League City, Galveston County, Texas	LO2	G
D-HUD-G85144-TX	Hickory Creek Subdivision, Fort Bend County, Texas	LO1	G
D-HUD-J85025-MT	Royal Village Planned Development, Belgrade, Montana	LO2	I
D-HUD-J85027-CO	Old Farm, Homestead, Briargate and Norwood Planned Development Project, El Paso County, Colorado.	ER2	I
D-HUD-K89029-CA	Downtown Stockton Redevelopment Project, San Joaquin County, California (UDAG)	LO2	J
D-HUD-L85018-OR	St. Johns Riverfront Development, Portland, Oregon (UDAG)	LO2	K
INTERSTATE COMMERCE COMMISSION			
D-ICC-A53048-OO	Ex Parte No. 347. Western Coal Investigation, Guidelines for Rate Structure	ER2	A
TENNESSEE VALLEY AUTHORITY			
D-TVA-E61031-AL	Mallard Fox Creek Area, Proposed Development and Use, Morgan and Lawrence Counties, North Alabama.	LO2	E
VETERANS ADMINISTRATION			
D-VAD-K80010-CA	120 Bed Nursing Home Care Unit, Veterans Administration Medical Center, San Francisco, California.	LO1	J

Appendix II—

Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Dec. 1 and 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
		CORPS OF ENGINEERS	
F-COE-C30004-NY	Port Ontario, Harbor of Refuge, Mexico Bay, Oswego County, New York.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggests that plans to develop a second small boat harbor at nearby Little Salmon River not proceed until data is provided to show that recreational boating in Mexico Bay will exceed the expanded capacity of Port Ontario.	C
F-COE-F32048-MI	Federal facilities, limited extension of operation and maintenance, Sault Ste. Marie, Chippewa County, Michigan.	EPA continues to express environmental reservations on the proposed project. The final EIS does not adequately address the quantitative aspects of the environmental impacts. EPA recommended the degree of significance of the impacts of the project on wetlands, sediment transport, shore damage, fish spawning habitats, wildlife migration and water quality continue to be assessed more quantitatively.	F
F-COE-D32011-00	Baltimore harbor and channels, navigation improvements, Maryland and Virginia.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA is concerned over the disposal of dredge spoil that is resulting from several highway projects in the harbor area.	D
F-COE-G34032-TX	Multipurpose deepwater port and crude oil distribution system, Galveston, Texas.	EPA has concluded that this proposal entails unacceptable environmental impacts and is unsatisfactory from the standpoint of public health, welfare, and environmental quality. This decision is based upon the conclusion that an offshore alternative would prove less harmful to the environment and would present fewer human health and safety hazards than this onshore proposal. Accordingly, EPA has recommended that the Corps of Engineers deny Permit Application Nos. 10400, 13576, 13577, 13578, and 13579 and considers this matter to be a candidate for referral to the Council on Environmental Quality under the provisions of 40 CFR Part 1504 and EPA authority under section 309(b) of the Clean Air Act. However, this referral will not become official until the Corps issues its decision on the permit application.	G
FS-COE-G36002-TX	Baytown flood control, Burnett, Crystal, and Scott Bays and vicinity, Baytown, Texas.	EPA's concerns were adequately addressed in the final EIS.	G
		DEPARTMENT OF AGRICULTURE	
F-AFS-K61033-CA	Tuolumne River, Wild and Scenic River Study, Tuolumne County, California.	EPA's concerns were adequately addressed in the final EIS.	J
		DEPARTMENT OF COMMERCE	
F-NOA-L64003-WA	Washington Coastal Zone Management Program, (CZM) Amendment No. 1, Evans Policy Statement Deletion.	EPA's concerns were adequately addressed in the final EIS. EPA offered several comments on the need for guidance and a clear understanding of CZM's objectives and requirements.	K
		DEPARTMENT OF ENERGY	
F-DOE-A09064-00	Residential Conservation Service Program	EPA continues to be concerned on the proposals potential impact on indoor air quality. EPA will continue to work very closely with DOE in the development of the program.	A
F-DOE-K03007-CA	Petroleum production, maximum efficient rate, Naval Petroleum Reserve No. 1, Elk Hills, Kern County, California.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA is unable to approve the initiation of this project until the appropriate air quality permits are issued.	J
		DEPARTMENT OF INTERIOR	
F-BLM-J07009-UT	Emery Power Plant, units 3 and 4, Emery County, Utah.	EPA continues to remain concerned about the potential adverse impacts on visibility especially as they may affect the nearby class I areas. EPA requested information relative to the issuance of PSD permits and requested the BLM defer its decisions until this issue is resolved.	I
F-NPS-K61020-CA	Development concept plan, Lodgepole area, Giant Forest, Sequoia and Kings Canyon National Parks, California.	EPA's concerns were adequately addressed in the final EIS.	J
		DEPARTMENT OF TRANSPORTATION	
F-FHW-A42018-00	I-78, Haafsville, Pennsylvania to Still Valley, New Jersey.	EPA has environmental reservations regarding the potential air quality impacts that may result from the proposed facility. EPA requested Penn DOT to revise the analysis during ongoing project development and to make the analysis public prior to construction. EPA also commented on noise and water quality aspects of the project.	D
F-FHW-B40033-CT	I-691, I-84 at Cheshire-Southington Town Line, I-91 in Meriden, Connecticut (FHWA-CT-EIS-78-02-7).	EPA has environmental reservations concerning the inadequate assessment of alternatives, wetlands, floodplains, construction impacts and noise. EPA requests additional evaluation of an "Improve-Widen Route 66" be undertaken by the FHWA, with the value of the wetland and impact of construction as an integral consideration. In addition, the FHWA is to determine impacts which will require mitigation and establish goals for mitigating measures prior to the design phase. The additional analysis of alternatives, impact, and mitigation is required to complete the NEPA evaluation and as a part of the section 404 permit application. A meeting is anticipated with FHWA to resolve the unresponsiveness of the EIS and the required evaluations yet to be completed.	B

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Dec. 1 and 31, 1979*—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION—Continued		
F-FHW-E40068-SC	Bobby Jones Expressway Extension, US 1 to US 25, Savannah River Crossing, Aiken County, South Carolina.	Generally, EPA's concerns were adequately addressed in the final EIS. EPA suggested the EIS could have been improved by a more detailed evaluation on wetlands habitat and specific highway design for the crossings.	E
F-FHW-E40120-FL	I-275/US 19, Sunshine Highway, Manatee, Hillsborough and Pinellas Counties, Florida.	EPA's concerns were adequately addressed in the final EIS.	E
F-FHW-E40131-SC	12th Street Widening Extension, Cayce, Lexington County, South Carolina.	EPA's concerns were adequately addressed in the final EIS.	E
F-FHW-F40085-WI	University Avenue, Cedar Street to Humboldt Road, Green Bay, Brown County, Wisconsin.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-F40122-MI	Saginaw River Bridge Study, Bay City, Bay County, Michigan.	Generally, EPA's concerns were adequately addressed in the final EIS. EPA made several suggestions to alleviate the noise impacts of the proposed project on sensitive receptors.	F
F-FHW-G40078-LA	I-310, formerly I-410, I-10 to US 90, St. Charles Parish, Louisiana.	EPA's concerns were adequately addressed in the final supplemental EIS	G
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-D89023-PA	Gallery II of Market Street East, Philadelphia, Pennsylvania.	EPA's concerns were adequately addressed in the final EIS. However, EPA requests a copy of the revision made to the air quality analysis.	D
F-HUD-E85042-TN	Easthill Subdivision, Arlington Road, Bartlett, Shelby County, Tennessee.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA requested additional air quality analysis including the "Worst Case" conditions for one-hour and eight-hour co-concentrations.	E
F-HUD-E85050-FL	Lake Mandarin Subdivision, Duval County, Florida	EPA's concerns were adequately addressed in the final EIS.	E
F-HUD-F85051-MN	Rice Lake Trails and Lake Woods Developments, Maple Grove, Minnesota.	EPA has environmental reservations regarding adverse air quality impacts which have not been resolved. EPA recommends that HUD's involvement in the proposed project be contingent upon satisfactory resolution of potential air quality problems.	F
F-HUD-G85136-TX	Quail Green Subdivision, Missouri City, Fort Bend County, Texas.	EPA's concerns were adequately addressed in the final EIS.	G
F-HUD-K85025-CA	Westwood and Summerfield Subdivision, residential community of Southport, Yolo County, California.	EPA's concerns were adequately addressed in the final EIS.	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Dec. 1 and 31, 1979*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-H35002-MO	Springfield Municipal Water Intake, Permit, Springfield, Missouri	H
	DEPARTMENT OF INTERIOR	
F-BLM-L65045-ID	Livestock Grazing Management Program, Shoshone Grazing Area, Idaho	K
	DEPARTMENT OF TRANSPORTATION	
F-FHW-E40117-TN	TN-153, AID Urban Route 603, Hixon Connector to Southern Railroad, Hamilton County, Tennessee	E
	GENERAL SERVICES ADMINISTRATION	
F-GSA-H81005-00	Internal Revenue Service, Midwest Service Center, Jackson County, Missouri and Wyandotte Counties, Kansas	H
F-GSA-J81004-CO	Denver Federal Center, Lakewood, Jefferson County, Colorado	I
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-E91000-TN	South Central Business District Improvement Program, Chattanooga, Hamilton County, Tennessee (UDAG)	E
F-HUD-J85023-CO	Southborough 8 and Pinehurst Planned Developments, Colorado	I
F-HUD-J85024-CO	Concord Planned Development, Montbello, Denver, Colorado	I
	VETERANS ADMINISTRATION	
F-VAD-L80003-OR	VA Medical Center, Hospital, 600-bed replacement, Portland, Oregon	K

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Dec. 1 and 31, 1979*

Identifying No.	Title	General nature of comments	Source for copies of comments
	COUNCIL ON ENVIRONMENTAL QUALITY		
A-CEQ-A86160-00	Proposed list of Federal agencies and Federal State agencies with jurisdiction by law or special expertise on environmental quality.	EPA offered a substantial revision of the EPA references in the proposed list. Specifically, the revisions include EPA as having expertise in each classification, updates and expands EPA's jurisdiction by law to reflect developments in RCRA, TSCA, CWA, CAA, and SDWA, and EPA's areas of jurisdiction bylaw on energy projects. EPA also suggested format changes to assist the reader.	A
	DEPARTMENT OF TRANSPORTATION		
N-FHW-D40081-WV	FONSI, I-64 Interchange Improvement, Ona to Barboursville, Cabell County, West Virginia.	EPA expressed no objection to the project as proposed	D

Appendix VI—

Source for Copies of EPA Comments

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW, Washington, D.C. 20460.

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02203.

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106.

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, GA 30308.

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60604.

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, TX 75270.

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, CO 80203.

J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, CA 94108.

K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc. 80-23204 Filed 7-31-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-52029; FRL 1556-2]

Certain Chemical Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under Section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register.** This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny this application by August 30, 1980. Persons should submit written comments on or before August 18, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Cindy Work, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC 20460, 202-426-3980.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** on May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or impoted for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes

the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application with 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Reveiw Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before August 18, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–59029]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: July 24, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

TM 80–34

Close of Review Period. August 30, 1980.

Manufacturer's Identity. Minerec Corp., 3520 Fairfield Rd., Baltimore, MD 21226.

Specific Chemical Identity. Claimed confidential. No generic chemical name provided by the manufacturer.

Use. Claimed confidential.

Production Estimates. Claimed confidential.

Physical/Chemical Properties. Claimed confidential.

Toxicity Data. Claimed confidential.

Exposure. Claimed confidential.

Environmental Release/Disposal. Claimed confidential.

[FR Doc. 80–23197 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51100; FRL 1556–3]

Ethanedioic Acid, Di-*N*-Butyl Ester; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 13, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460, 202/426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must

report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 13, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Sustances, 401 M St., SW., Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51100]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

Dated: July 24, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–165

Close of Review Period. October 13, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—Between $100 million and $500 million.

Manufacturing site–Eastern region, U.S.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Ethanedioic acid, di-*n*-butyl ester.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical intermediate.

Product Estimates

	Kilogram per year	
	Minimum	Maximum
First year		
1,100		
Second year		
7,300		
22,000		
Third year		
15,000		
44,000		

Physical/Chemical Properties

Appearance	Colorless liquid.
Boiling point	240°–243° C.
Freezing point	−29.6° C.

Physical/Chemical Properties—Continued

Density at 0° C	1.00
Density at 20° C	.988
Flash point (closed cup)	220° F.

Toxicity Data

Acute oral toxicity (rats)	1.48 g/kg.
Eye irritation (rabbits)	Negative.
Skin irritation (rabbits)	Negative.
Ames mutagenicity test (*Salmonella*)	Negative.

Occupational Exposure. Potential exposure will be limited to two employees at the drumming station and two employees who will charge a reactor with the PMN substance for its conversion to the final product. The manufacturer claims that once a facility is built to manufacture this material, the substance will be pumped to a holding tank for storage until it is needed to charge a reactor thereby precluding operator exposure.

Environmental Release/Disposal. During the production of this material, a waste stream of an 8% alchol in water solution will be released to a wastewater treatment plant. Once a facility to process this material is completed, the alcohol will be steam stripped from the waste stream rendering the wastewater compatible with the local wastewater treatment plant.

[FR Doc. 80–23198 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1556–6]

Ohio; Coal-Fired Spreader Stroker Boiler; Ford Motor Co.

In the matter of the applicability of Title I, Part C of the Clean Air Act (the Act), as amended, thereunder at 42 U.S.C. Section 7401 *et seq.*, and the Federal regulations promulgated [40 CFR 52.21 (43 FR 26388, June 19, 1978)] for Prevention of Significant Deterioration of Air Quality (PSD), to the Ford Motor Company, Lima, Ohio.

On June 6, 1979, the Ford Motor Company submitted an application to the U.S. Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a new coal-fired spreader stoker boiler. The application was submitted pursuant to the regulations for PSD.

On November 21, 1979, the Ford Motor Company was notified that its application was complete and preliminary approval was granted.

On December 19, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to the Ford Motor Company. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by the Ford Motor Company, the Company was notified on May 14, 1980 that U.S. EPA had determined that the proposed new construction in Lima, Allen County would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve the Ford Motor Company of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohan, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353–2090.

John McGuire,

Regional Administrator, Region V.

U.S. Environmental Protection Agency

Region V

In the matter of Ford Motor Company, Lima, Ohio. Proceeding Pursuant to the Clean Air Act, as amended.

Approval To Construct EPA–5–A–80–19.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Ford Motor Company (Ford) proposes to construct a new coal-fired spreader stoker boiler No. 4 at their Lima Engine Plant in Lima, Allen County, Ohio. Boiler No. 4 is rated at 55,000,000 BTU per hour (45,000 lbs. of steam per hour).

2. The portion of Allen County in which the Ford Lima Plant is located is a Class II area as determined pursuant to the Act and has been designated nonattainment for sulfur dioxide (SO_2), total suspended particulate (TSP), and ozone (O_3). A satisfactory air quality demonstration has been made by Ford that shows the proposed plant's impact area to be attainment for both SO_2 and TSP. The area is attainment/unclassifiable for carbon monoxide (CO) and nitrogen dioxide (NO_2) pursuant to Section 107 of the Act.

3. The proposed modification is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act.

4. The U.S. Environmental Protection Agency (U.S. EPA), Region V performed a full PSD review for SO_2 and a partial PSD review for TSP. As the potential emissions from boiler No. 4 for NO_2, CO and hydrocarbons (HC) are less than 250 tons per year, no PSD review was required.

5. Ford submitted a PSD application to the U.S. EPA on June 6, 1979. On September 18, 1979, Ford submitted additional information for review. On November 21, 1979, the application was determined to be complete and preliminary approval was granted.

6. On December 19, 1979, notice was published in the *Lima News* seeking comments from the public on Ford's application and U.S. EPA's preliminary approval of the proposed construction. No public comments were received and a public hearing was not requested.

7. Ford proposes to install a multi-tubular cyclone collector followed by an electrostatic precipitator (ESP) to control TSP to 0.06 pounds per million BTU. The annual TSP emissions based on 8,760 operation hours per year will be 14.5 tons.

8. Ford will utilize low sulfur coal with a sulfur content not greater than 1.0 percent by weight and 12,500 BTU per pound to control SO_2 to 1.6 pounds per million BTU on a 24 hour basis.

9. After review of all material submitted by Ford, U.S. EPA has determined that the source will be using the best available control technology (BACT).

10. The air quality review has shown that the emissions from the proposed boiler will not exceed the Class II PSD increments and will not violate the National Ambient Air Quality Standards (NAAQS).

Conditions for Approval

11. Sulfur dioxide emissions from the boiler shall not exceed 1.6 pounds of sulfur dioxide per million BTU actual heat input calculated on a 24-hour calendar day basis except for two exceedances in any 30-day rolling period. The exceedances may not be greater than 2.0 pounds of sulfur dioxide per million BTU actual heat input. The sulfur dioxide emissions must be calculated using coal analysis conducted in accordance with ASTM method D3176 based on a 24-hour period of fuel averaging.

12. Particulate emissions from the boiler shall not exceed 0.06 pounds of particulate per million BTU actual heat input as determined by U.S. EPA Method 5 Stack testing procedures.

Approval

13. Approval to construct the coal-fired spreader stoker boiler is hereby granted to the Ford Motor Company subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Company. Any departure from the conditions of this approval or the terms expressed in the application must receive the prior written authorization of U.S. EPA.

14. The United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co.* vs. *Douglas M. Costle* (78–1006 and consolidated cases) which has significant impact on the U.S. EPA prevention of significant deterioration (PSD) program and approval issued thereunder. The final decision will require modification of the PSD regulations and could affect approval issued under the existing program. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

15. This approval to construct does not relieve the Ford Motor Company of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the State Implementation Plan, as well as all other applicable Federal, State and local requirements.

16. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if expansion is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

17. A copy of this approval has been forwarded to the Lima Public Library, 650 W. Market Steet, Lima, Ohio 45801, for public inspection.

Dated: May 14, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–23200 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[OPTS–51099; FRL 1556–1]

Lignosulfonate Reaction Product With an Alkenoic Acid and an Inorganic Salt; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Linda Smith, Premanufacturing Review Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202/426–3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the

potential exposure descriptions in the **Federal Register**.

If no generic use description of generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 6, 1980, submit to the Document Control Officer (TS–793—. Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51099]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: July 24, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–162

Close of Review Period. October 6, 1980.

Manufacturer's Identity. Claimed confidential. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturer's site—Pacific region, U.S.

Standard Industrial Classification code—240.

Specific Chemical Identity. Claimed confidential. Generic name provided: Lignosulfonate reaction product with an alkenoic acid and an inorganic salt.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential. The product will be subjected to open use and release no more than 50 kilograms (kg) but less than 5,000 kg of the substance to the environment per year.

Production Estimates & Process Information. Claimed confidential.

Physical/Chemical Properties. Appearance—Amorphous dry powder. Bulk density—About 24 lb/cu ft. Solubility—Water soluble. pH of 1-percent solution—Range 3.5 to 5.

Toxicity Data. No data were submitted.

Exposure. Exposure will involve chemical industrial employees through skin contact and inhalation. The use will involve expsoure to commercial or industrial type employees as potential skin contact on an average frequency of less than once per week and frequent expsoure to skin contact with a mixture in which the substance will generally be present in less than 5 weight percent.

Environmental Release/Disposal. The release as industrial loss will be to the air and industrial waste stream to a private NPDES-permitted treatment lagoon.

[FR Doc. 80–23195 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–30157B; FRL 1556–4]

Rohm & Haas; Approval of Applications To Register Pesticide Products Containing New Active Ingredients; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This notice corrects the approval and registration date for the pesticide products BLAZER 2L and BLAZER 2S from May 29, 1980 to April 10, 1980.

FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Office of Pesticide Programs, Registration Division (TS 767), Room E–351, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 202/755–1397.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–16900 appearing at page 37725 in the issue of Wednesday, June 4, 1980, the approval date for the application of the pesticide products BLAZER 2L and 80P–594.

Blazer 2S in the third column, second paragraph, second line and the registration date for the products in the third column, second paragraph, 22nd line is changed from "May 29, 1980" to "April 10, 1890."

Dated: July 24, 1980.

Douglas D. Campt,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–23199 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1556–7]

Proposed Determination To Prohibit, or Deny Specification, or Use for Specification, of an Area as a Disposal Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Determination (Notice No. 80FL404–001, July 31, 1980.)

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq*) provides that, if the Administrator of the U.S. EPA determines that unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas, wildlife or recreational areas would result from the discharge of dredged or fill material, he may exercise his authority to withdraw or prohibit the defined area from specification as a disposal site. In effect, the Administrator would be vetoing a permit issued by the Corps of Engineers. The procedures for implementation of 404(c) are set forth in 40 CFR Part 231. This notice is being published in accordance with § 231.3(2) by the Regional Administrator of Region IV.

On March 25, 1977, the Corps of Engineers advertised permit application No. 77B–0376 which was a modification of permit No. 75B–0869 issued 15 March 1976. The applicant is the City of North Miami, Florida c/o Post, Buckley, Schuh and Jernigan, Inc., 7500 N. W. 52nd

Street, Miami, Florida 33166. The proposed project is located in Biscayne Bay and adjacent wetlands, east of U.S. 1 and north of NE 135 Street, in Sections 21 and 22, Township 52 South Range 42 East, North Miami, Dade County, Florida.

Background

Under Section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq*) any person who wishes to discharge dredged or fill material into the waters, including wetlands, of the United States must first obtain a dredge or fill permit from the Secretary of the Army, acting through the Chief of Engineers.

On March 15, 1976, the Jacksonville District Corps of engineers issued permit No. 75B–0869, which authorized the placement of fill material into 291 acres for a public recreational facility consisting of a 36-hole golf course, tennis courts and clubhourse. Within the project there were 8.2 acres of upland mangroves to be preserved and 3 shallow ponds with tidal connections.

Several million cubic yards of solid waste, including garbage, have been placed at the site since issuance of permit 75B–0869 on March 15, 1976. Wastes have been placed to a height of approximately 40' above sea level. Several lakes have been excavated at the site to −35' below sea level. Quantities of leachate containing ammonia in excess of 550 ppm have been observed flowing into one of the large lakes. The ammonia level in three of the lakes ranges from 5–20 ppm and these high ammonia levels are evidence of gross contamination. The lakes constructed at the site are an integral part of the proposed recreation complex and could be a significant hazard for anyone coming into contact with the contaminated water within the lakes. The contaminated lakes will not provide a desirable habitat for balanced populations of fishes and invertebrates. These deep lakes penetrate the highly porous Miami oolite, geologic structure. The direction of flow of groundwater within the Miami oolite is southeast, toward Biscayne Bay. There are a number of excavations nearby in Biscayne Bay that penetrate the Miami oolite, therefore, there is a direct hydrological connection between the contaminated lakes and Biscayne Bay. High levels of ammonia have also been observed in the mangrove preserve adjacent to the disposal area. There is significant potential for continuing leachate pollution of mangrove areas and Biscayne Bay from the solid waste that has already been placed at this site.

On March 25, 1977, the Corps of Engineers advertised permit aplication No. 77B–0376 which was a modification of permit No. 75B–0869. The proposed permit modifications included the:

a. Elimination of the three tidal ponds and their subsequent dredging to −35 feet mean sea level.

b. Elimination of the culverts through the dike, completely separating the mangrove preserve from the golf course.

c. Elimination of the upland preserve to have been contained within the golf course and converting it to a borrow area.

The Corps of Engineers' public notice No. 77B–0376, provided notification to the public that the 291 acre project area would be operated as a sanitary landfill.

On July 1, 1977, the Regional Administrator of EPA sent a letter to the District Engineer of the Corps of Engineers objecting to issuance of proposed permit No. 77B–0376. The Regional Administrator subsequently wrote additional letters of objection to the District Engineer on April 27, 1978; July 31, 1978; and August 16, 1979.

Since no resolution was reached at the Corps District level, the matter was elevated to the Division Level. On December 7, 1979, the EPA Regional Administrator sent a letter to the South Atlantic Division Engineer of the Corps of Engineers objecting to issuance of proposed permit No. 77B–0376.

On February 11, 1980, the Associate Assistant Administrator for Water and Waste Management of EPA sent a letter to the Deputy Director of Civil Works, Office of Chief Engineers of the Corps of Engineers, objecting to the issuance of the aforereferenced proposed permit.

Subsequently, on May 2, 1980, the Deputy Administrator of EPA sent a letter to the Assistant Secretary of the Army objecting to the issuance of the aforereferenced proposed permit. In a June 18, 1980, letter to the Deputy Administrator of EPA, the Assistant Secretary of the Army notified EPA of his intent to issue proposed permit No. 77B–0376. In response to the June 18, 1980, letter, EPA's Regional Administrator of Region IV proposed a determination to prohibit, or withdraw specification, or use for specification, of the area covered by proposed permit No. 77B–0376 as a disposal site. On June 25, 1980, the Regional Administrator notified the District Engineer of her intent to issue a public notice of a proposed determination to prohibit, or deny the specification, or use for specification, of the area covered by proposed permit No. 77B–0376 as a disposal site. If such a final determination is issued, it will prevent the subsequent discharge of waste or other fill material at this site.

Proposed Permit No. 77B–0376 would allow the addition of several more million cubic yards of solid waste (including garbage) to the disposal area located in waters of the United States. Biscayne Bay including adjacent mangrove areas, is an aquatic resource of national importance containing valuable shellfish and fisheries resources and has been designated as a State Aquatic Preserve. Recreational utilization of Biscayne Bay is also of significant value. Leachate contamination of Biscayne Bay, adjacent mangrove wetlands and the lakes could have an unacceptable adverse effect on shellfish beds and fishery areas (including spawning and breeding areas), wildlife, and recreational areas.

Purpose of the Public Notice

Region IV would like to obtain public comments on whether or not the impacts of leachate from solid waste entering Biscayne Bay, adjacent mangrove wetlands, and the recreational lakes represent an unacceptable adverse effect as described in Section 404(c) of the Clean Water Act. Any interested persons may submit written comments on the proposed determination. Comments should be directed to whether the proposed determination should become the final determination or whether corrective action could be taken to reduce the adverse impact of the discharge. All such comments will be considered in preparing the recommended determination.

Any interested person, affected land owner or permit applicant or holder may request a hearing by submitting a written request during the public comments period. All comments and/or requests for a hearing should be submitted by no later than September 21, 1980, to Cheryn B. Jones, Record Clerk, Enforcement Division, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881–3506.

FOR FURTHER INFORMATION CONTACT:

Cheryn B. Jones, Record Clerk, Enforcement Division, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365, 404/881–3506.

Interested persons may obtain additional information including copies of the proposed determination.

Dated: July 22, 1980.

Rebecca W. Hanmer,

Regional Administrator, EPA, Region IV.

[FR Doc. 80–23201 Filed 7–31–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1557-6]

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 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of July 21, 1980 to July 25, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from August 1, 1980 and will end on September 15, 1980. The 30-day review period for final EIS's as calculated from August 1, 1980 will end on September 1, 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: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective, pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of July 21, 1980 to July 25, 1980 the 30-day review period will be calculated from August 1, 1980. The review period will end on September 1, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of July 21, 1980 to July 25, 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: July 29, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I.—*EIS's Filed with EPA During the Week July 21 through 25, 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, Adminstration Building, Washington, D.C. 20250 (202) 447-3965.

Rural Electrification Administration

Draft Supplement

Catawba nuclear station unit 1 (DS-1), York County, S.C., July 25: Proposed is the awarding of financial asistance for the purchase of an undivided ownership interest in Catawba nuclear station unit 1 located in York County, South Carolina. Transmission associated with the station will consist of two 230 kV lines now under construction and three existing 230 kV lines to be connected to the Catawba switching station. In conjunction with this filing REA is adopting and supplementing a final EIS issued by NRC. No. 731920, filed 12-11-73. (USDA-REA (ADM)-80-9-DS) (EIS Order No. 800545).

Soil Conservation Service

Draft

Rattlesnake Creek watershed, several counties, Ohio, July 25: Proposed is a land treatment and channel modification plan for the Rattlesnake Creek watershed in Clinton, Fayette, Greene and Madison Counties, Ohio. The channel work involves 8.8 miles of obstruction removal, 1.6 miles of flush cut clearing, and 46.6 miles of deepening and/or widening. The alternatives include: (1) no action, (2) land use changes (3) Nonstructural measures, and (4) varying degrees of stream channel modification. (EIS Order No. 800543).

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen, Office of Environmental policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272-0121.

Draft

Brush Creek and tributaries flood protection, Johnson and Wyandotte Counties, Kans., Jackson County, Mo., July 21: Proposed is a flood protection plan for Brush Creek and its tributaries in Jackson County, Missouri, and Johnson and Wyandotte Counties, Kansas. Six plans ae being considered which are: (1) limited bridge and channel modifications, (2) extensive bridge and channel modifications, (3) same as plan 2 above with delection of the Volker Fountain Mall open channel, (4) underground diversion tunnel to divert waters to the Kansas River, and (5) a combination of plans 1 and 4 above. Cooperating agencies include DOI, EPA, and FEMA. (Kansas City District) (EIS Order No. 800535).

Mt. Saint Helens recovery operation, Cowlitz County, Wash., Columbia County, Oreg., July 25: Proposed are the Mt. Saint Helens revovery operations for Cowlitz County, Washington and Columbia County, Oregon. The operations will include: (1) reestablishment of navigable channels in the Columbia and Cowlitz Rivers, (2) removal of sediment and debris deposits in the Cowlitz River and Toulte River, and (3) construction of two debris retaining and associated catch basins on the Toutle River. (Portland District) (EIS Order No. 800542). A Waiver has been granted for the above EIS. See Appendix II.

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Envionmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 377-4335.

National Oceanic and Atmospheric Administration

Final Supplement

1980 Salmon fisheries management plan (FS-2), Pacific Ocean, July 25: This statement

supplements a final EIS, No. 780221, dated 3–8–78 concerning the management of salmon fisheries off the coasts of California, Washington, and oregon. The statement addresses the latest spawning escapement and stock assesment data which indicates that many of the 1980 salmon runs will be depressed, particularly coastal coho stocks, California chinooks, and upriver Columbia chinook stocks. Management objectives for 1980 remain the same as those listed in the FEIS. Comment made by: EPA, DOI, State, and local agencies. (EIS Order No. 800553). A Waiver has been granted for the above EIS. See Appendix II.

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Directors, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Building, Washington, D.C. 20585 (202) 252–4600.

Bonneville Power Administration

Final

Buckley-Summer Lake 500 kV line and substation, several counties, Oregon, July 25: Proposed is the construction of the Buckley-Summer Lake 500–kV transmission line and related facilities in Wasco, Jefferson, Crook, Deschutes, Lake and Klamath Counties, Oregon. The project will include the construction of the Buckley substation near Maupin and the Summer lake substation near silver Lake. The length of the line would 156 miles. The alternatives considered include: (1) local generation, (2) underground, and (3) methods of locating the transmission facilities. (DOE/EIS–0050–FS). Comments made by: AHP, EPA, COE, DOI, USDA, State agencies, and businesses (EIS Order No. 800550).

DEPARTMENT OF DEFENSE

Contact: Colonel R. A. Hamblin, Director, Office of Planning and Management, Defense Logistics Agency, Defense Property Disposal Service, Federal Center, Battle Creek, Michigan, 616–962–6511 Ext. 6672.

Draft

DDT, collection, transportation, and disposal, July 23: This document is a generic statement concerning the preparation of specifications for the safe collection, transportation and final disposal of DOD DTT stocks. These stocks, which include approximately 240,000 gallons liquid and 210,000 pounds of powder, are located at 70 military depots in 34 States, Puerto Rico, Guam, and three foreign countries. Disposal methods to be permitted are ocean incineration and on-land incineration as well as secure landfill and return to manufacturer under certain circumstances. (EIS Order No. 800537).

Environmental Protection Agency

Contact: Mr. Steve Torok, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–8334.

Draft

Olathe wastewater treatment facilities, Johnson County, Kans., July 22: Proposed is the awarding of a grant for the construction of wastewater treatment facilities in the city of Olathe, Johnson County, Kansas. The alternatives consider abandoning or expanding the Harold Street plant. (EPA–907/9–80–003) (EIS Order No. 800536).

Contact: Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2157.

Draft

Bemidji wastewater treatment system, Beltrami County, Minn., July 25: Proposed is the awarding of a grant for the construction of a wastewater treatment plant for the city of Bemidji, Beltrami County, Minnesota. The selected action would involve construction of a new plant at the site of the existing plant and would include discharge to the inlet of Lake Bemidji. The alternatives consider five conventional treatment systems and one land treatment system. (EIS Order No. 800544).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6300.

Draft

Greenwood lakes planned unit development, Seminole County, Fla., July 24: Proposed is the issuance of HUD home mortgage insurance for the Greenwood lakes planned unit development in Seminole County, Florida. The development encompasses 1,469 acres and will contain 5,110 townhouses, single-family and multifamily homes. The development will also include school, open space, park and lake areas. (HUD–R04–EIS–78–03) (EIS Order No. 800539).

Final

Sabal Point villages PUD, mortgage insurance, Seminole County, Fla., June 26: Proposed is the issuance of HUD home mortgage insurance for the Sabal point villages planned unit development in Seminole County, Florida. The development would encompass 760 acres of land. Presently 421 homesites have been built, 898 homesites are in various planning stages, and a 150-acre 18-hole golf course is under construction. For the remaining 1,904 homesites mortgage insurance is requested. Comments made by: EPA, COE, DOI, USDA, USAF, VA, TVA (EIS Order No. 800552). See Appendix VI for Correction Notice.

Homestead planned development, Stutsman County, N. Dak., July 25: Proposed is the issuance of HUD home mortgage insurance for the homestead planned development in Stutsman County, North Dakota. The development would include 540 single-family and multifamily units on 120 acres. Insurance has been requested for 50 units to be located on an 18 acre tract to be known as homestead III. (HUD–R08–EIS–80–VF). Comments made by: HEW, EPA (EIS Order No. 800549).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C., 20240 (202) 343–3891.

Bureau of Land Management

Draft

Johnson Valley to Parker motorcycle race, San Bernardino County, Calif., June 25: Proposed is the issuance of a permit for a point-to-point motorcycle race. The course runs approximately 235 miles starting in the Johnson Valley open area and ending at the start/finish of the Parker score 400 course in San Bernardino County, California. The alternatives consider: (1) The Patton's trail, and (2) no race. (EIS Order No. 800541)

North Idaho timber management, several counties, Idaho, July 25: Proposed is a timber management plan for northern Idaho. The area encompasses approximately 14,000,000 acres and covers several counties. Approximately 2.6 million cubic feet of timber is to be harvested from 80,489 acres of land available for timber production. The alternatives consider: (1) non-commodity emphasis, (2) commodity emphasis, (3) overmature accelerated harvest, (4) transfer of State lieu lands, and (5) no action. (DES–80–45) (EIS Order No. 800540).

National Park Service

Draft

Cape Lookout National Seashore, general management plan, Carteret County, N.C., July 25: Proposed is a general management plan for the Cape Lookout National Seashore in Carteret County, North Carolina. The plan would involve management of the Barrier Islands as natural areas, removal of existing development, prohibited POV use, a public transport system, inclusion of some areas in the National Wilderness Preservation System, use of public ferryboats, preservation of historic resources, and construction of administrative facilities. The alternatives consider: (1) no action, (2) maximum development, and (3) maximum wilderness. (DES–80–44) (EIS Order No. 800548).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

Federal Highway Administration

Draft

Kalamazoo rail consolidation program, Kalamazoo County, Mich., July 23: Proposed is a rail consolidation program for the city and county of Kalamazoo, Michigan. The program would involve (1) consolidation of the existing three parallel rail corridors into a single north-south right-of-way in the most easterly of the corridors, (2) construction of a grade separation carrying Michigan and Kalamazoo Avenue over the consolidated rail corridors. Considered are train rerouting alternatives and rail system modification alternatives. (FHWA–MI–EIS–80–2–D) (EIS Order No. 800538).

I–30, I–820 to Summit Avenue, city of Fort Worth, Tarrant County, Tex., July 25: Proposed is the widening of I–30 from I–820 east to Summit Avenue in the city of Fort Worth, Tarrant County, Texas. The facility

would be a six lane controlled access freeway from I–820 to Camp Bowie Boulevard and eight lanes for the remainder of the route to Summit Avenue. The alternatives consider three designs for a section of the facility from Horne Street to Clover Lane which are: (1) widen on the north side, (2) widen to the south, and (3) a combination of both in different sections. (FHWA-TEX-EIS-80/02–D) (EIS Order No. 800546).

Final

Hawaii Belt Road, Holualoa-Papa, Kona County, Hawaii, July 25: Proposed is the realignment and improvement of segments of the existing Hawaii Belt Road from Holualoa to Papa in the north and south Kona Districts within the county, island and State of Hawaii. The length of the facility is approximately 31 miles. In addition to no action, seven corridor alignments are considered. (FHWA–HI–EIS–76–02–F). Comments made by: USDA, DOI, AHP, State and local agencies, groups and businesses (EIS Order No. 800551).

Tennessee Valley Authority

Contact: Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Tennessee Valley Authority, Forestry Building, Norris, Tennessee 37828 (615) 632–6450 FTS 856–6450.

Draft

Alternative electric power rate structures, regulatory, July 25: Proposed is the adoption and implementation of alternative rate structures. The standards under consideration include: (1) rates based on cost of service, (2) elimination of declining block rates, (3) adopting time-of-day rates, (4) adopting seasonal rates, (5) offering interruptible rates to commercial and industrial customers, (6) offering cost-effective load management, and (7) special additional charge for new, energy ineffecient homes. (EIS Order No. 800547).

EIS's Filed During the Week of July 21, 1980 Through July 25, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Original agency No.
California	San Bernardino	Draft	Johnson Valley to Parker Motorcycle Race	800541	07–25–80	DOI.
Florida	Seminole	Draft	Greenwood Lakes Planned Unit Development	800539	07–24–80	HUD.
	Seminole	Final	Sabal Point Villages PUD, Mortgage Insurance	800552	07–25–80	HUD.
Hawaii	Kona	Final	Hawaii Belt Road, Holualoa-Papa	800551	07–25–80	DOT.
Idaho	Several	Draft	North Idaho Timber Management	800540	07–25–80	DOI.
Kansas	Wyandotte	Draft	Brush Creek and Tributaries Flood Protection	800535	07–21–80	COE.
	Johnson	Draft	Brush Creek and Tributaries Flood Protection	800535	07–21–80	COE.
	Johnson	Draft	Olathe Wastewater Treatment Facilities	800536	07–22–80	EPA.
Missouri	Jackson	Draft	Brush Creek and Tributaries Flood Protection	800535	07–21–80	COE.
Michigan	Kalamazoo	Draft	Kalamazoo Rail Consolidation Program	800537	07–23–80	DOT.
Minnesota	Beltrami	Draft	Bemidji Wastewater Treatment System	800544	07–25–80	EPA.
North Carolina	Carteret	Draft	Cape Lookout National Seashore, General Mgmt. Plan.	800548	07–25–80	DOI.
North Dakota	Stutsman	Final	Homestead Planned Development	800549	07–25–80	HUD.
Ohio	Several	Draft	Rattlesnake Creek Watershed	800543	07–25–80	USDA.
Oregon	Several	Suppl	Buckley-Summer Lake 500 KV Line and Substations.	800550	07–25–80	DOE.
	Columbia	Draft	Mt. Saint Helens Recovery Operation	800542	07–25–80	COE.
Pacific Ocean		Suppl	1980 Salmon Fisheries Management Plan (FS–2)	800553	07–25–80	DOC.
Regulatory		Draft	Alternative Electric Power Rate Structures	800547	07–25–80	TVA.
Several		Draft	DDT, Collection, Transportation and Disposal	800537	07–23–80	DOD.
South Carolina	York	Suppl	Catawba Nuclear Station Unit 1 (DS–1)	800545	07–23–80	USDA.
Texas	Tarrant	Draft	I–30, I–820 to Summit Avenue, City of Fort Worth	800546	07–25–80	DOT.
Washington	Cowlitz	Draft	Mt. Saint Helens Recovery Operation	800542	07–25–80	COE.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF DEFENSE					
Colonel R. A. Hamblin, Director, Office of Planning and Management, Defense Logistics Agency, Defense Property Disposal Service, Federal Center, Battle Creek, Michigan, (616) 962–6511.	DDT, Safe Collection, Transportation and Final Disposal.	Draft 800537	Aug. 1, 1980	Extension	Sept. 26, 1980.
DEPARTMENT OF AGRICULTURE					
Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A, Administration Building, Washington, D.C. 20250, (202) 447–3965.	Catawba Nuclear Station, Unit 1, York County, South Carolina.	Draft Supp. 800545	Aug. 1, 1980	Extension	Oct. 1, 1980.
CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEB–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.	Mt. Saint Helens Recovery Operations, Cowlitz County, Washington and Columbia County, Oregon.	Draft 800542	Aug. 1, 1980	Waiver	Aug. 22, 1980.
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377–4335.	1980 Salmon Fisheries FMP, Off the Coasts of California, Oregon and Washington, Pacific Ocean.	Final Supp. 800553	Aug. 1, 1980	Waiver	Aug. 1, 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.
CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Tampa Harbor Deepening Project, Florida.	July 21, 1980	800534

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/ accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF HUD				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of HUD, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.	Sabel Point Villages, Seminole County, Florida.	Final 800552	Aug. 1, 1980	The EIS was not filed with EPA at the time of distribution. The Notice would have appeared in the July 7, 1980, FEDERAL REGISTER. The comment period will terminate on August 8, 1980.

[FR Doc. 80-23287 Filed 7-31-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL RESERVE SYSTEM

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 August 22, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

1. Industrial National Corporation, Providence, Rhode Island (mortgage banking and servicing activities; Utah): To engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and servicing residential mortgage loans. These activities would be conducted from an office in Orem, Utah, serving the following Utah counties: Box Elder, Carbon, Davis, Emery, Juab, Salt Lake, Summit, Toorle, Utah, Wasatch and Weber.

2. Industrial National Corporation, Providence, Rhode Island (mortgage banking and servicing activities; Utah and Colorado): To engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and servicing residential mortgage loans. These activities would be conducted from an office in Vernal, Utah, servicing the Utah counties of Duchesne and Uintah and the Colorado counties of Garfield, Mesa, Moffat and Rio Blanco.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Midland Capital Co., Oklahoma City, Oklahoma (mortgage banking activities; Arizona): To engage, through its subsidiary, Midland Mortgage Co., in mortgage banking activities, including the origination and servicing of all types of residential and commercial mortgage loans. This application is to reopen an office in Tempe, Arizona, at which these activities were previously commenced *de novo* and thereafter terminated as of February 25, 1980. The area to be served is eastern Maricopa County, and all of Pinal, Gila, Navajo, and Graham Counties all in Arizona.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 25, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23159 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Continental Bancshares, Inc.; Formation of Bank Holding Company

Continental Bancshares, Inc., Minneapolis, Minnesota, 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 91.2 percent or more of the voting shares of Gambles Continental State Bank, St. Paul, Minnesota. 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 athe 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 August 25, 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, July 24, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23166 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Continental Illinois Corp.; Application To Continue To Engage in Certain Insurance Activities

Continental Illinois Corporation, Chicago, Illinois, 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 continue to engage, through its subsidiary, Republic Realty Mortgage Corporation, Chicago, Illinois, in acting as agent or broker in connection with the placement of property and casualty insurance directly related to real estate loans it originates or services. These activities would be performed from offices of Applicant's subsidiary in Chicago, Illinois, and the geographic area to be served is primarily the Chicago SMSA, but also the State of Illinois. 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 section §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 Chicago.

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 August 15, 1980.

Board of Governors of the Federal Reserve System, July 24, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23160 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

First National Beatrice Corp.; Formation of Bank Holding Company

First National Beatrice Corporation, Beatrice, Nebraska, 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 93 percent or more of the voting shares (less directors' qualifying shares) of The First National Bank & Trust Company of Beatrice, Beatrice, Nebraska. 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 Kansas City. Any person wishing to comment on

the application should submit views in writing to the Reserve Bank, to be received not later than August 25, 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, July 25, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23161 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Corwith State Bancshares, Inc.; Proposed Acquisition of North Central Insurance Services

Corwith State Bancshares, Inc., Corwith, Iowa, 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 acquire voting shares of North Central Insurance Services, Corwith, Iowa.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Corwith, Iowa, and the geographic areas to be served are Corwith, Iowa and adjacent areas of Hancock and Kossuth Counties, Iowa. 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 Chicago.

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 August 25, 1980.

Board of Governors of the Federal Reserve System, July 25, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23163 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Northwest Bancshares, Inc.; Formation of Bank Holding Company

Northwest Bancshares, Inc., Vancouver, 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 80 per cent or more of the voting shares of Northwest National Bank, Vancouver, Washington. 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 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 August 25, 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, July 24, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23162 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Rose Hill Bancorp, Inc.; Formation of Bank Holding Company

Rose Hill Bancorp, Inc., Rose Hill, Kansas, 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 80.2 percent or more of the voting shares of The Rose Hill State Bank, Rose Hill, Kansas. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 25, 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, July 24, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 80-23165 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Schreiner Bancshares, Inc.; Formation of Bank Holding Company

Schreiner Bancshares, Inc., Kerrville, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Chas. Schreiner Bank, Kerrville, Texas. 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 Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 22, 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 question 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, July 25, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board

[FR Doc. 80-23164 Filed 7-31-80; 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 (or 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 August 25, 1980.

A. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First International Financial Corporation, Beverly Hills, California (finance activities; Texas): to engage through its subsidiary First International Bancshares, Inc., in making or acquiring for its own account or for the account of others, secured loans such as would be made by a finance company. These activities would be conducted from an office in Houston, Texas, serving the State of Texas.

2. First International Financial Corporation, Beverly Hills, California (leasing activities; Texas): to engage through its subsidiary First International Bancshares, Inc., in leasing personal property in conformity with 12 CFR 225.4(a)(6)(i). These activities will be conducted from an office in Dallas, Texas, serving the State of Texas.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23231 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Canton Bancorporation, Inc.; Formation of Bank Holding Company

Canton Bancorporation, Inc., Canton, Oklahoma, 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 Bank of Canton, Canton, Oklahoma. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 21, 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, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23232 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

First Wyanet Investment Corp.; Proposed Retention of Skaggs-Olds Insurance Agency and of E.W. Williams Agency

First Wyanet Investment Corporation, Galesborg, Illinois, 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 retain one-half interest in Skaggs-Olds Insurance Agency, Wyanet, Illinois, and E.W. Williams Agency, Wyanet, Illinois.

Applicant states that the agencies would continue to engage in general insurance agency activities in a town of less than 5,000 population. These activities would be performed from offices of Applicant's subsidiary in Wyanet, Illinois, and the geographic areas to be served are Bureau, Marshall, and Putnam Counties, Illinois. 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 Chicago.

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 August 21, 1980.

Board of Governors of the Federal Reserve System, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23228 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

Northern Bankshares, Inc.; Formation of Bank Holding Company

Northern Bankshares, Inc., McFarland, Wisconsin, 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 McFarland State Bank, McFarland, Wisconsin. 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 August 21, 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, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23229 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Acquisition of Bank

U.S. Bancorp, Portland, Oregon, 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 100 percent of the voting shares of The Forest Grove National Bank, Forest Grove, Oregon. 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 August 20, 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, July 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-23230 Filed 7-31-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0143]

Bio-Dynamics/BMC; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing for public comment the recommendation of the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel that the urine leukocyte test, Chemstrip L, be reclassified from class III (premarket approval) into class II (performance standards). This recommendation was made after review of a reclassification petition filed by Bio-Dynamics/bmc, Indianapolis, IN 46250. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the **Federal Register**.

DATE: Comments by September 2, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On June 21, 1979, Bio-Dynamics/bmc, Indianapolis, IN 46250, submitted to FDA a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.,C. 360(k)) stating that it intended to market a device the manufacturer calls "Chemstrip L". After reviewing the information in the premarket notification, FDA determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Accordingly, the device is automatically classified into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III because of section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) or have an approval of an application for premarket approval under section 515 of the act (21 U.S.C. 360e), unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

On November 19, 1979, Bio-Dynamics/bmc submitted to FDA a reclassification petition for the device under section 513(f)(2) of the act, which requires FDA to refer a reclassification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny a petition. On April 9, 1980, the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel (the Panel) reviewed the petition and recommended that the device be reclassified into class II.

To determine the proper classification of the device, the Panel considered the criteria specified in section 513(a)(1) of the act. For the purpose of classification, the Panel assigned to this generic type of device the name "Urine Leukocyte Test" and described this type of device as a dip strip test used to indicate the presence of leukocytes in human urine. The presence of significant levels of leukocytes in urine (leukocyturia) is a symptom of many inflammatory diseases of the kidney or urinary tract, including cystitis (inflammation of the urinary bladder) and urethritis (inflammation of the urethra). In some cases, for example, acute or chronic pyelonephritis (inflammation of the kidney and pelvis), the inflammation may be due most often to bacterial infection. In other cases the cause of the inflammation may be an immune or autoimmune response. An inflammatory response may also be caused by the excretion of certain drugs.

Summary of the Reasons for the Recommendation

The Panel gave the following reasons in support of its recommendation on reclassification:

1. The device is not an implant, is neither life sustaining nor life supporting, and does not present a potential unreasonable risk of illness or injury.

2. Although general controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the device, sufficient scientific and medical data exist to establish a performance standard to provide such assurance by prescribing for the device acceptable ranges of accuracy, precision, sensitivity, and specificity.

3. The information derived from the use of the device may be potentially hazardous to life, health, or well-being when put to its intended use. The possibility exists that leukocytes present in urine may not be detected accurately, resulting in misdiagnosis or improper treatment.

4. The panel also made the following recommendations: The label for the device needs to show and the labeling for the device needs to state that test results are reported qualitatively, not quantitatively. The expiration date may be a maximum of 2 years from the date of manufacture. The labeling needs to include the following statements:

a. The effects of potentially interfering drugs and/or their metabolites on test results have not yet been evaluated.

b. There is the potential for a false-negative test result among persons

taking high levels (2 to 4 grams daily) of ascorbic acid (vitamin C).

c. High levels of albumin (300 to 500 milligrams (mg) per deciliter (dL)) in the urine may interfere with test results.

d. The urine specimen should be cleanly voided.

Summary of Data on which the Recommendation is Based

The Panel based its recommendation on the performance characteristics of the device.

The effectiveness and reliability of Chemstrip L was demonstrated in studies conducted in 11 medical institutions throughout Europe (Ref. 1). A total of 1,985 specimens of noncentrifuged fresh urine were evaluated by Chemstrip L and quantitative microscopic chamber count. Sediment counts (the routine method of leukocyte detection) were also performed on 1,514 of these urines. A leukocyte chamber count of more than 10 cells per microliter (μL) was considered a "pathologic" sample. A positive Chemstrip L test was blue coloration of the test strip after 15 minutes. Each evaluator used the sediment count method routinely performed in his or her own labortory as well as his or her laboratory's own criteria for a "normal" or "pathologic" classification. The comparison of Chemstrip L results to quantitative microscopic chamber count resulted in a sensitivity of 90.8 percent, a specificity of 86.9 percent, and an overall efficiency of 89.6 percent. The comparison of the sediment count results to quantitative microscopic chamber count resulted in a sensitivity of 84.0 percent, a specificity of 81.3 percent, and an overall efficiency of 83.4 percent. The Chemstrip L test results, therefore, correlated more closely to the microscopic chamber count method than the sediment count method, the method of leukocyte detection routinely used in the hospital laboratory.

Urinary leukocytes often disintegrate when a period of time elapses between urine collection and analysis. The effect of leukocyte disintegration on the results of the Chemstrip L test and quantitative microscopic chamber count was demonstrated in 3 groups of 10 urine specimens containing a significant number of leukocytes. One group had a pH of 8 or above and a specific gravity of less than 1.005, conditions which are known to cause increased leukocyte breakdown. The second group had a pH of 5 or above and a specific gravity of less than 1.020. The third group had an osmolality of 370 to 834 milliosmoles per liter. Each specimen was monitored by chamber count and Chemstrip L after 1, 2, 3, and 5 hours storage at room temperature. In all cases the test strip color read the same or increased in intensity or brightness, while the chamber count values remained constant or decreased with storage time. These test results may be explained by supposing that the esterase liberated from the damaged leukocytes may react more quickly with the test strip than does the esterase located within the intact cell. The Chemstrip L, therefore, indicates the presence of urinary leukocytes after they have broken down and are no longer microscopically visible.

The specificity of the test strip was investigated in model studies (Ref. 1). Suspensions of granulocytes in urine produced a marked positive reaction, while lymphocytes caused a faint blue coloration.

Studies were conducted to determine the effect of potentially interfering factors on the assay. The Chemstrip L test strip was not affected by hemolyzed or intact erythrocytes (up to 10,000 erythrocytes per L), sperm, nitrite, or bacteria commonly present in urine. The test strip reaction was inhibited by albumin (greater than or equal to 300 mg per dL) or ascorbic acid (greater than or equal to 50 mg per dL). The presence or trichomonads in urine caused an increased reaction of the test strip. However, because leukocytes always accompany trichomonads in urine, this reaction would never represent a false-positive.

Drug interference studies were conducted by spiking urine samples with known levels of leukocytes and physiological concentrations of various drugs, and testing the samples with Chemstrip L. The test strip reaction was inhibited by two drugs (nitrofurantoin and sulfamethoxazol) commonly used to treat conditions accompanying leukocyturia. Nitrofuranton in urine at a level of 0.5 mg per mL and sulfamethoxazol in urine at 1.3 mg per mL inhibited the reaction, but in neither case was a definite positive reaction inhibited to yield a negative result. Twenty-one other commonly encountered drugs were added to the urine specimens and did not interfere with the test.

As explained above, the drug interference studies were conducted by spiking urine samples. The Panel rejected these studies because they did not evaluate urine samples of patients who had taken drugs and excreted the drugs or their metabolites. The Panel therefore recommended that the labeling for the device state that the effects of potentially interfering drugs and/or their metabolites on test results have not yet been evaluated.

The stability of the test strips was estimated to be 2 years at room temperature (less than 30° C). This figure was derived from the storage of two lots of test strips at the following temperature conditions: Refrigerator temperature, room temperature, a constant temperature of 35° C, a high temperature (50° C), dry variable climate, and humid variable climate. At the end of 6 months and 12 months storage times, the strips were evaluated visually for their ability to indicate the presence of leukocytes in urine. The strips were also assayed chemically for their indicator content after 1.5, 3, 6, and 12 months. Only the test strips maintained at 50° C showed discoloration and failed to correspond to the comparison colors when tested with leukocyte-containing urine. These same strips also showed a decrease in indicator content. For this information a 2 year stability at room temperature was extrapolated.

Risks to Health

The Panel noted that the device is of substantial importance in preventing impairment of human health. The Panel also noted that there is a risk of inaccurate results from the use of the device which may lead to misdiagnosis or improper treatment of many inflammatory diseases of the kidney and urinary tract. Inaccurate results may occur because of the device's lack of sensitivity and specificity.

Additional Finding

The Panel recommended that development of a standard be a medium priority. Priority was established in accordance with the medical significance of this device in relation to other devices.

References

The petition, the transcript of the Panel meeting, and the following material are on public file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Banauch, D., et al., "The Detection of Leukocytes in the Urine with the Aid of a Test Strip. A Cooperative Study Involving Eleven Centres," *Deutsche Medizinische Wochenschrift*, 104(35):1236–1240, 1979.

Interested persons may, on or before September 2, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written

comments on the recommendation. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 24, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 80-22774 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George R. White, District Director, Atlanta District Office, Atlanta, GA.

DATE: The meeting will be held at 1:30 p.m., Tuesday, August 5, 1980.

ADDRESS: The meeting will be held at the Food and Drug Administration, 1182 W. Peachtree St. NW., 2d Floor, Atlanta, GA.

FOR FURTHER INFORMATION CONTACT: Wilhelmina M. Lombardi, Consumer Affairs Officer, Food and Drug Administration, 1182 W. Peachtree St. NW., Atlanta, GA 30309, 404-881-7355.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Atlanta District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-22772 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-03-M

Office of Human Development Services

Adoption Assistance and Child Welfare; Meeting

July 29, 1980.

The Office of Human Development Services is developing regulations to implement the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272) which was signed into law on June 17, 1980. The Act strengthens and improves the program of Federal support for foster care of needy and dependent children, establishes a program of Federal support to encourage adoptions of children with special needs, and makes improvements in the Title XX social services program.

We have invited several interest groups to participate in an initial meeting to present to them an overview of the process and to indicate the points for public input, to introduce key Department staff, and to identify the significant issues for consideration in developing the regulations.

Following is a list of some of the major issues identified at this time. This list will be used as a starting point for additions and other suggestions at the August 8 meeting:

Issues

1. Definition of single State agency
2. Audit—Program and/or fiscal
3. Definition of reasonable effort to prevent removal of child from own home
4. Criteria for consideration of what is adequate assurance of "appropriateness of placement"
5. What will satisfy the "Case review system" requirement? What are "rights of parents"?
6. How to define "administrative review"? Acceptable "other" person to participate
7. Definition of "single organization unit"
8. Payments to States—How to establish 1979 expenditure base—what included
9. Inventory of children in placement. What requirements will be imposed by Secretary?
10. Services program to return home or place in adoption in legal guardianship. What elements are required?
11. Payments to Indian Tribal organizations
12. Identification of elements essential for inclusion in standards applied by the State to foster family homes or child care institutions.

The meeting is scheduled for Friday, August 8, 1980, in Room 403A, 9:00 a.m. to 1:00 p.m. Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

The meeting is not planned as a public hearing, but rather a discussion between HHS officials and some of the national organizations who have worked on this legislation. It is planned as the first of a series of meetings to be held in Washington and around the country over the coming months. The public is invited to sit in on the discussion. The last hour of the meeting (12:00 noon to 1:00 p.m.) will be set aside for questions and comments from the public.

Individuals or organizations interested in commenting in writing on the issues listed above or other regulatory issues in Pub. L. 96-272 should write to Dorothy Sortor Stimpson, Office of the Secretary, Planning and Evaluation, 200 Independence Avenue SW., Washington, D.C. 20201 (202)245-6665.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-23259 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service—Center for Disease Control

Project Grants—Health Programs for Refugees; Emergency Notice of Availability of Fiscal Year 1980 Funds

The Center for Disease Control announces the availability of funds in fiscal year 1980 for Project Grants for Health Programs for Refugees, Catalog of Federal Domestic Assistance Number 13.987, as authorized under Section 412(c)(3) of the Immigration and Nationality Act as amended by the Refugee Act of 1980, Pub. L. 96-212. A total of $4.839 million is available in fiscal year 1980.

The purpose of the program is to augment State and local resources in meeting public health needs associated with refugees and in providing general health assessments of refugees where necessary. The term "refugee" is defined in Section 101(a)(42) of the Immigration and Nationality Act.

For purposes of refugee health program planning, refugee status can be assumed for all aliens who have arrived in the United States from Indochina since 1975. Most Cubans and Haitians who have recently arrived in the U.S. (INS Form I-94, "Cuban/Haitian Entrant") and other aliens who are "applicants for asylum" (as indicated on INS Form I-94) have not been granted refugee status, and funds are not available to meet their health needs through this grant program at present.

Eligible applicants are official State health agencies and, in consultation with the State health agency, health agencies of political subdivisions of a State. Direct grants to health agencies of political subdivisions will not be considered for funding in 1980 where the State health agency applies for and receives a grant for programs within the State, except in special situations which are clearly justified to the Regional Health Administrator, Public Health

Service, of the appropriate Department of Health and Human Services Regional Office. States are expected to work with agencies and organizations in localities with significant refugee populations to identify their health needs and to develop programs to meet these needs.

Funding priorities in 1980 will be based on: (1) unmet public health needs associated with refugees; and (2) the need for general health assessment of refugees, with particular attention given to the identification of health problems which might affect employability, the referral of refugees to appropriate services, and the identification of funding sources for needed services.

Applications will be reviewed on the basis of (1) the size of the refugee population; (2) the extent of health problems among refugees; (3) the need for assistance in addressing health problems; and (4) the capability of applicant agencies to deliver or coordinate the delivery of needed services, including the identification of providers of services, the establishment of referral programs, and the identification of financing arrangements for services.

Notification of Intent to Apply for Federal Assistance, Standard Form 424, must be received by the appropriate Regional Health Administrator by 4:30 p.m. (local time), August 15, 1980. Copies of this form should be mailed simultaneously to State and areawide clearinghouse pursuant to procedures in Part I, Attachment A, OMB Circular No. A-95 (revised). Information copies of the Notification of Intent to Apply for Federal Assistance should also be mailed to the appropriate health systems agencies.

Applications must be submitted to the appropriate Regional Health Administrator no later than September 2, 1980. Due to the urgency of awarding grants before September 30, 1980, it may not be possible to consider late applications this year. Copies of applications should be submitted to State and areawide clearinghouses and health systems agencies. A copy should also be mailed to the Director, Bureau of State Services, Center for Disease Control, Atlanta, Georgia 30333.

Applications must include a description of the size and geographic locations of the refugee population in the State, the known public health problems associated with refugees in these areas, and the initial plan for developing and evaluating programs to meet these public health needs or to implement health assessment activities. Plans for involvement of local health agencies, federally assisted and other health care providers, nutrition programs, and voluntary agencies should be included in this initial plan, including the steps which will be taken to identify financing arrangements for treatment or rehabilitation associated with identified health problems. Except in special situations which are explained and justified to the satisfaction of the Regional Health Administrator, grant funds will not be available for direct curative or rehabilitation services. It is expected that other sources of support will be identified for these purposes.

A more detailed plan must be submitted within 90 days after a grant is awarded to supplement information provided in the application.

Guidelines which spell out the scope and requirements of the program are available from the Regional Health Administrator in the appropriate Department of Health and Human Services Regional Office as set forth below. Guidelines should be reviewed before preparing grant applications.

Dated:

William H. Foege,

Director, Center for Disease Control.

Department of Health and Human Services Regional Offices

Edward J. Montminy, Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203.
Arthur B. Harper, Director, Division of Preventive Health Services (617) 223-4045.
Mary O'Brien, Director, Office of Grants Management (617) 223-6680.

Karst J. Besteman, Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10007.
James D. Andersen, Director, Division of Preventive Health Services (212) 264-4496.
Raymond Vacca, Director, Office of Grants Management (212) 264-4493.

H. McDonald Rimple, M.D., Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadephia, Pennsylvania 19101.
Joseph R. Carter, Director, Division of Preventive Health Services (215) 596-6650.
Fred Gill, Director, Office of Grants Management (215) 596-6653.

George A. Reich, M.D., Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323.
Gene P. Lewis, D.D.S., M.P.H., Director, Division of Preventive Health Services (404) 221-2313.
William Lyons, Regional Executive Officer (404) 221-2319.

E. Frank Ellis, M.D., Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606.
Thomas C. Klapperich, Director, Division of Preventive Health Services (312) 886-3653.
Catherine Bartley, Director, Office of Grants Management (312) 353-8700.

Sam Bell, Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202.
Gerald D. Barton, M.D., Director, Division of Preventive Health Services (214) 767-3916.
Robert Winston, Director, Office of Grants Management (214) 767-3885.

Youn Bock Rhee, Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106.
Francis K. Berry, Director, Division of Preventive Health Services (816) 374-3915.
Dean Chocholousek, Director, Office of Grants Management (816) 374-5841.

Hilary H. Connor, M.D., Regional Health Administrator, PHS, HHS Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294.
Tom G. Ortiz, Director, Division of Preventive Health Services (303) 837-4741.
Gary Fahlstedt, Acting Director, Office of Grants Management (303) 837-4463.

Sheridan L. Weinstein, M.D., Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102.
Gordon Soares, Office of the Regional Health Administrator, PHS (415) 556-6185.
Alan Harris, Chief, Office of Grants Management (415) 556-2595.

Dorothy H. Mann, Regional Health Administrator, PHS, HHS Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101.
Robert G. Kolar, Director, Division of Preventive Health Services (206) 442-0530.
Pat Walker, Director, Office of Grants Management (206) 442-7997.

[FR Doc. 80-23305 Filed 7-31-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1016]

Performance Review Board; Establishment and Membership

AGENCY: Housing and Urban Development Department.

ACTION: Notice of Establishment and Membership of the Performance Review Board.

SUMMARY: This Notice announces the establishment by the Secretary of the Department of Housing and Urban Development of the Department's Performance Review Board (PRB) and the appointment of 30 individuals to a register from which members of the PRB panels will be selected, as provided in Section 4314 of Title 5, United States Code.

The purpose of the Performance Review Board is to review initial senior executive appraisals and ratings and to make recommendations to the Secretary (or the Inspector General) on the performance ratings of senior executives in the Department, and the distribution and amount of performance awards.

ADDRESSES: The names, titles and addresses of the individuals appointed to a register from which members of the Performance Review Board panels will be selected are:

1. William O. Anderson, Regional Administrator, Region VII, Department of Housing and Urban Development, Kansas City, Missouri 64106.
2. H. Dicken Cherry, Assistant Secretary, Legislation and Intergovernmental Relations, Department of Housing and Urban Development, Washington, D.C. 20410.
3. John Clinton, Director, Office of Program Policy and Management, New Community Development Corporation, Department of Housing and Urban Development, Washington, D.C. 20410.
4. S. Leigh Curry, Deputy General Counsel (Operations), Office of the General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410.
5. Larry Dale, Associate Deputy Assistant Secretary for Multifamily Housing Programs, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410.
6. Terrence Duvernay, Acting Executive Assistant to the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.
7. Robert Fagin, Director, Office of Organization and Management Information, Office of Administration, Department of Housing and Urban Development, Washington, D.C. 20410.
8. Walter Farr, General Deputy Assistant Secretary, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410.
9. Shelly Friedman, Regional Administrator, Region I, Department of Housing and Urban Development, Boston, Massachusetts 02203.
10. David Garrison, Deputy Assistant Secretary for Policy Development, Office of Policy Development and Research, Department of Housing and Urban Development, Washington, D.C. 20410.
11. Ronald Gatton, Regional Administrator, Region V, Department of Housing and Urban Development, Chicago, Illinois 60606.
12. Patricia Hampton, Deputy Director, Office of Public Housing, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410.
13. Vincent J. Hearing, Deputy Assistant Secretary for Administration, Office of Administration, Department of Housing and Urban Development, Washington, D.C. 20410.
14. Thomas O. Jenkins, Director, Office of Management and Field Coordination, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.
15. Roosevelt Jones, Director, Office of Field Operations and Monitoring, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410.
16. Peter Kaplan, Deputy Assistant Secretary for Operations and Management, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.
17. Lawrence Kullman, Executive Assistant to the Secretary, Immediate Office of the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.
18. Warren Lasko, Vice President (Mortgage Backed Securities), Government National Mortgage Association, Department of Housing and Urban Development, Washington, D.C. 20410.
19. Ronald Laurent, President, Government National Mortgage Association, Department of Housing and Urban Development, Washington, D.C. 20410.
20. W. Oliver Leggett, Deputy Regional Administrator, Region II, Department of Housing and Urban Development, New York, New York 10007.
21. Jane McGrew, General Counsel, Office of the General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410.
22. Clyde McHenry, General Deputy Assistant Secretary for Housing/Deputy Federal Housing Commissioner, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410.
23. William A. Medina, Assistant Secretary for Administration, Office of Administration, Department of Housing and Urban Development, Washington, D.C. 20410.
24. Albert M. Miller, Deputy Under Secretary for Field Coordination, Immediate Office of the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.
25. Elizabeth Raymond, Assistant to the Secretary for Labor Relations, Immediate Office of the Secretary, Department of Housing and Urban Development, Washington, D.C. 20410.
26. Betsy Stafford, Area Manager, Greensboro Area Office, Department of Housing and Urban Development, Greensboro, North Carolina 27401.
27. Irving Statman, Area Manager, Dallas Area Office, Department of Housing and Urban Development, Dallas, Texas 75201.
28. Geraldine Thompson, Regional Administrator, Region IV, Department of Housing and Urban Development, Atlanta, Georgia 30303.
29. John Tuite, Area Manager, Los Angeles Area Office, Department of Housing and Urban Development, Los Angeles, California 94102.
30. Betti Whaley, Associate Deputy for Enforcement and Compliance, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Department of Housing and Urban Development's Performance Review Board may contact Charles V. St. Lawrence, Acting Director of Personnel, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-5500.

Issued at Washington, D.C., July 28, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-23226 Filed 7-31-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Final Decision on the Nonwilderness Assessment of the Alaska Natural Gas Transportation System Route

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to confirm the final Nonwilderness decision of June 2, 1980.

SUPPLEMENTARY INFORMATION: The final decision on the Nonwilderness Assessment was published on June 2, 1980 (45 FR 37304). During the 30-day appeal period following that announcement no appeals were filed. Accordingly, the final decision became effective July 2, 1980.

Robert W. Arndorfer,

Acting Associate.

[FR Doc. 80-23081 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Third Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service announces that it will hold a public meeting on Thursday, August 7, 1980 from 1:00 to 4:00 p.m. in room 5160 of the main building of the Department of the Interior, 18th and C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235-2418.

SUPPLEMENTARY INFORMATION: A follow-up notice will set forth agenda items which the Service will transmit to the Secretariat requesting that they be added to the provisional agenda for the third regular meeting of the Conference of the Parties to CITES. It will also set forth those items which were suggested in response to the Service's notice of May 9, 1980 (45 FR 3100), but will not be so transmitted and the reasons therefor.

The items to be transmitted to the Secretariat will be the object of information and comments at the public meeting.

The Service will also receive information and comments at this meeting on its preliminary views on potential proposals for changes in the lists of animal and plant species included in Appendices I and II to CITES. (See the Service's notice of July 21, 1980, 45 FR 48830).

Dated: July 28, 1980.

Joan C. Anthony,

Chief, Managment Operations Branch, Federal Wildlife Permit Office.

[FR Doc. 80-23148 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Known Recoverable Coal Resource Area; Whitley City, Ky.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of Kentucky have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(12) Kentucky

Whitley City (Kentucky) Known Recoverable Coal Resource Area; March 14, 1980; 29,160 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Managment. Copies of the diagram and the land description may be obtained from the Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, NW., Suite 204, Washington, D.C. 20006.

Dated: July 28, 1980.

H. William Menard,

Director.

[FR Doc. 80-23218 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Availability and Public Hearings Draft Environmental Impact Statement Wilderness Recommendation; Voyageurs National Park, Minn.

Notice is hereby given of the availability of a Draft Environmental Impact Statement for the Wilderness Recommendation, Voyageurs National Park, which the National Park Service has prepared in compliance with Pub. L. 91-190 (83 Stat. 852), the National Environmental Policy Act of 1969.

Notice is further given of public hearings to be conducted, as follows, on the Draft Environmental Impact Statement for the Wilderness Recommendation:

September 15, 1980—International Falls, Minnesota, Rainy River Community College Theater, 7:00 p.m.

September 17, 1980—Duluth, Minnesota, Duluth Arena Auditorium, Paulucci Hall, 7:00 p.m.

September 19, 1980—St. Paul, Minnesota, St. Paul Civic Center, 7:00 p.m.

Copies of the Draft Environmental Impact Statement for the Wilderness Recommendation are available from or may be inspected at the following locations:

Superintendent, Voyageurs National Park, P.O. Drawer 50, International Falls, Minnesota 56649.

Regional Director, Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102.

Written comments should be submitted to the Superintendent, Voyageurs National Park, at the above address on or before September 30, 1980.

Dated: June 26, 1980.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 80-23186 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-70-M

[INT DES 80-44]

Availability of Draft Environmental Statement on Proposed General Management Plan, Development Concept Plan and Wilderness Study and Public Hearings Regarding the Wilderness Study/General Management Plan-Development Concept Plan, Cape Lookout National Seashore, N.C.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan, Development Concept Plan and Wilderness Study for Cape Lookout National Seashore, North Carolina.

The statement discusses proposals for the management and public use of Cape Lookout National Seashore.

Written and oral comments on the Environmental Statement are invited and will be accepted at the public hearings. In addition, written comments will be received by the Superintendent,

Cape Lookout National Seashore, P.O. Box 690, Beaufort, North Carolina 28516; and by the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303, until October 13. Copies of the documents will be available at the addresses mentioned above as well as from the Superintendent, Cape Hatteras National Seashore, Route 1, Box 675, Manteo, North Carolina 27954.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A–107.

Notice is hereby given in accordance with The Wilderness Act of September 3, 1964 (78 Stat. 890), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held at the following locations and times for the purpose of receiving comments and suggestions as to the suitability of lands within Cape Lookout National Seashore for designation as wilderness.

September 8, 1980, at 7 p.m.—Sternberger Auditorium, Guilford College, 5800 West Friendly Avenue, Greensboro, North Carolina.

September 9, 1980, at 7 p.m.—Auditorium, North Carolina Department of Transportation Building (located at corner of Wilmington Street and Morgan Avenue), Raleigh, North Carolina.

September 10, 1980, at 7 p.m.—Greenville Moose Lodge, Farmville Highway, West End Circle, Greenville, North Carolina.

September 11, 1980, at 7 p.m.—Harkers Island Elementary School (Gymnasium), Harkers Island, North Carolina.

A packet containing a preliminary wilderness study report may be obtained from the Superintendent, Cape Lookout National Seashore, telephone (919) 728–2121, or from the Regional Director, Southeast Region, National Park Service, telephone (404) 221–5465, at the addresses listed above.

The preliminary wilderness study report and a map of the areas studied for their suitability or nonsuitability as wilderness is available for review at the locations noted above and in Room 1210 of the U.S. Department of the Interior Building at 18th and C Streets, N.W., Washington, D.C. 20240.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer in advance of the hearing at which they desire to appear. Those not wishing to appear in person may submit written statements on the wilderness study report to the Hearing Officer for inclusion in the official record which will be held open for written statements until October 13, 1980. The Hearing Officer may be reached by writing or telephoning the Superintendent, Cape Lookout National Seashore.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement.

Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary wilderness study report and General Management Plan/Development Concept Plan by a representative of the National Park Service, the Hearing Officer insofar as possible, will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the state or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the counties in which the national seashore is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

Dated: July 21, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80–23187 Filed 7–31–80; 8:45 am]

BILLING CODE 4810–70–M

Water and Power Resources Service

Intent to Enter Into Interim Water Service Contracts

The Regional Director of the Upper Colorado Region, Water and Power Resources Service (Service), Department of the Interior, may enter into interim water service contracts with individuals, corporations, districts, or municpalities for irrigation and municpal and industrial (M&I) water when such water is surplus to project needs. Contracts of this type can be entered into upon short notice to meet emergency or temporary demands. However, such contracts may not exceed 1 year in duration and are limited to not more than 2,000 acre-feet per irrigation contract or 500 acre-feet per M&I contract unless additional approval is received from the Commissioner of Water and Power Resources or the Department of the Interior. All interim contracts will specify quantities, rates, and other terms and conditions in compliance with Reclamation law and service policy.

At this time, it appears that water surplus to project needs will be available for sale from the mainstem reservoirs of the Colorado River Project. Also, other Service projects administered by the Upper Colorado Region with regulated reservoir storage may have minor quantities of surplus water available to meet temporary demands. All releases wil be subject to State laws for beneficial use and appropriation rights.

Parties interested in receiving information about the Service's interim water marketing program should contact Deborah M. Linke, Repayment Staff, Water and Power Resources Service, P.O. Box 11568, Salt Lake City, Utah, 84147, telephone (801) 524–5435. Unless significant public interest is generated, announcement of the availability of negotiated draft contracts will be limited only to interested parties.

Those interested in a temporary supply of water from a Service project should apply in writing to the Regional Director of the Upper Colorado Region at the same above address.

Dated: July 25, 1980.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 80–23131 Filed 7–31–80; 8:45 am]

BILLING CODE 4310–09–M

[INT DES 80–47]

Reauthorization of the Central Valley Project, California, and the Coordinated Operating Agreement for the Central Valley Project and the State Water Project; Availability of Draft Environment Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental

statement on a proposed reauthorization of the Central Valley Project (CVP) and the Coordination Operating Agreement for the CVP and the State Water Project (SWP). The statement discusses the environmental impacts of: (1) Alternative uses of the uncontracted water supplies of the presently authorized CVP, (2) the execution of a CVP-SWP coordinated operating agreement, (3) the construction of certain works related to fish and wildlife and Delta water quality, and (4) the reauthorization of the CVP for Delta water quality and fish and wildlife purposes.

Written comments may be submitted to the Regional Director with a copy of Director, Office of Environmental Affairs (addresses below) by September 29, 1980.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7620, Water and Power Resources Service, Department of the Interior, Washington, DC 20240, Telephone (202) 343–4991.

Division of Management Support, Library Branch, Code 950 E&R Center, Denver Federal Center, Denver, CO 80225, Telephone (303) 234–3019.

Office of the Regional Director, Water and Power Resources Service, 2800 Cottage Way, Sacramento, CA 95825, Telephone (916) 484–4792.

Single copies of the draft statement may be obtained upon request to the Commissioner of the Water and Power Resources Service or the Regional Director. Please refer to the statement number above.

Dated: July 29, 1980.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-23209 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: July 25, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Taylor dissents in MC–112288 (Sub-No. 16F) stating that applicant has failed to submit evidence supporting the granting of all of the gateway elimination authority sought.)

MC–F–14335F, filed March 6, 1980. YARBROUGH TRANSFER COMPANY (Yarbrough) (1500 Doune Street, Winston-Salem, NC 27107)—CONTROL & MERGER—ROAD BUILDERS TRANSPORT, INC. (Road Builders) (P.O. Box 10431, Winston-Salem, NC 27108). Representative: Charles Ephraim, Suite 600, 1250 Conn. Avenue, NW, Washington, DC 20036. Yarbrough seeks authority to acquire control of Road Builders through an exchange of stock and simultaneously merge Road Builders into Yarbrough, with the latter surviving. John D. Yarbrough, the majority stockholder of Yarbrough, seeks authority to acquire control of Road Builders through the transaction. Road Builders is authorized to operate as a motor common carrier pursuant to certificates issued in MC–139522 and pursuant to authority issued in MC–32632 and MC–32632 (Sub-Nos. 10, 16, and 19) which was awarded to Road Builders in FC–78226, as follows: (1) *lumber,* from points in Northampton, Halifax, Bertie, and Pamlico Counties,

NC, to points in MD, PA, VA, DE, and DC; (2) *petroleum products,* in containers, from Curtis Bay, MD, to Rich Square, NC; (3) *baskets and crates,* from Murfreesboro, Woodland, and Ahoskie, NC, to points in PA, MD, VA, and DC; (4) *sand and gravel,* from points in Northampton County, NC, to points in VA; (5) *feed,* from Norfolk, VA, to points in Northampton County, NC; (6) *bagging and ties,* from Norfolk, VA, to points in Northampton County, NC; (7) *crushed stone,* from Trego, VA, to points in NC within 75 miles of Trego; (8) *agricultural commodities, livestock, poultry, and eggs,* from Rich Square, NC, and points within 50 miles of Rich Square to Norfolk, Suffolk, Portsmouth, and Richmond, VA; (9) *automobile motors,* from Rich Square, NC, to Suffolk, VA; (10) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Richmond, Norfolk, Portsmouth, and Suffolk, VA, to Rich Square, NC, and points within 50 miles of Rich Square; (11) *agricultural commodities* and *lumber,* from Severn and Mount Olive, NC, and points in NC within 50 miles of Severn, and those within 50 miles of Mount Olive, to Roanoke, Norfolk, Richmond, Suffolk, and Franklin, VA, and Washington, DC; (12) *fertilizer* and *fertilizer materials,* from Norfolk, VA, and points within ten miles thereof, to points in NC within 75 miles of Severn, NC, including Severn; (13) *clay and shale products,* from Pomona, NC, to Portsmouth and Norfolk, VA; (14) *brick,* from Weldon, NC, to points in that part of VA on and east of U.S. Hwy 1; (15) *agricultural commodities, poultry, fertilizer, and household goods* as defined by the Commission, between points in NC and VA within 100 miles of Jackson, NC, including Jackson; (16) *tobacco,* (a) between Mullins, SC, on the one hand, and, on the other, points in Robeson and Columbus Counties, NC, (b) from points in Marion, Florence, Williamsburg, Darlington, Horry, and Dillon Counties, SC, to points in NC east of U.S. Hwy 21, and that part of VA south of a line beginning at Norfolk, VA, and extending along U.S. Hwy 60 to Richmond, VA, and then along U.S. Hwy 360 to the VA–NC State line, including points on the indicated portions of the hwys specified; (c) from points in Robeson, Columbus, and Wake Counties, NC, to points in the above-specified VA territory; (d) from points in NC east of U.S. Hwy 501 and north of U.S. Hwy 70, including points on the indicated portions of the hwys specified, to Danville, Richmond, Petersburg, Norfolk, and Suffolk, VA; (17) *agricultural commodities,* (a) from Ridgeway, Wallace, and Faison, NC, and points in NC within 20 miles of these points, to Richmond, VA, Baltimore, MD, Philadelphia, PA, Newark, NJ, and New York, NY, and (b) from points in Warren County, NC, to Baltimore, MD, Philadelphia, PA, and New York, NY; (18) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Norfolk and Richmond, VA, to Henderson and Warrenton, NC, and Points in NC within 35 miles of Henderson and those within 35 miles of Warrenton; (19) *lumber,* from Warrenton, NC, and points in NC within 35 miles of Warrenton, to points in VA, MD, and DC; (20) *clay and shale products,* from Greensboro, NC, and points within five miles of Greensboro, to points in that part of VA bounded by a line beginning at the NC–VA State line and extending along U.S. Hwy 29 to Gretna, VA, then along VA Hwy 40 to Keysville, VA, then along U.S. Hwy 360 to Richmond, VA, then along U.S. Hwy 60 to junction VA Hwy 5, then along VA Hwy 5 to Yorktown, VA, then along the shore line of the York River, Chesapeake Bay, and Atlantic Ocean to the VA–NC State line, and then along the VA–NC State line, to point of beginning, including points on the indicated portions of the hwys specified; (21) *fertilizer and fertilizer materials,* from points in Norfolk, Henrico and Pittsylvania Counties, VA, to points in NC on and east of U.S. Hwy 21; (22) *feed and groceries,* from Jarratt, Petersburg, and Alberta, VA, to Henderson and Warrenton, NC, and points in NC within 35 miles of Henderson and those within 35 miles of Warrenton; (23) *nitrate of soda,* from Hopewell, VA, to Henderson and Warrenton, NC, and points in NC within 35 miles of Henderson and those within 35 miles of Warrenton; (24) *galvanized metal roofing,* from Alberta, VA, to Henderson and Warrenton, NC, and points in NC within 35 miles of Henderson and those within 35 miles of Warrenton; (25) *cotton,* (a) from Norfolk and Emporia, VA, to points in that part of NC on and east of U.S. Hwy 1, and (b) from points in Warren and Vance Counties, NC, to Danville, and Lynchburg, VA;

Decided: July 25, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Taylor dissents in MC–112288 (Sub-No. 16F) stating that applicant has failed to submit evidence supporting the granting of all of the gateway elimination authority sought.

(26) *wheat,* from Alberta, VA, to Warrenton, NC; (27) *fertilizer* from Norfolk, VA, to Wise, NC; (28) *household goods* as defined by the Commission, between Warrenton, NC, and points in NC within 100 miles of Warrenton, on the one hand, and, on the other, points in VA; (29) *canned goods, agricultural commodities, tobacco dust, feed, and cotton,* between Greensboro, NC, and points in NC within 85 miles of Greensboro, on the one hand, and on the other, Wilmington, NC, and Norfork and Danville, VA; (30) *clay products and shale products,* from points in Chatham County, NC, to points in that part of VA bounded by a line beginning at the NC–VA State line and extending along U.S. Hwy 29 to Gretna, VA, then along VA Hwy 40 to Keysville, VA, then along US Hwy 360 to Richmond, VA, then along US Hwy 60 to junction VA Hwy 5, then along VA Hwy 5 to Yorktown, VA, then along the shore line of the York River, Chesapeake Bay, and Atlantic Ocean to the VA–NC State line, then along the VA–NC State line to point of beginning, including points on the indicated portions of the hwys specified; (31) *brick,* from Ita, NC, to Hampton, Newport News, Portsmouth, and Williamsburg, VA; and (32) *carnival equipment and road building machinery and equipment,* between points in VA and NC, restricted to the transportation of commodities requiring the use of special equipment under the foregoing authority: (a) between Elkin, NC, and Winston-Salem, NC, (b) from Plasteroo, VA, to Elkin, NC, and (c) from Richmond and Norfolk, VA, to Varina, NC, and points within 50 miles thereof. Yarbrough is authorized to operate as a motor common carrier pursuant to certificates issued in MC–112288 and sub-numbers thereunder. (Hearing site: Winston-Salem, NC, or Washington, DC.)

Notes.—(1) Application for temporary authority has been filed. (2) A directly related gateway elimination application has been filed in MC–112288 (Sub-No. 16F), published in this same Federal Register issue.

Decision-Notice

The following operating rights applications, filed on or after March 1, 1979, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the

applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Section 247(f) provides that an applicant which does not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this application.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* the following operating rights applications directly related thereto filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

MC 112288 (Sub-16F), filed March 6, 1980. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune Street, Winston-Salem, NC 27107. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW, Washington, D.C. 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *Household goods*, as defined by the Commission, (A) between points in VA, on the one hand, and, on the other, points in GA, SC, NC, and TN and (B) from points in VA to points in VA and DC and that part of WV within 125 miles of Narrows, VA (eliminating the gateways in (a) and (b) above of points in NC); (2) *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Richmond, Norfolk, Portsmouth and Suffolk, VA to points in Forsyth County, NC [eliminating the gateway of Rich Square, NC and points within 50 miles of Rich Square]; (3) *Carnival Equipment and road building machinery and equipment*, which because of size or weight require the use of special equipment, between points in VA and NC, on the one hand, and, on the other, points in SC [eliminating the gateway of points in NC]; (4) *Commodities which because of size or weight require special equipment* only for loading or unloading where such loading or unloading is performed by the consignor or consignee, from Richmond, Norfolk, Portsmouth and Suffolk, VA to points in NC and SC [eliminating the gateway of Rich Square, NC and points within 50 miles of Rich Square]. (Hearing site: Winston-Salem, NC or Washington, DC.)

Note.—This gateway elimination application is directly related to the application in No. MC–F–14335F, where Yarbrough Transfer Company seeks authority to acquire all of the capital stock of Road Builders Transport, Inc., of Winston-Salem, NC, through exchange of stock and simultaneously merge Road Builders Transport, Inc. into Yarbrough Transfer Company with the latter surviving.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–23191 Filed 7–31–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-No. 45F]

Illinois Central Gulf Railroad Company Abandonment Between Rio, LA, and Lexie, MS, in Washington Parish, LA, and Walthall County, MS; Findings; Correction

In FR Doc. 80–20669 appearing on page 46916 in the issue for Friday, July 11, 1980, line 24 should read "bridges and culverts for a period of 120".

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–23192 Filed 7–31–80; 8:45 am]

BILLING CODE 7035–01–M

Intent to Engage in Compensated Inter-Corporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated inter-corporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office—Agway, Inc., Box 4933, Syracuse, NY 13221.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Agway Petroleum Corp., Box 4852, Syracuse, NY 13221.

(b) Merchants Produce Co. Inc., 4751 Birney Ave., Moosic, PA 18505.

1. Parent corporation and address of principal office: American Can Company, American Lane, Greenwich, Connecticut 06830.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Fingerhut Corporation, 4400 Baker Road, Minnetonka, Minnesota 55343.

(b) MRI Corporation, 719 Raritan Road, Clark, New Jersey 07066.

(c) Pickwick International, Inc., 7500 Excelsior Boulevard, Minneapolis, Minnesota 55426.

(d) U.S. Aluminum Corporation of Pennsylvania, West Hazel Avenue, Marietta, Pennsylvania 17547.

(e) U.S. By-Products Corporation, 1900 West 47th Place, Westwood, Kansas 66205.

(f) U.S. Reduction Co., 4610 Kennedy Avenue, East Chicago, Indiana 46312.

1. Parent corporation and address of principal: BASF Aktiengesellschaft, 6700 Ludwigshafen/Rhein, West Germany.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054.

(b) Badische Corporation, P.O. Drawer D, Williamsburg, Virginia 23185.

1. Parent corporation and address of principal office: Beatrice Foods Co., Two North LaSalle Street, Chicago, Illinois 60602.

2. List of wholly owned subsidiaries and addresses of their principal place of business:

(a) Peter Eckrich & Sons, P.O. Box 388, 3515 Hobson Road, Fort Wayne, IN 46801.

(b) Waterloo Industries, 300 Ansborough Avenue, Waterloo, IA 50704.

(c) Tindle Mills, MPO Box 733, 701 Chestnut, Springfield, MO 65801.

(d) Brookside Vineyard Co., 9900 Guasti Rd., Guasti, CA 91743.

(e) Quincy Market Cold Storage & Warehouse Co., 555 Pleasant Street, Watertown, Mass, 02172.

(f) St. John's, Inc., 130 Gunn Street, Cadillac, Michigan 49601.

(g) Quincy North East Cold Storage, P.O. Box 719, 165 Read Street, Portland, Maine 04104.

(h) Fiberite W. C. Corp., P.O. Box 787, 645 N. Cypress, Orange, California 92666.

(i) E. W. Kneip, Inc., P.O. Box 161, 7501 Brown Avenue, Forest Park, IL 60130.

(j) Culligan International, One Culligan Parkway, Northbrook, IL 60062.

(k) Martha White Foods, Inc., P.O. Box 58, 110 21st Avenue, South, Rm. 900, Nashville, TN 37202.

(l) Aunt Nellie's Foods, Inc., P.O. Box 67, Clyman, Wis. 53106.

(m) Samsonite Furniture, 11200 E 45th Avenue, Denver, CO 80239.

(n) Kelley Manufacturing Co., P.O. Box Drawer 1467, South Industrial Park, Tifton, GA 21794.

(o) John Hancock Furniture, 1645 Tidelands Avenue, National City, CA 92050.

(p) Fiberite Corp., 501–559 W. 3rd Street, Winona, MN 55987.

1. Parent corporation and address of principal office: The Binghamton Brick Co., Inc., P.O. Box 1256, Binghamton, New York 13902.

2. Wholly-owned subsidiary (ownership 100%): Champlain Brick Company, P.O. Box 267, Hemstreet Park, Mechanicville, New York 12118.

1. Parent corporation and address of principal office: Burris Foods, Inc., 5th and McCauley Street, P.O. Box 219, Milford, DE 19963.

2. Wholly (100%) owned subsidiaries which will participate in the operations and addresses of their principal office:

a. Burris Express Co., Reese Ave. and Railroad, P.O. Box Box 7, Harrington, DE 19952.

b. Kent-Sussex Tire Service Co., Rehobeth Boulevard, P.O. Box 219, Milford, DE 19963.

1. Parent corporation and address of principal office: Campbell Taggart, Inc., 6211 Lemmon Avenue, Dallas, Texas 75209.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Rainbo Baking Company of Cincinnati, 1655 Herald Avenue, Cincinnati, Ohio 45212.

(b) Rainbo Baking Company of Corpus Christi, P.O. Box 4207, Corpus Christi, Texas 78408.

(c) Rainbo Baking Company of El Paso, P.O. Box 9277, El Paso, Texas 79983.

(d) Rainbo Baking Company of Fort Smith, P.O. Box 64, Ft. Smith, Arkansas 72902.

(e) Rainbo Baking Company of San Joaquin Valley, Inc., P.O. Box 832, Fresno, California 93712.

(f) Colonial Baking Company of Huntsville, P.O. Box 5147, Huntsville, Alabama 35805.

(g) Rainbo Baking Company of Johnson City, P.O. Box 2387, Johnson City, Tennessee 37601.

(h) Rainbo Baking Company of Lexington, P.O. Box 86, Lexington, Kentucky 40501.

(i) Evansville Colonial Baking Company, P.O. Box 1086, Owensboro, Kentucky 42301.

(j) Paducah Colonial Baking Company, P.O. Box 3100, Paducah, Kentucky 42001.

(k) Rainbo Baking Company of Sacramento Valley, P.O. Box 5387, Sacramento, California 95817.

(l) Rainbo Bread Company of Saginaw, P.O. Box 3266, Saginaw, Michigan 48605.

(m) Kilpatrick's Bakeries, Inc., 2030 Folsom Street, San Francisco, California 94110.

(n) El Chico Corporation, 1925 Valley View Lane, Farmers Branch, Texas 75234.

(o) Merico, Inc., 1820 Josey Lane, Carrollton, Texas 75006.

(p) Ramtag, Inc., 6211 Lemmon Avenue, Dallas, Texas 75209.

(q) Rainbo Baking Company of Louisville, P.O. Box 8245, Station E, Louisville, Kentucky 40208.

(r) Rainbo Baking Company of Lubbock, P.O. Box 459, Lubbock, Texas 79408.

(s) Bel-Art Advertising, Inc., 6211 Lemmon Avenue, Dallas, Texas 75209.

1. Parent corporation and address of principal office: Campbell Soup Company, Campbell Place, Camden, New Jersey 08101.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:Afices: of principal

Corporate name	Address of principal office
Campbell Finance Corp.	Suite 205, Webster Building, 3411 Silverside Road, Wilmington, DE 19810.
Campbell Foods Distributing Corp.	Campbell Place, Camden, NJ 08101.
Campbell Foreign Sales Corp.	Suite 205, Webster Building, 3411 Silverside Road, Wilmington, DE 19810.
Campbell Sales Company	Campbell Place, Camden, NJ 08101.
Campbell Soup Company (Sumter Plant), Inc.	P.O. Drawer 1569, Sumter, SC 29150.
Campbell Soup (Texas), Inc.	P.O. Box 116, Paris, TX 75460.

Corporate name	Address of principal office
Campbell's Soups Inter-America, Inc..	Campbell Place, Camden, NJ 08101.
Camsco Mushroom Company, Inc..	P.O. Box 44, Jackson, OH 45640.
Capistrana Finance Corp.	Suite 205, Webster Building, 3411 Silverside Road, Wilmington, DE 19810.
Capistrana Products Corp.	Campbell Place, Camden, NJ 08101.
Champion Valley Farms, Inc..	Campbell Place, Camden, NJ 08101.
Clark's Restaurant Enterprises, Inc..	P.O. Box C–25905, Northgate Station, Seattle, WA 98125.
Dixon Canning Corp.	P.O. Box 340, Dixon, CA 95620.
Domsea Farms, Inc.	510 Washington Avenue, Bremerton, WA 98310.
Fine Oven Products, Inc.	P.O. Box 5500, Norwalk, CT 06856.
German Village Products, Inc..	P.O. Box No. 360, Wauseon, OH 43567.
Godiva Chocolatier, Inc.	P.O. Box 5500, Norwalk, CT 06856.
Hanover Trail, Inc.	Campbell Place, Camden, NJ 08101.
Hanover Trail of Maryland, Inc..	P.O. Box 391, Camden, NJ 08101.
Herider Farms, Inc.	1102 Logansport Street, Center, TX 75935.
Joseph Campbell Company	Campbell Place, Camden, NJ 08101.
Lexington Gardens, Inc.	P.O. Box 5500, Norwalk, CT 06856.
Martino's Bakery, Inc.	901 West Alameda Blvd., Burbank, CA 91506.
M B Bakery, Inc.	901 West Alameda Blvd., Burbank, CA 91506.
Pepperidge Farm, Inc.	P.O. Box 5500, Norwalk, CT 06856.
Pepperidge Farm Mail Order Company, Inc..	P.O. Box 5500, Norwalk, CT 06856.
Pietro's Corp.	P.O. Box C–25905, Northgate Station, Seattle, WA 98125.
Seattle Restaurant Food Supply, Inc..	P.O. Box C–25905, Northgate Station, Seattle, WA 98125.
Southeastern Wisconsin Products Company, Inc..	500 West Edgerton Avenue, Milwaukee, WI 53207.
Technological Resources, Inc..	Campbell Place, Camden, NJ 08101.
Valley Tomato Products, Inc..	321 North California Street, Lodi, CA 95240.
Vlasic Foods, Inc.	33200 W. 14 Mile Road, West Bloomfield, MI 48033.

1. Parent corporation and address of principal office: Canandaigua Wine Company, Inc., 116 Buffalo Street, Canandaigua, New York 14424.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Canandaigua Wine Company, INc., 116 Buffalo Street, Canandaigua, New York 14424.

(b) Richards Wine Cellars, Inc., P.O. Box 2005, 120 Pocahontas Street, Petersburg, Virginia 23803.

(c) Hammondsport Wine Company, Inc., 89 Lake Street, Hammondsport, New York 14840.

(d) Tenner Brothers, Inc., P.O. Box 85, Route 2, Patrick, South Carolina 29584.

(e) Bisceglia Brothers Wine Company, Inc., P.O. Box 1149, Fresno, California 93715; Mailing address: 25427 Avenue 13, Madera, California 93637.

1. *Parent Corporation:* The Chesapeake Corporation of Virginia, P.O. Box 311, West Point, Virginia 23181.

2. *Subsidiaries:*

(a) Baltimore Box Company, Box G, 725 Pittman Road, Baltimore, Maryland 21226.

(b) Binghamton Container Company, Inc., Box 1240, Binghamton, New York 13902.

(c) Chesapeake Container, Inc., 1344 Beech Street, Louisville, Kentucky 40211.

(d) Chesapeake Container, Inc., P.O. Box 4694, Richmond, Virginia 23231.

(e) Miller Container Corporation, P.O. Box 12168, Roanoke, Virginia 24023.

(f) Scranton Corrugated Box Company, Inc., 301 Green Ridge Street, Scranton, Pennsylvania 18509.

(g) Southern Corrugated Box Corporation, P.O. Box 12069, Winston-Salem, North Carolina 27107.

(h) David Weber Company, 3500 Richmond Street, Philadelphia, Pennsylvania 19134.

(i) Chesapeake Corporation, West Point, Virginia 23181.

(j) Chesapeake Recyling Company, West Point, Virginia 23181.

(k) Chesapeake Trading Corporation, West Point, Virginia 23181.

(l) Greenlife Products Company, West Point, Virginia 23181.

(m) Homecraft Corporation, P.O. Box 359, South Hill, Virginia 23970

1. The parent corporation, The Continental Group, Inc., with principal offices at: 1 Harbor Plaza, Stamford, Connecticut 06902.

2. Wholly owned subsidiaries which would participate:

a. Great Plains Bag Corporation, Greenwich Office, Park II, Greenwich, Connecticut 06830.

b. Teepak, Inc., 2 North Riverside Plaza, Chicago, Illinois 60606.

c. Steel Pak, Inc., Lee Hill Industrial Park, Fredericksburg, Virginia 22401.

d. All Points Distribution, Inc., 5745 East River Road, Chicago, Illinois 60631.

e. North Louisiana & Gulf Railroad Company, Greenwich Plaza, Greenwich, Connecticut.

f. Ocelot Oil Company, Greenwich Office II, Greenwich, Connecticut 06830.

1. Parent corporation and address of principal office: Emerson Electric Co., 8100 West Florissant Avenue, St. Louis, Missouri 63136.

2. Wholly owned subsidiaries which would participate in the operations, and the address of their respective principal offices:

(a) A. B. Chance Company, 210 N. Allen Street, Centralia, Missouri 65240.

(b) Atwood and Morrill Co., Inc., 285 Canal Street, Salem, Massachusetts 01970.

(c) Emerson Electric Canada Limited, Box 150, Highway 48, Markham, Ontario, Canada L3P 3J6.

(d) Fusite Corporation, 6000 Fernview Avenue, Cincinnati, Ohio 45212.

(e) Kay-Ray, Inc., 576 West Campus Drive, Arlington Heights, Illinois 60004.

(f) Ridge Tool Company, 400 Clark Street, Elyria, Ohio 44035.

(g) Rosemount, Inc., 12001 West 78th Street, Eden Prairie, Minnesota 55314.

(h) Rosemount Office Systems, Inc., Box D, Airlake Industial Park, Lakeville, Minnesota 55044.

(i) Rosemount Instruments, Ltd., 515 36th Avenue S.E., Calgary, Alberta, Cana T2G 1W5.

(j) Skil Canada, Ltd., 1190 Caledonia Road, Toronto, Ontario, Canada M6A 2W6.

(k) Skil Corporation, 4801 West Peterson Avenue, Chicago, Illinois 60646.

(l) SWECO Inc., 6033 E. Bandini Boulevard, Los Angeles, California 90051.

(m) SWECO Canada, Ltd., 40 Titon Road, Toronto, Ontario, Canada M8Z 2J8.

(n) Therm-O-Disc Incorporated, 1320 S. Main Street, Mansfield, Ohio 44907.

(o) Urick Foundry Co., 15th and Cherry Streets, Erie, Pennsylvania 16501.

(p) Van Gorp Corporation, Box 123, Pella, Iowa 50219.

(q) Xomox Corporation, 4444 Cooper Road, Cincinnati, Ohio 45242.

(r) Xomox Canada, Ltd., 222 Norfinch Drive, Downsview, Ontario, Canada M3N 1Y5.

1. Parent Corporation and address of principal office: Fleming Companies, Inc., 6601 North Broadway, Box 26647, Oklahoma City, Oklahoma 73126.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) Fleming Foods of Missouri, Inc., 3001 Davis Boulevard, P.O. Box 730, Joplin, Missouri 64801.

(b) The Fleming Co., of Nebraska, Inc., 1601 Pioneer Boulevard, Box 82809, Lincoln, Nebraska 68501.

(c) Thriftway Foods, Inc., Egypt and Greentree Roads, P.O. Box 935, Oaks, Pennsylvania 19456.

(d) Thrift-Rack, Inc., Egypt and Greentree Roads, P.O. Box 935, Oaks, Pennsylvania 19456.

(e) Kockos Bros., Inc., 5900 Stewart, Fremont, California 94537.

(f) Benson Wholesale Company, Inc., 1015 West Magnolia Avenue, P.O. Box 398, Geneva Alabama 36340.

(g) E. J. Keefe Company, Inc., 3933 Old Tampa Highway, P.O. Box B–K, Lakeland, Florida 33802.

(h) Southland Grocery Company, Inc., 1801 Victory Drive, P.O. Box 3740, Columbus, Georgia 31906.

(i) Dixieland Food Stores, Inc., 1015 West Magnolia Avenue, P.O. Box 398, Geneva, Alabama 36340.

(j) Fleming Foodservice, Inc., 220 East St. Elmo Road, Box 1649, Austin, Texas 78767.

(k) General Merchandise Distributors, Inc., 7215 S. Topeka Boulevard Box 1817, Topeka, Kansas 66601.

(l) Kahan & Lessin Company, 3131 East Maria, Compton, California 90221.

(m) Royal Food Distributors, Inc., 215 Blair Road, Woodbridge, New Jersey 07095.

(n) Blue Ridge Grocery Company, Inc., 700 Bath Avenue, P.O. Box 1207, Waynesboro, Virginia 22980.

(o) Institutional Distributors, Inc., 1801 Victory Drive, P.O. Box 3740, Columbus, Georgia 31903.

1. Parent corporation and address of principal office: The Goodyear Tire & Rubber Company, 1144 East Market Street, Akron, Ohio 44316.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. The Kelly-Springfield Tire Company, 800 Kelly Road, Cumberland, Maryland 21502.

b. Lee Tire & Rubber Company, Hector Street, Conshohocken, PA 19428.

c. Reneer Films Corporation, Auburn, PA 17922.

d. Motor Wheel Corporation, 1600 N Larch Street, Lansing, Michigan 48914.

e. Goodyear Atomic Corporation, P.O. Box 628, Piketon, Ohio 45661.

f. Goodyear Aerospace Corporation, 1210 Massillon Road, Akron, Ohio 44315.

g. The Goodyear Rubber Plantations Company, 1144 East Market Street, Akron, Ohio 44316.

h. Goodyear Farms, P.O. Box 158, Litchfield Park, Arizona 85340.

i. Goodyear Western Hemisphere Corporation, 1144 East Market Street, Akron, Ohio 44316.

j. Litchfield Park Properties, 111 West Indian School Road, Litchfield Park, Arizona 85340.

k. Cosmoflex, Incorporated, P.O. Box 994, Hannibal, MO 63401.

1. Parent corporation and address of principal office is: Hickory Furniture Company, 856 7th Avenue, S.E., Hickory, N.C. 28601.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Hickory Manufacturing Company, 856 7th Avenue, S.E., Hickory, NC. 28601.

(b) Chaircraft, Inc., Rt. #5, Highway 127, Hickory, N.C. 28601.

(c) KayLyn, Inc., Pendleton Rd., High Point, N.C. 27261.

(d) Computer Centers of North Carolina, Pendleton Rd., High Point, N.C. 27261.

(e) Pendleton Frames Company, Pendleton Rd., High Point, N.C. 27261.

(f) Carolina Upholstery Company, Oak Street, High Point, N.C. 27261.

(g) John Widdicomb Company, 601-5th Street, N.W., Grand Rapids, Michigan.

1. Parent corporation and address of principal office—Hydrite Chemical Co., 1237 W. Bruce St., Milwaukee, WI 53204.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices—United States Chemical Corporation of Wisconsin, Inc., 316 Hart Street, Watertown, WI 53094.

1. Parent corporation and address of principal office—IC Industries, Inc., One Illinois Center, 111 East Wacker Drive, Chicago, Illinois 60601.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

Company	Address
(a) Abex Corporation	530 Fifth Avenue, New York, New York 10036.
(b) Alton Manufacturing Company.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(c) Bent Creek Development Company.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(d) Black Diamond, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(e) Bolingbrook 55 Corporation.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(f) Bolingbrook Plaza, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(g) Bubble-Up Company, Inc..	2800 North Talman Avenue, Chicago, Illinois 60618.
(h) Chesley Industries, Inc.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(i) Chicago Intermodal Company.	233 North Michigan Avenue, Chicago, Illinois 60601.
(j) Cosmic Enterprises, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606
(k) Cosmic Stores, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606
(l) Cove Development Corporation.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(m) CTX Products Corporation.	400 South Fourth Street, St. Louis, Missouri 63166.
(n) Cypress Bend Corporation.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(o) Dad's Root Beer Company.	2800 North Talman Avenue, Chicago, Illinois 60618.
(p) Danville Pepsi-Cola Bottling Company.	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(q) Endro, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(r) Environ of Inverrary, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(s) Frolic Homes, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(t) GM&O Land Company	233 North Michigan Avenue, Chicago, Illinois 60601.
(u) Gas Welding, Inc.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(v) Genadco Advertising Agency, Inc..	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(w) Gulf Transport Company.	233 North Michigan Avenue, Chicago, Illinois 60601.
(x) Helvetia Redevelopment Corporation.	400 South Fourth Street, St. Louis, Missouri 63166.
(y) Helvetia Leasing Corporation.	400 South Fourth Street, St. Louis, Missouri 63166.
(z) Hussmann Acceptance Company.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(aa) Hussmann Refrigerator, Inc..	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(bb) Hussmann Refrigeration Company.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(cc) Huth Manufacturing Corporation.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(dd) IC Equipment Leasing Company.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ee) IC Industries, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ff) IC Leasing, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(gg) IC Products Company	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(hh) IC Sub, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ii) Illinois Center Corporation.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(jj) Indiana Trailer Supply, Inc..	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(kk) International Stamping Company, Inc..	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(ll) Ken-Kraft Products, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(mm) Kolmar Products Corporation.	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(nn) Krack Corporation	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(oo) Lake Winds Development Company.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(pp) La Salle Properties, Inc..	Suite 3740, One Shell Square, New Orleans, Louisiana 70139.
(qq) Merchants Refrigerating Company.	400 South Fourth Street, St. Louis, Missouri 63166.
(rr) Merchants Refrigerating Company of California.	400 South Fourth Street, St. Louis, Missouri 63166.
(ss) Midas International Corporation.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(tt) Midas Properties, Inc.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(uu) Midas Realty Corporation.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(vv) Midas Steel Processing Services, Inc..	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(ww) Midas Truck Body, Inc..	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(xx) Mississippi Valley Corporation.	233 North Michigan Avenue, Chicago, Illinois 60601.
(yy) Mountain Pass Canning Company.	400 South Fourth Street, St. Louis, Missouri 63166.
(zz) Muffler Corporation of America.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(aaa) Nine-O-Five Stores, Inc..	400 South Fourth Street, St. Louis, Missouri 63166.
(bbb) Norris Homes Incorporated.	Suite 1920, 222 South Riverside Plaza, Chicago, Illinois 60606.
(ccc) Oak Village Development Corporation.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ddd) Old Brazos Forge, Inc..	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(eee) Pepsi-Cola Bottling Company of Cincinnati.	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(fff) Pepsi-Cola Bottling Company of Kenosha and Racine, Inc..	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(ggg) Pepsi-Cola General Bottlers, Inc..	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(hhh) Pepsi-Cola Kantor Bottling, Inc..	1745 North Kolmar Avenue, Chicago, Illinois 60639.
(iii) Pet Incorporated	400 South Fourth Street, St. Louis, Missouri 63166.

Company	Address
(jjj) H. F. Philipsborn & Company.	28th Floor, 115 South LaSalle Street, Chicago, Illinois 60603.
(kkk) Philipsborn Company....	28th Floor—115 South LaSalle Street, Chicago, Illinois 60603.
(lll) Philipsborn Company of Texas, Inc..	Suite 707—1 Regency Square Building, 6200 Savoy, Houston, Texas 77036.
(mmm) Philipsborn Equities, Inc. (Delaware).	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(nnn) Philipsborn Equities, Inc. (Florida).	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ooo) Philipsborn Equities of Texas, Inc..	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ppp) S & T of Mississippi, Inc..	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(qqq) S & T South, Inc.	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(rrr) St. Louis Lithographing Company.	400 South Fourth Street, St. Louis, Missouri 63166.
(sss) South Properties, Inc....	111 East Wacker Drive—27th Floor, Chicago, Illinois 60601.
(ttt) Southland Canning & Packing Company, Inc..	400 South Fourth Street, St. Louis, Missouri 63166.
(uuu) Spartenburg Dairy, Inc..	400 South Fourth Street, St. Louis, Missouri 63166.
(vvv) Star Cooler Corporation.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(www) Stuckey's Inc.....	400 South Fourth Street, St. Louis, Missouri 63166.
(xxx) Stuckey's Stores, Inc....	400 South Fourth Street, St. Louis Missouri 63166.
(yyy) Vendome Stores, Inc....	400 South Fourth Street, St. Louis Missouri 63166.
(zzz) Violet Packing Company, Inc..	400 South Fourth Street, St. Louis Missouri 63166.
(aaaa) Hussmann International Sales, Inc..	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(bbbb) Illinois Central Export Corporation.	530 Fifth Avenue, New York, New York 10036.
(cccc) Krack Corporation International.	12999 St. Charles Rock Road, Bridgeton, Missouri 63144.
(dddd) Pet International Sales, Inc..	400 South Fourth Street, St. Louis Missouri 63166.

1. Parent corporation and address of principal office—Jadeel Lumber Industries, Inc., 833 W. McNab Road, Tamarac, Florida 33321.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices—(a) Jadeel Trucking, Inc., 8333 W. McNab Road, Tamarac, Florida 33321.

1. Parent corporation and address of principal office: Jewel Companies, Inc., Diversified Retailers, O'Hare Plaza, 5725 East River Road, Chicago, Illinois 60631.

2. *Subsidiaries* (100% owned).

(a) Jewel Far East, Ltd., 26 Wellington Street, 2nd Floor, Central Hong Kong.

(b) Mass Feeding Corporation, First Federal Office Plaza, 1699 East Woodfield Road, Schaumburg, IL 60193.

(c) Osco Drug, Inc., 1818 Swift Drive, Oak Brook, IL 60521.

(d) Osco Drug Northwest, Inc., 601 Sixth Street, SW., Great Falls, MT 59404.

(e) Osco Drug of Michigan, Inc., c/o The Corporation Company, 615 Griswold Street, Detroit, MI 48226.

(f) The Park Corporation, Jewel Park, Barrington, IL 60010.

(g) Specialties, Inc., 121 Industrial Drive, Beaver Dam, WI 53916.

(h) White Hen Egg Farms, Inc., O'Hare Plaza, 5725 N. East River Road, Chicago, IL 60631.

3. *Divisions.*

(a) Brigham's, 30 Mill Street, Arlington, MA 02174.

(b) Jewel Home Shopping Service, Jewel Park, Barrington, IL 60010.

(c) Buttrey Food Stores, 601 Sixth Street, SW., Box 5008, Great Falls, MT 59403.

(d) Direct Marketing Division, Jewel Park, Barrington, IL 60010.

(e) Eisner Food & Agency Stores, 301 E. Wilbur Heights Roads, Champaign, IL 61820.

(f) Jewel Food Stores, 1955 West North Avenue, Melrose Park, IL 60160.

(g) Jewel T Discount Grocery, Jewel Park, Barrington, IL 60010.

(h) Star Market Company, 625 Mt. Auburn Street, Cambridge, MA 02138.

(i) White Hen Pantry, 666 Industrial Drive, Elmhurst, IL 60126.

1. Parent corporation and address of principal office: LST Corporation, 4747 Holland-Sylvania Road, Sylvania, Ohio 43560.

2. Wholly-owned subsidiaries which will participate in the operation and address of their respective principal offices:

(a) Lake Shore Industries, Inc., 2806 North Reynolds Road, Toledo, Ohio 43615.

(b) Sigma Manufacturing Company, Airport Highway, Van Buren, Arkansas 72956.

(c) Therma Tru, Inc., 6275 Lake Shore Court, Colorado Springs, Colorado 80915.

1. Parent Corporation and address of principal office: Lancaster Colony Corporation, 37 West Broad Street, Columbus, OH 43215.

Included within the parent are the following divisions:

a. E. O. Brody Company, P.O. Box, Cleveland, OH 44122.

b. Candle-Lite, Inc. Division, P.O. Box 86, Loveland, OH 45140.

c. Christian & Co./Colony Candles Division, P.O. Box 8028, Redwood City, CA 94063.

d. Enterprise Aluminum Company, P.O. Box 6358, Macon, GA 31213.

e. Koneta Rubber Company, P.O. Box 150, Wapakoneta, OH 45895.

f. Pitman-Dreitzer Division, 1115 Broadway, New York, NY 10010.

2. Wholly owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

a. Abco Industries, 306 Columbus Parkway, Opelika, AL 36801.

b. American Mat Corporation, P.O. Box 150, Wapakoneta, OH 45895.

c. August Barr, Inc., 620 Maple Avenue, Torrance, CA 90503.

d. Barr, Inc., 1531 First Street, Sandusky, OH 44870.

e. Colony Manor, Inc., 106 Taylor Street, Loveland, OH 45140.

f. Colony Printing & Labeling, Inc., 600 East Washington, Eaton, IN 47338.

g. Indiana Glass Company, P.O. Box 118, Dunkirk, IN 47336.

h. Jackson Corporation, South Bennett Avenue, Jackson, OH 45640.

i. Lancaster Colony Commercial Products, Inc., 37 West Broad Street, Columbus, OH 43215.

j. Lancaster Glass Corporation, P.O. Box 70, Lancaster, OH 43130.

k. Loma Corp., P.O. Box 40350, Ft. Worth, TX 76140.

l. T. Marzetti Company, P.O. Box 29163, Columbus, OH 43229.

m. National Glove, Inc., 29 Clark Street, Mt. Sterling, OH 43143.

n. Nelson McCoy Pottery Company, 451 Gordon Street, Roseville, OH 43777.

o. New York Frozen Foods, Inc., 25900 Fargo Avenue, Bedford Heights, OH 44146.

p. Pretty Products, Inc., 437 Cambridge Road, Coshocton, OH 43812.

q. Quality Bakery Company, Inc., P.O. Box 29147, Columbus, OH 43229.

r. Waycross Molded Products, Inc., P.O. Box 58, Waycross, GA 31501.

1. Parent corporation and address of principal office: Libby, McNeill & Libby, Inc., 200 South Michigan Avenue, Chicago, Illinois 60604.

2. Whollyowned subsidiary which will participate in the operations, and address of principal office: Florida Citrus Groves Corporation, Rt. 2, Box 104, Clermont, Florida 32711.

1. Parent Corporation and principal place of business: Maple Press, Inc., 210 E. York Street, York, Pennsylvania 17403.

2. Wholly owned subsidiary which will participate in the operations: Vail Ballou Press, Inc., 187 Clinton Street, Binghampton, New York 13905.

1. Parent Corporation: Milliken & Company, P.O. Box 1926, Spartanburg, South Carolina 29304.

2. Whollyowned subsidiaries which will participate in the operations:

(a) Clemson Fabrics Corporation, P.O. Box 1926, Spartanburg, South Carolina 29304.

(b) Gilliland Industrials Corporation, P.O. Box 1926, Spartanburg, South Carolina 29304.

(c) Lockhart Power Company, Lockhart, South Carolina 29364.

(d) Milliken Research Corporation, P.O. Box 1926, Spartanburg, South Carolina 29304.

1. Parent corporation and address of principal office: Minnesota Mining and Manufacturing Company (3M), 3M Center, St. Paul, Minnesota 55144.

2. Whollyowned subsidiaries which will participate in the operations and address of their respective principal office:

(a) Armorlite Corporation, 130 North Bingham Drive, San Marcos, California 92069.
(b) Bird Corporation, 2800 East Alejo Road, Palm Springs, California 92263.
(c) Comtal Corporation, 505 West Woodbury Road, Altadena, California 91001.
(d) Dynacolor Corporation, 3M Center, St. Paul, Minnesota 55144.
(e) McGhan Medical Corporation, 700 Ward Drive, Santa Barbara, California 93111.
(f) National Advertising, 6850 South Harlem Avenue, Argo, Illinois 60501.
(g) Media Networks, Inc., 600 Third Avenue, New York, New York 10016.
(h) Riker Laboratories, Inc., 19901 Nordhoff Street, Northridge, California 91324.
(i) Trim-Line, Inc., Main Plant, P.O. Box 1136, 4390 Roseville Road, North Highlands, California 95660.

1. Parent corporation and address of principal office: OKC Corp., 4835 LBJ Freeway, P.O. Box 34190, Dallas, Texas 75234.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Business Jet Services, Inc., 4835 LBJ Freeway, P.O. Box 34190, Dallas, Texas 75234.
(b) Louisiana Cement Co., Inc., 14900 Intracoastal Drive, New Orleans, Louisiana 70130.
(c) OKC Leasing Corp., 4835 LBJ Freeway, P.O. Box 34190, Dallas, Texas 75234.
(d) OKC Pipeline, Inc., 5015 N. Pennsylvania, Suite 3090, Oklahoma City, Oklahoma 73112.
(e) OKC Refining, Inc., 1001 N. Porter, P.O. Box 918, Okmulgee, Oklahoma 74447.
(f) OKC Trading Co., 4835 LBJ Freeway, P.O. Box 34190, Dallas, Texas 75234.
(g) OKC Transport Corp., 5015 N. Pennsylvania, Suite 3090, Oklahoma City, Oklahoma 73112.

1. Parent corporation and address of principal office: Petroleum Marketers, Inc., 1603 Santa Rosa Road, P.O. Box K–64, Richmond, Virginia 23288.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Fuel Oils, Inc., 4110 Deepwater Terminal Road, P.O. Box 34370, Richmond, Virginia 23234.
(b) Lynchburg Oil Co., 2459 Campbell Avenue, P.O. Box 11856, Lynchburg, Virginia 24506.
(c) PM Transport, Inc., 2459 Campbell Avenue, P.O. Box 11865, Lynchburg. Virginia 24506.
(d) Whiting Oil Co., Inc., 4939 Starkey Road, S.W., P.O. Box 13026, Roanoke, Virginia 24030.
(e) Stop In Food Stores, Inc., 4939 Starkey Road, S.W., P.O. Box 12185, Roanoke, Virginia 24023.

1. Parent corporation and address of principal office: The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minnesota 55402.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Burger King Corp., 7360 North Kendall Drive, Miami, Florida 33156.
Green Giant Co., 1100 North 4th Street, LeSueur, Minnesota 56058.
Poppin Fresh Pies, Inc., Shelard Plaza North, 300 South County Road 18, Minneapolis, Minnesota 55426.
Steak & Ale Restaurants of America, Inc., 12890 Hillcrest, Dallas, Texas 75230.

1. Parent corporation and address of principal office: Quad Investments Ltd., P.O. Box 510, Ripley, West Virginia 25271.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Dickirson Equipment Corp., Route 37 South, P.O. Box 557, Salem, Illinois 62881.
(b) Dickirson Trucks Ltd., P.O. Box 406, Ripley, West Virginia 25271.
(c) Dickirson Rigs Ltd., P.O. Box 188, Ripley, West Virginia 25271.
(d) Dickirson Air, Inc., P.O. Box 750, Ripley, West Virginia 25271.
(e) Quad Properties Ltd., P.O. Box 406, Ripley, West Virginia 25271.

1. Parent corporation and address of principal office: Rangaire Corp., 500 South Wilhite Street, P.O. Box 177, Cleburne, Texas 76031.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices are as follows:

(a) Texas Lime Company, P.O. Box 851, Cleburne, Texas 76031.
(b) Chambers Corp., Old Taylor Road, Oxford, Mississippi 38655.
(c) Virginia Lime Co., Pearisburg, Virginia, Star Route, Ripplemead, Virginia 24150.
(d) Arkansas Lime Co., P.O. Box 2356, Batesville, Arkansas 72501.
(e) Cadenhead-Rangaire, Inc., P.O. Box 1808, Fort Worth, Texas 76101.

1. Parent corporation and address of principal office: Rapid-American Corp., 888 Seventh Avenue, New York, New York 10106.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) McCrory Corp. 888 Seventh Avenue, New York, New York 10106.
(b) J. J. Newberry Co., 888 Seventh Avenue, New York, New York 10106.
(c) Otasco, Inc., 11333 East Pine, Tulsa, Oklahoma 74116.
(d) Lerner Stores Corp., 460 West 33rd Street, New York, New York 10001.
(e) Schenley Distillers, Inc., 36 East 4th Street, Cincinnati, Ohio 45020.
(f) Schenley Affiliated Brands Corp., 888 Seventh Avenue, New York, New York 10106.
(g) Tennessee Dickel Distilling Co., Tullahoma, Tennessee 37388.
(h) Anvil Brand, Inc., 888 Seventh Avenue, New York, New York 10106.
(i) The Botany Shirt Co., Inc., 1290 Avenue of the Americas, New York, New York 10019.
(j) Beau Brummell Ties, Inc., 440 East McMillan, Cincinnati, Ohio 45206.
(k) Gilead Manufacturing Corp., 200 Madison Avenue, New York, New York 10016.
(l) Wonderknit Corp., 350 Fifth Avenue, New York, New York 10001.
(m) McGregor-Doniger, Inc., 1290 Avenue of the Americas, New York, New York 10019.
(n) Rapid Distribution Service, Inc., 2392 N. DuPont Highway, Dover, Delaware 19901.

1. Parent corporation: Reeves Brothers, Inc., P.O. Box 1898, Spartanburg, South Carolina 29304.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Cinderella Knitting Mills, Inc., P.O. Box 98, Denver, Pennsylvania 17517.
(b) Reeves Bros. Canada Ltd., 415 Evans Avenue, Toronto, Ontario M8W 2T2.

1. Parent corporation and address of principal office: R. J. Reynolds Industries, Inc., Reynolds Boulevard, Winston-Salem, North Carolina 27102.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Alaska Packers Association, P.O. Box 3326, Bellevue, Washington 98009.
(b) Del Monte Banana Co., P.O. Box 011940, Miami, Florida 33131.
(c) Del Monte Corp., P.O. Box 3575, San Francisco, California 94119.

(d) D. & O.-Fairchild, Inc., P.O. Box 9967, Yakima, Washington 98909.
(e) Fairchild General Freight, Inc., P.O. Box 9967, Yakima, Washington 98909.
(f) Ida-Cal Freight Lines, Inc., Drawer M, Nampa, Idaho 83651.
(g) Oak Grove Corp., P.O. Box 2276, San Leandro, California 94577.
(h) Paddison Truck Lines, Inc., P.O. Box 2276, San Leandro, California 94577.
(i) R. J. Reynolds Tobacco Co., P.O. Box 2959, Winston-Salem, North Carolina 27102.
(j) RJR Archer, Inc., Reynolds Boulevard, Winston-Salem, North Carolina 27102.
(k) RJR Foods, Inc., P.O. Box 3575, San Francisco, California 94119.
(l) Shippers Imperial, Inc., 2277 7th Street, Oakland, California 94607.
(m) Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, Arkansas 72728.

1. Parent corporation and address of principal office: Riegel Textile Corp., P.O. Box 90, Ware Shoals, S.C. 29692.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Fries Textile Co., P.O. Box 445, Fries, Va. 24330.
(b) La France Textiles Canada Ltd., P.O. Box 610, Woodstock, Ontario, Canada.
(c) Riegel Fiber Corp., Trion, Georgia 30753.
(d) Smith and Waters, Inc., P.O. Box 570, Ware Shoals, S.C. 29692.
(e) Riegel Sports, Inc., P.O. Box 464, Dallas, N.C. 28034, d.b.a. Dallas Knitting, Inc., d.b.a. Mason Athletic Co.
(f) Riegel Ventures, Inc., P.O. Box 5484, Charlotte, N.C. 28225, d.b.a. Gilbert Beauty Supply, d.b.a. Paula Payne.

1. Parent corporation and address of principal office: Rokkor Industries, Inc., 11454 San Vicente Boulevard, Los Angeles, California 90049.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) A. J. Industries, Inc., 11454 San Vicente Boulevard, Los Angeles, California 90049.
(b) A. J. Industries, (Canada) Ltd., 241 South Service Road, W., Grimsby, Ontario, Canada L3M 1Y7.
(c) Armstrong Products Co., 7th Avenue & First Street, Huntington, West Virginia 25712.
(d) Fleetwood Metals, Inc., 355 W. Alondra Boulevard, Gardena, California 90247.
(e) Impco Carburetion, Inc., 16916 Gridley Place, Cerritos, California 90701.
(f) Reyark, Inc., Knoxville, Arkansas 72845.
(g) Reyco Industries, Inc., 600 North Prospect Street, Springfield, Missouri 65805.
(h) Reyka, Inc., Fredonia, Kansas 66736.
(i) Roberts-Gordon Appliance Corp., 44 Central Avenue, Buffalo, New York 14240.
(j) Roberts-Gordon Appliance Corp. Ltd., 241 South Service Road, W., Grimsby, Ontario, Canada L3M 1Y7.
(k) Sargent-Fletcher Co., 9400 Flair Road, El Monte, California 91731.
(l) Transpro, Inc., Mt. Vernon Industrial Parkway, Rt. 1, Mt. Vernon, Missouri 65712.

1. Parent corporation and address of principal office: Savannah Foods & Industries, Inc., P.O. Box 339, Savannah, GA 31402.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Everglades Sugar Refinery, Inc., P.O. Box 278, Clewiston, FL 33440.
(b) Transales Corporation, P.O. Box 9177, Savannah, GA 31402.
(c) The Jim Dandy Company, P.O. Box 10687, Birmingham, AL 35202.
(d) Food Carrier, Inc., P.O. Box 2287, Savannah, GA 31402.

1. Parent corporation and address of principal office: Standard Oil Company (Indiana)—200 E. Randolph Drive (P.O. Box 5910–A), Chicago, IL 60680.
2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Amoco Chemicals Corporation—200 E. Randolph Drive (P.O. Box 8640–A), Chicago, IL 60680.
(b) Amoco Foods Company—200 E. Randolph Drive (P.O. Box 8640–A), Chicago, IL 60680.
(c) Amoco International Oil company—200 E. Randolph Drive (P.O. Box 8368), Chicago, IL 60680.
(d) Amoco Oil Company—200 E. Randolph Drive—(P.O. Box 6110–A), Chicago, IL 60680.
(e) Amoco Minerals Company—200 E. Randolph Drive—Chicago, IL 60601.
(f) Amoco Production Company—200 E. Randolph Drive (P.O. Box 5340–A), Chicago, IL 60680.
(g) Amoco Pipeline Company—200 E. Randolph Drive (P.O. Box 6110–A), Chicago, IL 60680.
(h) Amoco Fabrics Company—550 Interstate North—Atlanta, GA 30339.
(i) Amoco Foam Products Company—Shadowood Office Park—2111 Powers Ferry Road, Suite 200—Atlanta, GA 30339.
(j) Amoco Engineered Plastics Company—45 East Maryland Ave.—St. Paul, MN 55117.
(k) Amoco Container Company—Shadowood Office Park—2111 Powers Ferry Road, Suite 300, Atlanta, GA 30339.

1. Parent corporation and address of principal office: Stanford Seed Company, 560 Fulton Street, Buffalo, N.Y. 14210
2. Wholly owned subsidiaries:

(a) Borderland Products, P.O. Box 366, Buffalo, NY. 14240.
(b) Borderland Warehouse, P.O. Box 366, Buffalo, NY. 14240.
(c) Stanford Seed Co. of Philadelphia, 809 N. Bethlehem Pike, Spring House, PA.
(d) The Philadelphia Seed Company, 809 N. Bethlehem Pike, Spring House, PA.
(e) Whitney Dickinson Seed Growers, Inc., P.O. Box 607, Homedale, Idaho 83628.
(f) Whitney Dickinson Seed Company, P.O. Box 250, Buffalo, NY 14240.

1. Parent corporation and address of principal office: Stanley Home Products, Inc., 333 Western Ave., Westfield, MA 01085.
2. Wholly-owned subsidiary which will participate in the operations, and address of its principal office:

(a) Canford Manufacturing Corporation, 120 East Second St., Canton, PA 17724.
(b) Canford Manufacturing Corporation, 106 Central Ave., Cortland, NY.

1. Parent corporation and address of principal office:
Super Valu Stores, Inc., 101 Jefferson Avenue South, Hopkins, Minnesota 55343.
2. *Divisions*

(a) Super Valu Stores, Inc.—Hopkins, Minn.
(b) Super Valu Stores, Inc.—Fargo, N. Dak.
(c) Super Valu Stores, Inc.—Bismarck, N. Dak.
(d) Super Valu Stores, Inc.—Green Bay, Wis.
(e) Super Valu Stores, Inc.—Des Moines, Iowa
(f) Food Marketing Corporation—Fort Wayne, Ind.
(g) Charley Brothers Company—Greensburg, Penn.
(h) Ohio Valley Division—Xenia, Ohio
(i) Ryan's—Billings, Mont.
(j) Ryan's—Great Falls, Mont.

3. *Subsidiaries*

(a) J. M. Jones Company—Champaign, Ill.
(b) Lewis Grocer Company—Indianola, Miss.
(c) Preferred Products, Inc.—Chaska, Minn.

(d) ShopKo Stores, Inc.—Green Bay, Wis.
(e) County Seat—Brooklyn Park, Minn.
(f) County Seat—Dallas, Tex.

(1) Parent corporation and address of principal office: Tamko Asphalt Products, Inc., 601 North High Street, Joplin, Missouri 64801, (a Missouri Manufacturing Corporation.)

(2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

a. Tamko Asphalt Products, Inc. (Tamko-Joplin Division, MO), 4268 South 74th East Avenue, Tulsa, Oklahoma 74145 (Warehouse).

(i) Tamko Asphalt Products, Inc. (Tamko-Joplin Division, MO), 900 Woodswether Road, Kansas City, Missouri 64105 (Warehouse).

(ii) Tamko Asphalt Products, Inc. (Tamko-Joplin Division, MO), 2300 35th Street, Kaul Ind. Park, Tuscaloosa, Alabama 35403 (Manufacturing).

b. Tamko Asphalt Products, Inc. (Tamko-Phillipsburg Division, KS), Route No. 1, Phillipsburg, Kansas 67661 (a Kansas Manufacturing Corporation).

(i) Tamko Asphalt Products, Inc. (Tamko-Phillipsburg Division, KS), 5300 East 43rd Street, Denver, Colorado 80216 (Warehouse).

(ii) Tamko Asphalt Products, Inc. (Tamko-Phillipsburg Division, KS), 6101 North 16th Street, Omaha, Nebraska 68110 (Warehouse).

c. Tamko Asphalt Products, Inc., 4500 Tamko Drive, P.O. Drawer "H", Frederick, MD 21701 (a Maryland Manufacturing Corporation).

d. Tamko Asphalt Products, Inc., 2506 Johnston, N.W., P.O. Box 4409, Knoxville, Tennessee 37921 (a Tennessee Manufacturing Corporation).

1. Parent corporation and address of principal office: Tonka Corporation, 4144 Shoreline Boulevard, P.O. Box 445, Spring Park, MN 55384.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Gresen Manufacturing Company, 600 Hoover N.E., Minneapolis, MN 55413.
(b) Ceramichrome, Inc., P.O. Box 327, Highway 7, Stanford, KY 40484.
(c) Tonka Corporation (Canada) Ltd., 7630 Airport Road, Mississauga, Ontario, Canada L4T 2H6.

1. Parent Corporation and address of principal office: Union Carbide Corporation, 270 Park Avenue, New York, N.Y. 10017.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Amko Service Company, 1250 Davis Street, Dover, OH 44622.
(b) Arnhem Land Mining Limited, 270 Park Avenue, New York, N.Y. 10017.
(c) Australia & New Zealand Exploration Co., 270 Park Avenue, New York, N.Y. 10017.
(d) Baker's Welding Supply Co., 3505 Pierce Road, Bakersville, CA.
(e) Beaucar Minerals, Inc., 270 Park Avenue, New York, N.Y. 10017.
(f) Benfield Corporation, 615 Washington Road, Pittsburgh, PA.
(g) Black Marlin Pipeline Company, 1200 Travis Street, Houston, TX.
(h) Bentley Sales Co., Inc., 201 S. Hawley Court, Milwaukee, WI 53214.
(i) Cardio Services, Inc., 1082 Post Road, Darien, CT 06820.
(j) Columbia Welding Products, Inc., 3405 N. Columbia Blvd., P.O. Box 2730, Portland, OR 97208.
(k) J. C. Carter & Co., 1082 Post Road, Darien, CT 06820.
(l) Dexter Realty Corporation, 270 Park Avenue, New York, N.Y. 10017.
(m) Global Industrial Corporation, 270 Park Avenue, New York, N.Y. 10017.
(n) Grower Service Corporation, 270 Park Avenue, New York, N.Y. 10017.
(o) Gulf Coast Olefins Company, 270 Park Avenue, New York, N.Y. 10017.
(p) Hampton Roads Welders Supply Corp., 3450 Virginia Beach Blvd., Norfolk, VA 23502.
(q) Harvey Company, Hempfield Industrial Park, 1055 Garden Street, Greensburg, PA 15601.
(r) International Cryogenic Equipment Corp., 270 Park Avenue, New York, N.Y. 10017.
(s) Iweco, Inc., 8350 Mosley Street, Houston, TX 77034.
(t) Karba Minerals, Inc., 270 Park Avenue, New York, N.Y. 10017.
(u) Keystone International Seed Co., 9870 Fairview Road, Hollister, CA 95023.
(v) Keystone Seed Company, Inc., 9870 Fairview Road, Hollister, CA 95023.
(w) KTI Chemicals, Inc., 1170 Sonora Court, Sunnyvale, CA.
(x) Linde Homecare Medical Systems, Inc., 9720 Executive Cntr. Dr. N., St. Petersburg, FL.
(y) Linox Welding Supply Co., 4508 Montrose Avenue, Chicago, IL.
(z) London Chemical Company, Inc., 240 Foster Avenue, Bensenville, IL 60106.
(aa) R. S. McCracken, Inc., 154 Hansen Access Road, King of Prussia, PA.
(bb) Merritt-Holland Company, 201–205 Red Cross Street, Wilmington, NC.
(cc) Michigan Welders Service Center, Inc., 11757 Globe Road, Libonia, MA 48150.
(dd) Mobile Welding Supply Co., Inc., 210 S. Washington Avenue, Mobile, AL 36601.
(ee) Ponce Construction Corporation, Banco de Ponce Bldg., 20th Fl., 268 Munoz Rivera Ave., Hato Rey, P.R. 00918.
(ff) Presto Hartford, Inc., 585 New Park Avenue, W. Hartford, CT 06107.
(gg) Presto Welding Supplies, Inc., 2701 W. Reno, Oklahoma City, OK.
(hh) Seadrift Pipeline Corporation, 270 Park Avenue, New York, N.Y. 10017.
(ii) Soilserv, Inc., 1427 Abbott Street, Salinas, CA 93901.
(jj) South Charleston Sewage Treatment Co., 437 MacCorkle Avenue, South Charleston, WV.
(kk) Trinity Welding Equipment Supply Co., 2780 Irving Blvd., Dallas, TX 75207.
(ll) Ucar Capital Corporation, 270 Park Avenue, New York, N.Y. 10017.
(mm) Ucar Iteram, Inc., 270 Park Avenue, New York, N.Y. 10017.
(nn) Ucar Louisiana Pipeline Company, 270 Park Avenue, New York, N.Y. 10017.
(oo) Ucar Minerals Corporation, 270 Park Avenue, New York, N.Y. 10017.
(pp) Ucar Pipeline, Incorporated, 1200 Travis Street, Houston, TX 77002.
(qq) UCORE Limited, 270 Park Avenue, New York, N.Y. 10017.
(rr) UNIGAS, Inc., 270 Park Avenue, New York, N.Y. 10017.
(ss) Union Carbide Africa & Middle East, Inc., 270 Park Avenue, New York, N.Y. 10017.
(tt) Union Carbide Africa Limited, 270 Park Avenue, New York, N.Y. 10017.
(uu) Union Carbide Agricultural Products Co., Inc., 270 Park Avenue, New York, N.Y. 10017.
(vv) Union Carbide Caribe, Inc., Banco de Ponce Bldg., 20th Fl., 268 Munoz Rivera Ave., Hato Rey, P.R. 00918.
(ww) Union Carbide Communications Co., Inc., 270 Park avenue, New York, N.Y. 10017.
(xx) Union Carbide Eastern, Inc., 270 Park Avenue, New York, N.Y. 10017.
(yy) Union Carbide Europe, Inc., 270 Park Avenue, New York, N.Y. 10017.
(zz) Union Carbide Exploration Corporation, 270 Park Avenue, New York, N.Y. 10017.
(aaa) Union Carbide Films Packaging, Inc., Banco de Ponce Bldg., 20th Fl., 268 Munoz Rivera Ave., Hato Rey, P.R. 00918.
(bbb) Union Carbide Grafito, Inc., Banco de Ponce Bldg., 20th Fl., 268 Munoz Rivera Ave., Hato Rey, P.R. 00918.
(ccc) Union Carbide Industrial Services Company, 2 Greenway Plaza, E., Houston, TX 77046.
(ddd) Union Carbide Inter-America, Inc., 270 Park Avenue, New York, N.Y. 10017.
(eee) Union Carbide International Capital Corp., 270 Park Avenue, New York, N.Y. 10017.

(fff) Union Carbide International Sales Corp., 270 Park Avenue, New York, N.Y. 10017.
(ggg) Union Carbide Middle East Limited, 270 Park Avenue, New York, N.Y. 10017.
(hhh) Union Carbide North Africa Limited, 270 Park Avenue, New York, N.Y. 10017.
(iii) Union Carbide Pan America, Inc., 270 Park Avenue, New York, N.Y. 10017.
(jjj) Union Carbide Puerto Rico, Inc., Banco de Ponce Bldg., 20th Fl., 268 Munoz Rivera Ave., Hato Rey, P.R. 00918.
(kkk) Union Carbide Southern Africa (USA), Inc., 270 Park Avenue, New York, N.Y. 10017
(lll) Union Carbide Technical Services Co., 270 Park Avenue, New York, N.Y. 10017.
(mmm) Union Carbide Turkey, Inc., 270 Park Avenue, New York, N.Y. 10017.
(nnn) Welders Service Center of Nebraska, Inc., 101 W. "O" Street, Lincoln, NE 68528.
(ooo) Welders Service Center of New Jersey, Inc., 11 Main Street, Little Ferry, N.J.
(ppp) Welding and Cutting Supply Company, 700 E. 73rd Street, Cleveland, OH 44103.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23190 Filed 7-31-80; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: International Telephone and Telegraph Corp. 320 Park Avenue, New York, New York 10022.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Aimco Industries, Inc., 435 Creekside Drive, Tonawanda, New York 14150.
(b) Flygt Corp., 129 Glover Avenue, Norwalk, Connecticut 06856.
(c) ITT Continental Baking Co., Halstead Avenue, Rye, New York 10580.
(d) ITT Courier Terminal Systems, Inc., 1515 West 14th Street, Tempe, Arizona 85281.
(e) ITT Domestic Transmission Systems, Inc., 2 Broadway, New York, New York 10004.
(f) ITT Grinnell Corp., 260 West Exchange Street, Providence, R.I. 02901.
(g) ITT Grinnell Industrial Piping, Inc., Old Highway 421, Kernersville, North Carolina 27284.
(h) ITT Grinnell Valve Co., Inc., 260 West Exchange Street, Providence, R.I. 02901.
(i) ITT Telecommunications Corp., 320 Park Avenue, New York, New York 10022.
(j) ITT Terryphone Corp., 300 East Park Drive, Harrisburg, Pennsylvania 17111.
(k) ITT World Communications, Inc., 67 Broad Street, New York, New York 10004.
(l) National Temperature Control Center, Inc., 1500 North Heidelbach Avenue, Evansville, Ind. 47711.
(m) The Paniplus Co., 100 Paniplus Roadway, Olathe, Kansas 66061.
(n) Peninsular Supply Co., 2001 South Andrews Avenue, Ft. Lauderdale, Fla. 33316.
(o) Qume Corp., 2350 Qume Drive, San Jose, California 95150.
(p) The O. M. Scott & Sons Co., 333 North Maple Street, Marysville, Ohio 43040.
(q) The Sheraton Corp. of America, 60 State Street, Boston, Massachusetts 02109.
(r) Sheraton Supply Co., 60 State Street, Boston, Massachusetts 02109.
(s) Western Automotive Warehouse Distributors, Inc., 3260 East 26th Street, Los Angeles, California 90023.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-23260 Filed 7-31-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 2]

Financial Management Functions for the Trade and Development Program

July 23, 1980.

1. Pursuant to authority vested in me by International Development Agency ("IDCA") Delegation of Authority No. 4, I hereby delegate to the Administrator of the Agency for International Development, with regard to funds allocated to me by the aforesaid delegation of authority:

(A) Authority to sign the following:
1. Allocation request letters;
2. Appropriation transfer authorizations (SF-1151);
3. Advices of allotment and funding plans;
4. Advices of allocation;
5. Authorization letters to the Treasury Department concerning Federal Reserve Bank draft accounts;
6. Bank deposit agreements;
7. Advances;
8. Apportionment requests;
9. Letters of commitment to U.S. banking institutions or to U.S. suppliers;
10. Applications for letters of credit.

(B) Authority to appoint and to revoke the appointment of certifying offices.

(C) Authority to make findings, determinations and recommendations as appropriate relating to the relief of disbursing or other accountable officers pursuant to sections 82a-1 and 82a-2 of title 31 of the U.S. Code.

(D) In addition to the foregoing, authority to designate on behalf of the Director, Trade and Development Program, the officers or employees who are to execute the various budget, accounting and fiscal documents, other than those set forth above, and certifications required to be furnished by the Trade and Development Program to the Department of the Treasury, the Office of Management and Budget, or any other agency of the U.S. Government.

(E) Authority to effect allocations of funds or other transfers of funds to the Trade and Development Program.

(F) Authority to exercise the following functions, in accordance with AID Regulation 13 (22 CFR Part 13):
1. The administrative collection of claims.
2. The suspension or termination of collection action, upon consultation with the Office of the General Counsel/AID.
3. The referral of claims to the General Accounting Office by the General Counsel/AID.

2. The authorities delegated herein will be exercised in accordance with standard administrative funds control procedures of AID.

3. The authorities delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of the designated offices on an acting basis.

4. Notwithstanding any provision of this Delegation of Authority; the Director or Acting Director of the Trade and Development Program may at any time exercise any function delegated by this Delegation of Authority.

5. This delegation of authority shall be deemed effective as of July 1, 1980, and actions within the scope of this delegation and any redelegation hereunder undertaken prior hereto which are consistent with the terms and

scope of this delegation of authority are hereby ratified and confirmed.

Dated: July 23, 1980.

F. R. Stewart,

Acting Director, Trade and Development Program.

[FR Doc. 80-23134 Filed 7-31-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

Attorney General

Bulloch County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Bulloch County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23405 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Calhoun County, Ca., Certification of The Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Calhoun County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23906 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Early County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Early County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23407 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Johnson County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Johnson County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23400 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Mitchell County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Mitchell County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23401 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Sumter County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Sumter County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23402 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Telfair County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Telfair County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23403 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

Tift County, Ga.; Certification of the Attorney General

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Tift County, Georgia. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and

published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Benjamin R. Civiletti,

Attorney General of the United States.

July 30, 1980.

[FR Doc. 80-23404 Filed 7-31-80; 10:09 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Intent To Reallocate Funds Under Title II-D of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Thirty-Day Notice of Intent to Reallocate Funds Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces its intent to reallocate funds in the following amounts from the CETA prime sponsors indicated below. The purpose of this notice is to provide 30 days notice to all interested parties of the Department's intent to reallocate these funds.

COMMENTS DUE: September 2, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, NW., Room 5010, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: A review of the following prime sponsors' actual Title II-D operations, compared to their Fiscal Year 1980 planned operations as of June 30, 1980, indicates that these prime sponsors are substantially below plan and are not effectively utilizing the funds available to them. Therefore, the Department is notifying these prime sponsors that it intends to reallocate excess funds which have accumulated due to the underperformance.

The estimated amount to be reallocated from each prime sponsor is indicated below. The prime sponsors are given 30 days to reply to the notice of intent to reallocate and to correct identified deficiencies. The Governor of the appropriate State and the general public are also given 30 days in which to comment on the proposed reallocations.

Region I:	
BOS—New Hampshire	$128,000
Region II:	
None.	
Region III:	
Montgomery County, Pennsylvania	44,021
Northumberland County, Pennsylvania	31,918
BOS—Virginia	133,584
Region IV:	
Seminole County, Florida	31,049
Eastern Kentucky CEP	96,292
BOS—South Carolina	2,110,861
BOS—Tennessee	162,840
Memphis/Shelby Consortium, Tennessee	69,552
Region V:	
Region II Consortium, Michigan	35,000
Columbus/Franklin Consortium, Ohio	137,000
Region VI:	
Coastal Bend Consortium, Texas	85,000
Tarrant County, Texas	70,000
Region VII:	
Linn County, Iowa	35,900
Woodbury County, Iowa	40,700
Johnson/Leavenworth Consortium, Kansas	26,600
Kansas City/Wyandotte Consortium, Missouri	44,700
City of St. Louis, Missouri	63,400
Region VIII:	
None.	
Region IX:	
Stanislaus County, California	309,370
San Mateo County, California	32,830
Stockton/San Joaquin Consortium, California	49,000
Hawaii BOS	39,432
Arizona BOS	100,000
Region X:	
BOS Oregon	245,375
City of Portland, Oregon	198,258

Signed at Washington, D.C., this 25th day of July 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-23098 Filed 7-31-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-66-M]

Pea Ridge Iron Ore Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Pea Ridge Iron Ore Co., Inc., Route 4, Sullivan, Missouri 63080 has filed a petition to modify the application of 30 CFR 57.5-31 (ventilation doors) to its Pea Ridge Mine located in Washington County, Missouri. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The standard requires, in part, that ventilation doors be covered with fire retardant material if constructed of wood.

2. Petitioner's mine is a hardrock metal mine of noncombustible materials consisting of magnetite and hematite iron ores surrounded by rhyolite porphyry.

3. Petitioner states his mine has 95 percent humidity, is non-gassy, and no wooden structures or supports, of which there are few, come within 500 feet of any ventilation doors.

4. Petitioner requests the above standard not be required of the Pea Ridge Mine because of the above mine characteristics. Petitioner states the modification will provide the same protection as the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 2, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 24, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-23099 Filed 7-31-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. D-780]

Proposed Class Exemption for Guaranteed Investment Contract Separate Accounts

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document is 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 (ERISA, or the Act), and from the taxes imposed with respect to such transactions under the Internal Revenue Code of 1954 (the Code). The proposed exemption would allow a life insurance company separate account maintained in connection with certain "guaranteed investment contracts" to engage in a number of transactions involving a party in interest which would otherwise be prohibited under ERISA. In certain circumstances, the proposed exemption would also provide additional relief from restrictions on such an account's acquisition or holding of "employer securities" and "employer real property," and would permit a life insurance company to transfer assets from its general account to a separate account that is maintained for the purpose of supporting obligations of the insurance company under guaranteed investment contracts.

If it is granted, the proposed exemption would affect employee pension benefit plans, participants and beneficiaries of plans that purchase guaranteed investment contracts, and

parties in interest and fiduciaries with respect to such plans.

DATES: Written comments and requests for a public hearing must be received by September 29, 1980

ADDRESS: Written comments and requests for a public hearing (preferably at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Guaranteed Investment Contract Exemption. The application for exemption and all communications received in response to this notice will be available for public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: William A. Schmidt, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, telephone (202) 523-8610. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed class exemption from certain of the restrictions of section 406 and 407 of ERISA, and from the taxes imposed by sections 4975 (a) and (b) of the Code with respect to certain of the transactions described in section 4975(c)(1) thereof. The relief provided in the proposed exemption was requested in an application filed by Aetna Life Insurance Company (Aetna) and The Equitable Life Assurance Society of the United States (Equitable); The Prudential Insurance Company of America (Prudential) subsequently joined in the application.[1] The application was filed pursuant to section 408(a) of ERISA 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) and Rev. Proc. 75-26, 1975-1 C.B. 722.[2]

Background

Life insurance companies issue a variety of group contracts for use in connection with employee pension benefit plans, some of which provide benefits the amount of which is guaranteed, and some of which provide benefits that may fluctuate with the investment performance of a separate account. In the case of a contract that provides fully guaranteed benefits, the company agrees to pay the benefits described in the contract regardless of the investment performance of any particular group of assets.

Certain contracts are issued by life insurance companies to, or for the benefit of, employee pension benefit plans that provide for the deposit of funds with the life insurance company in either a lump sum or through periodic payments. Under these contracts, the life insurance company guarantees the amount deposited as well as interest on that amount at a specified rate for a stated period of time. Upon the expiration of the period stated in the contract, the deposited funds and the accrued interest may be payable to the plan or may be applied, at the direction of the plan, to other contracts issued by the life insurance company. (Contracts that provide for guarantees in the manner described in this paragraph are referred to in this notice as "guaranteed investment contracts.")[3]

Under section 401(b)(2) of ERISA, if an insurance company issues a "guaranteed benefit policy" to an employee benefit plan, the assets of the plan are deemed to include the policy, but do not, solely by reason of the issuance of such policy, include any of the assets of the insurance company. In addition, in ERISA Interpretive Bulletin 75-2, 29 CFR 2509.75-2, the Department stated that if an insurance company issues a policy of insurance to a plan and places the consideration for such contract or policy in its general asset account, the assets in such account shall not be considered to be plan assets. Guaranteed investment contracts normally have been funded by an insurance company's general account, and, accordingly, amount received by an insurance company under such contracts would normally not be considered to be plan assets. However, Congress specifically excluded amounts held by an insurance company in a separate account from the definition of "guaranteed benefit policy" because it recognized that assets placed in such an account are separately managed and that an insurance company's obligations with respect to such assets generally are based on the investment performance of the account,[4] and the Department has taken the position that assets held in a separate account of an insurance company to support obligations under contracts purchased by employee benefit plans are plan assets.[5]

Recently, some insurance companies have established separate accounts to fund guaranteed investment contracts, and amounts received from an employee benefit plan under such contracts and held in a separate account may, notwithstanding the insurance company's guarantee, be considered to be plan assets. To the extent assets held in such a separate account are plan assets, an insurance company maintaining the account is, under section 3(21) of ERISA, a fiduciary with respect to such assets, and consequently also is, under section 3(14) of ERISA, a party in interest with respect to the plans whose assets are held in the account.

Summary of the Application

The application for exemption and the representations of the applicants are summarized below. However, interested persons are referred to the application on file with the Department for the complete representations of the applicants.

Equitable issues, and Aetna and Prudential propose to issue, guaranteed investment contracts that involve an investment of pension plan assets in a pooled separate account.[6] These contracts vary with respect to the manner under which deposits are made and the circumstances and manner

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[1] Application Number D-780; filed April 27, 1977. Prudential's request to be permitted to join in the application was filed on November 21, 1977. The applicants also made additional submissions to the Department by means of letters dated May 19, 1977, and July 11, 1979.

[2] The application was filed with both the Department and the Internal Revenue Service. However, this notice is being issued solely by the Department under section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) which transferred, as of December 31, 1978, (44 FR 1065, January 3, 1979), the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor.

[3] The term is used as a convenient reference only. As described below, the exemption being proposed by the Department in this notice would permit various transactions involving a separate account of a life insurance company that supports the insurance company's obligations under contracts that have certain specified characteristics. This class of contracts may not include all of the contracts issued by life insurance companies that are generally known as "guaranteed investment contracts."

[4] *See* section 401(b)(2)(B) of ERISA and H.R. Rep. No. 1280, 93d Cong., 2d Sess. 296 (1974).

[5] Notice of Proposed Exemption (42 FR 54886, October 11, 1977), subsequently adopted as Prohibited Transaction Exemption 78-19 (43 FR 59915, December 22, 1978); *see also* 29 CFR 2509.75-2 and Department of Labor Advisory Opinion No. 79-29A (May 11, 1979). The Department's proposed regulation under section 401 of ERISA states that in the case of a plan that is funded in whole or in part by a contract or policy of insurance issued by an insurer, the assets of the plan shall include the contract or policy under which benefits are insured but shall not, solely by reason of the issuance of such contract or policy, include the assets of the insurer issuing the policy except to the extent that such assets are maintained by the insurer in one or more separate accounts and do not constitute surplus in any such account. (44 FR 50363, 50366; August 28, 1979.)

[6] The contracts described by Aetna and Equitable specifically contemplate the allocation of deposited funds to a separate account while under the Prudential contracts deposited funds may be allocated to Prudential's general account or to a pooled separate account, at Prudential's discretion.

under which deposited funds may be withdrawn. However, under each of the contracts the issuing life insurance company guarantees the amount deposited and a specified rate of interest for a stated period.

Each of the contracts contemplates that the life insurance company generally will retain the amounts deposited until the expiration of the period stated in the contract, and that no distribution under the contract will be made until the occurrence of the specified "repayment" or "maturity" date. However, although none of the contracts permit withdrawal of funds simply at the election of the contractholder, Aetna's contracts do confer a right to a premature payment upon the occurrence of specified events (*e.g.*, plan termination) and provide a basis for premature payments generally upon mutual agreement. In addition, if requested to do so, Prudential and Equitable also would permit premature withdrawals on terms acceptable to both parties.[7] A premature withdrawal under the contracts may result in a "market value adjustment" which is designed to reflect the decrease, if any, in the current value of the contract that may have occurred by virtue of the availability at the time of withdrawal of interest rates that are in excess of the interest rates guaranteed in the contract.

Guaranteed investment contracts also frequently provide for a periodic "expense charge" which is equal to a specified percentage of amounts held by the insurance company under the contract.

The separate accounts described by two of the applicants are designed to be invested in a manner that complies with state law requirements that regulate the quality of investments of a life insurance company's general account. In addition, these companies indicate that they will maintain assets in the separate account equal to the obligations under the contracts funded through the account, and that they will transfer assets from their general account to the separate account to the extent necessary to assure that assets in the separate account are sufficient to meet liabilities arising under the guaranteed investment contracts to which the separate account relates.

The applicants represent that separate accounts have been developed in connection with guaranteed investment contracts in order to facilitate an insurance company's ability to manage its own obligations under the contracts by allowing it to make investments which can be matched with specific contract obligations, and that the use of a separate account in these circumstances is strictly for the administrative and management purposes of the insurance company. The benefits that would be provided under these contracts would be the same whether the company chose to use its general account or a separate account, and the benefits payable under the described contracts are not affected by the investment performance of the separate account. Further, even in the case of premature termination of the contract, the investment performance of the assets of the company's separate account has no bearing on the payments that will be made to the contractholder.[8]

The applicants request a class exemption which would cover all prohibited transactions that might be engaged in by a separate account that supports contractual obligations under contracts of the type described in the application, provided the transaction is not entered into as part of an arrangement in which an insurance company general account would be precluded from engaging under the principles set forth in ERISA Interpretive Bulletin 75–2, 29 CFR 2509.75–2.[9] However, the applicants also state that their difficulties with respect to the application of the prohibited transaction rules to guaranteed investment contract separate accounts arise mainly in two areas: the making of loans to, and the purchase of debt instruments of, corporations that are employers or other parties in interest with respect to plans that are holders of guaranteed investment contracts; and the transfer of assets to a guaranteed investment contract separate account by the insurance company maintaining the account.

With respect to the purchase of debt instruments of an employer of participants in plans that have an interest in a guaranteed investment contract separate account, the applicants represent that many potential borrowers have indicated that they are unwilling to participate in transactions which involve assets of a separate account described in the application unless the transactions are fully exempt from the prohibited transaction provisions of ERISA and the Code, and that such separate accounts would, therefore, be at a competitive disadvantage (compared to the general accounts of insurance companies) with respect to investment opportunities. In addition, the applicants state that compliance with the conditions of the other prohibited transaction exemption involving insurance company separate accounts (which was pending at the time the applications were filed) would require the maintenance of party in interest records in order to assure compliance, and the extra expenses and effort involved in maintaining such records are justified only where they afford meaningful safeguards against party in interest abuse.[10]

[7] In the original application, the applicants also state that some forms of Equitable's funding agreements provide for premature withdrawals from the separate account, at the contractholder's option, in certain circumstances.

[8] The applicants suggest, without providing any example, that there may be infrequent situations outside an insurance company's control where the benefits paid under a guaranteed investment contract may be affected by the investments of a separate account. However, the exemption being proposed by the Department would be available only for transactions involving separate accounts funding "guaranteed investment contracts" under which, among other things, the benefits payable are not, in any circumstances, affected by the separate account's investment performance.

[9] As noted above, ERISA Interpretive Bulletin 75–2 states, among other things, that if an insurance company issues a contract or policy of insurance to a plan and places the consideration for such policy in its general asset account, the assets of that account will not be considered plan assets, and a subsequent transaction involving the general account between a party in interest and the insurance company will not, solely because the plan has been issued such a contract or policy of insurance, be a prohibited transaction. However, in the Interpretive Bulletin, the Department also notes that section 406(a)(1)(D) of ERISA prohibits the direct or indirect transfer to, or use by or for the benefit of, a party in interest of any asset of the plan, and that sectio 406(b)(1) prohibits a fiduciary from dealing with the assets of a plan in his own interest or for his own account. Accordingly, as noted in the Interpretive Bulletin, the purchase by a plan of an insurance policy pursuant to an arrangement under which it is expected that the insurance company will make a loan to a party in interest would be a prohibited transaction.

[10] The application specifically refers to any exemption that may be granted pursuant to Application No. D–039: such an exemption has now been granted, (Prohibited Transaction Exemption 78–19 (43 FR 59915, December 22, 1978)). Under Prohibited Transaction Exemption 78–19, a basic exemption is available from the restrictions of section 406(a), 406(b)(2) and 407(a) of ERISA for any transaction between a separate account and a party in interest with respect to a plan if the assets of the plan (together with the assets of any other plans maintained by the same employer) in the pooled separate account do not exceed 5 percent of the total of all assets held in the separate account, or, in the case of a multiple employer plan, 10 percent of such total assets. An exemption is also provided in certain circumstances, for prohibited transactions that result solely from the aggregation of a plan's acquisitions or holdings of qualifying employer securities or qualifying employer real property with employer securities or employer real property acquired or held by a pooled separate account in which the plan has an interest. A further exemption is provided for a pooled separate account's investment in employer securities and employer real property (which are deemed, for purposes of the exemption, to include securities issued by, and real property leased to, certain parties in interest that are related to an employer) without regard to the 5 to 10 percent limitations referred to above, provided certain conditions are met. Finally, the exemption permits other specific transactions if certain stated conditions are satisfied. These transactions include the furnishing of goods to the separate account by a

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The applicants also note that the practice of allocating amounts received under a guaranteed investment contract to a separate account is relatively new. Therefore, the applicants state, it would be difficult for such a separate account to take advantage of the existing class exemption for insurance company pooled separate accounts because it would likely be unable to satisfy the percentage limitations on the interest of a plan or group of related plans in such separate account which are a condition to the availability of certain portions of that exemption.[11]

With regard to an exemption permitting the transfer of assets from an insurance company's general account to a separate account maintained by such insurance company for the purpose of supporting obligations under guaranteed investment contracts, the applicants state that such relief would permit the life insurance company to make up any deficiency in the assets of the separate account in relation to contractual guarantees or to replenish any deficiency in the reserves of such account.

The Proposed Exemption

A. *Scope.* The scope of the exemption being proposed by the Department in this notice differs significantly from that requested by the applicants. As noted above, the Department has previously granted a class exemption that provides relief from the prohibited transaction provisions of ERISA for a variety of transactions between an insurance company pooled separate account and parties in interest with respect to plans that participate in such an account.[12] The terms of that exemption reflect the Department's judgment concerning the conditions under which the covered transactions may be permitted with assurance that the requirements of section 408(a) of ERISA are met.[13]

Therefore, the Department is not prepared to propose an exemption providing more lenient conditions with respect to transactions involving a guaranteed investment contract pooled separate account exempt to the extent that the special characteristics of such a separate account result in greater protection of participants and beneficiaries, in greater benefits to plans and their participants and beneficiaries, or in more ease in the administration of an exemption, than would be the case with transactions involving other insurance company pooled separate accounts.

Where a life insurance company issues a contract to a plan under which its obligations are in no circumstances affected by the investment performance of plan assets held in a separate account maintained by such life insurance company, and under which a plan has in all other respects the same contractual rights with respect to the insurance company as those of policyholders whose contracts are supported by the company's general assets, the contractual obligation of the insurance company appears to be generally protective of the rights of the plan's participants and beneficiaries. Therefore, under such a contract, the potential for abuse with respect to transactions described in section 406(a) of ERISA is not as great as that which would exist under a contract where the benefits payable to a plan are dependent upon the investment performance of a separate account. Further, because losses incurred by a separate account that is maintained solely to support obligations under guaranteed investment contracts are ultimately borne by the insurance company rather than the plans whose assets are held in such separate account, it does not appear necessary to apply all of the restrictions of section 407(a) to investments in employer securities and employer real property that may be made by such a separate account. Therefore, in such circumstances, the Department has decided to propose an exemption which would provide broad relief with respect to most transactions described in section 406(a) and 407(a) of ERISA.

The Department is not prepared, however, to propose a general exemption for transactions that involve the insurance company that maintains the guaranteed investment contract separate account or persons who have authority, direct or indirect, regarding the establishment or continuance of a plan's relationship with such an insurance company. In addition, the Department has decided not to propose a blanket exemption from the restrictions on fiduciary conduct described in section 406(b) of ERISA for transactions involving a guaranteed investment contract separate account.

The Department does not believe that the inclusion in an exemption of transactions involving persons who have authority with respect to the plan's relationship with the insurance company that maintains the guaranteed investment contract separate account would be sufficiently protective of plan participants and beneficiaries, or necessarily in the interests of participating plans, because the insurance company may be prevented from exercising its best judgment as a fiduciary as a result of its relationship to the person authorizing the plan's use of the insurance company's contracts, and the person who has authority with respect to the plan's relationship with the insurance company could be prevented from independently exercising that authority because of his other dealings with the insurance company. For example, the application of plan assets held in a guaranteed investment contract separate account in a manner that benefits a plan fiduciary who has authority to terminate the plan's contract with the insurance company may not necessarily be in the interests of the plan; the fiduciary's judgment regarding the continuation of the contractual relationship may be influenced by its other dealings with the separate account—*e.g.*, the borrowing of money. Further, an insurance company's independent judgment as a fiduciary in determining whether to invest plan assets assigned to a guaranteed investment contract separate account in securities or real property of a fiduciary who has authority to terminate the plan's contractual relationship with the insurance company may be affected by its other business considerations—*e.g.*, its desire to maintain the contractual relationship with the plan.[14] In addition,

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party in interest, and the leasing of real property of the separate account to a party in interest; transactions involving a party in interest who has such status solely because it is a service provider with respect to a plan that participates in a separate account; the provision of real property management services by the insurance company maintaining the separate account or an affiliate; and certain transactions involving places of public accommodation owned by an insurance company separate account.

[11] See Note 10, above.

[12] See the discussion of the exemption at note 10, above.

[13] Section 408(a) of ERISA provides, among other things, that the Department may grant an exemption from the prohibited transaction rules only if it finds that the exemption is administratively feasible; in the interests of the plan, and of its participants and beneficiaries; and productive of the rights of participants and beneficiaries of such plan. *See also* section 4975(c)(2) of the Code.

[14] As noted above, the applicants suggest that a blanket exemption from the prohibited transaction restrictions might be subject to the condition that the transaction to be exempted is not, directly or indirectly, a part of any arrangement pursuant to which the plan acquired its interest in such separate account or any other prohibited transaction described in Interpretive Bulletin 75–2 (*see* note 9, above). The arrangements and other prohibited transactions described in Interpretive Bulletin 75–2, however, involve the misuse of a separate plan assets—*i.e.*, the contract between the plan and the insurance company—and would, therefore, be prohibited whether or not a blanket exemption contained a provision such as that suggested by the applicants. The examples given above of transactions that may not be in the interests of participating plans, however, involve other plan assets—*i.e.*, amounts held in the separate account.

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the Department does not believe that an insurance company, in acting as investment manager with respect to assets held in a separate account, would necessarily be able to exercise its best judgment as a fiduciary with respect to the investment of such assets in itself or in one of its affiliates. Therefore, the Department has decided to propose an exemption for transactions involving the insurance company maintaining the separate account or persons who have authority with respect to the plan's participation in a separate account (or affiliates of such persons), and for transactions involving a guranteed investment contract separate account which would otherwise be prohibited by section 406(b) of ERISA, only in certain specified instances.[15] Further, certain conditions to these specific exemptions are proposed. These transactions and conditions are discussed below.

1. *Employer Securities and Employer Real Property.* The proposed exemption would allow a guaranteed investment contract separate account to invest in employer securities and employer real property (including securities issued by, and real property leased to, an employer who is a fiduciary with respect to a plan that participates in such separate account), provided certain conditions are met. These conditions are designed to provide assurances that the transactions are normal investment transactions, and are not primarily for the benefit of the employer. However, because under a guaranteed investment contract the risk of loss resulting from investment of plan assets appears to be transferred to the life insurance company issuing the contract, the proposed exemption for employer securities and employer real property has no conditions that would require an examination of either a plan's aggregate investments or those of the separate account.[16] Thus, the Department believes that an insurance company would be able to determine whether the exemption is available with respect to such employer securities or employer real property on the basis of facts that may be ascertained from an examination of the securities or real property involved in the transaction; the circumstances surrounding the acquisition or sale of such securities or the acquisition, sale or lease of such real property; and from the insurance company's own records. Therefore, the conditions should not significantly limit the investment opportunities available to a guaranteed investment contract separate account. The proposed exemption also provides relief from the prohibitions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of ERISA for acquisitions or holdings of employer securities and employer real property by a plan that violate such provisions solely as a result of being aggregated with employer securities or employer real property acquired or held by a guaranteed investment contract separate account.

2. *Transfers of assets from the insurance company's general account to a guaranteed investment contract separate account.* The proposed exemption contains a specific provision permitting the transfer of assets from the general account of a life insurance company maintaining a guaranteed investment contract separate account to a separate account that is maintained exclusively for the purpose of funding such contracts, provided that the insurance company obtains no interest in any assets theretofore held in the separate account as a result of such transfer, and provided there is no diminution in the value of any plan's interest in the separate account as a result of such transfer. The provision would allow a life insurance company to replenish or make up any deficiency in the value of the separate account's assets in relation to contractual guarantees, or a deficiency in reserves.[17]

B. *Definition of "Guaranteed Investment Contact Separate Account."* The proposed exemption would be available only for transactions involving a "guaranteed investment contract separate account." This term would include separate accounts the assets of which are legally segregated and are not chargeable with liabilities arising out of any other business that the life insurance company may conduct and that are maintained exclusively to support obligations under certain "guaranteed investment contracts," as defined in the proposed exemption. In

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The Department recognizes that, because an insurance company is not considered a fiduciary merely because of its issuance of a contract to an employee benefit plan if the contract is supported by the insurer's general assets, transactions of the kind described could be effected through an insurance company's general account, and would not necessarily be prohibited by ERISA. However, as acknowledged in the application, one of the purposes of holding amounts received under a guaranteed investment contract in a separate account is to permit the matching of specific investments with specific contract obligations. Further, the applicants state that the insurance laws of New York permit guaranteed investment contracts that involve separate accounts to provide that the assets of the separate account are not chargeable with liabilities arising out of any other business the insurance company may conduct, and that the contracts of two of the applicants contain such a provision. Therefore, since, notwithstanding the existence of the insurance company's guarantee, the company's contractual obligation is, in the first instance, supported by the investments of the separate account, the Department believes that any exemption should provide at least some assurances that such investments are made in the interests of participating plans.

[15] Accordingly, the general exemption being proposed in this notice would frequently not be available for transactions involving the sponsor of a plan that participates in a guaranteed investment contract separate account because the plan sponsor frequently has the authority, direct or indirect, to establish and terminate the plan's relationship with the insurance company. However, as discussed below, a specific exemption is being proposed for transactions involving employer securities and employer real property, and, in addition, the general exemption would be available for transactions involving a fiduciary if the transaction does not involve a fiduciary who has authority, or who is affiliated with a person who has authority, to affect the plan's relationship with the insurance company, and if it does not involve conduct described in section 406(b). *Cf.*, 29 CFR 2550.408b–2 (e)–(f) (description of transactions involving a fiduciary that are not described in section 406(b)(1)).

[16] The specific exemption provided for the acquisition and holding of employer securities and employer real property in Prohibited Transaction Exemption 78–19 is subject to the condition, among others, that a participating plan, other than an "eligible individual account plan" (as defined in section 407(d)(3) of ERISA), holds no more than 10 percent of its assets in employer securities or employer real property at the time of the separate account's acquisition of securities issued by, or real property leased to, an employer of participants in such plan. In addition, with respect to an obligation of an employer of participants in a plan that has an interest in the separate account, a condition to the exemption requires that not more than 25 percent of the amount issued in the issue and outstanding be held by the plan at the time of the separate account's acquisition of the obligation. Finally, a condition to the exemption requires that parcels of real property held by the separate account be, in the aggregate, geographically dispersed. The exemption being proposed here for guaranteed investment contract separate accounts, however, freely permits the acquisition of employer securities that are offered to the public, and contains conditions with respect to acquisitions of restricted securities and real property compliance with which may be established on the basis of an examination of the real property or issue of securities involved in the transaction.

[17] As indicated above (see note 6), the contracts proposed to be issued by one of the applicants provide that funds deposited with the insurer under a guaranteed investment contract may be allocated, at the insurer's discretion, to its general account or to a separate account. In this regard, the application also states that such an allocation may be made even though no reference to the separate account appears in the contracts, and that it is desirable for the insurance company to retain discretion to make the allocation because that authority will allow the company to take advantage of certain investment opportunities. The allocation of plan assets received by an insurance company under a guaranteed investment contract to a separate account, or to the insurer's general account, on a discretionary basis, might, in some circumstances, constitute a prohibited transaction. However, the applicants did not specifically request an exemption for transactions of this kind, and the application does not contain representations which would permit the Department to make the required findings with respect to such an exemption. Nevertheless, the Department would consider expanding the scope of the proposed exemption to include certain allocation activities if the comments received demonstrate that such relief can be provided in a manner that would satisfy the criteria in section 408(a) of ERISA.

order to meet the elements of the definition of "guaranteed investment contract," a contract must provide that the insurance company guarantees the amount deposited and a stated rate of interest on such deposits; that the amount received by a plan pursuant to such a contract, and the charges made under the contract, are not, in any circumstances, affected by the investment performance of the separate account; that the plan has an unqualified right to withdraw amounts deposited, and the accrued interest, at the end of the guarantee period; and that a participating plan's claim against the general assets of the insurance company under such contract would not be adversely affected, whether on insolvency or liquidation of the insurer or otherwise, by the allocation of amounts received by the insurance company under such contract to a separate account.[18]

The Department is considering whether the definition of "guaranteed investment contract separate account" should include only those separate accounts that, in addition to being maintained exclusively to support obligations under "guaranteed investment contracts," at all times have assets that are at least equal in value to the amounts deposited with the insurance company under the contracts, plus accrued interest, minus any withdrawals of amounts deposited. Such a limitation may be appropriate because, as discussed above, an insurance company's obligations under guaranteed investment contracts that are funded through a separate account are, in the first instance, supported by the assets of the separate account, and, therefore, it would be in the interests of plans that hold such contracts for the assets of such an account to be at all times sufficient to meet the insurance company's liabilities.[19] However, state insurance laws and regulations may require the maintenance of reserves with respect to a separate account that supports obligations under guaranteed investment contracts, and may otherwise operate to protect the interests of plans whose assets are invested in such a separate account. Accordingly, the Department specifically invites comments addressing: (i) Whether the exemption provided should be available only for a "guaranteed investment contract separate account" which maintains a specified level of assets, and (ii) the nature and extent of state insurance regulation relating to separate accounts that fund obligations under guaranteed investment contracts, including the nature and extent of any reserve requirements applicable to such accounts.

[18] Although the applicants submitted specimen contracts as part of their application, the Department is not, in proposing the exemption, expressing an opinion on the question whether a separate account supporting obligations under these contracts would be a "guaranteed investment contract separate account" described in the exemption. Further, the Department expresses no opinion on whether, or the extent to which, any of the elements of these definitions would be met with respect to such contracts.

[19] See the discussion at Note 14, above.

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 require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests 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, and Section I of the proposed exemption will not extend to transactions prohibited by sections 406(b)(1) and 406(b)(2) of the Act and section 4975(c)(1)(E) 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 interest of the plan(s) and of participants and beneficiaries of the plan(s); and protective of the rights of such participants and beneficiaries.

(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 a request for a hearing on the proposed exemption to the address and 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 proposed 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 application referred to and summarized above, the Department has under consideration the grant of the following class exemption pursuant to the authority conferred under section 408(a) of the Act, and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. General Exemption. Effective January 1, 1975, the provisions of sections 406(a) and 407(a) of the Act and the taxes imposed by reason of section 4975 (c)(1)(A) through (D) of the Code shall not apply to any transaction between a guaranteed investment contract separate account and a party in interest with respect to a plan other than a transaction between such a separate account and: (1) A party in interest who has authority to enter into, continue, or terminate any contract issued by the life insurance company that maintains the separate account to, or for the benefit of, the plan whose assets are held in such separate account, or any affiliate of such person; or, (2) the life insurance company that maintains the guaranteed investment contract separate account or any affiliate of such insurance company.

Section II. Excess Holding Exemption. Effective January 1, 1975, the provisions of section 406(a)(1)(E), 406(a)(2) and 407(a) of the Act shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property by a plan (other than through a guaranteed investment contract separate account) if the acquisition or holding contravenes such provisions of the Act solely by reason of being aggregated with employer securities or employer real property held by a guaranteed investment contract separate account in which the plan has an interest.

Section III. Specific Exemptions. Effective January 1, 1975, the provisions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by reason of section

4975(c)(1)(A) through (E) the Code shall not apply to the following transactions—

A. *Employer Securities and Employer Real Property.* The acquisition, sale, or holding of employer securities or the acquisition, holding, sale or lease of employer real property, by a guaranteed investment contract separate account that supports obligations under a contract in which a plan has an interest, provided each of the following conditions is met:

1. No commission is paid to the insurance company or to the employer or any affiliate of the insurance company or the employer in connection with the acquisition of employer securities or the acquisition, sale, or lease of employer real property;

2. None of the employer securities are issued by, and none of the employer real property is leased to, the life insurance company maintaining such separate account or an affiliate of such life insurance company;

3. In the case of employer real property—

(a) The property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use, and,

(b) The amount paid by the separate account in connection with any acquisition of such property is not more than, and the amount received by the separate account in connection with any sale of lease of such property is not less than, "adequate consideration" (as defined in paragraph A(5) of this Section);

4. In this case of employer securities,—

(a)(i) The securities are not "restricted securities" within the meaning of Rule 144 under the Securities Act of 1933, and,

(ii) The amount paid by the separate account in connection with any acquisition of such securities is not more than, and the amount received by the separate account in connection with any sale of such securities is not less than, "adequate consideration" (as defined in paragraph A(5) of this Section), or,

(b)(i) With respect to an acquisition or holding of securities, such securities are "restricted securities" within the meaning of Rule 144 under the Securities Act of 1933, and are acquired directly from the issuer at a price not less favorable to the separate account than the price paid concurrently for a substantial portion of the same issue by persons independent of the issuer and of the insurance company maintaining such separate account, and,

(ii) Immediately after any acquisition of such securities, at least 50 percent of the aggregate amount of the securities issued in the issue and outstanding are held by persons independent of the issuer and the life insurance company maintaining the separate account, or,

(c)(i) The securities are "restricted securities" within the meaning of Rule 144 under the Securities Act of 1933 and are acquired from, or sold to, a person who is not affiliated with the issuer or the life insurance company maintaining the separate account or an affiliate of such issuer or insurance company,

(ii) The amount paid by the separate account in connection with any acquisition of such securities is not more than, and the amount received by the separate account in connection with any sale of such securities is not less than, "adequate consideration" (as defined in paragraph A(5) of this section), and,

(iii) Immediately after any acquisition of such securities, at least 50 percent of the aggregate amount of the securities issued in the issue and outstanding are held by persons independent of the issuer and the life insurance company maintaining the separate account.

5. For the purposes of paragraphs A(3) and A(4) of this Section, the term "adequate consideration" means—

(a) In the case of a security for which there is a recognized market, either (i) the price of the security prevailing on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934, or (ii) if the security is not traded on such a national securities exchange, a price not less favorable to the separate account than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and the insurance company maintaining the separate account,

(b) In the case of an acquisition or sale of an asset other than a security for which there is a generally recognized market, the fair market value of the asset, as determined in good faith by the insurance company maintaining the separate account, and,

(c) In the case of a lease of an asset, the fair rental value of such asset, as determined in good faith by the insurance company maintaining the separate account.

B. *Transfer of Assets to a Guaranteed Investment Contract Separate Account.* The transfer of a portion of the general assets of a life insurance company maintaining a guaranteed investment contract separate account to such separate account, provided that the insurance company does not obtain or purport to obtain any interest in any asset theretofore held in such separate account as a result of such transfer, and provided there is no diminution in the value of any plan's interest in the separate account as a result of such transfer.

Section IV. Definitions. For the purpose of this exemption—

A. An "affiliate" of a person includes—

1. Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

2. Any officer, director, employee (including, in the case of an insurance company, an insurance agent thereof, whether or not the agent is a common law employee of the insurance company), or relative of, or partner in, any such person; and,

3. Any corporation or partnership of which such person is an officer, director, partner, or employee.

B. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

C. The term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party in interest with respect to a plan (which has an interest in the separate account) by reason of a relationship to the employer described in section 3(14) (E), (G), (H), or (I) of the Act.

D. A "guaranteed investment contract" means a contract issued to an employee pension benefit plan, or to a fiduciary for the benefit of such a plan, by a life insurance company, under which—

1. The life insurance company issuing the contract guarantees the amounts deposited by the plan pursuant to such contract and guarantees a specified rate of interest on such amounts for a stated period of time;

2. The amounts received by, or credited to, a plan under such contract, and any charges made under such contract, are not, in any circumstances, affected by the investment performance of assets held in any separate account or other investment fund;

3. The plan has an unqualified right to withdraw the amounts deposited and the interest accrued thereon upon the expiration of the period for which the amounts deposited and a specified rate of interest are guaranteed under such contract; and

4. The plan's right to recover any amount payable under such contract from the life insurance company issuing the contract, and the plan's claim against the general assets of such life insurance company for any amount payable under such contract, whether on insolvency or liquidation of the life insurance company or otherwise, would

not be adversely affected by the allocation of amounts received by the insurance company under such contract to a separate account.

E. A "guaranteed investment contract separate account" means a separate account that is—

(1) Established and maintained by a life insurance company pursuant to the laws of a State for the exclusive purpose of supporting contractual obligations of such life insurance company under guaranteed investment contracts, and,

(2) The assets of which are legally segregated and are not chargeable with liabilities arising out of any other business that the life insurance company may conduct.

F. A "life insurance company" means an insurance company authorized to do business as a life insurance company under the laws of a State.

G. The term "party in interest" includes a "disqualified person" described in section 4975(e)(2) of the Code.

H. The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

Signed at Washington, D.C. this 25th day of July 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-22913 filed 7-29-80; 4:43 pm]

BILLING CODE 4510-29-M

[Application No. D-1424]

Proposed Exemption for Certain Transactions Involving the Cement Masons Pension Trust Fund for Northern California Located in San Francisco, Calif.

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 issuance by the Cement Masons Pension Trust Fund for Northern California (the Plan) of commitments obligating the Plan to purchase mortgage loans on single-family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the financial institutions involved, contributing employers, and other persons participating in the proposed transactions.

DATES: Written comments must be received by the Department on or before September 15, 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, NW, Washington, D.C. 20216. Attention: Application No. D-1424. 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 NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8884. (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) 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 (D) of the Code. The proposed exemption was requested in an application filed by McMorgan & Company, the investment manager 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). This application was filed with both the Department and the Internal Revenue Service. However, 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 multiemployer pension plan which covers cement masons who are employed by contractors and home builders in Northern California. In order to obtain construction loans, builders frequently must have a commitment from a mortgage banking firm or other financial institution to provide financing for the purchasers of the dwelling units which the builder proposes to build and sell. Such mortgage banking firms and other financial institutions often do not hold for their own investment all the mortgage loans they make to purchasers of the homes but instead sell the loans to long-term investors, pursuant to a written commitment made by such an investor. In many instances the mortgage banker or financial institution relies on the commitment of the long-term investor in giving its financing commitment to the builder to provide financing for the purchasers of the dwelling units. The Plan has for over twelve years issued written commitments to independent mortgage banking firms, which are typically state and federally chartered banks and savings and loan associations, or other corporations which have a mortgage banking business. Such commitments obligate the Plan to purchase from the mortgage banking firms a specified amount of mortgage loans made by the firm, and secured by first deeds of trust on single family dwelling units. Such units are detached single family homes in subdivisions, are condominiums created under applicable state law, or are planned unit developments which are multi-unit subdivisions restricted by recorded documents limiting the use of property to residential purposes and providing a plan for maintenance of common facilities. Commitments are made on behalf of the Plan by McMorgan & Company, the Plan's investment manager, for the purchase of mortgage loans which conform to certain written guidelines, regarding the type and quality of the property and the credit worthiness of the buyer, established by the trustees of the Plan. In considering whether to issue a commitment on behalf of the Plan for a particular project, McMorgan & Company considers, among other things, who the builder of the project will be. McMorgan & Company is, and is required to remain while serving as investment manager for the Plan, registered as an investment advisor under the Investment Advisor's Act of 1940, and was appointed the Plan's investment manager under section 402(c)(3) of the Act.

2. Following purchase by the Plan of any such mortgage loans, the note and deed of trust are assigned by the mortgage banking firm to the Plan. The Plan normally charges a loan fee for issuing the commitment to purchase such loans, part of which is refundable if the loans are tendered and purchased by the Plan. Terms of the commitments prohibit sale to the Plan of any loan which is an obligation of a party in interest or disqualified person with respect to the Plan. In addition, mortgage banking firms from which the Plan purchases mortgages service the loans under separate servicing contracts with the Plan. The servicing includes collecting payments and remitting them to the Plan, sending late notices and handling foreclosures. The Plan's commitment must conform to the written guidelines which the Plan trustees have provided to the Plan's investment manager. The guidelines are in two sets, one for conventional residential mortgages, including planned unit developments and condominium units, and the other for one-family dwellings, FHA-insured or VA-guaranteed mortgages. Each set of guidelines contains requirements regarding the dwelling, the plot, water supply and sewage disposal, the area, the mortgage loan (including the borrower's income and credit) and other requirements or considerations. Some of the requirements are that the dwelling unit not be more than one year old (although justifiable exceptions may be considered), that the loan mature in not more than 30 years (in the case of conventional loans) or 35 years (in the case of FHA-insured or VA-guaranteed loans), that conventional loans not exceed 80% of appraised value except loans of 90% of appraised value will be considered where private mortgage insurance covers the top 20%, and that title insurance and other forms of insurance be provided. These requirements are specified in the written commitment. In addition, the commitment contains the fee charged by the Plan for issuing the commitment and the interest rate required on the loans which are to be purchased by the Plan.

3. The terms of the commitment are similar to commitments made by other lenders, for example, insurance companies, banks and savings and loan associations. The interest rate charged is determined by the rate then prevailing in the marketplace.

Notice to Interested Persons

Notice will be given to all interested persons within 15 days of the publication of the proposed exemption in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment within the time period set forth in the notice of proposed exemption. The notice will be given by posting it on the bulletin board of each local union hiring hall.

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) of the Act and section 4975(c)(1) (E) and (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 the 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

All interested persons are invited to submit written comments 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 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 section 406(a) 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 (D) of the Code shall not apply to issuance by the Plan of commitments, in accordance with the guidelines and procedures set forth in the application, obligating the Plan to purchase mortgage loans on single family dwelling units from financial institutions, when construction of such dwelling units is by persons who are parties in interest or disqualified persons with respect to the Plan, and shall not apply to the purchase of mortgage loans which meet the criteria of the guidelines and procedures set forth in the application, from financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgages which they previously have sold to the Plan. The foregoing exemption will be applicable only if the following conditions are met:

(a) At the time the transaction is entered into, the terms of the transaction are not less favorable to the Plan than the terms generally available in arm's length transactions between unrelated parties.

(b) The Plan maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan records are lost or destroyed prior to the end of the six year period, (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this section are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Any trustee of the Plan or any duly authorized employee or representative of such trustee;

(iii) The Plan's investment manager or any duly authorized employee or representative of the investment manager; and

(iv) Any participant or beneficiary of the Plan or any duly authorized employee or representative of such participant or beneficiary.

In addition, 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 transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 28th day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23208 Filed 7-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1402]

Proposed Exemption for Certain Transactions Involving Guaranty State Bank of Saint Paul Profit Sharing Plan and Trust Located in Saint Paul, Minn.

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 temporary 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 temporary exemption would exempt transactions involving the purchase, holding and repurchase (if necessary) of Participation Certificates in certain real estate mortgage loans between the Guaranty State Bank of Saint Paul Profit Sharing Plan and Trust (the Plan) and the Guaranty State Bank of Saint Paul (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the prospective transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before September 10, 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-1402. 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: Paul R. Antsen of the Department of Labor, telephone (202) 523-6915. (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 sections 406(a), 406(b)(1) and (b)(2), and 407(a) 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 Harry J. Jensen and Elsie C. Dokmo, 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.

Temporary Nature of the Exemption

Because of the Department is in the process of developing experience in dealing with transactions involving Participation Certificates secured by mortgages on real property, the proposed exemption is temporary and will expire five years after the date of such exemption. However, the Department expects that its determination of whether the exemption should be made permanent, modified or extended will be made and published in the **Federal Register** sufficiently in advance of the expiration date so as to avoid any undue disruption of Plan investment activities.

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 profit sharing plan. As of February 2, 1979, the Plan had 17 participants. The Plan Trustees are Harold Rutchick, Chairman of the Board of the Employer, Harry Jensen, President of the Employer and majority shareholder and Elsie Dokmo, Vice President and an employee of the Employer. As of December 31, 1979 the Plan had total assets of $142,610.

2. The Employer is a State bank holding a charter to operate within the State of Minnesota. Prior to the effective date of the Act, the Employer in the normal course of business has granted loans to enable borrowers to acquire interests in real estate (the Real Estate Loan(s)). These Real Estate Loans are secured by first real estate mortgages, for the benefit of the Employer, on the property purchased and may be for a definite period of time or demand notes to permit adjustments in the rate of interest based on current market condtions.

3. In December of 1975 a decision was made that the return of Plan investments could be substantially increased it Plan investments were made in such Real Estate Loans.

4. The application requested retroactive relief for transactions previously entered into; however, the Department is unable to make a finding that such transactions satisfy the statutory requirements upon which administrative relief is granted.

5. The Plan contemplates entering into prospective transactions involving the purchase of Participation Certificates which assign to the Plan an undivided interest or participation in a Real Estate Loan and represents that the following conditions will apply with respect to all prospective transactions:

(a) none of the loan customers would have either an interest in the Employer or in an ownership or vested interest in the Plan; (b) all purchases of Participation Certificates would be for cash; (c) no sales commission would be charged to the Plan in connection with the acquisition; (d) the interest rate and duration of the Participation Certificate would be identical to the terms of the Real Estate Loan; (e) the purchase price of the Participation Certificate would be

determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rates of the Real Estate Loan; however, in no event would the purchase price to the Plan be less favorable to the Plan than a similar transaction would be with an unrelated third party; (f) the Employer would continue to hold at least a fifty (50) percent interest in that portion of the Real Estate Loan not transferred to the Plan by a Participation Certificate and service the entire loan at no fee to the Plan; (g) the loan-to-value ratio of the Real Estate Loan shall not exceed seventy-five (75) percent and such loan would be properly recorded and insured against loss or damage from fire or other hazards in the amount of the outstanding unpaid principal; (h) the Participation Certificate would contain a provision requiring repurchase by the Employer (at a purchase price equal to the unpaid principal balance plus accrued interest) upon fifteen (15) days written notice by the Plan, such requirement for repurchase to be at the absolute discretion of the Plan; and (i) not more than thirty-five (35) percent of Plan assets shall be invested in such Participation Certificates with not more than ten (10) percent of Plan assets committed in any single transaction or involve the same borrower.

6. The Plan will receive its proportionate share of payments of principal or interest which the Employer shall receive on the Real Estate Loan(s) and the Employer is to retain custody of such loan with full authority to conduct or control, in his own name, the collection, utilization and enforcement of such loan and collateral by suit, foreclosure or otherwise.

7. The Federal Deposit Corporation (FDIC) and the State of Minnesota Banking Department audit the Employer annually. These audits entail confirming the outstanding loan balances and cross checking all collateral. It is alleged that such actions encompass more than an audit by an outside accounting firm. It is further alleged that the acquisition of such Participation Certificates which include a repurchase provision does not violate any State or Minnesota or FDIC banking law.

8. In summary, the applicant represents that any Participation Certificate to be purchased meets the criteria of section 408(a) of the Act because: (a) the Participation Certificate will be sold to the Plan with no sales commission; (b) the Employer agrees to service the entire Real Estate Loan at no fee to the Plan; (c) the Real Estate Loan is secured by a first real estate mortgage properly recorded and insured with a loan-to-value ratio not to exceed seventy-five (75) percent; (d) all loans by the Employer are subject to annual audit by the FDIC and the Minnesota State banking authority; (e) the Participation Certificate provides a net return to the Plan which reflected market conditions at the time of purchase; (f) the Participation Certificate contains a written guarantee of repurchase by the Employer upon fifteen (15) days written notice from the Plan; (g) the Employer will continue to have an interest in the timely repayment of the Real Estate Loan because he will retain at least a fifty (50) percent interest in that portion of the loan not subject to the Participation Certificate; and (h) the amount of Plan assets will be limited both with respect to the individual transactions and transactions of this type collectively. With respect to all transactions covered by this exemption the trustees represent that the subject transactions are appropriate for and in the best interests of the Plan.

Notice of Interested Persons

Within ten days of publication of the proposed exemption in the **Federal Register,** all participants and beneficiaries of the Plan will receive by personal delivery a copy of the notice of pendency and a statement to the effect that interested persons have the right to comment on the proposed exemption, and the right to request that a hearing be held.

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), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(a)(1)(A) through (E) of the Code shall not apply:

(a) from the date of this exemption until five years thereafter to the purchase, holding and repurchase; and

(2) subsequent to the expiration date of this exemption to the holding and repurchase (provided such interest was acquired during the period such exemption was in effect) [1]

[1] The Department has traditionally viewed a guarantee to repurchase from the plan by a party in interest as a prohibited transaction under ERISA. Because the terms of the Participation Certificate provide for a guaranteed repurchase on demand

Footnotes continued on next page

of Participation Certificates in the Real Estate Loans secured by first mortgages from the Employer, provided that the following conditions are met:

A. No sales commission will be charged to the Plan in connection with the Participation Certificate acquisition.

B. The purchase price of the Participation Certificate will be determined by comparing the market interest rate at the time the participation interest would be purchased with the interest rate of the Real Estate Loan; however, in no event would the purchase price to the Plan be less favorable than a similar transaction with an unrelated third party.

C. The Employer will continue to hold at least a fifty (50) percent interest in that portion of the Real Estate Loan not transferred to the Plan by a Participation Certificate and service the entire loan at no fee to the Plan.

D. Only Real Estate Loans secured by first real estate mortgages which have been properly recorded and insured in the amount of such loan and having a loan-to-value ratio not greater than seventy-five (75) percent shall be the subject of a Participation Certificate acquisition by the Plan.

E. Any Participation Certificate acquisition by the Plan shall include a written repurchase provision by the Employer at the demand of the Plan upon fifteen (15) days written notice, such requirement for repurchase to be at the absolute discretion of the Plan. Should the repurchase provision be exercised, the purchase price shall be the unpaid principal balance, provided this amount is not less than fair market value at the time of sale, plus any accrued interest payments.

F. In the event of a default by the borrower on any payment due under the terms of the Security Agreement governing the loan transaction (a required document pursuant to local banking law), the Employer will be called upon to honor his obligation under condition E of this exemption. A Real Estate Loan shall be considered to be in default for purposes of this exemption when it would be considered in default under the terms of the security agreement or any other loan documentation governing the Employer originated loan in which the Plan has a participation interest.

G. The acquisition of a Participation Certificate from the Employer involving the Real Estate Loans shall not cause the Plan to hold:

1. more than thirty-five (35) percent of the current value (as that term is defined in section 3(26) of the Act) of Plan assets in such participation interests; and

2. more than ten (10) percent of Plan assets (as defined above) in participation interests of any one real estate secured loan or individual borrower.

H. A plan which relies upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstnaces beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. Such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph I below.

I. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph H above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;

2. The Department of Labor;

3. Plan participants and beneficiaries;

4. Any employer of Plan participants;

5. Any employee organization any of whose members are covered by the Plan; or

6. Any duly authorized employee or representative of a person described in subparagraphs (1) through (5) of this paragraph.

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 28th day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23207 Filed 7-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1805]

Proposed Exemption for Certain Transactions Involving the Reading and Bates Pension Plan Located in Tulsa, Okla.

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 contribution of a fully renovated office building by Reading and Bates Corporation (the Employer) to the Reading and Bates Pension Plan (the Plan), and the subsequent leaseback of that building to the Reading and Bates Development Corporation (Development), a wholly owned subsidiary of the Employer, who will then sublease office space to parties in interest and unrelated third parties. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and any other persons participating in the proposed transaction.

DATES: Written comments must be received by the Department of Labor on or before September 10, 1980.

ADDRESS: All written comments (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-1805. 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, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Elliot Arditti, of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

Footnotes continued from last page

during the entire term of such Participation Certificate, the terms of the exemption must necessarily extend to provide relief for the operation of the safeguards incorporated in the conditions. Therefore the relief provided includes the "holding and repurchase" of the Participation Certificates. Additionally, in order that the Plan not be required to dispose of its holdings in Participation Certificates issued by the Employer during the period such exemption was in effect the Department intends that the language of the exemption also be construed to provide continuing relief for the "holding" after the expiration of the exemption for those Participation Certificates purchased before such date in accordance with the terms of the exemption.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) 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 on behalf of the Employer, 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 th 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 benefit plan covering employees of the Employer as well as the employees of certain subsidiary corporations of the Employer. As of February 5, 1980, the estimated number of Plan participants was 807. As of January 31, 1980, Plan assets were $8,817,949.

2. The Trustee for the Plan is the First National Bank and Trust Company of Tulsa (First National), a wholly owned subsidiary of First Tulsa Bancorporation, a widely held one-bank holding company. First National is the second largest bank in Tulsa and the fourth largest bank in Oklahoma. Within broad guidelines established by the Employer, the Trustee has the authority and responsibility to invest the assets it manages in the best interests of the Plan participants and their beneficiaries.

3. In October, 1977, Development purchased the Mid-Continent Building (Mid-Continent), an office building in downtown Tulsa, for $405,000. Subsequent to this purchase, Development began extensive renovations to Mid-Continent. Upon completion of the renovations in April, 1980, Mid-Continent was valued at $4,000,000 by W. A. Phillips, M.A.I. and independent appraiser. At the present time, space in Mid-Continent is leased both to unrelated third parties and to subsidiaries of the Employer.

4. In the proposed series of transactions, Mid-Continent would first be conveyed by Development to the Employer, who, for its own account and for the account of its subsidiaries, would contribute the building to the Plan. Upon the contribution of Mid-Continent, the Plan will lease the building to Development.

5. The proposed lease contract between the Plan and Development will expressly prohibit extension of the lease beyond a primary ten year term, and two extended terms of five years. Upon completion of the second five year term, the exemption will terminate.

6. Under this lease agreement, Development will guarantee that the Plan will receive rentals based upon 100% occupancy at all times. Development will in turn sub-lease office space in Mid-Continent to third parties and parties in interest. A provision has been made for "Deemed Rent" which will be paid by development to the Plan in the event there is space in Mid-Continent which is not subject to a sublease. "Deemed Rent" is the amount equal to the fair rental value of the subject office space as determined by a real estate appraiser or other consultant selected by the Trustee. "Deemed Rent" shall be paid by Development over the number of days for which any space is unleased.

Therefore, the lease guarantees that the Plan will at all times during the lease term receive rentals based upon full occupancy of the building under an arrangement which assures that such rentals will equal the fair rental value of the space in Mid-Continent.

7. There are three distinct phases of the over-all rental which is to be paid by Development to the Trustee. First, on a monthly basis, Development will remit to the Trustee all rental revenues received from its sublessees, less all direct expenses incurred by it in connection with the management and operation of the building. Secondly, the lease agreement requires the Trustee's prior written consent before any sublease becomes effective. This written consent will be provided only upon an advance determination by the Trustee that all the provisions of any pending sublease are fair and reasonable in all respects and that they adequately protect the interests of the Plan. Lastly, with respect to all proposed subleases including those between Development and the Employer or any of its subsidiaries, the lease agreement requires that all terms under any such sublease must be approved by an appraiser or consultant selected by the Trustee.

8. The applicant represents that the lease agreement is designed to protect the Plan against the possibility of a decline in the fair market rental value of Mid-Continent. This has been accomplished by providing that, if the aggregate amount paid to the Trustee in any year is less than $250,000, the difference will be paid by Development to the Trustee as additional rent. The sum of $250,000 was selected as the guaranteed amount because it is approximately equal to the anticipated net revenues to be received under current leases during 1980. The guarantee establishes the minimum net rental income the Plan will receive from Mid-Continent. Projections indicate the return in future years will exceed this minimum figure.

9. Mid-Continent will comprise 29 percent of Plan assets upon its contribution to the Plan. It is anticipated that this percentage will drop to under 20 percent in 1983, and continue to drop in the ensuing years.

10. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria contained in section 408(a) of the Act because (a) at all times, the Plan will receive rentals based upon 100 percent occupancy of Mid-Continent under an arrangement which assures that the rentals will equal the fair rental value of space in the building; (b) an independent Trustee must give written consent before any sublease becomes effective; (c) all terms under any sublease must be approved by an appraiser or consultant selected by the Trustee and the Trustee must determine that all provisions of such sublease are fair and reasonable; (d) there is a minimum of $250,000 per year which is guaranteed to the Plan in the event there is a marked decline in the fair rental value of Mid-Continent; and (e) the Trustee has determined that the transaction is appropriate for the Plan and is in the best interests of the Plan's participants and beneficiaries.

Notice to Interested Persons

Within ten days after its publication in the **Federal Register**, the notice of pendency will be given to all participants and retired participants having an interest in the Plan. Such notice will be provided by mailing a copy of this notice to each recipient's last known place of residence by first class mail. Along with this notice, there will be mailed a statement that interested persons have a right to comment and request a hearing on the proposed exemption within the period set forth in this notice.

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 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), (b)(2) and 407(a) 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 to contribution of Mid-Continent by the Employer to the Plan, and a subsequent leaseback to a wholly owned subsidiary of the Employer according to the terms and conditions as specified hereinabove.

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 28th day of July, 1980.

Ian D. Lanoff,

Administrator, for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-23205 Filed 7-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-753]

Proposed Exemption for Certain Transactions Involving Detroit Mortgage and Realty Company Employee Pension Plan Located in Detroit, Michigan

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 temporary exemption would exempt the sale to the Detroit Mortgage and Realty Company Employee Pension Plan (the Plan) by Detroit Mortgage and Realty Company (DMR), the Plan sponsor, of third party mortgages. It would also exempt the guarantee of the loans by DMR. The proposed exemption, if granted, would affect DMR, the trustees, participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before September 15, 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 Ave., N.W., Washington, D.C. 20216, Attention: Application No. D–753. 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. robert N. Sandler of the Department of Labor, telephone (202) 523–8883. (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 sections 406(a), 406 (b)(1) and (b)(2) and 407(a) 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 on behalf of DMR, 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 18741, 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 applications.

(1) The Plan is a defined benefit plan and the investment decisions for the Plan are made by Earl I. Heenan, Jr., president of DMR, James I. McClintock, Esq., chairman of the board of DMR and

William R. Yates, vice president of DMR. DMR is incorporated under the laws of the state of Michigan and has its principal offices at 333 West Fort Street, Detroit, Michigan. DMR owns all of the stock of the following six corporations: Lake Michigan Mortgage Company; Great Lakes Mortgage Corporation; Lang Heenan & Company; Home Investment Service Corp.; Maize & Blue Properties, Inc.; and Greater Detroit Mortgage Corp. Each of the above corporations is a signatory to the Plan.

(2) DMR and its predecessor companies have been in the business of originating, placing and servicing mortgages for over 50 years. DMR is an FHA and VA approved mortgagee, an approved seller-servicer of the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association and an approved disperser-servicer for the Michigan State Housing Development Authority. The regulatory activity of all four of the above Federal organizations includes periodic audits at irregular intervals at the option of the Federal bodies, submission of annual audited statements, as well as monthly reports to FHA regarding any case delinquent for 90 days or more and to FNMA and GNMA concerning any conventional (non-FHA) loan delinquent for 60 days or more.

(3) In making residential loans and reviewing residential loan applications, DMR follows Federal National Mortgage Association guidelines. The factors influencing acceptability would include the credit record and financial statements of the applicant, the ratio between expenses to be assumed as a result of the loan and the stabilized income of the applicant, verification of employment, the age and condition of the property offered as security (determined by inspection), the value of the security (determined by FNMA accepted appraisers), and the ratio of the loan sought to the value of the security.

(4) The sale usually includes a service contract with DMR. Under the service contract DMR collects the monthly payments and remits them to the investor, takes necessary action or delinquent payments and maintains escrow accounts for taxes and insurance. The service fee is ⅜th's of 1% of interest payments collected.

(5) DMR proposes to sell the above-described residential mortgage loans to the Plan for a cash purchase price of the lesser of DMR's cost or the market value of the loan, and to also service the loans at no cost to the Plan. If DMR receives any premium or additional consideration in connection with such mortgage loans, such premium will be passed along to the Plan. DMR will receive no financial benefit from any mortgage loans sold to the Plan. Such loans will be conventional, FHA or VA loans. An independent fiduciary who is experienced in the mortgage loan business will have the sole authority to decide which loans, if any, will be purchases from DMR. The independent fiduciary will only select loans that are of high quality. Loans are considered high quality when the borrowers are determined to be particularly good credit risks, when the property offered as security is especially attractive from the standpoint of value and continued marketability, or when the loan requirement presents a lower than usual loan to value ratio.

(6) The loans that the independent fiduciary will review will not as yet have been closed by DMR. Upon acceptance by the independent fiduciary, DMR would close the loan and DMR would immediately sell the loan to the Plan. Therefore, with regard to such loans, DMR acts merely as a conduit to facilitate the exchange between the mortgagor and the Plan. The independent fiduciary will also monitor the loans after their purchase by the Plan, to ensure compliance with all the terms and conditions of the exemption.

(7) The Plan will not at any time have more than 50% of the current value of its assets invested in mortgage loans purchases from DMR. No more than 5% of Plan assets will be invested in any one loan purchase and the Plan will not purchase more than one mortgage from any mortgagor. All mortgage loans purchased by the Plan will meet all Federal National Mortgage Association (FNMA) underwriting criteria. Also, there will be an appraisal of the underlying security by a FNMA approved independent appraiser prior to any purchase of a loan by the Plan.

(8) The mortgagor will maintain casualty insurance on the property securing the loan at all times during the term of the loan. The Plan will not purchase any mortgage loan where the loan to value ratio exceeds 80%. The property underlying the loans shall be geographically dispersed in that the Plan will purchase no more than five mortgage loans per city or township within one year. DMR shall guarantee in writing that it will repurchase, at the higher of cost or current market value, any morgage loan sold to the Plan that is in default in excess of 90 days.

(9) It is represented that the proposed purchases of mortgage loans satisfy the statutory criteria of section 408(a) of the Act because:

a. The Plan fiduciairies represent that the proposed transactions would be beneficial to and in the best interests of the Plan and its participants and beneficiaries;

b. An independent fiduciary will decide which loans to purchase and will monitor all terms and conditions of the exemption;

c. The loans will meet all FNMA underwriting criteria and the underlying security will be appraised prior to any purchase by the Plan, by an idenpendent FNMA approved appraiser;

d. All transactions will be on an arm's length basis;

e. No more than 5% of Plan will be invested in any one mortgage loan and the Plan will not purchase more than one mortgage from any mortgagor;

f. The property securing the loans will be kept fully insured by the mortgagor;

g. The Plan will not purchase any loan where the loan to value ratio exceeds 80%;

h. The Plan will invest no more that 50% of Plan assets in mortgage loans;

i. The property securing the Plan's mortgage loans will be dispersed geographically in that the Plan will not purchase more than five mortgage loans in any one city or township within one year;

j. DMR will guarantee in writing that it will repurchase any mortgage loan sold to the Plan that is in default in excess of 90 days, at the higher of the Plan's cost or current market value; and

k. The exemption will be temporary, expiring five years after its effective date.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons, including participants and beneficiaries of the Plan, within 15 days after the publication of the proposed exemption in the Federal Register, either by first class mail or hand delivery. The notice shall include a copy of the notice of proposed exemption and a statement informing recipients of their right to comment on or request a hearing with respect to the proposed exemption within the time period specified above.

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 geneal 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 prohibitied 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), (b)(2) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason by section 4975(c)(1)(A) through (E) of the Code, shall not apply to:

(1) the cash purchase by the Plan from DMR of conventional, FHA and VA mortgage loans for a purchase price representing the lesser of DMR's cost or current market value; and

(2) the guarantee by DMR to repurchase mortgage loans that are in default, and the repurchase by DMR of such loans from the Plan.

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. The exemption will be temporary, expiring five years after its effective date.

Signed at Washington, D.C., this 28th day of July.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–23206 Filed 7–31–80; 8:45 am]

BILLING CODE 4510–29–M

[D–1357, D–1447, D–1448, D–1449]

Proposed Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts; Hearing

By notice published in the **Federal Register** on May 6, 1980 (45 FR 29937), the Department of Labor (the Department) proposed a class exemption from certain of the prohibited transaction restrictions contained in the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The proposed exemption would apply to transactions related to the origination, maintenance, and termination of mortgage pool investment trusts (mortgage pools), and the acquisition and holding of certain mortgage-backed pass-through certificates (certificates) of mortgage pools under certain circumstances by employee benefit plans.

A hearing on the proposed class exemption has been requested. In light of this request, the Department has decided to hold a public hearing on September 9, 1980, beginning at 10:00 a.m. in Room N5437A, B, C and D of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Any interested person who wishes to be assured of the opportunity to present oral comments at the hearing should submit by 3:00 p.m., September 2, 1980: (1) a written request to be heard, and (2) an outline (preferably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Fiduciary Standards, Pension and Walfare Benefit Programs, Room C–4526, Washington, D.C. 20216, Attention Mortgage Pool Hearing. Individuals who do not file written comments regarding the proposed class exemption may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments and the time allotted to each person making oral comments. In the absence of special circumstances, each commentator will be allocated ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after September 5, 1980 by telephoning William J. Flanagan, Esq., Washington, D.C. (202) 523–7925 (not a toll free number). Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments.

A written record of the hearing will be made.

Signed at Washington, D.C., this 28th day of July. 1980

Ian D. Lanoff,

Administrator, Pension and Walfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–23266 Filed 7–30–80; 9:29 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts (Design Exploration/ Research); 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 Design Arts Panel (Design Exploration/Research) to the National Council on the Arts will be held August 18, 1980 from 9:00 a.m. to 5:30 p.m. and August 19, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1426, Columbia Plaza Office Complex, 2401 E St., NW., 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.

Dated: July 28, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-23217 Filed 7-31-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50-502]

Wisconsin Electric Power Co., et al. (Haven Nuclear Plant); Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Luton has transferred to another federal agency.

Accordingly, Elizabeth S. Bowers, Esq., whose address is Atomic Satety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 29th day of July 1980.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 80-23220 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-485]

Rochester Gas and Electric Corp., et al. (Sterling Power Project, Nuclear Unit No. 1); Order Revoking Construction Permit

I.

Rochester Gas and Electric Company, et al., is the holder of Construction Permit No. CPPR–156 which authorizes the construction of the Sterling Power Project, Nuclear Unit No. 1 in Cayuga County, New York. The permit, as issued, was due to expire on April 1, 1986.

II.

Subsequent to the Initial Decision authorizing the issuance of Construction Permit No. CPPR–156 on August 26, 1977,[1] the Atomic Safety and Licensing Appeal Board (Appeal Board) affirmed that decision on all but two issues, over which it retained jurisdiction.[2]

Under New York law, the Sterling facility was required to obtain a certificate of environmental compatibility and public need from that State's Board on Electric Generation Siting and the Environment. On February 11, 1980, the Application for that certificate was denied and the proceeding closed.

In a May 28, 1980, letter from counsel for Rochester Gas and Electric Company to the Appeal Board, the Applicants stated an intention to terminate their contracts with vendors supplying services and components for the project, a step which "effectively recognizes project discontinuance for all practical purposes."[3] In addition, the Applicants requested that the Appeal Board terminate the proceedings before it. Thereafter, in compliance with the Applicants' request, the Appeal Board issued an order terminating the proceeding. The Appeal Board also vacated the above-mentioned Initial Decision authorizing the Director of Nuclear Reactor Regulation to issue Construction Permit No. CPPR–156. The Director of Nuclear Reactor Regulation was instructed to issue an order revoking the Construction Permit.[4]

III.

For the reasons set forth in Section II above, and pursuant to the directive of the Appeal Board to the Director of Nuclear Reactor Regulation, Construction Permit No. CPPR–156 held by Rochester Gas and Electric Company, et al., is hereby revoked.

Issued this 25th day of July, 1980.

For the Nuclear Regulatory Commission.

Harold R. Dention,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-23221 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

[1] LBP–77–53, 6 NRC 350 (1977).

[2] ALAB–502, 8 NRC 383 (1978) *affirmed* CLI–80–23 11 NRC —— (May 29, 1980).

[3] May 28, 1980 letter, p. 1.

[4] ALAB–596, 11 NRC —— (June 17, 1980).

[Docket No. 50-302]

Florida Power Corp., et al.; Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Florida Power Corporation, et al. The relief relates to the inservice inspection (testing) program for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief permits Florida Power Corporation to use the requirements of the ASME Section XI Winter 1977 Addenda in place of the Summer 1975 Addenda for a hydrostatic pressure test, after system modification, of the Make-up and Purification System. The Winter 1977 Addenda pertaining to this action has been adopted by the Commission.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

For further details with respect to this action, see (1) the request for relief dated June 25, 1980, and (2) the Commission's letter to the licensee dated July 22, 1980.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Crystal River Public Library, Crystal River, Florida. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of July 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 80-23222 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation (the licensee) which revised the Technical Specifications for operation of the R. E. Ginna Plant located in Wayne County, New York. The amendment is effective as of the date of issuance.

The amendment revises Sections 3.3, 3.11, 4.5 and 4.11 and incorporates Section 3.3.5 to: (1) add limiting conditions for operation, (2) revise surveillance requirements for the engineered safety feature ventilation filter systems and (3) add limiting conditions for fuel handling operations, and surveillance requirements for the spent fuel pool ventilation charcoal filter system.

The application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 24, 1977 (transmitted by letter dated February 1, 1977), and submittals dated July 28, 1978 (transmitted by letter August 10, 1978), and May 8, 1979, (2) Amendment No. 34 to License No. DPR-18 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of July, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Operating Reactors.

[FR Doc. 80-23223 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-54]

Union Carbide Corp.; Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-81, issued to Union Carbide Corporation (the licensee), for operation of the 5 MW pool type research reactor located on the licensee's site at Tuxedo, New York.

The renewal would extend the expiration date of Facility License No. R-81 to June 30, 2000, in accordance with the licensee's timely application for renewal dated May 23, 1980.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 2, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James

R. Miller: (petitioner's name and telephone); (date petition was mailed); (Union Carbide); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated February 28, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 23rd day of July, 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80-23224 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Three Mile Island Nuclear Power Plant, Unit No. 1; Meeting Postponed

The ACRS Subcommittee meeting scheduled to be held August 5–6, 1980 regarding the Three Mile Island Nuclear Power Plant, Unit No. 1 restart has been postponed. It is anticipated that this meeting will be held sometime in October, 1980.

Notice of the August 5–6, 1980 meeting was published July 21, 1980 (45 FR 48754).

Further information may be obtained by a prepaid telephone call to the cognizant Designated Federal Employee for this meeting, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 29, 1980.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-23225 Filed 7-31-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

July 28, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given for a meeting of the staff of Panel VII (Electoral and Democratic Process) of the President's Commission for a National Agenda for the Eighties, scheduled August 6, 1980, from 2:00 p.m. to 4:00 p.m. in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

The purpose of the meting will be to discuss the Presidential electoral system.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275–0616

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-23239 Filed 7-31-80; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Filing of Petition To Institute Mail Classification Proceeding and Request for Comments

July 29, 1980.

AGENCY: Postal Rate Commission.

ACTION: Notice of Filing of Petition to Institute Mail Classification Proceeding; Request for Comments.

SUMMARY: A petition has been filed requesting the Postal Rate Commission to exercise its authority to initiate a mail classification proceeding under 39 U.S.C. 3623(b) with a view to recommending a change in the requirements for second-class mail. The petitioner states that professional societies publishing periodicals would benefit if the current requirement that a periodical be published at least four (4) times a year were relaxed to the extent of permitting a publisher having one journal meeting that requirement and the other requirements for second-class treatment to use second-class mail also for a second periodical meeting all the requirements except that of publication four (4) times a year. The petitioner proposes that this practice be allowed if the additional periodical is sent to the same list of subscribers as the more-frequently published journal, from the same office of publication; and if it identifies itself as an "associated publication" of the journal which qualifies under current rules. He states that the saving available from using second-class mail would help maintain adequate publications service to the professions served by his, and other, professional societies.

The Commission, in this situation, must determine whether to institute a mail classification proceeding. To assist in this determination, this Notice solicits comments on the petition from any interested person, on or before August 29, 1980. A judgment will subsequently be made whether the requested mail classification proceeding should be instituted.

DATES: Comments responsive to this Notice should be submitted to the Commission and served on the petitioner on or before August 29, 1980.

ADDRESSES: Service of comments on the Commission should be made to David F. Harris, Secretary, Postal Rate Commission, Suite 500 2000 L Street, N.W., Washington, D.C. 20268; and on the petitioner, Professor Mark S. Monmonier, Syracuse University, Syracuse, N.Y. 13210.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268; telephone number: (202) 254–3824.

SUPPLEMENTARY INFORMATION: On July 7, 1980, Mark S. Monmonier, Professor of Geography, Syracuse University, Syracuse, N.Y. 13120, filed a petition with the Postal Rate Commission in which he requests that we institute a mail classification proceeding pursuant to § 3623(b) of the Postal Reorganization Act [39 U.S.C. § 3623(b)]. Professor Monmonier proposes that the eligibility requirements for second-class mail should be modified to permit an organization having one publication which currently qualifies for second-class treatment (particularly with reference to frequency of publication, which must be at least four times a year) to obtain second-class treatment for a second publication otherwise qualifying for second-class but issued less frequently than four times per year. This second publication, which in Professor Monmonier's proposal is termed an "Associated Publication," would be required to be "mailed to all addressees of the institution or society receiving the more frequently issued publication" but

could be separately mailed. The associated publication would also be required (i) to indicate that it is associated with the more frequently issued periodical, (ii) to contain all statements required for the "master" publication, and (iii) to be administered by the same office of publication.

In support of the proposal, Professor Monmonier states that the change would permit the American Congress on Surveying and Mapping (of which he is an officer) to mail at second-class rates a publication entitled *The American Cartographer*, issued twice yearly, as an associated publication of *Surveying and Mapping*, issued four times per year. He states that both periodicals are received by all members of the American Congress on Surveying and Mapping, but are edited and produced by separate boards of editors in order to serve the needs of the different branches of the cartographic profession. Unless second-class treatment is made available for the second publication, Professor Monmonier believes that it may be necessary to consolidate the two journals or reduce their content in order to control costs, with a concomitant reduction in service to the profession. He states, additionally, that other professional organizations should be enabled to offer better publications services to their members by reason of the proposed change; he also recognizes that some revenue loss to the Postal Service may be anticipated.

Professor Monmonier's petition is addressed to the discretion of the Commission, which may, when warranted, initiate *sua sponte* a mail classification proceeding under § 3623 of the Act. The petition raises an issue which at least *prima facie* presents a mail classification question, in that the eligibility requirements for a recognized class of mail would be altered.

In order to assess the need for a proceeding of the type requested, the Commission is hereby soliciting comments on the petition from all interested persons. While, since there is as yet no proceeding before the Commission—and the solicitation of comments is itself intended to help determine whether a proceeding is appropriate—we believe it appropriate to receive comments from the Officer of the Commission (OOC) who would be required to represent the interest of the general public in such a proceeding, as well as from the Postal Service and other interested persons.

Comments should be filed with the Secretary of the Commission and served upon the petitioner, Professor Monmonier, on or before August 29, 1980. The comments will be maintained on file for public inspection in the Commission's Docket Section, and will become part of the record in any proceeding which may be instituted on the petition. Following the filing of the comments, the Secretary will issue a notice listing all parties who have filed comments and serve each party with a copy of such notice. The Commission may, if it deems reply comments desirable, make arrangements by further order for the service of such replies.

A copy of Professor Monmonier's petition is attached as Appendix A to this Notice.

David F. Harris,

Secretary.

Petition to the Postal Rate Commission

Submission

This petition is submitted to the Postal Rate Commission under the provisions of 39 U.S.C. sec. 3623(b) whereby the Commission may, on its own initiative, submit recommendations to the Postal Service on changes in the mail classification schedule. These recommendations would be based on the record compiled in public hearings conducted in accordance with 5 U.S.C. secs. 556 and 557 (the Administrative Procedure Act), and this petition is offered, in part, as an addition to that record.

Proposal

This petition proposes that a mail classification docket be opened for the purpose of evaluating a change proposal. The change would amend Paragraph 421.21 of the Domestic Mail Manual (DMM), concerned with the Regular Issuance Requirement for Second-Class Publications. This paragraph now reads: .21 Each second-class publication must be issued at a regular frequency of at least four times per year. The publisher must determine the number of issues to be published each year and adopt a statement of frequency that will show at what regular intervals the issues will appear. Examples of permissible statements of frequency are: (10 examples in a box).

The proposed change would modify this paragraph by permitting an organization having one qualifying publication mailed at least four times a year to publish less frequency another serial that would also be classified as a second-class publication, provided all members of the organization received both publications. This amendment would be an addition to section 425, What May Be Mailed at The Second-Class Rates. 425.10 Associated Publications. An institution or society (see 422.31) with a publication issued regularly at least four times a year may mail at the second-class rates a second publication issued regularly but less frequently than four times a year.

This associated publication must meet all requirements for second-class rates, except that of a regular frequency of at least four times a year (see 421.21), and must be mailed to all addresses of the institution or society receiving the more frequently issued publication. The associated publication may be mailed separately. The associated publication must bear the title of the more frequent publication preceded by the words *An Associated Publication of*, must contain all statements required for the master publication, and must be administered by the same *known office of publication* as the master publication.

Rationale

This change is requested to permit the American Congress on Surveying and Mapping to mail at second-class rates *The American Cartographer* (issued two times a year) as an associated publication of *Surveying and Mapping* (issued four times a year). Both publications are received by all members of ACSM but have separate editorial staffs and editorial boards in order to serve better different components of the mapping profession. Unless this petition is approved, ACSM may need to consolidate the journals or reduce content in order to control publications costs. This request would merely permit ACSM to publish six times a year under two different serial names and thus better serve the needs of over 10,000 land surveyors, cartographers, and control surveyors.

Benefits

In addition to benefiting ACSM, as stated above, the proposed change should enable other professional organizations to serve better their members by providing a greater variety of editorial expertise and educational information. The only negative benefit is to the Postal Service, which will lose the additional fees for publications currently mailed at a more expensive rate. It must be noted, however, that this proposal is fully within the spirit of allowing professional journals to enjoy second-class mailing privileges.

Submitted on July 2, 1980.

Mark S. Monmonier,

Professor of Geography, Syracuse University, Chairman, Publications Committee, American Congress on Surveying and Mapping.

[FR Doc. 80-23153 Filed 7-31-80; 8:45 am]

BILLING CODE 7715-01-M

POSTAL SERVICE

Privacy of Information; Systems of Records Modifications

AGENCY: U.S. Postal Service.

ACTION: Notice of deletion of a system of records and of minor technical and editorial changes to certain systems of records and advance notice of proposed changes to certain other systems of records.

SUMMARY: The purpose of this document is to publish, as required by 5 USC 552a(e)(4) and (11), advance and final notices of several Postal Service changes. Part (1) deletes USPS 120.038, Personal Records, Employee Bicentennial Award List, from the Systems of Records because it is

obsolete. Part 2 makes minor technical and editorial corrections and revisions to several systems of records. Part 3 proposes more substantive changes to three systems of records to reflect that certain portions of these systems have been automated. Part 3 also proposes a modification of another system, concerning lockbox holders' records, to reflect the use of questionnaires from members of the public interested in lockbox service.

DATE: Comments on Part (3) must be received on or before September 2, 1980. Parts (1) and (2) are effective August 1, 1980.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW, Washington, DC 20260, or delivered to Room 3321 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected at Room 3321 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. A. Scott Hamel, (202) 245–4142.

SUPPLEMENTARY INFORMATION: A complete statement of the existence and character of each of the systems of records appeared in the **Federal Register** on September 8, 1978 (43 FR 40123) and January 7, 1980 (45 FR 1558). As required by 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views or arguments on Part (3). After the time for public comment has elapsed, final notice will be published on that portion.

Part I—Deletion of One System of Records

The Postal Service has determined that the continued maintenance of USPS 120.038, Personal Records, Employee Bicentennial Award List, is no longer necessary and relevant to the accomplishment of a useful purpose of the Postal Service. Under 5 U.S.C. 552a(e)(1) and (4) effective immediately, the system of records identified above has been deleted from the list of systems which appeared in the **Federal Register** on September 8, 1978 (43 FR 40139). This document constitutes the final notice of this deletion.

Part 2—Editorial Corrections and Revisions

The Post Service has determined that it is necessary to make certain editorial corrections and revisions to various systems of records descriptions. These corrections and revisions do not reflect changes in the operations or functions of the described systems. They are only changes to the descriptions themselves for the purpose of presenting to the public a clearer picture of the records maintained. The following constitutes final notice of the necessary changes.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose, CHANGE PURPOSE NO. 4 TO READ: "4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Position Evaluations, Evaluations of Probationary Employees, Merit Evaluations, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges."

USPS 090.020

SYSTEM NAME:

Non-Mail Services—Passport Application Records, 090.020.

CATEGORIES OF RECORDS IN THE SYSTEM:

CHANGE TO READ, "Passport applications; name, telephone number and services rendered."

RETRIEVABILITY:

CHANGE TO READ, "By name of applicant and by postal accounting quarter."

RETENTION AND DISPOSAL:

CHANGE TO READ, "Passport applications are retained for two days at the post office where application was made and then forwarded to the Department of State. Applicants' names an telephone numbers are retained at the post office for three months following the close of the postal quarter in which application was made."

NOTIFICATION PROCEDURE:

CHANGE TO READ: "Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster of the post office where passport application was made. If more than six months has elapsed from the time application was made, inquiries should be addressed to the Department of State. Inquiries should include full name and the date of application."

USPS 120.036

SYSTEM NAME:

Personnel Records—Discipline, Grievance and Appeals Records for Non-Bargaining Unit Employees, 120.036

STORAGE:

CHANGE TO READ, "Information in this system is maintained on paper in the form of letters, forms, notices. In some instances, records of hearing proceedings are on cassette tapes.

USPS 120.040

SYSTEM NAME:

Personnel Records—Employee Job Bidding Records, 120.040

SYSTEM MANAGER(S) AND ADDRESS:

CHANGE TO READ, "APMG, Employee Relations Department, Headquarters."

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development and Training Records, 120.152

SYSTEM MANAGER(S) AND ADDRESS:

CHANGE TO READ, "APMG, Employee Relations Department, APMG, Real Estate and Buildings Department and APMG, Customer Services Department, Headquarters."

USPS 140.020

SYSTEM NAME:

Postage—Postal Meter Records, 140.020.

SYSTEM MANAGER(S) AND ADDRESS:

CHANGE TO READ, "APMG, Rates and Classification Department, Headquarters."

USPS 160.030

SYSTEM NAME:

Special Mail Services—Express Mail Service Insurance Claims for Loss, Delay and Damage, 160.030.

SYSTEM MANAGER(S) AND ADDRESS:

CHANGE TO READ, APMG, Rates and Classification Department, Headquarters."

USPS 190.030

SYSTEM NAME:

Litigation Records—Labor Topic Files, 190.030.

SYSTEM NAME:

CHANGE TO READ, "Litigation Records—Labor Law Topic Files, 190.030."

Part 3—Proposed Changes to Systems of Records

a. The Postal Service has automated certain portions of three systems to improve their operating efficiency. The systems affected and the proposed

changes to be made to them are set forth below:

USPS 070.040

SYSTEM NAME:

Inquiries and Complaints—Customer Complaint Records, 070.040.

STORAGE:

CHANGE TO READ, "Records are stored in original typed, printed, handwritten or computer printed form and on magentic tape."

SAFEGUARDS:

CHANGE TO READ, "Paper records are maintained in closed filing cabinets. Computer records are subject to the security of the computer room."

RETENTION AND DISPOSAL:

CHANGE TO READ, "Records are retained up to a maximum period of two calendar years. All correspondence is retained during the calendar year received, plus one additional year. Paper records are destroyed by burning or shredding. Computer records are destroyed by erasing."

USPS 120.098

SYSTEM NAME:

Personnel Records—Office of Workers' Compensation Program (OWCP) Records, 120.098

CATEGORIES OF RECORDS IN THE SYSTEM:

CHANGE TO READ, "Copies of Department of Labor forms consisting of claims and supporting information, Postal Service forms and correspondence related to the claim; automated payment and accounting records."

STORAGE:

CHANGE TO READ, "Printed forms and correspondence. (NOTE: In some cases, the USPS by agreement with the Department of Labor (DOL), temporarily stores original case files. These files are considered to be DOL records to which DOL rather than USPS regulations apply.) Continuation of pay and DOL chargeback information is stored on computer media."

RETRIEVABILITY:

CHANGE TO READ, "Records are retrieved alphabetically by name and by social security number."

SAFEGUARDS:

CHANGE TO READ, "Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point. Automated records are protected through computer password security."

RETENTION AND DISPOSAL:

CHANGE TO READ, "OWCP case files are maintained for five years after employee has left the Postal Service, then destroyed."

SYSTEM MANAGER(S) AND ADDRESS:

CHANGE TO READ, "APMG, Employee Relations Department, and APMG, Finance Department, Headquarters."

USPS 210.020

SYSTEM NAME:

Contractor Records—Contract Employee Assignment Records, 210.020.

SYSTEM NAME:

CHANGE TO READ, "Contract Records, Drivers Screening System, 210.020."

SYSTEM LOCATION:

CHANGE TO READ, "Mail Processing Department, Headquarters; Regional Offices; Sectional Centers; Bulk Mail Centers; District Offices; Post Offices; Postal Data Centers; and Transportation Management Offices (TMOs)."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

"Persons under a highway contract with the USPS."

CATEGORIES OF RECORDS IN THE SYSTEM:

CHANGE TO READ, "Name, social security account number and highway contract to which assigned."

STORAGE:

CHANGE TO READ, "Originally typed, printed or handwritten form; magnetic tape and computer printed reports."

RETRIEVABILITY:

CHANGE TO READ, "Primarily by highway contract and postal locations serviced; secondarily, by individual's social security number and name."

SAFEGUARDS:

CHANGE TO READ, "Through computerized codes and passwords, access is restricted to offices that are the authority for a specific contract and to only those post offices serviced by the contract."

RETENTION AND DISPOSAL:

CHANGE TO READ, "Records are held one year after the contract expires, or one year following an individual's employment termination with a company that has been awarded a highway contract."

NOTIFICATION PROCEDURE:

CHANGE TO READ, "Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the TMO Manager. Inquiries should contain full name and highway contract number."

b. The Postal Service has determined that it is necessary to modify an existing system of records to provide for the collection and maintenance of information that will be used to make lockbox service available in convenient, detached locations to a larger segment of the public. The system will now contain completed questionnaires from members of the public who are interested in expanded lockbox services. Accordingly, the following revisions are proposed for the affected records system:

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholders Records, 010.020.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

CHANGE TO READ, "Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use."

CATEGORIES OF RECORDS IN THE SYSTEM:

CHANGE TO READ, "Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees."

STORAGE:

CHANGE TO READ, "Information is stored on printed or card form filed in metal file cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETENTION AND DISPOSAL:

ADD: "c. Lockbox preference questionnaire forms are retained for six months after termination of survey."

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 80-23215 Filed 7-31-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17012; File No. SR-CBOE-80-16, Amdt. Number One]

Chicago Board Options Exchange, Inc.; Self-Regulatory Organizations; 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 July 16, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission the following amendment to a previously filed proposed rule change:

Text of the Amendment to the Proposed Rule Change (Brackets indicate deletions; italics indicate new material)

Interpretation .03 to Rule 8.7 is further amended to read as follows:

.03 [.04] the [Floor Procedure] *Executive* Committee has determined for purposes of Rule 8.7(b) that, except for unusual circumstances, at least [50%] *75%* of the trading activity in any quarter (measured in terms of contract volume) of a Market-Maker holding a*n* [Principal] Appointment shall [ordinarily] be in classes of option contracts to which his [Prinicpal] Appointment extends. Temporarily undertaking the obligations of a*n* [Prinicpal] Appointment with respect to non-[Principal] Appointment classes of option contracts at the request of a [Floor Official] *Board Broker or Order Book Official* shall not be deemed trading in non-[Principal] Appointment classes. *Moreover, for each quarter, except for unusual circumstances, a Market-Maker must execute in person and not through the use of orders either (a) 75% of his total trading activity less closing transactions not executed in person (measured in terms of contract volume), or (b) 20,000 contracts in those classes to which a Market-Maker holds an appointment.* The [Floor Procedure] *Market Performance* Committee may, in computing the percentage*s* specified herein, assign a weighting factor based upon relative inactivity to one or more classes or series of option contracts.

The following are additional proposed rules changes:

Orders Required To Be in Written Form

Rule 6.24 (a) through (c) No change.

(d) On-floor Market-Maker Orders. Each order transmitted by a Market-Maker while on the floor, including any cancellation of or change to such order, must be recorded legibly in a written from that has been approved by the Exchange, and must be time stamped immediately prior to its transmission.

Reporting Duties

Rule 6.51 (a) through (c) No change.

(d) Trade information. Each business day (the exact hours to be fixed by the Exchange) each Clearing Member shall file with the Exchange trade information in such form as may be prescribed by the Exchange, covering each Exchange transaction made by it or on its behalf during said business day. The trade information shall show for each transaction (a) the identity of the purchasing Clearing Member and the writing Clearing Member, (b) the underlying security, (c) the exercise price, (d) the expiration month, (e) the number of option contracts, (f) the premium per unit, (g) the identity of the executing brokers representing both the purchasing and writing Clearing Members, (h) whether a purchase or a writing transaction, (i) except for a transaction *executed in person by* [in] a Market-maker['s account], whether an opening or closing transaction, (j) the identity of the account of the Clearing Member in which the transaction was effected, (k) if a closing writing transaction, whether a certificate will be surrendered, (l) whether a put or call, and (m) such other information as may be required by the Exchange.

SRO's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rules changes is as follows:

The purpose of the change to Rule 8.7.03 is to amend the Exchange's previous filing which would have required that 75% of all market-maker transactions be executed in person. The proposed rule change establishes that closing transactions effected by market-makers through use of orders will not be included in determining whether a market-maker meets that 75% test. This change recognizes that market-makers should have the ability to close out positions at any time whether or not they are present personally in a trading crowd.

The change to Rule 6.24 clarifies the obligations of market-makers with respect to the recording of orders entered by them while on the Exchange floor. The change to Rule 6.51 requires that information respecting whether a transaction is opening or closing be submitted by market-makers respecting all transactions not executed by them in person. This information is necessary to permit the evaluative computations required by Rule 8.7.03 as amended.

On or before September 5, 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, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 25, 1980.

[FR Doc. 80-23149 Filed 7-31-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17013; File No. SR-MSE-80-13]

Midwest Stock Exchange, Inc.; Self-Regulatory Organizations; 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 July 12, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Article VIII, Rule 9 of the Rules of the Midwest Stock Exchange, Incorporated is hereby amended as follows: *Additions Italicized*—[Deletions Bracketed]

ARTICLE VIII

Transactions Off the Floor

Principal Transactions

Rule 9. (a) No member or member organization or any partner, officer, director or registered employee of a member corporation shall effect transactions as principal off the Floor of the Exchange in securities *other than those described below* listed or admitted to unlisted trading privileges on the Exchange with anyone other than a third market maker or nonmember block positioner. Any such transactions require the permission of an officer of the Exchange. Provided, however, that no such permission need be obtained if such transactions are made on another national securities exchange where the member or member organization is also a member, or the securities are on the unrestricted list of the Exchange, or the transaction is approved by another exchange on which the securities are traded and which is the designated authority for the member or member organization.

Agency Transactions

(b) No change in text.

(c) No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member to effect any transaction otherwise than on this exchange in any reported security listed and registered on this exchange or as to which unlisted privileges on this exchange have been extended (other than a put option or call option issued by the Options Clearing Corporation) which is not a covered security.

(d) For purposes of this rule,

(1) The term "Act" shall mean the Securities Exchange Act of 1934, as amended.

(2) The term "exchange" shall mean a national securities exchange registered as such with the Securities and Exchange Commission pursuant to Section 6 of the Act.

(3) The term "covered security" shall mean

(i) any equity security or class of equity securities which

(A) was listed and registered on an exchange April 26, 1979, and

(B) remains listed and registered on at least one exchange continuously thereafter;

(ii) any equity security or class of equity securities which

(A) was traded on one or more exchanges on April 26, 1979, pursuant to unlisted trading privileges permitted by section 12(f)(1)(A) of the Act, and

(B) remains traded on any such exchange pursuant to such unlisted trading privileges continuously thereafter; and

(iii) any equity security or class of equity securities which

(A) is issued in connection with a statutory merger, consolidation or similar plan or reorganization (including a reincorporation or change of domicile) in exchange for an equity security or class of equity securities described in paragraphs (b)(3)(i) or (b)(3)(ii) of this rule,

(B) is listed and registered on an exchange after April 26, 1979, and

(C) remains listed and registered on at least one exchange continuously thereafter.

(4) The term "reported security" shall mean any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan.

(5) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security.

(6) The term "effective transaction reporting plan" shall mean any plan approved by the Commission pursuant to § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) for collecting, processing and making available transaction reports with respect to transactions in an equity security or class of equity securities.

. . . Interpretations and Policies:

.01 No change in text.

.02 No change in text.

.03 No change in text.

The Exchange's Statement of Basis and Purpose of Proposed Rule Change

The basis and purpose of the proposed rule change is as follows:

The purpose of these proposed rule changes is to conform the Midwest Stock Exchange rules to the requirements of Rule 19c–3 of the 1934 Act rules.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934.

Comments have not been solicited or received on the proposed rule change.

MSE does not believe that the proposed rule change will impose any burdens on competition.

On or before September 5, 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 all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–23151 Filed 7–31–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17014; File No. SR–NYSE–80–25]

New York Stock Exchange, Inc.; Self-Regulatory Organization; 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. 94–29, 16 (June 4, 1975), notice is hereby given that on July 14, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The proposed rule change would amend the Exchange's rules in order to provide for the operation of the Opening Automated Report Service ("the Service") and special trade comparison procedures implemented in conjunction with it.

Text of Proposed Rule Change

The proposed rule change would amend the following rules as follows:

115A.30 *Opening Automated Report Service*

The Opening Automated Report Service ("Service") is a system designed to facilitate the efficient and accurate processing of eligible orders received by the Exchange prior to the opening or reopening of trading in designated

stocks. For each designated stock, the Service will perform the following functions:

store (but not deliver to the trading post) eligible pre-opening orders;
receive the opening price from the specialist and assign such price to each stored order; and
transmit execution reports to member firms which submitted the orders containing information regarding the transaction.

The Exchange, in its discretion, will designate the stocks and the size and type of orders eligible for inclusion in the Service as well as other operational characteristics and may change such designation or characteristics from time to time.

Orders in the Opening Automated Report Service—Orders stored in the Opening Automated Report Service shall be deemed market orders of a member held by the specialist to facilitate business and establish a fair opening or re-opening price as provided for in Rule 115A.20 above. The paragraphs in Rule 115A.20 have pertaining to "pair-offs", "stopping", establishing a fair price, responsibility for losses and precautions to avoid errors shall not apply to the execution of orders stored in the Service. Furthermore, other rules of the Exchange, to the extent inconsistent with the provisions of this Section or the operation of the Opening Automated Report Service, shall not apply to orders stored in the Service.

Execution of Orders—In opening each stock in which the specialist has orders stored in the Opening Automated Report Service, the specialist shall proceed in the following manner. To the extent practicable such orders shall be executed as follows:

1. *by pairing-off orders on opposite sides stored in the Service against each other; and*

2. *by pairing-off any imbalance of orders stored in the Service against any orders on the opposite side of the market held by the specialist or by another member on the Floor or by the specialist taking or supplying stock for his own account.*

Reporting and Comparison—With respect to any order submitted by a member organization and stored in the Service, such member organization shall receive "OPN" (or such other universal contra as the Exchange may designate) as the contra party on the report of execution. Such member organization shall submit or cause to be submitted to a Qualified Clearing Agency the trade data regarding its side of the contract as part of its normal comparison data with OPN as the contra party.

Each member whose order or bid or offer was paired-off against an imbalance in the Service shall report the transaction as provided for in Rule 131 with "OARS" (or such other universal contra as the Exchange may designate) as the contra party. The clearing member or member organization who receives such report shall submit the trade to a qualified Clearing Agency as party of its normal comparison data with OARS as the contra party.

The specialist shall submit, or cause to be submitted, trade data to a Qualified Clearing Agency on behalf of OARS.

Differences and Omissions

(a) *When a member organization which is a participant in a Qualified Clearing Agency is advised by the Clearing Agency, through an Advisory, that the member organization failed to submit comparison data or submitted incorrect data for which OPN was the contra party, such member organization shall acknowledge such transaction by stamping the Advisory promptly but no later than 2:00 p.m. of the second business day following the transaction. If the member organization fails to return the stamped Advisory within such period, the Clearing Agency may stamp such Advisory on behalf of the member organization.*

(b)(1) *When a specialist is notified by a Qualified Clearing Agency that a member or member organization failed to submit comparison data or submitted incorrect data with respect to a transaction for which OARS was given by the specialist as the contra party, such specialist shall research such item as soon as possible.*

(2) *Items not yet resolved by 4:00 p.m. of the second business day following the day of the transactions shall be accepted by the specialist for his own account. Such acceptance of the transaction for his own account, shall not prejudice the specialist's right to subsequently resolve the transaction with the member he knows as the contra-party to the trade.*

Records of Orders

Orders stored in the Opening Automated Report Service shall be deemed to comply with the provisions of Rules 117 and 123.20 that orders be in writing.

Records provided to the specialist by the Service shall be preserved pursuant to Rule 121. Records which are maintained as part of the Service log but not printed at the Post or otherwise provided to the specialist shall satisfy the recordkeeping responsibility of the specialist required by Rule 121.

The use of universal contras (OPN and OARS) in transactions involving orders stored in the Service and the processing of such transactions as provided above shall not be deemed inconsistent with provisions of Rules 121.10 and 138.

Rule 91. *Taking or Supplying Securities Named in Order*

* * * * *

.30 Orders Stored in the Opening Automated Report Service—In the case where a specialist takes or supplies, for an account in which he has an interest, the securities named in an order stored in the Opening Automated Report Service, the provisions above regarding confirmation of the transaction shall not apply.

Rule 134. *Differences and Omission—Cleared Transactions*

* * * * *

Supplementary Material

.10 Orders Stored in Opening Automated Report Service—Differences and omissions with respect to transactions involving orders stored in the Opening Automated Report Service shall be resolved pursuant to the procedures set forth in Rule 115A.30.

The Exchange's Statement of Purpose of Proposed Rule Change

The purpose of these amendments to the Exchange's rules is to provide for the operation of the Service which is an automated system designed to facilitate more efficient and more accurate processing of certain orders received by the Exchange through the Exchange's Designated Order Turnaround (DOT) System prior to the opening in an individual stock.[1]

The Exchange's Statement of Basis Under the Act for Proposed Rule Change

The opening Automated Report Service has introduced important new systems efficiencies in arranging the opening transaction in an NYSE listed stock which not only materially assist the specialist in arranging the opening transaction itself but result in fewer "questioned trades" at the opening and cause the comparison and settlement process to be conducted in a more efficient and accurate manner. The Service better enables the Exchange to carry out the purposes of the Securities Exchange Act of 1934 (the "Act") which include the maintenance of fair and orderly markets, the fostering of

[1] On March 13, 1980, the Commission approved, on a pilot basis, the implementation of the Service. Securities Exchange Act Release No. 16649 (March 13, 1980).

cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to transactions in securities and facilitating transactions in securities (see Sections 6(b)(5) and 11A(a) of the Act). The Service also has introduced new data processing and communications techniques which have resulted in a more efficient and effective market operation (see Section 11A(a)(1)(B) of the Act). Furthermore, the Service is consistent with and advances the purpose of the Act set forth in Section 17A(a)(1), including the prompt and accurate clearance and settlement of securities transactions and the introduction of more efficient procedures for the clearance and settlement operations. Finally, the Service provides for an enhanced "audit trail" for the execution of orders stored by it.

Comments Received From Members, Participants or Others on Proposed Rule Change

The Exchange has not solicited comment on these proposed rule changes and it has not received any.

Burden on Competition

The Exchange does not perceive any unnecessary burden on competition that will be imposed by the proposed rule change.

On or before September 5, 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 changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six 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 August 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

July 28, 1980.

[FR Doc. 80-23150 Filed 7-31-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1878]

Nebraska; Declaration of Disaster Loan Area

The following 15 Counties and adjacent counties within the State of Nebraska constitute a disaster area as a result of natural disaster as indicated:

County	Natural disaster(s)	Date(s)
Pierce	Wind, hail and flood	5/26-27/80
Antelope	Tornado, heavy rain and hail.	5/26/80
Dodge	Tornado, high winds, severe winds, hail and heavy rain.	5/29/80 and 6/6,12,14/80
Furnas	Hail and wind storm	6/2/80
Red Willow	Hail and high winds	6/2/80
Thayer	Hail	5/29/80
Hamilton	Tornado, hail, erosion, flood and wind.	6/3/80, 6/4/80
Garden	Tornado and severe hail.	5/29/80, 5/31/80
Chase	Hail and heavy rain	6/15-18/80
Howard	Hail and wind	6/8/80
Sheridan	Hail, wind, excessive rain and tornado.	6/14/80, 6/15/80
Morrill	Hail, heavy rains and tornado.	5/29, 30, 31/80, 6/5/,14,16/80
Washington	Hail, wind, excessive rain.	6/6/80
Perkins	Hail	5/31/80, 6/1,2,/80
Hitchcock	Snow	3/27/80

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 23, 1981, and for economic injury until the close of business on April 24, 1981, at: Small Business Administration, District Office, Empire State Building, 19th and Farnam Streets, Omaha, Nebraska 68102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 24, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23145 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5268]

North Star Investment, 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 North Star Investment, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Sinclair Louie, 15 25th Avenue, North, San Francisco, California 94121; Chairman of the Board, President, 100% Stockholder.

James Fung, 1945 David Avenue, Concord, California 94518; Secretary, Director, Chief Financial Officer.

Mildred H. Ng, 539 Ortega Street, San Francisco, California 94122; Vice President, Director.

The Applicant, a California corporation, with its principal place of business at 667 Grant Avenue, San Francisco, California 94108, will begin operations with $997,500 of paid-in capital and paid-in surplus derived from the sale of 1,000,000 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 concersn which will contribute to a well-balanced national economy by facilitating ownership 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 managment, 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 herby given that any person may, not later than 15 days from the date of publication of this notice, submit to 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, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 25, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-23146 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1880]

Ohio; Declaration of Disaster Loan Area

Darke County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by excessive rains and flooding which occurred on June 28, 1980 through June 29, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on Jan. 23, 1981, and for economic injury until the close of business on April 23, 1981, at: Small Business Administration, District Office, 85 Marconi Boulevard, Columbus, Ohio 43215, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: July 23, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-23144 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1821; Amdt. No. 5]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 29153), Amendment No. 1 (See 45 FR 37798), Amendment No. 2 (See 45 FR 42106), Amendment No. 3 (See 45 FR 42106) and Amendment No. 4 (See 45 FR 43919) are amended by adding the following:

County	Natural disaster(s)	Date(s)
Atascosa	Drought	7/1/79–4/21/80
	Hard Freeze	4/21/80
LaSalle	Drought	7/1/79–6/16/80
Young	Excessive rain, flooding and hail.	5/20/80–5/27/80
Brewster	Drought	9/1/79–6/23/80
	Predator	9/1/79–6/23/80
Baylor	Drought	9/1/79–4/23/80
Knox	Drought	8/1/79–5/5/80
	Severe hail storm, highwinds and flooding.	5/25/80
Hardenman	Drought	9/1/79–5/1/80
	Severe hail storm	4/25/80
Hartley	Hail, excessive rainfall and flooding.	5/27–28/80
Fisher	Drought	7/7/79–5/21/80

and adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on October 22, 1980, and for economic injury until the close of business on January 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 24, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23143 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1882]

Indiana; Declaration of Disaster Loan Area

Vanderburg County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by heavy rainfall and flooding which occurred on July 2, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 22, 1980, and for economic injury until the close of business on April 24, 1981, at: Small Business Administration, District Office, New Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 24, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23244 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1884]

Nevada; Declaration of Disaster Loan Area

Clark County and adjacent counties within the State of Nevada constitute a disaster area as a result of damage caused by heavy rains and flash flooding which occurred on July 1, 1980, and July 7, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 22, 1980, and for economic injury until the close of business on April 24, 1981, at: Small Business Administration, District Office, Box 7527 Downtown Station, 301 East Stewart, Las Vegas, Nevada 89101, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 24, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23242 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1883]

New Jersey; Declaration of Disaster Loan Area

The area of Washington and High Streets, in the City of Perth Amboy, Middlesex County, New Jersey, constitutes a disaster area because of damage resulting from a fire which occurred on July 7, 1980, through July 11, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 22, 1980, and for economic injury until the close of business on April 24, 1981, at: Small Business Administration, District Office, 970 Broad Street, Room 1635, Newark, New Jersey 07102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 24, 1980.

A Vernon Weaver,

Administrator.

[FR Doc. 80-23243 Filed 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1885]

Oregon; Declaration of Disaster Loan Area

Tillamook and Washington Counties and adjacent Counties within the State of Oregon constitute a disaster area because of damage resulting from ash fallout from the eruption of Mount St. Helens on May 18, 1980, and subsequent eruptions through June 12, 1980.

Eligible persons, firms and organizations may file applications for loans for "crop losses" until the close of business on January 28, 1981; for "other physical damage" until the close of business on September 26, 1980; and for economic injury until the close of business on April 28, 1981 at: Small Business Administration, District Office, 1220 S.W. Third Avenue, Room 676,

Portland, Oregon 97204, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 28, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-23241 7-31-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[521797]

Desire To Contest Decision on American Manufacturer's Petition Concerning the Reclassification of Certain Machine-Processed Cigarette Leaf Tobacco

AGENCY: U.S. Customs Service, Department of the Teasury.

ACTION: Notice of desire to contest a decision on an American manufacturer's petition.

SUMMARY: In response to an American manufacturer's petition requesting that certain machine-processed cigarette leaf tobacco, formerly classified by Customs as scrap tobacco, in item 170.60, Tariff Schedules of the United States (TSUS), be reclassified as stemmed cigarette leaf filler tobacco, in item 170.35, TSUS, the Customs Service concluded that the subject merchandise had been processed to the extent that it was to be considered a partially manufactured product, classifiable under the provision for tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS. Subsequently, the petitioner filed notice of his desire to contest Customs decision.

FOR FURTHER INFORMATION CONTACT: John G. Hurley, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5940).

SUPPLEMENTARY INFORMATION:

Background

Under the authority of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), an American producer of flue-cured tobacco filed a petition requesting that certain imported machine-processed cigarette leaf tobacco, formerly classified by Customs under the provision for scrap tobacco, in item 170.60, Tariff Schedules of the United States (TSUS), be reclassified under the provision for stemmed cigarette leaf filler tobacco, in item 170.35, TSUS. Upon reviewing the manner in which the subject tobacco was produced, and considering comments received in response to a notice published in the **Federal Register** on September 28, 19879 (44 FR 56089), announcing the receipt of the petition, the Customs Service concluded that the merchandise in question was neither scrap tobacco nor tobacco in leaf form, but had been processed to the extent that it was to be considered a partially-manufactured product classifiable under the provision for tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS.

By letter dated May 22, 1980, file 060864, the petitioner was informed of Customs decision in the matter. The decision was also published as T.D. 80-132 in the May 20, 1980, edition of the **Federal Register** (45 FR 33761) and in the May 28, 1980, edition of the Customs Bulletin. The petitioner has informed Customs of his desire to contest this decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23 of the Customs Regulations (19 CFR 175.23). However, under section 516(e) of the Tariff Act, merchandise of the character covered by T.D. 80-132 will continue to be classified in accordance with that decision when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals which is not in harmony with T.D. 80-132.

Authority

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24).

Dated: July 24, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-23258 Filed 7-31-80; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 8 to 13 of Title 6 of the United States Code. An underwriting limitation of $342,000 has been established for the company.

Name of Company:

UNITED NATIONAL INSURANCE COMPANY

Business Address:

1737 Chestnut Street
Philadelphia, Pennsylvania 19103

State of Incorporation:

Pennsylvania

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: July 23, 1980.

M. D. Serlin

Acting Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-23097 Filed 7-31-80; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

Announcement of Public Meeting To Discuss Issues in Renegotiating the Income Tax Treaty with Trinidad and Tobago

The Treasury Department today announced that it will hold a public meeting on August 27, 1980, to solicit the views of interested persons on issues being considered in the revisions of the

existing income tax treaty between the United States and Trinidad and Tobago.

The public meeting will be held at the Treasury Department at 2:00 p.m. in room 4121. Persons interested in attending are requested to give notice in writing by August 22, 1980, of their intention to attend. Notices should be sent to Joel Rabinovitz, Deputy International Tax Counsel, Department of the Treasury, Room 4013, Washington D.C. 20220.

The present treaty, which has been in force since December 30, 1970, is being renegotiated at the initiative of Trinidad and Tobago. Among the issues on which the Treasury would welcome comments are the tax treatment of technical, management, and consulting services, equipment leasing, and offshore oil drilling. It would be useful to know how these activities are conducted in Trinidad and Tobago and any attendant tax problems. Comments on other provisions of the existing treaty are also welcome. Persons unable to attend the meeting are invited to submit written comments.

Dated: July 29, 1980.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 80-23158 Filed 7-31-80; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 150
Friday, August 1, 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

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Thursday, July 31, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: Deletion of an item:

Agenda, Item Number, and Subject

Renewal—3—*Title:* Faribault County Broadcasting Co., Inc.'s license renewal application for Station KBEW, Blue Earth, Minnesota. *Summary:* The Commission considers Station KBEW's license renewal application which sets forth consistent failures, over a considerable period of time, to comply with the station's past commercial proposals, yet recites essentially identical proposals for the next license term.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 30, 1980.

[S-1462-80 Filed 7-30-80; 2:59 pm]

BILLING CODE 6712-01-M

2

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 50502, July 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., July 31, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Uniform Supervisory Policy Regarding Assessment of Civil Money Penalties.

Application to Acquire—Lamar Financial Corporation, Austin, Texas, Lamar Savings Association, Austin, Texas and City Savings and Loan Association, San Angelo, Texas.

No. 372, July 30, 1980.

Announcement is being made at the earliest practicable time.

[S-1463-80 Filed 7-30-80; 3:00 pm]

BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 6, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1(a). Proposed interpretation of Regulation Y (Bank Holding Companies and Change in Bank Control) to permit bank holding companies to form and acquire operations subsidiaries to perform services for other subsidiaries that the bank holding company could perform directly.

1(b). Proposed delegation of authority to (a) determine whether the Electronic Fund Transfer Act and Regulation E (Electronic Fund Transfers) preempt state EFT laws, and (b) grant exemptions to states.

Discussion Agenda:

2. Proposed amendment to regulation T (Credit by Brokers and Dealers) to allow broker-dealers to extend credit on mutual fund shares. (Proposed earlier for public comment; docket no. R-0158)

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: July 29, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1459-80 Filed 7-30-80; 11:42 am]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM.

TIME AND DATE: Approximately 10:45 a.m., Wednesday, August 6, 1980 (following a recess at the conclusion of the open meeting).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed revisions in the schedule of fees and allowances for Federal Reserve Bank directors and advisory groups.

2. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.

3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: July 29, 1980.

Griffith L. Gatwood,

Deputy Secretary of the Board.

[S-1460-80 Filed 7-30-80; 11:42 am]

BILLING CODE 6210-01-M

5

NATIONAL MEDIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 50037.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Wednesday, August 6, 1980.

CHANGES IN THE MEETING: Addition to matters to be considered—Preliminary staff draft on NMB use of subpoenas.

SUPPLEMENTARY INFORMATION: Chairman Ives and Board Members Harris and Brown have determined by recorded voted that Agency business required this change and that no earlier announcement of such change was possible.

Date of Notice: July 29, 1980.

[S-1461-80 Filed 7-30-80; 1:04 pm]

BILLING CODE 7550-01-M

federal register

Friday
August 1, 1980

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

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 Determinations

None.

Modification 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.

Alabama:	
AL80–1074	July 18, 1980.
California:	
CA80–5110	Mar. 14, 1980.
CA80–5114	Apr. 18, 1980.
Colorado:	
CO79–5117	June 15, 1979.
CO79–5118	June 15, 1979.
CO79–5119	June 15, 1979.
CO79–5120	June 15, 1979.
Washington, D.C.:	
DC80–3040	May 16, 1980.
Hawaii:	
HI78–5130	Nov. 24, 1978.
Louisiana:	
LA80–4026	June 13, 1980.
LA80–4027	June 13, 1980.
LA80–4039	May 23, 1980.
Maryland:	
MD79–3010	May 11, 1979.
DC80–3040	May 16, 1980.
Massachusetts:	
MA80–2045	July 7, 1980.
Missouri:	
MO79–4095	Nov. 30, 1979.
Nevada:	
NV79–5131	Aug. 31, 1979.
NV80–5100	Feb. 1, 1980.
New Jersey:	
NJ80–3013	June 27, 1980.
New Mexico:	
NM79–4104	Nov. 2, 1979.
New York:	
NY80–3001	Feb. 29, 1980.
NY80–3023	Apr. 11, 1980.
NY80–3036	Apr. 25, 1980.
Oklahoma:	
OK80–4060	July 18, 1980.
Virginia	
VA78–3073	Oct. 13, 1978.
DC80–3040	May 16, 1980.
West Virginia:	
WV80–3018	July 18, 1980.
Wisconsin	
WI80–2039	May 23, 1980.
WI80–2043	June 27, 1980.
WI80–2013	Apr. 4, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are

listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:
AL78-1053(AL80-1086) ..... June 9, 1978.
Arizona:
AZ79-5104(AZ80-5124) ..... Mar. 9, 1979.
AZ79-5110(AZ80-5123) ..... Mar. 16, 1979.
Florida:
FL79-1064(FL80-1088) ..... Apr. 13, 1979.
Indiana:
IN80-2021(IN80-2059) ..... May 23, 1980.
Iowa:
IA78-4100(IA80-4041) ..... Nov. 24, 1978.
IA78-4101(IA80-4042) ..... Nov. 24, 1978.
Kentucky:
KY79-1099(KY80-1087) ..... June 8, 1979.
New Hampshire:
NH79-2041(NY80-2057) ..... May 11, 1979.
North Carolina:
NC79-1085(NC80-1085) ..... May 18, 1979.
Ohio:
OH77-2072(OH80-2055) ..... May 13, 1977.
OH79-2048(OH80-2028) ..... May 11, 1979.
Oklahoma:
OK79-4023(OK80-4068) ..... Feb. 2. 1979.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 25th day of July 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AL80-1074 - MOD. #1 (45 FR 48407 - July 18, 1980) Lawrence, Limestone, and Morgan Counties, Alabama					
ADD:					
Painters:					
Commercial	9.35	.45	.25		.05
Industrial	10.50	.45	.25		.05

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA80-5110 - Mod. #4 (45 FR 16796-March 14, 1980) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California					
Change:					
Roofers:					
Alameda and Contra Costa Counties:					
Roofers	$13.82	$1.27	$2.10	$1.50	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	14.07	1.27	2.10	1.50	.10
Bitumastic; Enamelers; Pipewrappers; Coal tar built up	15.82	1.27	2.10	1.50	.10
Lake, Marin, Mendocino, Napa, Solano, and Sonoma Counties:					
Roofers	13.44	1.10	1.65	2.43	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	13.69	1.10	1.65	2.43	.10
Bitumastic; Enamelers; Pipewrappers; Coal tar pitch	15.44	1.10	1.65	2.43	.10
San Francisco and San Mateo Counties:					
Roofers	13.54	1.06	1.70	2.40	.10
Mastic Workers; Kettlemen (2 kettles w/o pumps)	13.79	1.06	1.70	2.40	.10

DECISION NO. CA80-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bitumastic; Enamelers; Pipewrappers; Coal tar	$15.54	$1.06	$1.70	$2.40	.10
DECISION #CA80-5114-Mod. #3 (45 FR 26610 - April 18, 1980) Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa Merced, Monterey, Napa, Nevada, Placer, Sacrament Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California					
Change: Modification No. 1, published July 7, 1980, in the Federal Register to read Modification No. 2					
Roofers:					
Alameda and Contra Costa Counties:					
Roofers	13.82	1.27	2.10	1.50	.10
Mastic Workers:					
Kettlemen (2 kettles w/o pumps)	14.07	1.27	2.10	1.50	.10
Bitumastic; Enamelers; Pipewrappers; Coal tar built up	15.82	1.27	2.10	1.50	.10
Marin, Napa, Solano, and Sonoma Counties:					
Roofers	13.44	1.10	1.60	2.43	.10

DECISION NO. CA80-5114 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mastic Workers:					
Kettlemen (2 kettles w/o Pumps)	$13.69	$1.10	$1.60	$2.43	.10
Bitumastic; Enamelers; Pipewrapper; Coal tar pitch	15.44	1.10	1.60	2.43	.10
San Francisco and San Mateo Counties:					
Roofers	13.54	1.06	1.70	2.40	.10
Mastic Workers and Kettlemen (2 kettles w/o pumps)	13.79	1.06	1.70	2.40	.10
Bitumastic; Enamelers; Pipewrappers; Coal tar	15.54	1.06	1.70	2.40	.10

DECISION NO. CO79-5117 - Mod. #8
(44 FR 34719 June 15, 1979)
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park Summit & Weld Counties, Colorado

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
SPRINKLER FITTERS	$14.30	.85	1.20		.08
ROOFERS	12.57	.80	.25		.08

DECISION NO. CO79-5118 - Mod. #6
(44 FR 34724 -June 15,1979)
El Paso County, Colorado

CHANGE:					
ASBESTOS WORKERS	13.84	.55	1.37		
SPRINKLER FITTERS	14.30	.85	1.20		.08

DECISION NO. CO79-5119 - Mod. #7
(44 FR 34728 - June 15,1979)
Delta, Garfield, Gunnison, Mesa, Montrose & Pitkin Counties, Colorado

CHANGE:					
ASBESTOS WORKERS	13.84	.55	1.37		
SPRINKLER FITTERS	14.30	.85	1.20		.08

DECISION NO. CO79-5120 - Mod. #6
(44 FR 34733 -June 15,1979)
Las Anamas, Otero & Pueblo Counties, Colorado

CHANGE:					
ASBESTOS WORKERS	13.84	.55	1.37		
SPRINKLER FITTERS	14.30	.85	1.20		.08

DECISION NO. DC80-3040 - MOD. #3
(45 FR 32528 - May 16, 1980)
District of Columbia, Maryland - Montgomery & Prince Georges Counties; D. C. Training School; Virginia - Independent City of Alexandria, Arlington and Fairfax Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$13.475	1.275	1.00		.04
Carpenters	12.06	.80	.70		.05
Elevator Constructors	12.36	1.045	.69	a+b	.03
Elevator Constructors' Helpers	8.65	1.045	.69	a+b	.03
Elevator Constructors' Helpers (Probationary)	6.18				
Millwrights	12.63	.80	.70		.05
Piledrivermen	12.33	.80	.70		.05
Roofers:					
Composition	12.21	.74	.50		.10
Slate, tile mopmen, waterproofer, sprayers, sprandel and ironite	12.81	.74	.50		.10
Material Handlers (only to supply materials and to prepare decks for new roofs or repairs)	8.25	.74	.50		.10
Stonecutters:					
Fitters and trimmers	12.23		.60	d	
Ornamental carvers	11.49		.60	d	
Figure carvers	11.69		.60	d	
Sprinkler fitters (Montgomery and Prince Georges Counties)	13.90	.85	1.20		.08

DECISION #HI78-5130 - Mod. #5
(43 FR 55143-November 24, 1978)
Statewide, Hawaii

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.19	.70	$2.50		.06
Carpenters:					
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Pneumatic Nailers; Shinglers	11.00	1.44	1.95	1.00	.06
Power Saw Operator (2 HP and over)	11.15	1.44	1.95	1.00	.06
Millwrights	11.25	1.44	1.95	1.00	.06
Dredging:					
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derricks:					
Group 1	12.14	1.35	2.80	.90	.10
Group 2	11.53	1.35	2.80	.90	.10
Group 3	11.08	1.35	2.80	.90	.10
Group 4	9.80	1.35	2.80	.90	.10
Group 5	9.53	1.35	2.80	.90	.10
Group 6	9.36	1.35	2.80	.90	.10
Group 7	11.89	1.35	2.80	.90	.10
Group 8	10.76	1.35	2.80	.90	.10
Group 9	11.59	1.35	2.80	.90	.10
Group 10	8.88	1.35	2.80	.90	.10
Drywall Applicator	11.10	1.44	1.90	1.00	.07
Painters:					
Brush	10.60	.79	3.00	.75	.10
Tapers	10.80	.79	3.00	.75	.10
Spray	11.10	.79	3.00	.75	.10
Plumbers; Steamfitters	12.00	1.05	2.05	1.76	.15
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	9.25	1.35	2.80	.90	.10
Group 2	9.36	1.35	2.80	.90	.10
Group 3	9.53	1.35	2.80	.90	.10
Group 4	9.80	1.35	2.80	.90	.10
Group 5	10.11	1.35	2.80	.90	.10
Group 6	10.76	1.35	2.80	.90	.10
Group 7	11.08	1.35	2.80	.90	.10
Group 8	11.19	1.35	2.80	.90	.10
Group 9	11.30	1.35	2.80	.90	.10

DECISION NO. HI78-5130 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9-A	$11.53	$1.35	$2.80	.90	.10
Group 10	11.59	1.35	2.80	.90	.10
Group 10-A	11.74	1.35	2.80	.90	.10
Group 11	11.89	1.35	2.80	.90	.10
Group 12	12.25	1.35	2.80	.90	.10
Asphalt Paving Group:					
Asphalt Raker	9.80	1.35	2.80	a	
Asphalt Roller	10.76	1.35	2.80	a	
Asphalt Spreader	11.08	1.35	2.80	a	
Sprinkler Fitters	14.75	.85	1.20		.08
Truck Drivers:					
Flatbed	9.53	1.35	2.80	.90	.10
Dump, 8 yds. and under; Water Truck (up to and including 2000 gallons)	9.80	1.35	2.80	.90	.10
Water Truck (over 2000 gallons)	10.11	1.35	2.80	.90	.10
Tandem, Semi-trailer or Semi-dump	10.76	1.35	2.80	.90	.10
Slip-in or Pup	11.08	1.35	2.80	.90	.10
End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment)	11.19	1.35	2.80	.90	.10

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DECISION NO. LA80-4026 - MOD. #2 (45 FR 40438-June 1, 1980) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & stonemasons:					
Zone 4	$12.00	.75	.435		.10
Zone 8	12.10		.50		
Zone 9	12.25				
Carpenters:					
Zone 2:					
Carpenters, piledrivermen & soft floor layers	12.33	.70	.33		.07
Cement masons:					
Zone 8	10.67		.50		
Lathers:					
Zone 5	11.85	.50	.60		.05
Marble, tile & terrazzo workers & finishers:					
Zone 1:					
Marble setters	12.00	.75	.435		.10
Zone 3:					
Marble setters	12.25				
Terrazzo workers	10.05				
Zone 4:					
Marble, tile & terrazzo workers	10.92		.50		
Plasterers:					
Zone 8	12.10		.50		
Plumbers & pipefitters:					
Zone 3	12.50	.90	.80		.10
Roofers:					
Zone 2 - Roofers	9.35	.75	.85	.28	.70
Sheet metal workers:					
Zone 3	13.57	.55	.80		.16

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DECISION NO. LA80-4027 - MOD. #1 (45 FR 40451-June 13, 1980) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & stonemasons:					
Zone 2	$12.00	.75	.435		.10
Painters:					
Zone 3 - Group 1	9.95				
Group 2	10.45				
Group 3	10.95				
Zone 4	10.60	.40	.30		.05
Sheet metal workers:					
Zone 3	13.57	.55	.80		.16
Zone 4	12.09	3%+.69	.50		.19

DECISION NO. LA80-4039 - MOD. #2 (45 FR 35136-May 23, 1980) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
Calcasieu Parish:					
Carpenters & piledrivermen	12.33	.70	.33		.07
Soft floor layers:					
Calcasieu Parish	12.33	.70	.33		.07

DECISION NO. MD 79-3010-Mod. #5
(43 FR 27873 - May 11, 1979)
Allegany and Garrett Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters	$11.49	.75	1.00		.03
Cement Masons	12.77	.75			
Millwrights	11.87	.75	1.00		.03
Piledrivers	11.81	.75	1.00		.03
Plasterers	12.77	.75			
Plumbers & Steamfitters	11.35	.50	.75	1.00	.05
ADD:					
Glaziers	11.44	.92	1.15	1.15	.02

DECISION NO. MA80-2045-MOD #1
(45 FR 45794 - July 7, 1980)
Worcester county, Massachusetts

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS, CEM. MASONS, PLASTERERS, and STONE MASONS:					
Warren	11.40	.98	1.15		.06
Remainder of County	11.50	.95	1.35		.02
ELECTRICIANS:					
Warren, W. Warren	12.28	.85	3%+.40		.03
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Phillipston, Westminster, and Winchendon	12.90	.75	3%+.70		.02
Remainder of County	12.78	8%	5½%+.62		.01
GLAZIERS:					
Warren, W. Warren	11.30	.47	.45		.005
Remainder of County	11.85	.77	1.19		.03
OMIT: East Douglas	10.25	.62	1.38		.01
IRONWORKERS:					
Blackstone	12.25	1.15	1.85		.10
LABORERS (BUILDING)					
Air Track, Block Pavers, Rammers and Curb Setters	10.30	.75	1.10		.10
LATHERS:					
Sturbridge and Warren	10.85		.25		.01
Blackstone and Lunenburg	11.90	1.00	.55		.03
MARBLE SETTERS:					
Warren	11.40	.98	1.15		.06
MARBLE SETTERS' FINISHERS	9.90	.90	.75		
MILLWRIGHTS	12.90	1.00	1.00		.10
PAINTERS:					
Warren, W. Warren:					
Brush and Tapers	10.02	1.02	.65		.06
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or minerial spirits	13.36	1.36	.8667		.08
Spray-materials thinned with water &/or minerial spirits excluding epoxys and dry fogs	13.89	1.02	.65		.06
Swing stage under 40' Steel	10.207	1.02	.65		.06

DECISION NO. MA80-2045-MOD #1 (CONT.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Warren, W. Warren (Cont.)					
Swing stage over 40' Steel	10.52	1.02	.65		.06
PILEDRIVERMEN	11,60	.85	1.00		
PIPEFITTERS:					
Remainder of County	12.23	.80	.90		.05
PLUMBERS:					
Hopedale and Southboro	12.83	1.30	1.08		.05
ROOFERS	11.60	1.12	.98		.02
SHEET METAL WORKERS	11.66	.85	.75		.04
SPRINKLER FITTERS	14.28	.85	1.20		
TILE SETTERS and TERRAZZO WORKERS:					
Warren County	11.40	.98	1.15		.06
TERRAZZO WORKERS' FINISHERS	9.90	.90	.75		
TILE SETTERS' FINISHERS	9.90	.90	.75		
LABORERS (HEAVY and HIGHWAY)					
Class III	10.30	.75	1.10		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO79-4095 - Mod. #2					
(44 FR 69097 - November 30, 1979)					
Boone, Cooper and Howard Counties, Missouri					
Change:					
Boilermakers	$13.87	1.375	1.10		.05
Carpenters:					
Carpenters	11.40	.43	.25		
Millwrights	12.05	.43	.25		
Piledrivers	11.80	.43	.25		
Electricians:					
Boone & Howard Counties:					
Electricians	13.00	.47	3%+.50	7%+.30	.01
Cable splicers	13.25	.47	3%+.50	7%+.30	.01
Elevator Constructors:					
Cooper & Howard Counties					
Elevator constructors	13.235	1.045	.82	8%+a	.035
Boone County					
Elevator constructors	11.80	.895	.69	3%+a	.025
Ironworkers:					
Cooper & Howard Counties	12.35	.80	1.50	1.00	.05
Painters:					
Boone & Howard Counties:					
Brush	10.70		.20		
Spray, structural steel, sandblasting	11.20		.20		
Cooper County:					
Brush	11.25				
Spray	12.25				
Sheet Metal Workers:					
Boone & Cooper Counties	12.86	.50	.36		.05
Howard County	12.73	.75	1.20		.10
Omit:					
Elevator Constructors:					
Boone County					
Elevator constructors helpers (probationary)	50%JR				

DECISION #NV79-5131 - Mod. #2

(44 FR 51501-August 31, 1979)
Washoe County, Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$12.25	$1.10	$1.61	$1.00	.10
Cement Masons:					
Lake Tahoe Area:					
Cement Masons	13.30	1.10	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	13.55	1.10	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	13.80	1.10	1.00	1.45	.05
Remainder of Washoe County:					
Cement Masons	11.55	1.10	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	11.80	1.10	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	12.05	1.10	1.00	1.45	.05
Drywall Installers	12.50	1.10	1.61	1.00	.10
Glaziers	12.931	.83	1.85	1.584	
Plasterers	13.02	.90	1.20		.03
Sheet Metal Workers:					
Residential construction not over 3 stories in height, where each individual family apartment is individually conditioned by a separate and independent unit or system	10.016	1.14	2.16	1.00	.10
All other residential construction	12.52	1.14	2.16	1.25	.10
Sprinkler Fitters	18.23	.85	1.20		.08

DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Truck Drivers:						
Group 1	$10.72	$11.87	$1.00	.98		.05
Group 2	10.77	11.92	1.00	.98		.05
Group 3	10.88	12.03	1.00	.98		.05
Group 4	10.94	12.09	1.00	.98		.05
Group 5	10.99	12.14	1.00	.98		.05
Group 6	11.04	12.19	1.00	.98		.05
Group 7	11.15	12.30	1.00	.98		.05
Group 8	11.21	12.36	1.00	.98		.05
Group 9	11.26	12.41	1.00	.98		.05
Group 10	11.32	12.47	1.00	.98		.05
Group 11	11.43	12.58	1.00	.98		.05
Group 12	11.48	12.63	1.00	.98		.05
Group 13	11.59	12.74	1.00	.98		.05
Group 14	11.76	12.91	1.00	.98		.05
Group 15	11.92	13.07	1.00	.98		.05
Group 16	12.09	13.24	1.00	.98		.05

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DECISION #NV80-5100 - Mod. #2

(45 FR 7451 - February 1, 1980)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change:					
Carpenters:					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Cos.):					
Carpenters	$12.25	$1.10	$1.61	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	12.40	1.10	1.61	1.00	.10
Piledrivermen	12.50	1.10	1.61	1.00	.10
Millwrights	12.85	1.10	1.61	1.00	.10
Cement Masons:					
Lake Tahoe Area:					
Cement Masons	13.30	1.10	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	13.55	1.10	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	13.80	1.10	1.00	1.45	.05
Remaining Counties:					
Cement Masons	11.55	1.10	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	11.80	1.10	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	12.05	1.10	1.00	1.45	.05
Drywall Installers:					
Statewide excluding Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	12.50	1.10	1.61	1.00	.10
Glaziers:					
Remaining Counties	12.931	.83	1.85	1.584	

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DECISION #NV80-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers:					
Remaining Counties	$13.02	.90	$1.20		.03
Roofers:					
Clark, Esmeralda, Lincoln, Nye County (south half)	16.35	.80			
Sheet Metal Workers:					
Remaining Counties and Nye County (north half)	12.52	1.14	2.16	1.25	.10
Sprinkler Fitters	18.23	.85	1.20		.08
Truck Drivers:					
Remaining Counties:					

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$10.72	$11.87	$1.00	.98		.05
Group 2	10.77	11.92	1.00	.98		.05
Group 3	10.88	12.03	1.00	.98		.05
Group 4	10.94	12.09	1.00	.98		.05
Group 5	10.99	12.14	1.00	.98		.05
Group 6	11.04	12.19	1.00	.98		.05
Group 7	11.15	12.30	1.00	.98		.05
Group 8	11.21	12.36	1.00	.98		.05
Group 9	11.26	12.41	1.00	.98		.05
Group 10	11.32	12.47	1.00	.98		.05
Group 11	11.43	12.58	1.00	.98		.05
Group 12	11.48	12.63	1.00	.98		.05
Group 13	11.59	12.74	1.00	.98		.05
Group 14	11.76	12.91	1.00	.98		.05
Group 15	11.92	13.07	1.00	.98		.05
Group 16	12.09	13.24	1.00	.98		.05

DECISION NO. NJ80-3013 - MOD. #1 (45 FR 43635 - June 27, 1980)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey					
Change:					
Laborers, Asphalt Construction:					
Street:					
Head Rakers	$ 9.00	1.00	1.00		.10
Rakers and Screed Men	8.85	1.00	1.00		.10
Tampers, Smoothers, Kettlemen, Painters, Shovelers and Roller Boys	8.60	1.00	1.00		.10
Plant:					
Scale Mixers and Burner Men	8.85	1.00	1.00		.10
Feeders and Dust Men	8.60	1.00	1.00		.10

DECISION NO. NM79-4104 - MOD. #4
(44 FR 63456 - November 2, 1979)
Statewide, New Mexico

LINE CONSTRUCTION AREA AND ZONE DEFINITIONS

ZONE I - Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
ZONE I					
Lineman - Technicians	$13.45	.60	3%+.70		½%
Cable splicers	14.80	.60	3%+.70		½%
Equipment Operator (includes Helicopter op.)	12.78	.60	3%+.70		½%
Equipment Mechanic includes Helicopter mechanics	11.70	.60	3%+.70		½%
Powderman	11.70	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	9.55	.60	3%+.70		½%
ZONE II					
Linemen - Technicians	14.53	.60	3%+.70		½%
Cable splicers	15.88	.60	3%+.70		½%
Equipment operator (includes helicopter op.)	13.86	.60	3%+.70		½%
Equipment Mechanic (includes helicopter mechanic)	12.78	.60	3%+.70		½%
Powderman	12.78	.60	3%+.70		½%
Groundman & Jackhammer oprs.	10.63	.60	3%+.70		½%

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DECISION NO. NM79-4104 - MOD. #4 Page 2

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
ZONE III					
Linemen - Technicians	$15.33	.60	3%+.70		½%
Cable splicers	16.68	.60	3%+.70		½%
Equipment Operator (includes helicopter operator)	14.66	.60	3%+.70		½%
Equipment Mechanic (includes helicopter mechanic)	13.58	.60	3%+.70		½%
Powderman	13.58	.60	3%+.70		½%
Groundman & Jackhammer opr.	11.43	.60	3%+.70		½%
ZONE IV					
Linemen - Technicians	16.81	.60	3%+.70		½%
Cable splicers	18.16	.60	3%+.70		½%
Equipment Operator (includes helicopter operator)	16.14	.60	3%+.70		½%
Equipment mechanic (includes helicopter mechanic)	15.06	.60	3%+.70		½%
Powderman	15.06	.60	3%+.70		½%
Groundman & Jackhammer opr.	12.91	.60	3%+.70		½%
Los Alamos County-Use Zone III Rates					
LINE CONSTRUCTION-UTILITY LINE WORK FOR ELECTRIC AND TELEPHONE UTILITIES REA CO-OPS, RAILROADS AND MUNICIPALITIES:					
Lineman - Technician	12.65	.60	3%+.70		½%
Cable splicers	13.54	.60	3%+.70		½%
Equipment op. (includes helicopter operator)	11.40	.60	3%+.70		½%
Equipment mechanic (includes helicopter mechanic	11.40	.60	3%+.70		½%
Powderman	11.00	.60	3%+.70		½%
Groundman & Jackhammer operator	8.97	.60	3%+.70		½%

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DECISION NO. NY80-3001 - Mod. #2
(45 FR 13617, February 29, 1980)
Dutchess County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	16.34	5%	5%		
Bricklayers, Cement Masons, Plasterers, Pointers, Caulkers, Cleaners, Marble Masons, Tile Setters and Terrazzo Workers					
Building	9.80	2.55	2.15		.06
Light commercial where the general contract does not exceed $300,000 and masonry contract including labor and material does not exceed $50,000	8.60	1.80	1.55		
Heavy & Highway	10.35	2.55	2.15		.06
Carpenters:					
Wappinger Falls, New Hackensack, Pawling and Beacon	12.91	1.02	.81	1.15	.10
Remainder of County	14.02	1.05	.95		.10
Electricians:					
Portion South of a line following the Fishkill Wappinger Twps. line East from the Hudson River to State Hwy. 82, Northeast on 82 to the New York - New Haven, Harford Freight line at Hopewell Junction, East on the railroad to Stonehouse, Southeast of State Hwy. 55 from Stonehouse to Pawling & South on the State Hwy. 22 to the Putnam County line, but excluding Stonehouse and Pawling	13.00	7.4%	3%+1.00	.60+c	½%
Elevator Constructor	12.11	.745	.56	c+f	.025
Glaziers	13.75	.66	1.91	.67	.01
Ironworkers: Structural, Ornamental, & Reinforcing	11.10	1.86	3.60	1.60	.01
Millwrights	13.04	1.85	1.78	1.11	.04
Piledrivermen and Dock & Wharf builders	12.94	1.85	1.78	1.01	.05
Roofers:					
Cold Tar Pitch, Mopping and Dipping, Application or Ripping off	12.25	1.10	1.95		.35

DECISION NO. NY80-3001 - Mod. #2 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers (Cont'd)					
Asphalt build-up, Asbestos Tile, Ceramic Tile Slate, Tectum, All forms of Spray Roofing and Insulation	11.75	1.10	1.95		.35
Cold Process and Resaturation, Asphalt Shingle	9.25	1.10	1.95		.35
Pitch	9.75	1.10	1.95		.35
Sheet Metal Workers	14.56	2.24	2.20		.13
Sprinkler Fitters	14.52	.85	1.20		.08
Power Equipment Operators Building Construction (Poughkeepsie & South thereof)					
GROUP I-A	15.7125	6%+1.20	10%	a	2%
GROUP I-B	14.785	6%+1.20	10%	a	2%
GROUP II	14.80	6%+1.20	10%	a	2%
GROUP III-A	14.6575	6%+1.20	10%	a	2%
GROUP III-B	13.7275	6%+1.20	10%	a	2%
GROUP IV-A	14.375	6%+1.20	10%	a	2%
GROUP IV-B	13.585	6%+1.20	10%	a	2%
GROUP V-A	13.3725	6%+1.20	10%	a	2%
GROUP V-B	12.4425	6%+1.20	10%	a	2%
GROUP VI-A-1	17.08	6%+1.20	10%	a	2%
GROUP VI-A-2	16.2275	6%+1.20	10%	a	2%
GROUP VI-A-3	15.2275	6%+1.20	10%	a	2%
GROUP VI-A-4	15.9425	6%+1.20	10%	a	2%
GROUP VI-A-5	19.9425	6%+1.20	10%	a	2%
GROUP VI-A-6	13.3725	6%+1.20	10%	a	2%
GROUP VI-A-7	19.6575	6%+1.20	10%	a	2%
GROUP VI-B-1	11.4725	6%+1.20	10%	a	2%
GROUP VI-B-2	12.4525	6%+1.20	10%	a	2%
GROUP VI-B-3	11.4875	6%+1.20	10%	a	2%
GROUP VI-B-4	14.67	6%+1.20	10%	a	2%
GROUP VII	15.715	6%+1.20	10%	a	2%
Power Equipment Operators Heavy & Highway Construction (Poughkeepsie & South thereof)					
GROUP I-A	13.25	6%+a	9½%	b	2%
GROUP I-B	12.625	6%+a	9½%	b	2%
GROUP II-A	12.45	6%+a	9½%	b	2%
GROUP III-A	12.325	6%+a	9½%	b	2%
GROUP III-B	11.70	6%+a	9½%	b	2%
GROUP IV-A	11.20	6%+a	9½%	b	2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP IV-B	11.575	6%+a	9½%	b	2%
GROUP V-A	11.20	6%+a	9½%	b	2%
GROUP V-B	10.575	6%+a	9½%	b	2%
GROUP VI-A					
CLASS I	14.45	6%+a	9½%	b	2%
CLASS II	13.70	6%+a	9½%	b	2%
CLASS III	16.70	6%+a	9½%	b	2%
CLASS IV	13.45	6%+a	9½%	b	2%
CLASS V	16.95	6%+a	9½%	b	2%
CLASS VI	11.20	6%+a	9½%	b	2%
CLASS VII	12.2875	6%+a	9½%	b	2%
GROUP VI-B					
Miscellaneous					
CLASS I	10.575	6%+a	9½%	b	2%
CLASS II	9.75	6%+a	9½%	b	2%

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DECISION NO. NY80-3023 - MOD. #2 (45 FR 25010 - April 11, 1980) Westchester County, New York	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION PROJECTS:					
GROUP I-A	15.7125	6%+1.20	10%	a	2%
GROUP I-B	14.785	6%+1.20	10%	a	2%
GROUP II	14.80	6%+1.20	10%	a	2%
GROUP III-A	14.6575	6%+1.20	10%	a	2%
GROUP III-B	13.7275	6%+1.20	10%	a	2%
GROUP IV-A	14.375	6%+1.20	10%	a	2%
GROUP IV-B	13.585	6%+1.20	10%	a	2%
GROUP V-A	13.3725	6%+1.20	10%	a	2%
GROUP V-B	12.4425	6%+1.20	10%	a	2%
GROUP VI-A-1	17.08	6%+1.20	10%	a	2%
GROUP VI-A-2	16.2275	6%+1.20	10%	a	2%
GROUP VI-A-3	15.2275	6%+1.20	10%	a	2%
GROUP VI-A-4	15.9425	6%+1.20	10%	a	2%
GROUP VI-A-5	19.9425	6%+1.20	10%	a	2%
GROUP VI-A-6	13.3725	6%+1.20	10%	a	2%
GROUP VI-A-7	19.6575	6%+1.20	10%	a	2%
GROUP VI-B-1	11.4725	6%+1.20	10%	a	2%
GROUP VI-B-2	12.4525	6%+1.20	10%	a	2%
GROUP VI-B-3	11.4875	6%+1.20	10%	a	2%
GROUP VI-B-4	14.67	6%+1.20	10%	a	2%
GROUP VII	15.715	6%+1.20	10%	a	2%

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DECISION NO. NY80-3036 - MOD. #1 (45 FR 28064 - April 25, 1980) Onondaga County, New York	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ASBESTOS WORKERS	13.83	.90	.93		.06
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS & STONE MASONS	11.94	.75	1.06		.05
CARPENTERS, BUILDING	11.62	.85	1.20		.05
CEMENT MASONS, BUILDING	11.30	.80	1.40		
ELECTRICIANS:					
Elbridge and Skaneateles	14.30	.77	3%+.95		.05
Remainder of County					
Electricians	14.00	.87	3%+1.10		.07
Cable Splicers	15.00	.87	3%+1.10		.07
ELEVATOR CONSTRUCTORS	13.29	1.195	.95		.035
ELEVATOR CONSTRUCTORS HELPERS	9.30	1.195	.95		.035
GLAZIERS	11.50				
PLUMBERS	12.43	1.27	1.17		.025
ROOFERS	13.15	1.00	2.00		
SOFT FLOOR LAYERS	11.62	.85	1.20		.05
SPRINKLER FITTERS	14.52	.85	1.20		.08
STEAMFITTERS	13.145	1.00	1.55		.025

DECISION NO. NY80-3036 (CONT'D)

POWER EQUIPMENT OPERATORS:
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.11	1.25	1.25	a	.15
CLASS 2	12.43	1.25	1.25	a	.15
CLASS 3	11.06	1.25	1.25	a	.15
CLASS 4	13.90	1.25	1.25	a	.15
CLASS 5	13.61	1.25	1.25	a	.15
CLASS 6	15.11	1.25	1.25	a	.15
CLASS 7	14.11	1.25	1.25	a	.15

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, providing employee has worked five consecutive working days before and the working day after the holiday.

CLASSIFICATIONS:
CLASS 1 - Air Plako, Asphalt and Blacktop Roller, Automated Concrete Spreader (CMI or equiv.), Automated Fine Grade Machine (CMI), Backhoe, Belt Placer, Blacktop Spreader (such as Barber Greene & Blaw Knox), Blacktop Plant (automated), Blast or Rotary Drill (Truck or cat mounted), Boom Truck, Cableway, Caisson Auger, Carry-all Scraper-Self loading, Central Mix Plant (Automated), Cherry Picker - over five(5) ton capacity, Compressor, Pump, Generator or Welding Machine (when used in a battery of not more than four (4)), Crane, Crusher - Rock, Derrick, Diesel Power Unit, Dragline, Dredge, Dual Drum Paver, Elevating Grader (self-propelled or towed), Elevator Hoist-Two Cage, Excavator-All Purpose-Hydraulically operated, Fork Lift (Factory rating 15 ft. or more), Front End Loader (4 c.y. and over), Gradall, Grader (Power), Head Tower (Saurman or equal), Hoist (2 or 3 Drum), (LCM's) work Boat Operator, Light plants; compressors and generators, Locomotive, Maintenance Engineer, Maintenance Welder, Mine Hoist, Mucking Machine or Mole, Overhead Crane - Fixed Permanent, Pile Driver, Quarry Master or Equivalent, Refrigeration Equip.-For Soil Stabilization, Sea Mule, Shovel, Side Boom, Slip Form Paver, Straddle Buggy (Ross Carrier, Lumber Carrier), Tractor Drawn Belt Type Loader (Euclid Loader), Trenching Machine (digging capacity of over 4 ft. depth), Tug Operator (Manned, rented equip. excluded), Tunnel Shovel, Vibro or Sonic Hammer Controls (when not mounted in proximity to the Rig Operator)

CLASS 2 - "A" Frame Truck, Blacktop Plant (non-automatic), Boring Machine, Bulldozer, Cage-Hoist, Carry-All Scraper, Central Mix Plant (non-automated), Cherry Picker - five (5) tons and under, Compressor (500 C.F. and over), Concrete Paver (Single Drum over 16S), Concrete Pump, Core Boring Machine, Drill Rigs - Tractor mounted, Elevator - as a material hoist, Fork Lift (factory rating less than 15 ft.), Front End Loader (under 4 c.y.), Gunite Machine, High Pressuer Boiler (15lbs. & over), Hoist (one drum), Hydraulic Breaking Hammer (Drop Hammer), Kolman Plant Loader (screening gravel), Maintenance Grease Man, Mixer for stabilized base-self propelled (Seaman Mixer),

Decision No: NY80-3036 - (Cont'd)

POWER EQUIPMENT OPERATORS: Building Construction Cont'd

CLASS 2 (Cont'd) - Monorail Machine, Parapet Concrete or Pavement Grinder, Post Hole Digger (truck or tractor mounted), Power Sweeper(Wayne or similar), Pump 4" and over, Pump-Crete or Squeeze-Crete, Road Widener (front end of Grader or self propelled), Roller, Shell Winder (motorized), Snorkel (overhead arms), Snowblower control man, Trenching Machine (digging capacity of 4 ft. or less), Tugger Hoist, Vibro Tamp, Well Drill, Well Point System (Submersible Pumps when used in lieu of well-point system), Winch (motor driven), Winch Truck Winch Cat

CLASS 3 - Compressor (up to 500 C.F.), Concrete Paver or Mixer (under 16S), Concrete Pavement Spreaders and Finishers (not automated), Conveyor (over 12 ft.), Electric Submersible Pump (4" and over), Farm Tractor with or without accessories, Fine Grade Machine (not automated), Fireman, Form Tamper, Generator (2,500 Watts and over), Grout pump Hydraulic Pump, Mechanical Heaters - More than two (2) Mechanical Heaters or any Mechanical Heater or Heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating) plus one self contained heating unit (i.e. Sundog or Air Heat type, New Holland Hay Dryer type excluded), Mulching Machine, Oiler, Parts Man, Post Driver (Truck or Tractor Mounted), Power Driven Welding Machine - 300 amp. and over (other than all electric) one Welding Machine under 300 amp. will not require an enginneer unless in a battery, Power Heaterman (hay dryer), Pump (under 4"), Revinous Widener (road widener), Single Light Plant, Steam Cleaner or Jenny, Tractor with or without towed accessories,

CLASS 4 - Master Mechanic

CLASS 5 - Tower Crane, Quad 9 Bulldozer or Multibowl Scraper

CLASS 6 - Crane or Derrick with a boom length over 300 ft. including jib

CLASS 7 - Crane or Derrick with a boom length over 150 ft. including jib

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #OK80-4060-Mod. #1					
45 FR 48439-July 18, 1980					
Pittsburg County, Oklahoma					
CHANGE:					
Soft floor layers	$7.71		.45	.81a	.03
a-Six paid Holidays					
New Years Day					
Memorial Day					
Independence Day					
Labor Day					
Thanksgiving Day					
Christmas Day					
DECISION #OK80-4062-Mod. #1					
45 FR 48446-July 18, 1980					
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers Counties, Oklahoma					
CHANGE:					
CARPENTERS (Area I)	11.58	.55	.75		.03
MILLWRIGHTS-PILEDRIVER-MEN (Area I)	11.88	.55	.75		.03
Decision NO. VA78-3073-Mod.5					
(43 FR 47445-October 13,1978					
Radford Army Ammunition Plant, Virginia					
CHANGE:					
Crane Operator	$11.12	.45	.55	a	.03
Bulldozer Operator	11.12	.45	.55	a	.03
Roller	9.18	.45	.55	a	.03

a - Paid holidays: New Year's Day; Memorial Day; Labor Day; July the Fourth; Thanksgiving Day; and Christmas Day. These are paid holidays only if the employee works the regularly scheduled work day immediately before and after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #WV80-3018 - Mod. #1					
(45 FR-48457 - July 18,1980)					
State of West Virginia excluding the Counties of Berkeley, Jefferson, and Morgan					
Omit:					
Grant County from Area 1 for Boilermakers					
Add:					
Boilermakers:					
Area 3 - Grant County	$12.70	1.275	1.20		
Change:					
Bricklayers, Stone Masons, Marble Masons, Terrazzo Workers, and Tile Layers:					
Area 1	11.34	.80	1.00		
Area 2	13.58	.55	.50		.05
Area 4:					
Bricklayers and Stone Masons	14.08	.65	.50		.02
Area 5:					
Bricklayers and Stone Masons	14.46	.75	.40		
Marble Masons, Terrazzo Workers, and Tile Layers	13.19	.75	.40		
Area 6:					
Bricklayers and Stone Masons	13.30	.80			
Marble Masons, Terrazzo Workers, and Tile Layers	12.80	.80			
Area 7:					
Bricklayers and Stone Masons	13.24	.65	.74		.02
Tile Layers	11.81	.65	.74		.02
Area 8:					
Bricklayers, Stone Masons, and Marble Masons	13.88	.65			.03
Tile Setters and Terrazzo Workers	11.83	.65			.03
Carpenters and Piledrivermen:					
Area 1:					
Carpenters					
Contracts under $100,000	12.64	.80	.56		.06
Contracts $100,000 or more	12.89	.80	.56		.06
Piledrivermen					
Contracts under $100,000	13.14	.80	.56		.06
Contracts $100,000 or more	13.39	.80	.56		.06

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 2:					
Carpenters	11.73	.50	.60		.02
Piledrivermen	12.03	.50	.60		.02
Area 3:					
Carpenters	12.73	1.04	1.15		.03
Area 4:					
Carpenters	13.44	.80	.75		.02
Piledrivermen	13.73	.80	.75		.02
Area 5:					
Carpenters	13.36	.45	.25		.02
Piledrivermen	13.61	.45	.25		.02
Area 6:					
Carpenters	11.67	.60	1.00		.05
Piledrivermen	11.98	.60	1.00		.05
Cement Masons and Plasterers:					
Area 1	12.12	.50			
Area 2:					
Cement Masons	13.09				.02
Plasterers	13.10				
Area 4:					
Cement Masons	13.05	.79	.25		
Area 5:					
Plasterers	12.93	.55			
Area 6:					
Cement Masons	12.78	.65			.03
Area 7:					
Cement Masons	13.95				.05
Electricians:					
Barbour, Doddridge, Harrison, Lewis, Randolph, and Upshur Counties:					
Wiremen	11.95	.50	3% + 1.00	2.00	.05
Cable Splicers	13.145	.50	3% + 1.00	2.00	.05
Cabell and Wayne Counties:					
Wiremen	14.02	.50	3% + 1.00	1.00	.04
Cable Splicers	14.73	.50	3% + 1.00	1.00	.04
Lincoln, Logan, Mason, and Mingo Counties:					
Wiremen	14.52	.50	3% + 1.00	1.00	.04
Cable Splicers	15.25	.50	3% + 1.00	1.00	.04

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians (Cont'd):					
Grant County:					
Wiremen	13.20	.80	3% + .70		3/4%
Greenbrier, McDowell, Mercer, Monroe, and Pocahontas Counties:					
Wiremen	10.86	.50	3%		1/2%
Cable Splicers	11.86	.50	3%		1/2%
Laborers:					
Area 1					
Group 1	9.62	.70	.70		.05
Group 2	10.04	.70	.70		.05
Group 3	10.37	.70	.70		.05
Area 2					
Group 1	9.54	.70	.70		.05
Group 2	9.88	.70	.70		.05
Group 3	10.29	.70	.70		.05
Area 3					
Group 1	8.79	.70	.70		.05
Group 2	9.21	.70	.70		.05
Group 3	9.55	.70	.70		.05
Area 4					
Group 1	10.17	.70	.70		.05
Group 2	10.57	.70	.70		.05
Group 3	10.82	.70	.70		.05
Area 5					
Group 1	10.17	.70	.70		.05
Group 2	10.57	.70	.70		.05
Group 3	10.82	.70	.70		.05
Area 6					
Group 1	10.30	.70	.70		.05
Group 2	10.60	.70	.70		.05
Group 3	10.95	.70	.70		.05
Area 7					
Group 1	10.12	.70	.70		.05
Group 2	10.42	.70	.70		.05
Group 3	10.77	.70	.70		.05
Group 4	10.72	.70	.70		.05

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd):					
Area 8:					
Group 1	10.30	.70	.90		.10
Group 2	10.47	.70	.90		.10
Group 3	10.50	.70	.90		.10
Group 4	10.63	.70	.90		.10
Group 5					
50' to 100'	10.63	.70	.90		.10
100' to 150'	10.80	.70	.90		.10
over 150'	11.20	.70	.90		.10
Group 6	10.98	.70	.90		.10
Group 7	10.54	.70	.90		.10
Group 8	10.83	.70	.90		.10
Group 9	10.63	.70	.90		.10
Group 10	11.13	.70	.90		.10
Glaziers:					
Area 3	10.72	.65	.80		.02
Ironworkers - Structural, Ornamental, and Reinforcing:					
Area 1	12.95	1.00	1.60		.03
Area 2	13.47	.90	2.10		.05
Area 3	13.14	1.00	1.60		.09
Line Construction:					
Boone, Braxton, Cabell, Calhoun, Clay, Fayette (Falls and Kanawha Twps. only), Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Nicholas, Putnam, Raleigh (Clear Fork and Marsh Fork Twps. only), Roane, Wayne, and Webster Counties:					
Linemen	15.08	.70	3% + .50	.90	
Cable Splicers	16.59	.70	3% + .50	.90	
Groundmen	9.80	.70	3% + .50	.90	
Mechanized Equipment Oper.	12.06	.70	3% + .50	.90	

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction (Cont'd):					
Barbour, Doddridge, Harrison, Lewis, Randolph, and Upshur Counties:					
Linemen and Equipment operators	11.95	.50	3% + 1.00	2.00	
Cable Splicers	13.145	.50	3% + 1.00	2.00	
Groundmen and Trucks Drivers	9.56	.50	3% + 1.00	2.00	
Brooke (except Buffalo Twp.) and Hancock (except Grant Twp.) Counties:					
Linemen, Equipment Operators, and Truck Drivers	14.50	7%	14%	10%	
Groundmen	9.43	7%	14%	10%	
Cable Splicers	15.00	7%	14%	10%	
Grant County:					
Linemen	13.20	.80	3% + .70		
Equipment Operators	12.58	.80	3% + .70		
Groundmen and Truck Drivers	8.86	.80	3% + .70		
Millwrights:					
Area 1	12.09	.50	.60		.02
Area 5	13.46	.85	1.00		.02
Area 6	13.60	.65	.55		.06
Painters:					
Area 2:					
Painters-					
An area within 50 miles of Huntington, W. Va.	10.65	.45	.35		.02
An area 50 miles and beyond of Huntington W. Va.	12.11	.45	.35		.02
Vinyl and all other wall covering and drywall taping-					
An area within 50 miles of Huntington, W. Va.	11.65	.45	.35		.02
An area 50 miles and beyond of Huntington, W. Va.	13.11	.45	.35		.02
Repaint Work (Public Schools only)-					
An area within 50 miles of Huntington, W. Va.	8.50	.45	.35		.02
An area 50 miles and beyond of Huntington, W. Va.	9.96	.45	.35		.02

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd):					
Area 3					
Brush, roller, paper, vinyl hangers, and seamless floors	11.02	.65	.60		.02
Glove	11.27	.65	.60		.02
Spray, sandblast, seamless floors (epoxy), steam cleaning, and metallizing	12.02	.65	.60		.02
Area 5					
Commercial	12.25		.50		
Vinyl wallcovering	13.15		.50		
Drywall finishing	12.75		.50		
Structural steel after erection	13.45		.50		
Repainting of structural steel	12.65		.50		
Sandblasting	14.55		.50		
Spray painting receives an additional $2.00 per hour over applicable rate.					

	Repaint	New
	Basic Hourly Rates	Basic Hourly Rates
Area 7		
Air compressor operator	9.74	10.70
Brush Painting	9.74	10.70
Roller, Dry wall pointers and tapers, dipping and mitten work and spray	10.16	11.13
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold and Boatswain chair, Window Belt and Window Jack Work	11.03	11.68
Brush Painters on Bridges, Needle Beam, Cable Work, Power Tool Work, Brush and Flame Cleaning	11.53	12.12

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Repaint	New	Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd)						
Area 7						
Operating Mechanical Taping Machines	11.79	12.54	.55			
Sandblasters	11.91	12.49	.55			
All Stacks, Vents Pipe, Flag Poles in excess of 30' high, All Towers, Elevated Tanks, Electrical Switch Yards, Transformer Banks, and Television Towers	13.10	13.60	.55			
Vinyl and Paper Hangers	10.15	11.07	.55			
Plumbers and Pipefitters:						
Area 1		12.48	.75	1.00	1.248	.04
Area 2		12.73	.75	1.00	1.273	.04
Area 3		12.98	.75	1.00	1.298	.04
Area 4		13.23	.75	1.00	1.323	.04
Area 5		12.59	.75	1.13	1.26	.05
Area 7		13.53	.50	1.00		
Area 8						
Zone 1		13.77	.60	1.95		.02
Zone 2		13.97	.60	1.95		.02
Zone 3		14.17	.60	1.95		.02
Zone 4		14.42	.60	1.95		.02
Area 9						
Repair work contracts to $75,000		8.55	.67	.80		.09
All other work		13.06	.67	.80		.09
Plumbers and Steamfitters: Boone, Clay, Fayette, Greenbrier, Kanawha, Nicholas, Pocahontas, Putnam, Roane, and Webster Counties		14.25	.65	.80		.05

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Group 1	14.00	1.00	.60		.11
Group 2	13.50	1.00	.60		.11
Group 3	13.00	1.00	.60		.11
Group 4	12.60	1.00	.60		.11
Group 5	12.20	1.00	.60		.11
Group 6	11.50	1.00	.60		.11
Roofers:					
Area 1	12.50	.65	.35		
Area 2	13.23	.70	.75		.02
Area 3	14.15		.30		.01
(Roofers engaged in hot waterproofing which is applied vertically or in an enclosed area shall receive an additional $ .50 per hour.)					
Area 4					
Composition Roofers	10.35	.50	.40		
Composition Mopmen	10.60	.50	.40		
Slaters	10.50	.50	.40		
Sheet Metal Workers:					
Area 4	13.72	.82	.60		.04
Area 5	12.48	.65	.60		.08
Soft Floor Layers:					
Area 1	12.73	1.04	1.15		.03
Area 2	11.67	.60	1.00		.05
Area 3	13.44	.80	.75		.02
Area 4	12.96	.45	.25		.02
Sprinkler Fitters	14.10	.85	1.20		.08
Truck Drivers:					
Area 5					
Group 1 - Warehousemen, Yardmen, Truck Helpers, Parts Chaser, and Pick-up Trucks	10.14	o	p		
Group 2 - Flatbed Material Trucks, Dumps, and Semi Dumps	10.19	o	p		
Group 3 - Semi Tractor Trailers	10.24	o	p		
Group 4 - Lowboy Trailers, Winch, Fork and Distributor Trucks (front and back end), and Truck Cranes	10.77	o	p		
Group 5 - Tank Trucks (Straight and Semi)	10.22	o	p		

DECISION #WV80-3018 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Area 5 (Cont'd):					
Group 6 - Agitator and Mixer Trucks (up to 5 cu. yds.)	10.42	o	p		
Group 7 - Agitator and Mixer Trucks (Over 5 Cu. yds.)	10.50	o	p		
Group 8 - Pole Trailers	10.34	o	p		
Group 9 - Euclids, Dumsters, Turnarockers, Ross Carriers, and Athey Wagons	10.47	o	p		
Group 10 - Material Checkers and Receivers	10.15	o	p		
Group 11 - Greasers, Washers, Tiremen, Gas Pump Attendant, and Mechanic Helper	10.15	o	p		
Group 12 - Mechanics	10.87	o	p		
Group 13 - A-Frames	10.84	o	p		

Footnotes:

O. Employer shall contribute $29.87 per week per employee to a Health and Welfare fund

P. Employer shall contribute $41.00 per week per employee to a Pension fund

DECISION No. WI80-2039 Mod.#1 (45 FR-35152-May 23, 1980) Calumet, Fond du Lac, Manitowoc, Outagamie & Sheboygan Counties Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Fond du Lac & Sheboygan Cos.	$12.46	1.10	3%+.55	10%	1½%

DECISION No. WI80-2043 Mod.#1 45 FR - 43649 June 27, 1980) Statewide Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Zone 9- Sheboygan County	12.46	1.10	3%+.55	10%	1½%
Zone 12 Fond du Lac Cos.	12.46	1.10	3%+.55	10%	1½%
Zone 14 Milwaukee, Ozaukee Washington & Waukesha Cos.	14.14	1.10	3%+.55	10%	1½%

DECISION No. WI80-2013 Mod. #1 (45 FR - 23282 April 4, 1980) Milwaukee, Ozaukee, Waukesha and Washington Counties. Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians	14.14	1.10	3%+.55	10%	1½%

SUPERSEDEAS DECISION

STATE: Alabama
COUNTIES: Baldwin, Escambia, Mobile, and Washington
DECISION NO.: AL80-1086
DATE: Date of Publication
Supersedes Decision No.: AL78-1053, dated June 9, 1978, in 43 FR 25266
DESCRIPTION OF WORK: Residential Construction consisting of 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.
AIR CONDITIONING MECHANIC	7.50				
BRICKLAYERS	7.68				
CARPENTERS	5.26				
CEMENT MASONS	5.67				
ELECTRICIANS	5.53				
LABORERS	4.11				
PAINTERS	7.00				
PLUMBERS	6.50				
ROOFERS	8.84		.30		
SHEET METAL WORKERS	7.25				
TILE SETTERS	6.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.82				
Bulldozer	5.75				

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Pima
DECISION NUMBER: AZ80-5124 DATE: Date of Publication
Supersedes Decision No. AZ79-5104 dated March 9, 1979, in 44 FR 13215
DESCRIPTION OF WORK: Residential Projects (consisting of 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:*					
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	.30
BRICKLAYERS; Stonemasons:*					
Zone A	11.96	1.00	.95		.06
Zone B	12.33	1.00	.95		.06
Zone C	12.71	1.00	.95		.06
Zone D	13.46	1.00	.95		.06
CARPENTERS:					
Carpenters	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	11.44	.92	1.10		.05
ELECTRICIANS:*					
Zone A	10.63	.60	3%		1/2%
Zone B	11.17	.60	3%		1/2%
Zone C	11.71	.60	3%		1/2%
Zone D	12.25	.60	3%		1/2%
ELEVATOR CONSTRUCTORS	13.85	.895	.69	a	.03
ELEVATOR CONSTRUCTORS' HELPERS	9.695	.895	.69	a	.03
GLAZIERS	12.17	.90	.30		.01
IRONWORKERS	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			
MASON TENDER	9.80	.92	1.10		.06

*See Area and Zone Descriptions - following Page

AREA and ZONE DESCRIPTIONS

ASBESTOS WORKERS:
Zone 1: Area lying within 15 miles radius from the City Hall in Tucson
Zone 2: Area lying beyond the limits of Zone 1 and within 30 miles radius from the City Hall in Tucson
Zone 3: Area lying beyond the limits of Zone 2 and within 40 miles radius from the City Hall in Tucson
Zone 4: Area lying beyond the limits of Zone 3 and within 50 miles radius from the City Hall in Tucson
Zone 5: Area lying beyond the limits of Zone 4

BRICKLAYERS; Stonemasons:
Zone A: 0-15 miles from Tucson City limits
Zone B: 15-30 miles from Tucson City limits
Zone C: 30-40 miles from Tucson City limits
Zone D: 40 miles and over from Tucson City limits

ELECTRICIANS:
Zone A: Area within 16 miles radius from the City Hall in Tucson
Zone B: Area lying beyond the limits of Zone A extending up to and including 12 road miles
Zone C: Area lying beyond the limits of Zone B extending up to and including 18 road miles
Zone D: Area lying beyond the limits of Zone C

LATHERS:
Area 1: North of a line crossing the State drawn through Ajo, Randolph and Springerville

Area 2: South of a line crossing the State drawn through Ajo, Randolph and Springerville:
Zone A: Area within 30 mile radius of City Hall in Tucson
Zone B: Area within 30 to 40 mile radius of City Hall in Tucson
Zone C: Area within 40 to 50 mile radius of City Hall in Tucson
Zone D: Area outside of Zone C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Zone A:					
Brush	$10.29	.77	.45		.08
Paperhangers	10.43	.77	.45		.08
Structural Steel, Brush	11.29	.77	.45		.08
Zone B:					
Brush	11.04	.77	.45		.08
Paperhangers	11.18	.77	.45		.08
Structural Steel, Brush	12.04	.77	.45		.08
Zone C:					
Brush	11.79	.77	.45		.08
Paperhangers	11.93	.77	.45		.08
Structural Steel, Brush	12.79	.77	.45		.08
Zone D:					
Brush	12.29	.77	.45		.08
Paperhangers	12.43	.77	.45		.08
Structural Steel, Brush	13.29	.77	.45		.08
PLASTERERS:*					
Zone A	8.57	.35	.60		
Zone B	9.07	.35	.60		
Zone C	9.32	.35	.60		
Zone D	10.07	.35	.60		
PLASTERERS'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:*					
Zone A	10.77	1.095	.20		.03
Zone B	13.02	1.095	.20		.03
Zone C	13.27	1.095	.20		.03
SHEET METAL WORKERS:*					
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

*See Zone Descriptions - following Page

FOOTNOTE:
a. Employer credits 8% basic hourly rate of employee with over 5 years' service, 6% basic hourly rate from 6 months' to 5 years' service to Vacation Fund. 7 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

ZONE DESCRIPTIONS

PAINTERS:
Zone A: 0-30 paved road miles from Stone and Congress in Tucson
Zone B: 31-40 paved road miles from Stone and Congress in Tucson
Zone C: 41-50 paved road miles from Stone and Congress in Tucson
Zone D: 51 paved road miles and over from Stone and Congress in Tucson

PLASTERERS:
Zone A: 0-30 miles from Tucson
Zone B: 30-40 miles from Tucson
Zone C: 40-50 miles form Tucson
Zone D: 50 miles and over from Tucson

PLUMBERS:
Zone 1: Area within 15 road miles from the Old Main Building of the University of Arizona in Tucson
Zone 2: Over 15 and up to 30 road miles from the Old Main Building of the University of Arizona in Tucson
Zone 3: Over 30 and up to 40 road miles from the Old Main Building of the University of Arizona in Tucson
Zone 4: Over 40 road miles from the Old Main Building of the University of Arizona in Tucson

ROOFERS:
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 Tucson

SHEET METAL WORKERS:
Zone A: 0-22 miles radius from Tucson City Hall
Zone B: 22-45 miles radius from Tucson City Hall
Zone C: Beyond 45 miles radius from Tucson City Hall

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.06	.92	$1.10		.10
Group 2	9.20	.92	1.10		.10
Group 3	9.35	.92	1.10		.10
Group 4	9.47	.92	1.10		.10
Group 5	9.65	.92	1.10		.10
Group 6	10.055	.92	1.10		.10
Group 7	10.745	.92	1.10		.10

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; Landscope 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

LABORERS (Cont'd)

Group 4: Operator and Tenders of pneumatic and electric tools; Concrete 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

POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.66	$1.10	$1.10		.08
Group 2	10.06	1.10	1.10		.08
Group 3	10.55	1.10	1.10		.08
Group 4	11.13	1.10	1.10		.08
Group 5	11.70	1.10	1.10		.08
Group 5A	12.03	1.10	1.10		.08
Group 6	12.39	1.10	1.10		.08
Group 7	13.04	1.10	1.10		.08

Group 1: Air Compressor Operators; 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, Moto-Paver, Slurry Seal Machine and similar type equipment; Dinky Operator (under 20 ton 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, DW, 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. yd.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Drigger 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-controlled 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	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.23	.92	$1.10		.08
Group 2	9.37	.92	1.10		.08
Group 3	9.61	.92	1.10		.08
Group 4	9.99	.92	1.10		.08
Group 5	10.16	.92	1.10		.08
Group 5A	10.36	.92	1.10		.08
Group 6	10.51	.92	1.10		.08
Group 7	10.95	.92	1.10		.08
Group 8	11.505	.92	1.10		.08
Group 8A	12.21	.92	1.10		.08
Group 8B	9.84	.92	1.10		.08
Group 8C	11.88	.92	1.10		.08

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

TRUCK DRIVERS (Cont'd)

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 classification needed for work not included within the scope of the classification 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: Arizona COUNTY: Maricopa
DECISION NUMBER: AZ80-5123 DATE: Date of Publication
Supersedes Decision No. AZ79-5110 dated March 16, 1979, in 44 FR 16306
DESCRIPTION OF WORK: Residential Projects (consisting of 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:*					
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:*					
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
CARPENTERS:					
Carpenters; Saw Filers; Shingler	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:					
Area 1	11.21	.95	1.30		.05
Area 2	11.44	.92	1.10		.05
ELECTRICIANS	14.85	.96	3%+.88		3/4%
ELEVATOR CONSTRUCTORS	13.85	.895	.69	a	.03
ELEVATOR CONSTRUCTORS' HELPERS	9.695	.895	.69	a	.03
GLAZIERS	7.89	.90	.30		.01
IRONWORKERS	13.35	1.54	2.57		.11
LATHERS:					
Area 1	12.49	.75			.06
Area 2	14.03	.50			
MARBLE WORKERS	12.16	.65	1.10		.19
MASON TENDERS	9.80	.92	1.10		.06

*See AREA and ZONE Descriptions - following Page

ZONE DESCRIPTIONS

ASBESTOS WORKERS:
- Zone 1: Area lying within 15 miles radius from the City Hall in Phoenix
- Zone 2: Area lying beyond the limits of Zone 1 and within 30 miles radius from the City Hall in Phoenix
- Zone 3: Area lying beyond the limits of Zone 2 and within 40 miles radius from the City Hall in Phoenix
- Zone 4: Area lying beyond the limits of Zone 3 and within 50 miles radius from the City Hall in Phoenix
- Zone 5: Area lying beyond the limits of Zone 4

BRICKLAYERS: Stonemasons:
- 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

CEMENT MASONS:
- Area 1: North of Sentinel-Casa Grande-Safford Line
- Area 2: South of Sentinel-Casa Grande-Safford Line

LATHERS:
- Area 1: North of a line crossing the State drawn through Ajo, Randolph and Springerville
- Area 2: South of a line crossing the State drawn through Ajo, Randolph and Springerville

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1: (North of 33rd Parallel):					
Zone A:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	$11.57	.60	.50		.08
Spray; Paperhangers	11.82	.60	.50		.08
Creosote Applier	11.90	.60	.50		.08
Swing Stage:					
Brush; Sandblaster	11.97	.60	.50		.08
Spray	12.22	.60	.50		.08
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.57	.60	.50		.08
Spray; Paperhangers	12.82	.60	.50		.08
Creosote Applier	12.90	.60	.50		.08
Swing Stage:					
Brush; Sandblaster	12.97	.60	.50		.08
Spray	13.22	.60	.50		.08
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	14.07	.60	.50		.08
Spray; Paperhangers	14.32	.60	.50		.08
Creosote Applier	14.40	.60	.50		.08
Swing Stage:					
Brush; Sandblaster	14.47	.60	.50		.08
Spray	14.72	.60	.50		.08

*See Zone Descriptions - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (South of 33rd Parallel):					
Brush	$12.29	.77	.45		.08
Spray; Sandblasters	12.79	.77	.45		.08
Paperhangers	12.43	.77	.45		.08
Swing Stage (under 40 feet):					
Brush	12.59	.77	.45		.08
Spray	13.09	.77	.45		.08
Swing Stage (over 40 feet):					
Brush	13.04	.77	.45		.08
Spray	13.54	.77	.45		.09
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	9.32	.35	.60		
Zone D	10.07	.35	.60		
PLASTERERS' TENDERS	10.30	.92	1.10		.10
PLUMBERS; Steamfitters:*					
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	11.66	1.095	.45		.05
SHEET METAL WORKERS:*					
Zone 1	13.865	1.05	1.515		.12
Zone 2	14.515	1.05	1.515		.12
Zone 3	16.365	1.05	1.515		.12
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 Descriptions 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 DESCRIPTIONS

PAINTERS:

Area 1: (North of 33rd Parallel):
- 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

PLASTERERS:

Area 1: North of Sentinal-Casa Grande-Safford Line:
- Zone A: 0-35 miles from Phoenix
- Zone B: 35-60 miles from Phoenix
- Zone C: 60 miles and over from Phoenix

Area 2: South of Sentinal-Casa Grande-Safford Line:
- Zone A: 0-30 miles from Tucson
- Zone B: 30-40 miles from Tucson
- Zone C: 40-50 miles from Tucson
- Zone D: 50 miles and over from Tucson

PLUMBERS; Steamfitters:

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 DESCRITPIOSNS (Cont'd)

PLUMBERS; Steamfitters: (Cont'd)
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

SHEET METAL WORKERS:
Zone 1: 0 to 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 to 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

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.06	.92	$1.10		.10
Group 2	9.20	.92	1.10		.10
Group 3	9.35	.92	1.10		.10
Group 4	9.47	.92	1.10		.10
Group 5	9.65	.92	1.10		.10
Group 6	10.055	.92	1.10		.10
Group 7	10.745	.92	1.10		.10

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; Landscope 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

LABORERS (Cont'd)

Group 4: Operator and Tenders of pneumatic and electric tools; Concrete 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

POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.66	$1.10	$1.10		.08
Group 2	10.06	1.10	1.10		.08
Group 3	10.55	1.10	1.10		.08
Group 4	11.13	1.10	1.10		.08
Group 5	11.70	1.10	1.10		.08
Group 5A	12.03	1.10	1.10		.08
Group 6	12.39	1.10	1.10		.08
Group 7	13.04	1.10	1.10		.08

Group 1: Air Compressor Operators; 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, Moto-Paver, Slurry Seal Machine and similar type equipment; Dinky Operator (under 20 ton 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, DW, 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. yd.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Drigger 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-controlled 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	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.23	.92	$1.10		.08
Group 2	9.37	.92	1.10		.08
Group 3	9.61	.92	1.10		.08
Group 4	9.99	.92	1.10		.08
Group 5	10.16	.92	1.10		.08
Group 5A	10.36	.92	1.10		.08
Group 6	10.51	.92	1.10		.08
Group 7	10.95	.92	1.10		.08
Group 8	11.505	.92	1.10		.08
Group 8A	12.21	.92	1.10		.08
Group 8B	9.84	.92	1.10		.08
Group 8C	11.88	.92	1.10		.08

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

TRUCK DRIVERS (Cont'd)

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 classification needed for work not included within the scope of the classification 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: FLORIDA
DECISION NUMBER: FL80-1088
COUNTY: ORANGE
DATE: DATE OF PUBLICATION
Supersedes Decision Number: FL79-1064 dated April 13, 1979 in 44 FR 22308.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or apartments of four stories or less)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.10	.55	.65		.06
BOILERMAKERS	11.75	.75	1.10		.04
BRICKLAYERS, STONEMASONS, MARBLE MASONS, PLASTERERS, and CEMENT MASONS	10.25	.50	.40		.10
CARPENTERS	6.94				
ELECTRICIANS	11.62	.55	3% + .55		1%
ELEVATOR CONSTRUCTORS					
Mechanics	9.335	.895	.69	a & b	.03
Helpers	6.53	.895	.69	a & b	.03
GLAZIERS	6.14				
IRONWORKERS					
Structural & Ornamental	10.68	.65	.90	.65	.05
Reinforcing	10.68	.65	.90	.65	.05
LABORERS					
Unskilled	4.21				
Pipelayers	5.00				
LATHERS	8.88	.35	.25		.15
LINEMEN					
Linemen	9.61	.40	3%		½ of 1%
Cable Splicers	10.31	.40	3%		½ of 1%
Heavy Equipment Operator	9.61	.40	3%		½ of 1%
Winch Truck Operator	7.68	.40	3%		½ of 1%
Pick Up or Flat Bed Operator	6.28	.40	3%		½ of 1%
Groundmen	5.55	.40	3%		½ of 1%

FL80-1088 (continued)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	11.72	.65	.70		.10
PAINTERS:					
Brush	8.95	.50	.45		.06
Spray	9.45	.50	.45		.06
Paperhangers	9.45	.50	.45		.06
Sandblasters	9.45	.50	.45		.06
PLUMBERS	11.04	.75	22+40	.50	.12
ROOFERS:					
Roofers	8.40	.35	.25		
Kettlemen	6.95	.35	.25		
SHEET METAL WORKERS	10.96	.55+3%	.44		.08
SOFT FLOOR LAYERS	6.00				
SPRINKLER FITTERS	5.41				
TILE & TERRAZZO WORKERS	10.25	.50	.40		.10
TRUCK DRIVERS	4.21				
WELDERS - RECEIVE RATE FOR CRAFT TO WHICH WELDING IS INCIDENTAL					
POWER EQUIPMENT OPERATORS					
Backhoes	10.13	.55	.40		.05
Bulldozers	8.95	.55	.40		.05
Cranes	10.13	.55	.40		.05
Graders	6.65				
Loaders	8.95	.55	.40		.05
Paving Machine Operators	5.00				
Rollers	6.86	.55	.40		.05
Tractors	4.50				
Oilers	6.86	.55	.40		.05

FOOTNOTES:

a. Six Paid Holidays: A through F.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in the business for more than five years, 6% of regular hourly rate for employee who has worked in the business less than five years.

PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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: INDIANA COUNTIES: *SEE BELOW

DECISION NUMBER: IN80-2059 DATE: Date of Publication

Supersedes Decision No. IN80-2021 dated May 23, 1980, 45 FR 35131

DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

*BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, FAYETTE, FLOYD, FRANKLIN, HARRISON, HENRY, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, OHIO, ORANGE, RANDOLPH, RIPLEY, RUSH, SCOTT, SWITZERLAND, UNION, WASHINGTON, & WAYNE Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Brown, Decatur, Henry, & Rush Counties	$15.05	.50	1.20		
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, & Union Counties	15.41	.75	1.00		.02
Randolph and Wayne Counties	12.87	.55	1.50		.02
Remaining Counties	13.75	.60	1.25		
BOILERMAKERS:					
Brown, Crawford, Decatur, Fayette, Franklin, Henry, Jackson, Jennings, Lawrence, Ohio, Orange, Randolph, Ripley, Rush, Union, Washington, & Wayne Counties	14.25	1.375	1.00		.03
Remaining Counties	11.70	1.275	1.20	1.50	.04
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:					
Brown, Jackson, & Jennings Counties	13.20	.70	.30		.02
Clark, Floyd, & Harrison Counties	11.44	.50	.40		.01
Crawford County	11.78	1.00	.75		
Dearborn, Decatur, & Ripley Counties	11.80		.30		
Fayette, Franklin, Rush, Union, & Wayne Counties	12.81	.80	.55		
Henry & Randolph Counties	11.85	.50	.75		.01
Jefferson, Ohio, Scott & Switzerland Counties	10.75				
Lawrence, Orange & Washington Counties	12.79				
CARPENTERS; Millwrights; Piledrivermen, & Soft Floor Layers:					
Brown (Twp. of Hamblin),					

DECISION NO. IN80-2059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackson, Jefferson, Jennings, Rush (except Carthage Twp.), & Scott Counties					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; Burners	10.74	.55	.65		.03
Brown (excl. Hamblin Twp.) County:					
Carpenters; Soft Floor Layers	12.10	.72	.60		.01
Millwrights	12.85	.77	.64		.01
Piledrivermen	12.35	.72	.60		.01
Clark, Floyd, Harrison, & Washington Counties:					
Carpenters; Soft Floor Layers	10.75	.55	.55		.05
Piledrivermen	11.00	.55	.55		.05
Millwrights	12.75	.55	.85		.05
Crawford County:					
Carpenters	12.27	.70	1.00		
Piledrivermen; Welders, & Burners	12.52	.70	1.00		
Millwrights	12.29	.60	.90		
Dearborn, Decatur, Franklin, Ohio, Ripley, & Switzerland Counties:					
Carpenters; Soft Floor Layers	12.09	.75	.90		.04
Millwrights	12.59	.75	.90		.04
Piledrivermen; Welders; Burners	12.34	.75	.90		.04
Fayette, Henry, Randolph, Rush (Carthage), Union, & Wayne Counties:					
Carpenters; Soft Floor Layers	12.48	.75	.60		.10
Millwrights	12.78	.75	.60		.10
Piledrivermen	12.68	.75	.60		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lawrence & Orange Counties:					
Carpenters; Soft Floor Layers	12.40	.72	.85		.04
Millwrights	13.00	.72	.85		.04
Piledrivermen	12.80	.72	.85		.04
CEMENT MASONS; Plasterers:					
Brown, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Counties	12.00				
Clark, Floyd, & Harrison Counties:					
Cement Masons	9.88	1.00	.70		.04
Plasterers	11.85				.02
Crawford County:					
Cement Masons	12.30	.85	.65		
Decatur, Fayette, Franklin (Northern part to and inclu. Brookeville), Rush, Union, & Wayne Counties:					
Cement Masons	11.40		1.80		
Plasterers	12.60	.80	.50		.03
Henry County:					
Cement Masons	11.66	.65	.50		.08
Plasterers	10.78	.85	.50		.01
Randolph County:					
Cement Masons	10.75	.60	.80		
Plasterers	11.45	.75			.01
ELECTRICIANS:					
Brown County	13.35	.55	3%+.70		.01
Clark, Floyd, Harrison, Jackson, Jefferson, Scott and Washington Counties	15.10	.75	1.25		½%
Crawford, Lawrence, & Orange Counties	13.85	.50	3%		½%
Dearborn, Ohio, & Switzerland Counties:					
Up to & incl. 18 mi. radius from Hamilton County Court House, Cincinnati, Ohio	13.70	.60	3%+.80		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton County Court House, Cincinnati Ohio	14.00	.70	3%+.80		½%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton County Court House, Cincinnati Ohio.	14.10	.70	3%+.80		½%
Over 25 mi. radius from Hamilton County Court House, Cincinnati, Ohio	14.25	.70	3%+.80		½%
Decatur, Jennings, Ripley, & Rush Counties	14.40	4%	8%		½%
Fayette, Franklin, Henry, Randolph, Union, & Wayne Counties	12.80	.55	3%+.30		.2%
ELEVATOR CONSTRUCTORS:					
Brown, Decatur, Henry, & Rush Counties	12.79	.745	.56	a+b	.035
Clark, Crawford, Floyd, Harrison, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Counties	13.62	1.95	.82	a+b	.035
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, & Wayne Counties	13.02	.745	.56	a+b	.035
Randolph County	12.33	.745	.56	a+b	.035
GLAZIERS:					
Brown, Decatur (NW of a line from the NE. Co. corner thru Mechanicsburg to the S. Co. line); Fayette (N. of 44 to 121 and W. of 121), Franklin (N. of a line from Buena Vista to Cornersville), Henry, Jackson (N. of a line from a point on the E. Co. line 8 mi. S. of the N. Co. line to					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brownstown and from there N. of 50), Jennings (NW of a line from a point on the N. Co. line 4 mi. E. of the E. Co. line to N. Vernon and from N. Vernon N. of 50 to the W. Co. line), Lawrence (N. of 50 to Bedford and N. of Bedford to Springville to the W. Co. line) Randolph (W. of a straight line drawn from N. to S. thru Harrisville), Rush, Union (N. of 44 and W. of Kitchell), & Wayne (W. of a straight line N. to S. thru Chester) Counties.	15.09				
Crawford, (Rem. of Co.), & Orange (SW corner) Counties	10.905	.48	.50	.25	
Dearborn, Decatur (Rem. of Co.), Fayette (Rem. of Co.), Franklin (Rem. of Co.), Jefferson (E½), Jennings (Rem. of Co), Ohio, Randolph (Rem. of Co.), Ripley, Switzerland, Union (Rem. of Co.), & Wayne (Rem of Co.) Counties	14.10		.60		.01
IRONWORKERS:					
Brown, Decatur (W½), Fayette (W½), Franklin (NW Tip), Henry, Jackson (N part inclu. Freetown), Jennings, (NW corner), Lawrence (N part exclu. Oolitic), Randolph (SW Tip), & Rush Counties	13.45	1.00	1.95		.05

DECISION NO. IN80-2059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Crawford, Floyd, Harrision, Jackson (Rem. of Co.), Jefferson (W 2/3), Jennings (S 2/3) Lawrence (S 2/3), Orange, Scott, Switzerland (SW Tip), & Washington Counties	12.75	1.70	1.60		.06
Dearborn, Decatur(rem. of co.), Fayette(SE 2/3), Franklin(rem. of co.), Jefferson(NE 1/3), Ohio, Ripley, Switzerland(rem. of co.), & Union(s 1/3):					
Ornamental; Structural	14.23	1.00	1.45		.03
Reinforcing	12.18	1.00	2.25		.02
Fayette (Rem. of Co.), Randolph (S part including Union City but exclu. Winchester), Union (N 2/3) & Wayne Counties:					
Within 15 mi. radius of Dayton, Ohio	13.06	1.00	1.60		.06
Beyond 15 mi. radius of Dayton, Ohio	13.21	1.00	1.60		.06
Randolph (N part of Co. excluding Union City but including Winchester County)	12.35	1.00	1.70		.02
LATHERS:					
Brown, Dearborn (N½), Decatur, Fayette (S 2/3), Franklin, Jackson (N part including Freetown), Jennings (N. part exclu. N. Vernon & Vernon), Lawrence (N 2/3), Ripley (N½), Rush, Union (except NW Tip) Counties	11.04	.61	.45		.04
Clark, Crawford, Dearborn (S½), Floyd, Harrison, Henry (SW portion), Jackson (S. part exclu.					

DECISION NO. IN80-2059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Freetown), Jefferson, Jennings (S. part inclu. N. Vernon & Vernon), Lawrence (S 1/3), Ohio, Orange, Ripley (S½), Scott, Switzerland, Washington Counties	11.79		.20		.01
Fayette (N 1/3), Henry (Rem. of Co.), Randolph, Union (NW Tip), & Wayne Counties	10.50		.55		.01
MARBLE SETTERS: TERRAZZO WORKERS: & TILE SETTERS:					
Brown, Jackson, Jennings Counties	13.20	.70	.30		.02
Clark, Floyd, & Harrison	11.10	.50	.40		
Crawford County	11.10	.75	.75		
Fayette, Franklin, Rush, Union, & Wayne Counties:					
Tile Setters	11.76	.80	.55		
Henry & Randolph Counties:					
Tile Setters	11.60	.50	.75		.01
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Brown, Fayette, Franklin, Henry, Jackson, Jennings, Randolph, Rush, Union, & Wayne Counties:					
Marble Setters Finishers & Tile Setters Finishers	10.65				
Terrazzo Workers Finishers	10.95				
Clark, Crawford, Floyd, & Harrison Counties	9.65				
PAINTERS:					
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Washington Counties:					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Within 35 mi. radius of Jefferson County, Kentucky Court House:					
Brush; Drywall Tapers & Finishers; Paperhangers; & Rollers	10.41	.45	.40		.03
Special	10.76	.45	.40		.03
Spray	10.86	.45	.40		.03
Beyond 35 mi. radius of Jefferson County, Kentucky Court House:					
Brush; Drywall Tapers & Finishers; Paperhangers; & Rollers	10.18	.35	.20		.03
Special	10.53	.35	.20		.03
Spray	10.63	.35	.20		.03
Dearborn, Ohio, Ripley, & Switzerland Counties:					
Brush; Roller; Wall-Washing; Drywall Taping & Finishing; Wallpaper & Vinyl Hanging; Floor Sanding; Seamless Flooring & Hopper Tending; & Steamcleaning	12.50				
Spray; Epoxy	14.25				
Decatur, Jackson, & Jennings Counties:					
Brush; Drywall Taping & Finishing; & Roller	9.45		.50		
Sandblast & Spray	10.45		.50		
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Counties:					
Brush	9.85				
Sandblasting & Spray	10.85				
Scaffold over 30 ft., Structural Steel; Stage & Spray Tenders	10.10				
Lawrence & Orange Counties:					
Brush; Drywall; Roller; Structural Steel	9.00				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sandblasting; Spray	10.00				
PLUMBERS & STEAMFITTERS:					
Brown (except Camp Atterbury), Jackson, Lawrence, Orange, & Washington Counties	13.60	.60	1.00		.15
Brown (Camp Atterbury) Cos.	14.90	.60	1.10		.04
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Counties	14.75	.50	1.10	c	.05
Dearborn, Ohio, & Ripley Counties					
Plumbers; Gas Fitters	13.82	1.05	1.20		.07
Steamfitters; Pipefitters	13.78	1.045	1.60		.08
Decatur & Jennings Counties	13.76	.60	.60		.05
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Counties	14.85	.60	1.10.	d	.15
ROOFERS:					
Brown, Decatur, Fayette, Franklin, Jackson, Jennings, Lawrence, Rush, Union, & Wayne Counties:					
Composition & Waterproof	12.50	.65	.50		
Slate, Tile, Asbestos & Precast Slab	12.75	.65	.50		
Clark, Floyd, Harrison Jefferson, Scott, Switzerland, & Washington Counties:					
Roofers	8.80	.65	.45		
Slate, Tile, & Precast Concrete Slabs	9.20	.65	.45		
Crawford & Orange Counties					
Composition & Waterproofers	12.28	.75	.70		
Gypsum Plant; Slate: Tile; & Concrete Slab	12.53	.75	.70		
Dearborn, Ohio, & Ripley Counties:					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers	14.32		.85		.01
Pitch	15.32		.85		.01
Henry & Randolph Counties:					
Composition; Damp & Waterproof; Slate, Tile, and Asbestos	11.25	.55	.30		
Coal Tar Pitch	12.00	.55	.30		
SHEET METAL WORKERS:					
Clark, Floyd, & Harrison Counties	12.88	1.10	1.47		.16
Crawford, Jefferson, Scott & Switzerland Counties	14.13	1.10	1.47		.16
Dearborn & Ohio Counties	13.835	1.06	.85		.06
Randolph & Wayne Counties	12.28	.95+e	1.15		
Remaining Counties	13.31	.65+e	.80		.12
SPRINKLER FITTERS	14.30	.85	1.20		.08

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Seven paid holidays: A thru F and day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 yrs.; Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. One Paid Holiday: Christmas Eve Day
d. Two Paid Holidays: C & D
e. 3% of Gross Earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fayette, Henry, Randolph, Rush, Union & Wayne Counties:					
GROUP I	8.90	.85	.75		.09
GROUP II	9.10	.85	.75		.09
GROUP III	9.20	.85	.75		.09
GROUP IV	9.90	.85	.75		.09
Remaining Counties					
GROUP I	9.30	.85	.75		.09
GROUP II	9.50	.85	.75		.09
GROUP III	9.60	.85	.75		.09
GROUP IV	10.30	.85	.75		.09

GROUP I: - Building & Construction Laborers; Scaffold Builders (Other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Civil Engineer Tenders & Surveyor Tenders; Rodmen & Chainmen; Window Washers & Cleaners; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Tenders of all other Crafts not listed; All Portable Water Pumps With Discharge up to 3 inches
GROUP II - Waterproofing; Handling of Creosote Lumber or Like Treated Material (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators; Vibrators, Chipping Hammer Operators and All Pneumatic Tool Operators; Earth Compactors; Jackmen & Sheetmen Working Ditches Deeper than 6 ft. in Depth; Laborers Working Ditches 6 ft. in Depth or Deeper; Assembly of Unicrete Pump; Chain Saw Operators; Tile Layers (sewer or field) & Sewer Pipe Layers (metallic or non-metallic); Motor Driven Wheelbarrows & Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Conveyor Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winch Operators; Water Main & Cable Ducking (metallic & non-metallic)
GROUP III - Plasterers' Tenders; Mason Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when Working for Plasterers; Scaffold Builders when Working for Masons
GROUP IV - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette, Henry, Randolph, Rush, Union, & Wayne Cos.					
GROUP 1	12.50	.75	.65		.10
GROUP 2	11.55	.75	.65		.10
GROUP 3	9.45	.75	.65		.10
GROUP 4	8.35	.75	.65		.10

GROUP 1 - Air Compressor (pressurizing shafts, tunnels and drivers); Air Tugger; Auto Patrol; Backfiller; Backhoe; Boom Cat; Boring Machine; Bulldpzer; Caisson Drilling Machine; Cherry Picker; Compactor (w/dozer blade); Concrete Plant; Concrete Pump; Crane w/all Attachments; Crane-Electric Overhead; Derrick; ditching Machine (18" and over); Dredge; Elevator (when hoisting material or tool); Forklift (marchinery); Formless Paver; Generator (power for welders or compressors); Gradall; Helicopter Winch Operator; Highlift-Front End Loader; Hoist; Locomotive; Mucking Machine; Panel Board; Concrete Plant; Piledriver; Push Cat; Scoop and Tractor; Scraper-Rubber-Tired; Spreader-Tractor Mounted; Straddle Carrier-Ross Type; Sub Base Finish; Machine (C.M.I. or similar tower crane); Tractor w/backhoe (over ½ yd); Welder

GROUP 2 - A-Frame Truck; Batcher Plant (automatic dry batch); Bending Machine-Power Driven; Bituminous Mixer; Bituminous Paver; Bituminous Plant Engineer; Boatman; Bullfloat; Compactor or Tamper-Self Propelled; Concrete Mixer (21 cu. ft. or over); Concrete Spreader-Power Driven; Dinkey Engine; Ditching Machine (less than 18"); Drilling Machine; Finish Machine and Bullfloat; Finishing Machine; Piledriving and Boilers; Forklift-Masonry and Material; Gunnite Machine; Head Greaser; Mesh Depresser-Mesh Placer; P.C.C.-Concrete Belt Placer Roller-Asphalt Stone and Sub-Base; Sheepstone Roller Self Propelled; Spreader or Base Paver Self Propelled; Subgrader; Throttle Valve w/Air Compressor or Boiler; Tractor w/Backhoe (½ yard and under); Tractor-High Lift-Farm Type; Tractor-Industrial Type; Tractor w/Winch; Well Points; Winch Truck

GROUP 3 - Air Compressor (210 cu. ft. and over); Bituminous Distributor; Chair Cart; Concrete Curing Machine; Concrete Saw; Dope Pot-Power Agitated; Flexplane; Form Grader; Hydrohammer; Jacks-Hydraulic-Power Driven; Minor Equipment Operator; Paving Joint Machine; Post Hole Digger; Roller-Earth; Throttle Valve; Track Jack-Power Driven; Tractor-Farm Type; Truck Crane Driver

GROUP 4 - Air Compressor (less than 210 cu. ft.); Concrete Mixer (under 21 cu. ft.); Conveyor; Generator; Mechanical Heater; Oiler; Power Broom Pump; Welding Machine; Tenders

DECISION NO. IN80-2059

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Counties, Except Crawford					
GROUP 1	9.65	35.50a	23.00a	b&c	
GROUP 2	9.70	35.50a	23.00a	b&c	
GROUP 3	9.75	35.50a	23.00a	b&c	
GROUP 4	9.80	35.50a	23.00a	b&c	
GROUP 5	9.85	35.50a	23.00a	b&c	
GROUP 6	9.90	35.50a	23.00a	b&c	
GROUP 7	10.00	35.50a	23.00a	b&c	
GROUP 8	10.05	35.50a	23.00a	b&c	
GROUP 9	10.10	35.50a	23.00a	b&c	
GROUP 10	10.15	35.50a	23.00a	b&c	
GROUP 11	10.30	35.00a	23.00a	b&c	

GROUP 1 - Air Compressors and Welding Machines, incl. those pulled by Cars, Pickup Trucks, Tractors, & Fork Lifts; Dumpsters; & Lowboy Tenders
GROUP 2 - Mixer 2 Yds.
GROUP 3 - Mechanic Tenders and Greasers
GROUP 4 - Batch Trucks Wet or Dry 3 Batches or Under
GROUP 5 - Mixers 3 Yds.; Oil Distributors Tandem Axles, Incl. Dog-Legs; & Winch Trucks
GROUP 6 - Batch Trucks Wet or Dry or Dry Over 3 Batches; Pavement Breakers; Single Axle Semi-Trucks
GROUP 7 - Mechanics; Mixers 4 Yds.; Tandem Axle Semi-Trucks; & Trac-o-Trucks, Euclids, Tournapull when pulling other than Self-Loading Equipment up to and incl. 10 yds.
GROUP 8 - Tri-Axles
GROUP 9 - Low-Boys; Tandem Axle Semi-Trucks
GROUP 10 - Mixers Above 4 yds.; & Trac-o-Trucks, Euclids, Tournapulls when pulling other than Self-Loading Equipment 11 yds. to and incl. 16 yds.
GROUP 11 - Helicopter Pilot; Trac-o-Trucks, Euclids, Tournapulls when pulling other than Self-Loading Equipment over 16 yds.

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Black Hawk
DECISION NO.: IA80-4041 DATE: Date of Publication
Supersedes Decision No.: IA78-4100, dated November 24, 1978 in 43 FR 55161
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.18	.55	1.00		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS AND STONEMASONS	12.28	.65	1.35		.02
CARPENTERS:					
Carpenters; Piledrivermen	11.14	.65	1.50		.03
Millwrights	11.74	.65	1.50		.03
CEMENT MASONS	11.85	.65			
ELECTRICIANS					
Electricians	13.19	.45	3%		3/4%
Cable Splicers	13.59	.45	3%		3/4%
ELEVATOR CONSTRUCTORS	12.065	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	1.045	.82	a	.035
IRONWORKERS	11.23	.45	.50		.06
LABORERS:					
GROUP 1- Common laborers; Carpenters' helpers; moving; wrecking & demolition	9.52	.65	.20		.05
GROUP 2- Mason tenders; hod carriers; machine and air tool operators	9.67	.65	.20		.05
GROUP 3- Powderman	9.87	.65	.20		.05
LATHERS	10.24	.45			
LINE CONSTRUCTION:					
GROUP 1- Cable splicers; Lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	b	½%
GROUP 2- Groundman; truck driver (without winch); Experienced (not less than 6 months)	7.77	.45	7%	b	½%
GROUP 3- Groundman; truck driver (with winch)	7.89	.45	7%	b	½%
GROUP 4- Blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling setting equipment other than assembled "H" fixtures	9.57	.45	7%	b	½%

DECISION NO. IA80-4041

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 5- Groundman- 1st 6 mos.	$ 6.58	.45	7%	b	½%
PAINTERS:					
Brush, roller	9.51		.30		.03
Tapers	9.62		.30		.03
Spray	10.01		.30		.03
PLASTERERS	11.75	.45			
PLUMBERS AND STEAMFITTERS	12.86	.75	1.21		.10
ROOFERS	11.45				
SHEET METAL WORKERS	10.95	.75	.22		.02
SOFT FLOOR LAYERS	11.14	.65	1.50		.03
SPRINKLER FITTERS	14.10	.85	1.20		.08
TILE SETTERS	10.63	.45		.25	
TRUCK DRIVERS:					
Up to 6 tons	7.95	.45	.75		
Helpers	7.78	.45	.75		
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a - Employer contrubutes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 mos. to 5 years service as Vacation Pay Credit. Seven Paid Holidays A thru G
b - Seven paid holidays A thru G

PAID HOLIDAYS:
A- New Year's Day; B- Memorial Day; C- Independence Day; D- Labor Day; E- Thanksgiving Day; F- Christmas Day; G- Friday after Thanksgiving

DECISION NO. IA80-4041

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Cerro Gordo
DECISION NO.: IA80-4042 DATE: Date of Publication
Supersedes Decision No. IA78-4101, Dtd. Nov. 24, 1978 in 43 FR 55162
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories)

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.75	1.04	1.125		.10
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS	11.72		.85		.02
CARPENTERS:					
Carpenters	9.36	.45	.30	.40	
Millwrights; Piledrivermen	9.61	.45	.30	.40	
CEMENT MASONS	11.45				
ELECTRICIANS	14.11	.45	3%		3/4%
GLAZIERS	9.87	.70	.30	a	
IRONWORKERS	12.27	.87	1.12		.05
LABORERS:					
GROUP 1 - Construction laborers; Tenders; Power tools, barco operators; Mortar mixers; Concrete saw; Sand point setter	7.99	.30	.40		
GROUP 2 - Caissons, after 6 ft. depth; Dynamite men; Gunniting-nozzle man and backup man; Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 35 ft. or over	8.24	.30	.40		
GROUP 3 - Laborers working on swinging stage work, wood hoist, towers, scaffolds or ladders at a height of 75 ft. or over	8.49	.30	.40		
LATHERS	10.24	.45			
LINE CONSTRUCTION:					
GROUP 1 - Cable splicers; Lineman; Welders; Technicians; All rigs setting assembled "H" fixtures and steel transmission structures	11.96	.45	7%	a	1/2%

DECISION NO. IA80-4042

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
GROUP 2 - Groundman; Truck driver (without winch); Experienced (not less than 6 months)	7.77	.45	7%	a	1/2%
GROUP 3 - Groundman; Truck driver (with winch)	7.89	.45	7%	a	1.2%
GROUP 4 - Blaster; Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	9.57	.45	7%	a	1/2%
GROUP 5 - Groundman - 1st 6 mos.	6.58	.45	7%	a	1/2%
PAINTERS:					
Brush	9.75		.50		
Tapers	9.85		.50		
Spray	10.25		.50		
PLASTERERS	9.00				
PLUMBERS & STEAMFITTERS	13.49	.65	.55		.04
ROOFERS	9.52				
SHEET METAL WORKERS	11.08	1.00	.72		.14
SOFT FLOOR LAYERS	9.36	.45	.30	.40	
SPRINKLER FITTERS	14.10	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a-Seven Paid Holidays A thru G

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

DECISION NO. IA80-4042

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	12.32	.90	.90		.10
GROUP 2	12.085	.90	.90		.10
GROUP 3	10.78	.90	.90		.10
GROUP 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: BOYD, CARTER, ELLIOT, FLEMING, GREENUP, JOHNSON, LAWRENCE, LEWIS, MARTIN, MORGAN, ROWAN
DECISION NO. KY80-1087 DATE: DATE OF PUBLICATION
Supersedes Decision No. KY79-1099 dated June 8, 1979 in 44 FR 33317
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes 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.
AIR CONDITIONING & HEATING MECHANICS	$6.52				
BRICKLAYERS	8.34				
CARPENTERS	5.00				
CEMENT MASONS	5.81				
DRYWALL HANGERS	5.00				
DRYWALL FINISHERS	6.20				
ELECTRICIANS	6.78				
INSULATION INSTALLERS	4.00				
LABORERS:					
Unskilled	4.00				
Mason Tenders	4.90				
PAINTERS	5.00				
PLUMBERS & PIPEFITTERS	8.52				
ROOFERS	6.55				
SHEET METAL WORKERS	6.78				
SOFT FLOOR LAYERS	5.50				
TILE SETTERS	6.00				
TRUCK DRIVERS	4.79				
WELDERS - Rate for craft					
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.00				
BULLDOZER	5.78				
FRONT END LOADER	5.00				
GRADER	4.75				
PAVER	4.75				
ROLLER	4.75				

SUPERSEDEAS DECISION

STATE: New Hampshire COUNTIES: Rockingham & Strafford
DECISION NO.: NH80-2057 DATE: Date of Publication
Supersedes Decision No. NH79-2041, dated May 11, 1979 in 44 FR 27882
DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

ROCKINGHAM COUNTY BUILDING, & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.81	1.20	1.10		.01
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Masons, Plasterers, Stonemasons, Tile setters & Terrazzo Workers	9.89	1.01	.89		.01
CARPENTERS:					
Salem:					
Carpenters & Soft Floor Layers	11.95	1.00	1.00		.05
Remainder of county:					
Carpenters & Soft Floor Layers	9.98	.70	.65		.03
Piledrivers, Wharf & Dock Builders & Millwrights	10.83	.70	.65		.03
ELECTRICIANS:					
Twps. of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan & S. New Market	12.65	.75	3%+.25		.02
Kingston, Kensington, N. Kingston, Hampstead, Plaistow, Westville, Atkinson, N. Salem & Salem.	12.37	.75	3%+.60		.02
Remainder of County	12.25	.65	3%		.03
ELEVATOR CONSTRUCTORS:					
Constructors	12.81	1.045	.82	a+b	.035
Helpers	8.97	1.045	.82	a+b	.035
IRONWORKERS:					
Structural, Ornamental and Reinforcing	11.05	1.15	1.20		.02
LABORERS, BUILDING:					
Laborers	8.07	.75	1.10		.10
Plasterers Tenders	8.24	.75	1.10		.10
Drillers, Pavement Breakers, Pneumatic Tool Ops., Chipping Gun Ops., Blasters & Powdermen	8.65	.75	1.10		.10
All other Pneumatic Tool Ops. on Boiler & Stack Work	9.11	.75	1.10		.10

DECISION NO. NH80-2057

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pipelayers, Fence & Guard Rail Erectors	8.36	.75	1.10		.10
LABORERS, HEAVY					
Laborers & Pipelayers	7.67	.60	.80	d	.10
Pneumatic Tool Op., Drillers Concrete Vibrators, & Pneumatic Breakers	8.17	.60	.80	d	.10
Blasters & Powderman	8.42	.60	.80	d	.10
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8of1%
Equipment Operator	9.24	.70	3%+.50	c	3/8of1%
Groundman	6.86	.70	3%+.50	c	3/8of1%
Driver Groundman	7.88	.70	3%+.50	c	3/8of1%
PAINTERS:					
Brush	8.96		.25		
Spray & Sanblasting	10.08		.25		
Open Structural Steel	9.63		.25		
Salem:					
Brush	11.71	.82	1.40		.04
Structural Steel	13.83	.82	1.40		.04
Spray and Sandblasting	12.71	.82	1.40		.04
Repaint	9.96	.82	1.40		.04
PLUMBERS & STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	11.80	1.65	.87		.05
Salem and Windham	11.15	.87	1.00		.05
Remainder of County	12.40	.83	.65		.02
ROOFERS	7.80				
SHEET METAL WOKERS	10.72	.80	.80		.02
SPRINKLER FITTERS	12.06	.75	1.05		.08

DECISION NO. NH80-2057

STRAFFORD COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.81	1.20	1.10		.01
BOILERMAKERS	13.50	1.175	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers and Tile Setters	9.89	1.01	.89		.01
CARPENTERS & SOFT FLOOR LAYERS	9.98	.70	.65		.03
Pile Drivers, Dock Builders, & Millwrights	10.83	.70	.65		.03
ELECTRICIANS	12.65	.75	3%+.25		.02
ELEVATOR CONSTRUCTORS:					
Constructors	12.81	1.045	.82	a+b	.035
Helpers	8.97	1.045	.82	a+b	.035
IRONWORKERS:					
Structural, Ornamental & Reinforcing	11.05	1.15	1.20		.02
LABORERS:					
Laborers	8.07	.75	1.10		.10
Plasterers Tenders	8.24	.75	1.10		.10
Boilers, Stack Work, Pneumatic Tool Op., Drillers, Pavement Breakers, Electric Chipping Ops., Blasterers & Powdermen, Creosote Work	8.65	.75	1.10		.10
Pipelayers, Fence & Guardrail Erectors	8.36	.75	1.10		.10
Pneumatic Tool on Boiler & Stack Work	9.11	.75	1.10		.10
LINE CONSTRUCTION:					
Linemen	9.84	.70	3%+.50	c	3/8of1%
Equipment Operator	9.24	.70	3%+.50	c	3/8of1%
Groundman	7.88	.70	3%+.50	c	3/8of1%
Driver Groundman	6.86	.70	3%+.50	c	3/8of1%
PAINTERS:					
Brush	8.96	.25	.25		
Spray and Tender	10.08	.25	.25		
Structural Steel	9.63	.25	.25		
PLUMBERS & STEAMFITTERS	12.40	.83	.65		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.72	.80	.80		.02
SPRINKLER FITTERS	12.06	.75	1.05		.08

DECISION NO. NH80-2057

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

b. Holidays: A through F

c. Holidays: B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays.

d. Holiday: B,C, & E provided employee works the scheduled work days before & after each holiday

DECISION NO. NH80-2057
BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

NH-1-PEO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	12.60	1.18	1.15	a	.03
CLASS 2	12.48	1.18	1.15	a	.03
CLASS 3	11.62	1.18	1.15	a	.03
CLASS 4	10.73	1.18	1.15	a	.03
CLASS 5	10.24	1.18	1.15	a	.03
CLASS 6	9.74	1.18	1.15	a	.03

Boom lengths including jib over 150' add $.55; over 185' add $.90; over 210' add $1.25; over 250' add $1.90; over 295' add $2.65

CLASS 1 - Shovels, Cranes, Truck Cranes, Cherry Pickers; Dragline, Trench Hoe, Backhoe, 3 Drum Machine, Derricks, Pile, Elevator Tower, Hoist, Gradall, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Fork Lift Auger, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Pumpcrete Machine
CLASS 2 - Sonic or Vibratory Hammer, Grader, Scraper more than 21 yds. struck, Tandem Scraper, Concrete Pump, Bulldozer, Scraper 21 yds. struck or less, Portable Steam Boiler, Portable Steam Generator, Roller, Spreader, Tamper, Asphalt Paver, Mehcanics, Maintenance.
CLASS 3 - Assistant Engineers (firemen)
CLASS 4 - Pumps (1-3 grouped), Compressor, Welding Machine (1-3 grouped), Generator, Concrete Vibrator, Lighting Plant, Heater (Power driven 1-5), Wellpoint (operating & installing), Syphons-Pulsometers, Conc. Mixers, Valves controlling Permanent Plant Air or Steam Conveyor, Jackson Type Tamper Cranes & Gradalls
CLASS 5 - Oilers on Truck Cranes & Gradalls
CLASS 6 - Oilers (other than truck cranes & gradalls)

FOOTNOTE: a. 10 paid holidays; New Year's Day; Memorial Day; Independnece Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day

DECISION NO. NH80-2057

HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	11.67	1.18	1.15	a	.03
CLASS 2	12.59	1.18	1.15	a	.03
CLASS 3	11.54	1.18	1.15	a	.03
CLASS 4	10.205	1.18	1.15	a	.03
CLASS 5	10.97	1.18	1.15	a	.03
CLASS 6	9.31	1.18	1.15	a	.03
CLASS 7	9.41	1.18	1.15	a	.03

Boom length including jib: over 150' - additional $.25 per hour; over 185' additional $.50 per hour; over 220' additiona $.75 per hour; over 275' additional $1.00 per hour; over 295' additional $2.00 per hour.

CLASS 1 - Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Hoist, Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines Elevating Graders, Shovel Dozers, (when used for digging or loading), Front End Loaders (when used for digging or loading), Mucking Machines (when used as in shafts and tunnels), Shaft Hoists, Steam Engineers, Backhoes, Gradalls and cableways
CLASS 2 - Master Mechanics
CLASS 3 - Grader, Scrapers, more than 21 yds., Struck and Tandem Scrapers, Bulldozers, Scrapers 21 yds., Struck or less, Grout Pumps, Portable Steam Boilers, Roller, Spreaders, Asphalt Pavers, Locomotive and Tampers Self-propelled or Tractor-drawn, Mechanics, Maintenance, Sonic or Vibratory Hammers
CLASS 4 - Pumps (s) (1-3 grouped), Compressors Welding Machine (s) (1-3 grouped) Generators, Lighting Plants, Heaters (power driven (105), Syphons, Pulsometers, Concrete Mixers, Valves Controlling permanent Plant Air or Steam, Conveyors, Wellpoint System (operating and installing)
CLASS 5 - Assistant Engineers (Firemen)
CLASS 6 - Oilers (other than truck Cranes and Gradalls)
CLASS 7 - Oilers on Truck cranes and Gradalls

PAID HOLIDAYS: A-New Year's; B-Memorial Day; C-Independence Day; D-Labor D-Labor; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a Holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day

DECISION NO. NH80-2057 NH-5-PEO-4-F

POWER EQUIOMENT OPERATORS MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.41	1.18	1.15	a	.03
CLASS 2	13.36	1.18	1.15	a	.03
CLASS 3	13.29	1.18	1.15	a	.03
CLASS 4	13.29	1.18	1.15	a	.03
CLASS 5	12.23	1.18	1.15	a	.03
CLASS 6	11.22	1.18	1.15	a	.03
CLASS 7	9.97	1.18	1.15	a	.03
CLASS 8	11.10	1.18	1.15	a	.03
CLASS 9	10.54	1.18	1.15	a	.03

Booms over 150' including jib-additional $.25 per hour
Booms over 185' including jib-additional $.50 per hour
Booms 220' including jib additional $.75 per hour. Booms over 275' including jib-additional $1.00 per hour

CLASS 1 - Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, 2 or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoist, Pavement Breaker Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grader, Shovel Dozer (except when pushing) Front End Loader (except when Pushing), Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill, Post Hole Hammer, Post Hole Digger for Lift
CLASS 2 - Swinger Engine
CLASS 3 - Sonic or Vibratory Hammer, Grader, scraper (over 21 yds. Struck), Tandem Scraper Concrete Pump, Bulldozer, Scraper (21 yds. Struck or less).
CLASS 4 - Portable Steam Boiler, Portable Steam Generator, Roller, Tractor Mechanic (maintenance), Concrete Mixer with Side Loader
CLASS 5 - Assistant Engineer (fireman).
CLASS 6 - Pump, Compressor, Welding Machine, Heater (power Driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (powered by independent engine and attached to pile drivers), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer
CLASS 7 - Oiler (other than truck crane and gradall)
CLASS 8 - Oiler on Scow
CLASS 9 - Oiler on Truck Crane and Gradall

PAID HOLIDAY: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the Holidays.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: See below*
DECISION NUMBER: NC80-1085 DATE: Date of Publication
Supersedes Decision No.: NC79-1085 dated May 18 1979, in 44 FR 29253.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and apartments up to and including 4 stories.

*Counties: Craven, Carteret, Duplin Green, Johnson, Jones, Lenior, Onslow, Pamilco and Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANIC	$ 8.00				
BRICKLAYERS	7.00				
CARPENTERS	5.83				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	7.00				
DRYWALL HANGERS	6.05				
ELECTRICIANS	5.30				
INSULATION INSTALLER	4.00				
LABORERS:					
Laborers	3.52				
Mason tenders	3.84				
Mortar mixers	5.00				
Pipelayers	4.47				
PAINTERS	5.00				
PLASTERERS	8.00				
PLUMBERS & PIPEFITTERS	5.51				
ROOFERS	5.91				
SHEET METAL WORKERS	4.78				
SOFT FLOOR LAYERS	7.50				
TILE SETTERS	8.00				
TRUCK DRIVERS	4.00				
WELDER - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
Asphalt raker	4.39				
Backhoe	5.00				
Bulldozer	5.10				
Grader	5.00				
Loader	5.00				
Roller	3.94				
Tractor	4.50				

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: Ohio COUNTIES: Darke & Shelby
DECISION NO.: OH80-2055 DATE: Date of Publication
Supersedes Decision No.: OH77-2072 dated May 13, 1977 in 42 FR 24566
DESCRIPTION OF WORK: Residential Construction consisting of 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.
AIR CONDITIONING MECHANICS	7.00				
BRICKLAYERS	7.66				
CARPENTERS	6.12				
CEMENT MASONS	6.41				
DRYWALL FINISHERS	7.00				
DRYWALL HANGERS	7.00				
ELECTRICIANS	6.80				
INSULATORS	5.50				
LABORERS	4.57				
PAINTERS	5.57				
PLUMBERS	6.83				
ROOFERS	5.72				
SHEET METAL WORKERS	6.45				
SOFT FLOOR LAYERS	5.75				
TILE SETTERS	6.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.75				
Bulldozer	6.75				
TRUCK DRIVERS	6.40				

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)).

SUPERSEDEAS DECISION

STATE: Ohio

COUNTIES: Ashtabula, Cuyahoga Lake, Lorain, Portage, Stark, and Summit

DECISION NUMBER: OH80-2028

DATE: Date of Publication

Supersedes Decision No.: OH79-2048, dated May 11, 1979 in 44 FR 27901

DESCRIPTION OF WORK: Building & Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake & Lorain Cos.	$15.04	.99	1.25		
Ashtabula (Rem. of Co.)	14.69	.55	1.50		.02
Remaining Cos.	13.66	.60	.99		.02
BOILERMAKERS	14.68	1.20	1.40		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	14.42	.95	1.50		
Cuyahoga Co.	14.83	1.21	1.33		.07
Lake Co.	15.57	.80	1.15		75.00p/y
Lorain Co.	14.95		.80	a	.01
Portage & Summit Cos.:					
Commercial Construction	14.42	1.02	.80		.02
Residential Construction	10.91	.88	.80		.02
Stark Co.	13.14	.95	.70		.01
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Ashtabula, Cuyahoga, & Lake, Cos.:					
Carpenters; Soft Floor Layers	14.78	1.09	1.60		.07
Millwrights	14.45	1.09	1.93		.07
Piledrivermen	14.60	1.09	1.78		.09
Portage & Summit Cos.:					
Carpenters	14.40	.70	1.00		.02
Millwrights	14.45	1.09	1.93		.07
Piledrivermen	14.60	1.09	1.78		.09
Stark Co.:					
Carpenters	12.68	.65	.80		.02
Millwrights; Piledrivermen	13.16	.65	.80		.02
Soft Floor Layers	12.51	.65	.80		.02
Lorain Co.:					
Carpenters; Soft Floor Layers	14.17	.85	1.00	b	.08
Millwrights	14.45	1.09	1.93		.07
Piledrivermen	14.60	1.09	1.78		.09
CEMENT MASONS:					
Ashtabula Co.	14.42	.95	1.50		
Cuyahoga Co.	16.37	.70			.02
Lake Co.	15.57	.80	1.15		75.00p/y

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lorain Co.	$14.95		.80	a	.01
Portage, Stark, & Summit Cos.:					
Commercial Construction	13.69	.70	1.00		.02
Residential Construction	12.72	.70	1.00		.02
ELECTRICIANS:					
Cuyahoga & Lorain (Twp. of Columbia) Cos.	15.82	.90	3%+.56		.03
Lake Co.:					
Commercial Construction	14.98	.85	3%+.70		.2%
Residential Construction	8.10	.70	3%		1%
Lorain (Except Columbia Twp.):					
Commercial Construction	13.95	.75	3%+1.00		.1%
Residential Construction	8.53	.75	3%		1%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.:					
Commercial Construction	14.77	.74	3%+.74		.2%
Residential Construction	9.28	.74	3%+.30		.2%
Stark County:					
Commercial Construction	14.46	.79	3%+.60		.3%
Residential Construction	9.65	.55	3%+.50		.3%
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor) & Portage (Remainder of Co.) Co.	15.54	.75	7%		.7%
Ashtabula Co. (Rem. of Co.):					
Commercial Construction	14.70	1.00	3%+1.00		.5%
Residential Construction	7.35	1.00	3%		.002%
ELEVATOR CONSTRUCTORS:					
Ashtabula Co.					
Mechanic	11.70	.745	.56	c+d	.035
Helpers	8.19	.745	.56	c+d	.035
Cuyahoga, Lake, & Lorain Cos.:					
Mechanic	15.25	1.195	.82	c+d	.035
Helpers	10.675	1.195	.82	c+d	.035

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Portage, Stark, & Summit Cos.:					
Mechanic	$14.425	.745	.56	c+d	.035
Helpers	10.10	.745	.56	c+d	.035
GLAZIERS:					
Ashtabula, Cuyahoga, Lake & Lorain Cos.	14.53	.60	1.00		.01
Portage, Stark & Summit Cos.:					
Commercial	11.79	.71	1.01		
Residential	7.19	.64	.52		
IRONWORKERS:					
Ashtabula (NE ¼ of Co.) Co.	13.00	1.86	1.01		.15
Ashtabula (except NE ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	14.97	1.05	1.45		.08
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	14.25	.75	1.30		.09
Stark Co.:					
Ornamental; Reinforcing; & Structural	13.48	.80	.95		.05
Bucker-up	13.605	.80	.95		.05
Sheeter-side	13.73	.80	.95		.05
Sheeter-roof	13.98	.80	.95		.05
LATHERS:					
Ashtabula, Cuyahoga, Lake, Lorain (Eastern portion), & Summit (No. part of Co.) Cos.	13.38		1.50		.01
Lorain (Rem. of Co.)	15.30				.01
Portage, Stark & Summit (So. part of Co.) Cos.	13.56	.88	.50		.01
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield & Windsor), Portage Co. (Twps. of Charleston, Edinburgh,					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D)					
Freedom, Hiram, Nelson, Palmyra, Paris, & Windham):					
Cable Splicer Op.; Linemen; Pole Digging Equipment Op.	$16.21	.70	3%		½%
Groundmen	12.97	.70	3%		½%
Ashtabula Co. (Rem. of Co.):					
Cable Splicer; Equipment Op.; Line Truck Driver; Linemen	13.05	.90	3%+.85		½%
Groundmen	9.80	.90	3%+.85		½%
Cuyahoga & Lorain (Columbia Twp) Cos.:					
Cable Splicers; Equipment Ops; Linemen	16.68	.60	3%		½%
Truck Drivers (winch) Groundmen	10.84	.60	3%		½%
Lorain (Rem of Co.) Co.:					
Cable Splicers; Equipment Ops.; & Linemen	13.95	.75	3%+1.00		½%
Groundmen	9.07	.75	3%+1.00		½%
Lake Co.:					
Cable Splicers, Equipment Operators; Linemen	14.98	.85	3%+.70		½%
Groundmen	9.74	.85	3%+.70		½%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield, & Summit Cos.:					
Linemen	14.77	.74	3%+.74		½%
Cable Splicers	15.82	.74	3%+.74		½%
Groundmen; Truck Drivers Equipment Operators	11.08	.74	3%+.74		½%
Stark Co.:					
Cable Splicers	13.70	.79	3%+.60		.3%
Linemen	14.46	.79	3%+.60		.3%
Truck Drivers; Groundmen	8.60	.79	3%+.60		.3%
Line Equipment Ops.	12.20	.79	3%+.60		.3%
MARBLE SETTERS; Terrazzo Workers; Tile Setters:					
Ashtabula Co.	14.42	.95	1.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS (CONT'D)					
Cuyahoga Co.:					
Marble Setters; Terrazzo Workers	$14.83	1.21	1.33		.07
Tile Setters	14.955		2.00		
Lake Co.	15.57	.80	1.15		75.00p/y
Lorain Co.	14.95		.80	a	.01
Portage & Summit Cos.	12.02	.81	.60		
Stark Co.:					
Marble Setters	12.22	.95	.70		
Terrazzo Workers	12.14	.95	.70		
Tile Setters	12.05	.95	.70		
MARBLE SETTERS' FINISHERS:					
Ashtabula, Portage & Stark Cos.	14.405				
Cuyahoga, Lake & Lorain Cos	13.76		2.00		
Portage & Summit Cos.	11.52	.81	.60		
PAINTERS:					
Ashtabula, Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike), Lorain (NE part):					
Brush; Rollers; Paperhangers	14.31	.97	1.10		.05
Swing Stage; Window Jack	14.61	.97	1.10		.05
Tapers	15.01	.97	1.10		.05
Lorain (Except NE part):					
Commercial Construction:					
Brush	10.20	.85	.10	e	
Roller	10.70	.85	.10	e	
Taping	10.95	.85	.10	e	
Residential Construction:					
Brush	9.85	.85	.10	e	
Taping	10.60	.85	.10	e	
Portage Co. (Ravenna Ordnance Depot):					
Brush; Rollers; Waterproofing; Paperhanging; Wallwashing; Hydro Jet Cleaning; Steam Cleaning	13.45	.85	1.15		
Spray; Epoxy-mastic (brush or roller)	13.95	.85	1.15		
Swing; Interior Scaffold Over 30 ft.); Window Jacks & Safety Belts	$13.62	.85	1.15		
Drywall Taping	13.60	.85	1.15		
Open Structural Steel	13.66	.85	1.15		
Dipping (when permitted)	13.80	.85	1.15		
Epoxy- mastic (spray)	14.45	.85	1.15		
Paperhangers (furnishing own tools)	13.70	.85	1.15		
Portage & Summit Cos. (up to & inclu. Ohio Turnpike):					
Brush; Roller; & Paperhanger	14.65	1.07	.60		
Structural Steel; Drywall Finishers & Tapers	15.40	1.07	.60		
Spray	15.50	1.07	.60		
Stark Co. (Commercial):					
Brush; Roller	12.01	.93	.60		.02
Paperhangers	12.11	.93	.60		.02
Drywall	12.41	.93	.60		.02
Spray	12.51	.93	.60		.02
Drywall with machines	12.76	.93	.60		.02
Stark Co. (Residential):					
Brush; Roller	11.57	.93	.60		.02
Paperhangers	11.67	.93	.60		.02
Spray	12.07	.93	.60		.02
Drywall	11.97	.93	.60		.02
Drywall with machines	12.32	.93	.60		.02
PIPEFITTERS (Commercial Building):					
Ashtabula, Cuyahoga, Lake, Portage (N. of #303), & Summit (N. of # 303 exclu. city of Hudson) Cos. and the C.E.I. Power House in Avon Lake	14.81	1.31	1.35		.10
PIPEFITTERS; Plumbers; & Steamfitters:					
Lorain Co.	14.28	.80	.95		.05
Portage & Summit Cos. (S. of #303, except corporate limits of Hudson) Cos.	14.19	.91	1.40		.05
Stark Co.	14.17	.75	.70	f	.10
PIPEFITTERS; Plumbers (Residential):					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS: (CONT'D)					
Ashtabula, Cuyahoga, Lake, & Summit (N½) Cos.	$ 8.35	.50	.30		.03
PLASTERERS:					
Ashtabula Co.	14.42	.95	1.50		
Cuyahoga Co.:					
Commercial Building	17.49				.01
Residential	12.50				.01
Lake Co.	15.57	.80	1.15		75.00p/y
Lorain Co.	14.95		.80	a	.01
Portage, Stark & Summit Cos	13.56	.70	1.00		.01
PLUMBERS (Commercial Building):					
Ashtabula, Cuyahoga, Lake, & Summit (N. of #303) Cos.	14.88	1.10	1.40		.02
ROOFERS:					
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	16.53	.25	.50		.05
Portage, Stark, & Summit Cos.	14.02	.94	.85		.04
SHEET METAL WORKERS:					
Ashtabula, Cuyahoga, & Lake Cos.	14.90	.80	1.58		.06
Lorain Co.	13.91	.85	1.20		.06
Portage, Stark, & Summit Cos.	12.41	.81	.84		.05
SPRINKLER FITTERS:					
Ashtabula, Cuyahoga, Lake, Portage (N. of #303), Summit (N. of #303, excl. city of Hudson) Cos. & C.E.I. Power House in Avon Lake	14.81	1.31	1.35		.10
Remaining Counties	15.04	.85	1.20		.08
TERRAZZO WORKERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	14.32		2.00		
Portage & Summit Cos.	11.52	.81	.60		
Stark Co.	11.26	.95	.70		
TILE SETTERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	14.29		2.00		
Portage & Summit Cos.	11.52	.81	.60		
Stark Co.	11.14	.95	.70		

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day

FOOTNOTES:
a. 2 paid holidays: C & D
b. 2 paid holidays: C & D
c. 7 paid holidays A through F, & Day after Thanksgiving
d. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
e. 2 paid holidays: C & D
f. 1 paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

LABORERS:							
Ashtabula County:							
Stonemason Tenders	$13.00						
Sheeting & Shoring Men; Asphalt Rakers & Tampers; Dumpmen (Batch Truck); Concrete Workers; Building Wreckers; Tool Checkers; Carpenters Tenders; Construction Laborers; All work not mentioned in classifications below to be paid at the rate of Construction Laborers	13.35						
Spreader Box Men (Asphalt); Plasterers or Mortar Mixers; Squeegee man	13.50						
Air & Machine Driven Tool Op.; Industrial Sewer Cleaning; Sewer Pipe Layers; Bottom Men (6' & over); Power Driven Wheelbarrows & Sweepers; Brick Batter & Droppers; Burning & Cutting Torches; Mud Jacking of Floors	13.55						
Stackmen; Swinging Scaffold men	13.65						
Tunnel Laborers	13.75						
Gunnite Ops.	13.85						
Powder Blasters	13.90						
Cuyahoga County:							
Construction	12.51	1.58	1.70				
Sewer & Utility; Power Driven Tools & Vibrators	12.66	1.58	1.70				

LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackhammer; Acetylene Burners; Muckers	$12.71	1.58	1.70		
Swinging Scaffolds	12.76	1.58	1.70		
Gunnite Ops.; Blasters; Shooters; Caisson; Well Cylinders; Mine Workers w/o Air; & Cofferdams	12.99	1.58	1.70		
Topman on Free Standing Radial Stack	13.16	1.58	1.70		
Lake County:					
Building & Construction	12.40	.90	.90		
Gunnite Op.; Blasters & Shooters; Caissons; Wells; Cylinder Cofferdams; Mine Workers w/o Air; Swing Scaffolds; Acetylene Burners; Vibrators; Top Man on Free Standing Radial Stacks; Slip Forms Higher than 30'; Fire Brick Tenders	12.65	.90	.90		
Lorain County:					
Building & Construction; Tool Crib; Carpenter Tender; Finishers Tender; Concrete Tenders; Concrete Handler; Guard Rail Erector; & Utility Construction	11.88	.70	.90		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipelayers; Air & Power Driven Tools; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blasters; Creosote Workers; Mortar Mixers; Form Setter; Mason Tenders; Plasterers' Tenders; Hod Carrier; Laser Beam Set Up Man	12.08	.70	.90		.10
Gunnite Operator	12.48	.70	.90		.10

LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Portage & Summit Cos.:					
Residential Construction	$ 9.37	.80	.80		.16
Common Laborers; Welders' Tenders; Carpenters' Tenders; Landscape Laborers; Mason Tender; Concrete Bucket Tender	10.92	.80	.80		.16
Air Driven Boring Machine Tamper Ops.; Asphalt Raker; Paving Bed Maker; Material Mixer; Wire Mesh Handler; Hook-up Man On Demolition Work; Scaffold Erector; Structural Precast Erector; Power Tools, Air, Gas, or Electric	11.07	.80	.80		.16
Pipe Layers; Rock Drillers; Muckers-Tunnel; Burners; Form Setters; Power Saws; Jackhammer; Barco Type Tampers; Bottom man; Hod Carrier; Power Buggy or Power Wheelbarrow	11.12	.80	.80		.16
Gunnite Nozzlemen; Tunnel Miners; Water Line Caulkers; Dynamite Men; Pump Hose Nozzlemen	11.42	.80	.80		.16
Stark Co.					
Building & Construction; Tool Cribman; Carpenters' Tenders; Finishers Tenders; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	9.51	.80	.80		.10
Bottom Men; Scaffold Builder; Tunnel Laborers; Pipe Layers; Air & Power Driven Tools; Burner on Demolition; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Men & Dynamite Blaster; Creosote Workers					

LABORERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mortar Mixers; Form Setter; Mason Tenders; Hod Carrier; Laser Beam Setup Men	$ 9.71	.80	.80		.10
Gunnite Operator	10.11	.80	.80		.10
POWER EQUIPMENT OPERATORS: Ashtabula, Cuyahoga, Lake, & Lorain Cos.:					
GROUP A	13.72	.96	1.00		.11
GROUP B	13.57	.96	1.00		.11
GROUP C	13.22	.96	1.00		.11
GROUP D	12.44	.96	1.00		.11
GROUP E	12.12	.96	1.00		.11
GROUP F	9.94	.96	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	13.44	.96	1.00		.11
GROUP B	13.28	.96	1.00		.11
GROUP C	12.93	.96	1.00		.11
GROUP D	12.12	.96	1.00		.11
GROUP E	11.79	.96	1.00		.11
GROUP F	9.58	.96	1.00		.11

GROUP A- A-Frames; All Rotary Drills used on Caisson Work for Foundations & Sub-structure Work; Boiler Op. or Compressor Op. when Compressor or Boiler is mounted on Crane (piggyback operation); Boom Trucks; Cableways; Cherry Pickers; Combination Concrete Mixer & Tower; Concrete Pumps; Cranes; Derricks; Draglines; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Op. (hoisting builders materials); Helicopter Winch Op. (hoisting builders materials); Hoes; Hoisting Engines (two or more drums); Lift Slab or Panel Jack Ops.; Locomotives; Maintenance Engineer (mechanic or welder); Mixer Paving (multiple drum); Mobile Concrete Pumps with Boom; Panelboard (all types on site); Pile Driver; Power Shovels; Side Booms; Slip Form Pavers; Straddle Carriers (building construction site); Tower Derricks; Trench Machines (over 24" wide)

GROUP B- Asphalt Paver; Bulldozer; CMI Type Equipment; Endloaders; Kohlman Type Loaders (dirt loading); Mucking Machines; Power Graders; Power Scoops; Power Scrapers; Push Cats

GROUP C- Air Compressor (pressurizing shafts or tunnels); All Asphalt Rollers; Fork Lifts; Hoist (one drum); House Elevators; Man Lift; Power Boiler (over 15 lbs., pressure); Pump Op. Installing or Operating Well Points or other Types of Dewatering System; Pumps (4" & over discharge); Submersible Pumps (4" & over discharge); Trenchers (24" & under)

GROUP D- Compressors on Building Construction; Conveyors (building material); Gunite Machines; Mixers (cap., more than on bag); Mixers (one bag cap., side loader); Post Driver; Post Hole Digger; Pavement Breaker (hydraulic or cable); Road Widening Trencher; Rollers; Welder Operator

GROUP E- Backfillers and Tampers; Batch Plant; Bar & Joint Installing Machine; Bull Floats; Burlap & Curing Machines; Clefplanes; Concrete Spreading Machines; Crushers; Drum Fireman (asphalt); Farm Type Tractors (pulling attachments); Finishing Machines; Form Trenchers; High Pressure Pumps (over ½" discharge); Hydro Seeders; Self-propelled Power Spreader; Self-propelled Subgrader; Tractors (pulling sheep foot roller or grader); Tire Repairmen; Vibratory Compactors (with Integral power)

GROUP F- Oiler; Light Plant Op.; Power Driven Heaters (oil fired); Power Boilers (less than 15 lbs. pressure); Submersible Pumps (under 4" discharge); Pumps (under 4" discharge); Tenders

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: Oklahoma COUNTY: Comanche
DECISION NO.: OK80-4068 DATE: Date of Publication
SUPERSEDES DECISION NO.: OK79-4023 dated February 2, 1979 in 44 FR 6881
DESCRIPTION OF WORK: Building Projects (excluding 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	$12.33	.55	1.00		.04
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS-Stonemasons	10.46	.62	.70		.12
CARPENTERS:					
Carpenters	9.95	.55	.50		.04
Millwrights-Piledrivermen	10.45	.55	.50		.04
Power saw operator	10.075	.55	.50		.04
CEMENT MASONS	8.10				
ELECTRICIANS	11.75	.60	3%		½%
ELEVATOR CONSTRUCTORS	11.455	.895	.69	2½%+a+b	.035
ELEVATOR CONSTRUCTORS HELPER	70%JR	.895	.69	2½%+a+b	.035
GLAZIERS	9.30				
IRONWORKERS	12.10	.75	.95		.12
LABORERS:					
Group I	7.30	.25	.40		
Group II	7.55	.25	.40		
Group III	8.05	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.
GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping teating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machine, and gunite mixing machines, including placing of concrete, handling creosoted or treated

LABORERS CLASSIFICATIONS DEFINITIONS (CON'D)

materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating and sand blaster, except nozzle; signal men cutting torch operators in connection with laborers' work; concrete grader.
GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operators (or pole cat equivalent)	9.62		3%		½%
Line truck driver (winch op.)	8.71		3%		½%
Jack hammerman	7.93		3%		½%
Powdermen	9.62		3%		½%
Groundmen	7.07		3%		½%
Truck driver (flat bed, ton and half under)	7.55		3%		½%
MARBLE SETTERS	11.70		.70		
PAINTERS:					
Brush and roller	9.15		.25	.70	.05
Brush & roller (structural steel	9.40		.25	.70	.05
Spray	9.80		.25	.70	.05
Swing stage, bosun chair work	9.40		.25	.70	.05
Taping & bedding (hand tools)	9.45		.25	.70	.05
Sandblasting	9.50		.25	.70	.05
PLASTERERS	8.85				
PLUMBERS & PIPEFITTERS	13.57	.85	.85		.12
POWER EQUIPMENT OPERATORS:					
GROUP I	13.20	.70	.75		.12
GROUP II	12.70	.70	.75		.12
GROUP III	12.20	.70	.75		.12
GROUP IV	11.95	.70	.75		.12
GROUP V	11.70	.70	.75		.12
GROUP VI	11.45	.70	.75		.12
GROUP VII	11.20	.70	.75		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)
GROUP II
All crane type equipment with 200-300' of boom (including jib)
GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV
Sideboom (booms 30' and over); Guy Derrick
GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)
GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type
GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. ft and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-Frame; roller; all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; drilling machines when operated from console or machines
GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck drane oiler driver or crane oiler; conveyor-single-continuous belt bulk handling; asphalt lay machine back end man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	10.90	.60	.50		.04
SHEET METAL WORKERS	12.31	.67	1.23		.07
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	10.10	.50		.25	.03
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS:					
Terrazzo workers	11.70		.70		
Terrazzo workers finishers	7.33				
Terrazzo workers floor machine operator	7.43				
Terrazzo base machine operator	7.68				
TILE LAYERS	11.70		.70		
TILE & MARBLE FINISHERS	7.00				
TRUCK DRIVERS:					
Group I	9.70				
Group II	9.70				
Group III	9.40				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch & floats
GROUP II - Heavy earth moving equipment such as dump trucks and euclids
GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies and 3/4 and 1/2 ton pick-up trucks

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:
a - 1st 6 mos. to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate
b - Paid Holidays, A through F

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas

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)).

federal register

Friday
August 1, 1980

Part III

Federal Emergency Management Agency

Privacy Act of 1974; Proposed Access Regulations and Revised Systems of Records

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 6

Proposed Notice of Rules Exempting Systems of Records From Certain Requirements of the Privacy Act of 1974 and Proposed Section to FEMA Privacy Act Regulations Covering Exemptions Under the Privacy Act of 1974

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Federal Emergency Management Agency, hereby gives notice of proposed rulemaking exempting certain systems of records under subsections (j) and (k) of the Privacy Act. The systems are proposed to be exempted to maintain confidentiality of data obtained from various sources which are investigative in nature and are used for law enforcement purposes. It is also proposed to exempt records in any of the systems of records maintained by FEMA which contain any information properly classified under Executive Order 12065 or subsequent Executive Orders and which are required by the Executive Order to be kept secret in the national defense or foreign policy.

DATE: Comment date: Any interested parties may submit written comments regarding these proposals. To be considered, comments must be received on or before September 2, 1980.

ADDRESS: Address comments to the Rules Docket Clerk, Federal Emergency Management Agency, (Room 801), 1725 I Street, N.W., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda M. Hartford, Office of Public Affairs, (202) 634–6772.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency. The plan was activated effective April 1, 1979, by Executive Order 12127 "Federal Emergency Management Agency," 44 FR 19367. The plan, Executive Order 12127, and Executive Order 12148 "Federal Emergency Management Agency," effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments of parent agencies. Because the records were transferred to the Federal Emergency Management Agency, it is necessary for us to now exempt these systems under FEMA regulations rather than the predecessor departments' of parent agencies' regulations. The systems were all existing exempt systems of records prior to the creation of FEMA.

In accordance with the above, a new section under "Subpart G—Exempt Systems of Records" of FEMA's Privacy Act Regulations, 44 CFR Part 6 (44 FR 50292 et seq., 45 FR 17152 et seq.) will be added as follows:

Subpart G—Exempt Systems of Records

Sec.
6.86 General exemptions.
6.87 Specific exemptions.

Subpart G—Exempt Systems of Records

§ 6.86 General exemptions.

(a) Whenever the Director, Federal Emergency Management Agency, determines it to be necessary and proper, with respect to any system of records maintained by the Federal Emergency Management Agency, to exercise the right to promulgate rules to exempt such systems in accordance with the provisions of 5 U.S.C. 552a (j) and (k), each specific exemption, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for each exemption shall be published in the **Federal Register** as part of FEMA's Notice of Systems of Records.

(b) Exempt under 5 U.S.C. 552a(j)(2) from the requirements of 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), (3), (e)(4) (G), (H), and (I), (e) (5) and (8) (f) and (g) of the Privacy Act.

(1)*Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552(j)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph (b) of this section.

General Investigative Files (FEMA/IG–2)—Limited Access

(2) *Reasons for exemptions.* (i) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Federal Emergency Management Agency believes that application of these provisions to the above-listed system of records would give individuals an opportunity to learn whether they are of record either as suspects or as subjects of a criminal investigation; this would compromise the ability of the Federal Emergency Management Agency to complete investigations and identify or detect violators of laws administered by the Federal Emergency Management Agency or other Federal agencies. Individuals would be able (A) to take steps to avoid detection, (B) to inform co-conspirators of the fact that an investigation is being conducted, (C) to learn the nature of the investigation to which they are being subjected, (D) to learn the type of surveillance being utilized, (E) to learn whether they are only suspects or identified law violators, (F) to continue to resume their illegal conduct without fear of detection upon learning that they are not in a particular system of records, and (G) to destroy evidence needed to prove the violation.

(ii) 5 U.S.C. 552a (d)(1), (e)(4)(H) and (f) (2), (3) and (5) enable individuals to gain access to records pertaining to them. The Federal Emergency Management Agency believes that application of these provisions to the above-listed system of records would compromise its ability to complete or continue criminal investigations and to detect or identify violators of laws administered by the Federal Emergency Management Agency or other Federal agencies. Permitting access to records contained in the above-listed system of records would provide individuals with significant information concerning the nature of the investigation, and this could enable them to avoid detection or apprehension in the following ways: (A) By discovering the collection of facts which would form the basis for their arrest, (B) by enabling them to destroy evidence of criminal conduct which would form the basis for their arrest, and (C) by learning that the criminal investigators had reason to believe that

a crime was about to be committed, they could delay the commission of the crime or change the scene of the crime to a location which might not be under surveillance. Granting access to on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning criminal activity to structure their future operations in such a way as to avoid detection or apprehension, thereby neutralizing law enforcement officers' established investigative tools and procedures. Further, granting access to investigative files and records could disclose the identity of confidential sources and other informers and the nature of the information which they supplied, thereby endangering the life or physical safety of those sources of information by exposing them to possible reprisals for having provided information relating to the criminal activities of those individuals who are the subjects of the investigative files and records; confidential sources and other informers might refuse to provide criminal investigators with valuable information if they could not be secure in the knowledge that their identities would not be revealed through disclosure of either their names or the nature of the information they supplied, and this would seriously impair the ability of the Federal Emergency Management Agency to carry out its mandate to enforce criminal and related laws. Additionally, providing access to records contained in the above-listed system of records could reveal the identities of undercover law enforcement personnel who compiled information regarding individual's criminal activities, thereby endangering the life or physical safety of those undercover personnel or their families by exposing them to possible reprisals.

(iii) 5 U.S.C. 552a(d) (2), (3) and (4), (c)(4)(H) and (f)(4), which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b)(ii) of this section, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Federal Emergency Management Agency believes that the reasons set forth in paragraph (b)(ii) of this section are equally applicable to this paragraph and, accordingly, those reasons are hereby incorporated herein by reference.

(iv) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. The Federal Emergency Management Agency believes that application of this provision to the above-listed system of records would impair the ability of other law enforcement agencies to make effective use of information provided by the Federal Emergency Management Agency in connection with the investigation, detection and apprehension of violators of the criminal laws enforced by those other law enforcement agencies. Making accountings of disclosure available to violators or possible violators would alert those individuals to the fact that another agency is conducting an investigation into their criminal activities, and this could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographic areas or by destroying or concealing evidence which would form the basis for their arrest. In addition, providing violators with accountings of disclosure would alert those individuals to the fact that the Federal Emergency Management Agency has information regarding their criminal activities and could inform those individuals of the general nature of that information; this, in turn, would afford those individuals a better opportunity to take appropriate steps to avoid detection or apprehension for violations of criminal and related laws.

(v) 5 U.S.C. 552a(c)(4) requires that an agency inform any person or other agency about any correction or notation of dispute made by the agency in accordance with 5 U.S.C. 552a(d) of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. Since this provision is dependent on an individual's having been provided an opportunity to contest (seek amendment to) records pertaining to him/her, and since the aboved-listed system of records is proposed to be exempt from those provisions of 5 U.S.C. 552a relating to amendments of records as indicated in paragraph (b)(iii) of this section, the Federal Emergency Management Agency believes that this provision should not be applicable to the above system of records.

(vi) 5 U.S.C. 552a(e)(4)(I) requires that an agency publish a public notice listing the categories of sources for information contained in a system of records. The catagories of sources of this system of records have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(vii) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Federal Emergency Management Agency, there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Federal Emergency Management Agency; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of an investigation, and in many cases, information which initially appears to be irrelevant or unnecessary may, upon further evaluation or upon continuation of the investigation, prove to have particular relevance to an enforcement program of the Federal Emergency Management Agency. Further, not all violations of law discovered during a criminal investigation fall within the investigative jurisdiction of the Federal Emergency Management Agency; in order to promote effective law enforcement, it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Federal Emergency Management Agency should not be placed in a postition of having to ignore information relating to violations of law not within

its jurisdiction when that information comes to the attention of the Federal Emergency Management Agency through the conduct of a lawful FEMA investigation. The Federal Emergency Management Agency, therefore, believes that it is appropriate to exempt the above-listed system of records from the provisions of 5 U.S.C. 552a(e)(1).

(viii) 5 U.S.C. 552a(e)(2) requires that an agency collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The Federal Emergency Management Agency believes that application of this provision to the above-listed system of records would impair the ability of the Federal Emergency Management Agency to conduct investigations and to identify or detect violators of criminal or related laws for the following reasons: (A) most information collected about an individual under criminal investigations is obtained from third parties such as witnesses and informers, and it is usually not feasible to rely upon the subject of the investigation as a source for information regarding his/her criminal activities, (B) an attempt to obtain information from the subject of a criminal investigation will often alert that individual to the existence of an investigation, thereby affording the individual an opportunity to attempt to conceal his/her criminal activities so as to avoid apprehension, (C) in certain instances, the subject of a criminal investigation is not required to supply information to criminal investigators as a matter of legal duty, and (D) during criminal investigations it is often a matter of sound investigative procedures to obtain information from a variety of sources in order to verify information already obtained.

(ix) 5 U.S.C. 552a(e)(3) requires that an agency inform each individual whom it asks to supply information, either on the form which the agency uses to collect the information or on a separate form which can be retained by the individual, with the following information: the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary; the principal purposes for which the information is intended to be used; the routine uses which may be made of the information; and the effects on the individual of not providing all or part of the requested information. The Federal Emergency Management Agency believes that the above-listed system of records should be exempted from this provision in order to avoid adverse effects on its ability to identify or detect violators of criminal or related laws. In many cases, information is obtained by confidential sources, other informers or undercover law enforcement officers under circumstances where it is necessary that the true purpose of their actions be kept secret so as to avoid alerting the subject of the investigation or his/her associates that a criminal investigation is in process. Further, if it became known that the undercover officer was assisting in a criminal investigation, that officer's life or physical safety could be endangered through reprisal, and, under such circumstances it may not be possible to continue to utilize that officer in the investigation. In many cases, individuals, for personal reasons, would feel inhibited in talking to a person representing a criminal law enforcement agency but would be willing to talk to a confidential source or undercover officer who they believe is not involved in law enforcement activities. In addition, providing a source of information with written evidence that he was a source, as required by this provision, could increase the likelihood that the source of information would be the subject of retaliatory action by the subject of the investigation. Further, application of this provision could result in an unwarranted invasion of the personal privacy of the subject of the criminal investigation, particularly where further investigation would result in a finding that the subject was not involved in any criminal activity.

(x) 5 U.S.C. 552a(e)(5) requires that an agency maintain all records used by the agency in making any determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination. Since 5 U.S.C. 552a(a)(3) defines "maintain" to include "collect" and "disseminate," application of this provision to the above-listed system of records would hinder the initial collection of any information which could not, at the moment of collection, be determined to be accurate, relevant, timely and complete. Similarly, application of this provision would seriously restrict the necessary flow of information from the Federal Emergency Management Agency to other law enforcement agencies when a FEMA investigation revealed information pertaining to a violation of law which was under investigative jurisdiction of another agency. In collecting information during the course of a criminal investigation, it is not possible or feasible to detertmine accuracy, relevance, timeliness or completeness prior to collection of the information; in disseminating information to other law enforcement agencies it is often not possible to determine accuracy, relevance, timeliness or completeness prior to dissemination because the disseminating agency may not have the expertise with which to make such determinations. Further, information which may initially appear to be inaccurate, irrelevant, untimely or incomplete may, when gathered, grouped, and evaluated with other available information, become more pertinent as an investigation progresses. In addition, application of this provision could seriously impede criminal investigators and intelligence analysts in the exercise of their judgment in reporting on results obtained during criminal investigations. The Federal Emergency Management Agency believes that it is appropriate to exempt the above-listed system of records from the provisions of 5 U.S.C. 552a(e)(5).

(xi) 5 U.S.C. 552a(e)(8) requires that an agency make reasonable effort to serve notice on an individual when any record on the individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The Federal Emergency Management Agency believes that the above-listed system of records should be exempt from this provision in order to avoid revealing investigative techniques and procedures outlined in those records and in order to prevent revelation of the existence on an on-going investigation where there is a need to keep the existence of the investigation secret.

(xii) 5 U.S.C. 552a(g) provides civil remedies to an individual for an agency's refusal to amend a record or to make a review of a request for amendment; for an agency's refusal to grant access to a record; for an agency's failure to maintain accurate, relevant, timely and complete records which are used to make a determination which is adverse to the individual; and for an agency's failure to comply with any other provision of 5 U.S.C. 552a in such a way as to have an adverse effect on an individual. The Federal Emergency Management Agency believes that the above-listed system of records should be exempted from this provision to the extent that the civil remedies provided therein may relate to provisions of 5 U.S.C. 552a from which the above-listed system of records is proposed to be exempt. Since the provisions of 5 U.S.C.

552a enumerated in paragraphs (i) through (xi) of this section are proposed to be inapplicable to the above-listed systems of records for the reasons stated therein, there should be no corresponding civil remedies for failure to comply with the requirements of those provisions to which the exemption is proposed to apply. Further, the Federal Emergency Management Agency believes that application of this provision to the above-listed system of records would adversely affect its ability to conduct criminal investigations by exposing to civil court action every stage of the criminal investigative process in which information is compiled or used in order to identify, detect, or otherwise investigate persons suspected or known to be engaged in criminal conduct.

(xiii) Individuals may not have access to another agency's records, which are contained in files maintained by the Federal Emergency Management Agency, when that other agency's regulations provide that such records are subject to general exemption under 5 U.S.C. 552a(j). If such exempt records are within a request for access, FEMA will advise the individual of their existence and of the name and address of the source agency. For any further information concerning the record and the exemption, the individual must contact that source agency.

§ 6.87 Specific exemptions.

(a) *Exempt under 5 U.S.C. 552a(k)(1).* Records in any of the systems of records maintained by the Federal Emergency Management Agency which contain any information properly classified under Executive Order 12065 or subsequent Executive Orders and which are required by the Executive Order to be kept secret in the national defense or foreign policy are exempt from requirements of (d) and (f) of the Act. This exemption which conceivably could be applicable to individual records in any of the systems of records for which FEMA has published a system's notice is necessary because certain records in an system not specifically designated could contain isolated items of information which have been properly classified and which cannot be disclosed.

(b) *Exempt under 5 U.S.C. 552a(k)(2) from the requirements of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).* The Federal Emergency Management Agency will not deny individuals access to information which has been used to deny them a right, privilege, or benefit to which they would otherwise be entitled.

(1) *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provision of 5 U.S.C. 552a listed in paragraph (b) of this section.

General Investigative Files (FEMA/IG–2)—Limited Access
Equal Employment Opportunity complaints of discrimination files (FEMA/EO–1)—Limited Access
Claims (litigation), (FEMA/GC–1)—Limited Access
FEMA Enforcement (Compliance), (FEMA-GC–2)—Limited Access
Operating Personnel Folder Files (FEMA-SUP–1)—Limited Access

(2) *Reasons for exemptions.* (i) 5 U.S.C. 552a (e)(4)(G) and (f)(1) enable individuals to be notified whether a system of records contains records pertaining to them. The Federal Emergency Management Agency believes that application of these provisions to the above-listed systems of records would impair the ability of FEMA to successfully complete investigations and inquiries of suspected violators of civil and criminal laws and regulations under its jurisdiction. In many cases investigations and inquiries into violations of civil and criminal laws and regulations involve complex and continuing patterns of behavior. Individuals, if informed, that they have been identified as suspected violators of civil or criminal laws and regulations, would have an opportunity to take measures to prevent detection of illegal action so as to avoid prosecution or the imposition of civil sanctions. They would also be able to learn the nature and location of the investigation or inquiry, the type of surveillance being utilized, and they would be able to transmit this knowledge to co-conspirators. Finally, violators might be given the opportunity to destroy evidence needed to prove the violation under investigation or inquiry.

(ii) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (3) and (5) enable individuals to gain access to records pertaining to them. The Federal Emergency Management Agency believes that application of these provisions to the above-listed systems of records would impair its ability to complete or continue civil or criminal investigations and inquiries and to detect violators of civil or criminal laws. Permitting access to records contained in the above-listed systems of records would provide violators with significant information concerning the nature of the civil or criminal investigation or inquiry. Knowledge of the facts developed during an investigation or inquiry would enable violators of criminal and civil laws and regulations to learn the extent to which the investigation or inquiry has progressed, and this could provide them with an opportunity to destroy evidence that would form the basis for prosecution or the imposition of civil sanctions. In addition, knowledge gained through access to investigatory material could alert a violator to the need to temporarily postpone commission of the violation or to change the intended point where the violation is to be committed so as to avoid detection or apprehension. Further, access to investigatory material would disclose investigative techniques and procedures which, if known, could enable violators to structure their future operations in such a way as to avoid detection or apprehension, therby neutralizing investigators' established and effective investigative tools and procedures. In addition, investigatory material may contain the identity of a confidential source of information or other informer who would not want his/her identity to be disclosed for reasons of personal privacy or for fear of reprisal at the hands of the individual about whom he/she supplied information. In some cases mere disclosure of the information provided by an informer would reveal the identity of the informer either through the process of elimination or by virtue of the nature of the information supplied. If informers cannot be assured that their identities (as sources for information) will remain confidential, they would be very reluctant in the future to provide information pertaining to violations of criminal and civil laws and regulations, and this would seriously compromise the ability of the Federal Emergency Management Agency to carry out its mission. Further, application of 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f) (2), (3) and (5) to the above-listed systems of records would make available attorney's work product and other documents which contain evaluations, recommendations, and discussions of on-going civil and criminal legal proceedings; the availability of such documents could have a chilling effect on the free flow of information and ideas within the Federal Emergency Management Agency which is vital to the agency's predecisional deliberative process, could seriously prejudice the agency's or the Government's position in a civil or criminal litigation, and could result in the disclosure of investigatory material which should not be disclosed for the reasons stated above. It is the belief of the Federal Emergency Management Agency that, in both civil actions and

criminal prosecutions, due process will assure that individuals have a reasonable opportunity to learn of the existence of, and to challenge, investigatory records and related materials which are to be used in legal proceedings.

(iii) 5 U.S.C. 52a(d) (2), (3) and (4), (e)(4)(H) and (f)(4) which are dependent upon access having been granted to records pursuant to the provisions cited in paragraph (b)(ii) of this section, enable individuals to contest (seek amendment to) the content of records contained in a system of records and require an agency to note an amended record and to provide a copy of an individual's statement (of disagreement with the agency's refusal to amend a record) to persons or other agencies to whom the record has been disclosed. The Federal Emergency Managment Agency believes that the reasons set forth in paragraphs (b)(i) of this section are equally applicable to this subparagrpah, and, accordingly, those reasons are hereby incorporated herein by reference.

(iv) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request; such accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. The Federal Emergency Management Agency believes that application of this provision to the above-listed systems of records would impair the ability of the Federal Emergency Management Agency and other law enforcement agencies to conduct investigations and inquiries into civil and criminal violations under their respective jurisdictions. Making accountings available to violators would alert those individuals to the fact that the Federal Emergency Management Agency or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and the date on which that investigation or inquiry was active. Violators possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(v) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the Federal Emergency Management Agency there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the Federal Emergency Management Agency; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry, and in many cases information which initially appears to be irrelevant or unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the Federal Emergency Management Agency. Further, not all violations of law uncovered during a Federal Emergncy Management Agency inquiry fall within the civil or criminal jurisdiction of the Federal Emergency Management Agency; in order to promote effective law enforcement, it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The Federal Emergency Management Agency should not be placed in a position of having to ignore information relating to violations of law not within its jurisdiction when that information comes to the attention of the Federal Emergency Management Agency through the conduct of a lawful FEMAS civil or criminal investigation or inquiry. The Federal Emergency Management Agency therefore believes that it is appropriate to exempt the above-listed systems of records from the provisions of 5 U.S.C. 552a(e)(1).

Dated: July 25, 1980.

John W. Macy, Jr.,

Director.

[FR Doc. 80-23113 Filed 7-31-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Proposed Revision of Existing Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed revision of existing systems of records.

SUMMARY: The purpose of this proposal is two-fold in that the first purpose is to give notice to the public that the below-listed systems of records will become part of the Federal Emergency Management Agency systems of records after the 30 day comment period (September 2, 1980). The second purpose is to delete one system of records which was proposed in 45 FR 40646 et seq., by the Federal Emergency Management Agency. The reason for the deletion of the system of records entitled, "Qualified Instructor File, FEMA/T&E–2" is because it is a duplicate of "FEMA Form 95–3, Appl for Enrollment in Arch Enger Prof Dev Prog, FEMA/PP–4." The Office of Training and Education does not, at this time, maintain the records. Therefore, the system should properly be assigned only to the Office of Plans and Preparedness. We are reserving the number FEMA/T&E–2 for future addition to the Office of Training and Education systems of records. The proposed changes to existing systems of records are administrative in nature, i.e., new system locations and addresses and clarification of the routine use sections which are necessary because of Reorganization Plan No. 3 which transferred functions of four departments and agencies. The predecessor agencies and departments from which each system is being transferred to the Federal Emergency Management Agency has been noted in brackets following the title of each system of records.

Student Application and Registration Records, National Fire Academy, FEMA/FA–1 (Department of Commerce, 44 FR 76696 dated December 27, 1979).

Federal Employees with Fire Related Expertise, FEMA/FA–2 (Department of Commerce, 44 FR 76695 dated December 27, 1979).

President's and Secretary's Award Nominees, FEMA/FA–3 (Department of Commerce, 44 FR 76695 dated December 27, 1979).

National Fire Academy Instructor Records, FEMA/FA–4 (Department of Commerce, 44 FR 76696 dated December 27, 1979).

Industrial Group Consultation, FEMA/PP–11 (Defense Civil Preparedness Agency, 44 FR 74068 dated December 17, 1979).

Operating Personnel Folder Files, FEMA/SUP–1 (formerly called the General Personnel files under Defense Civil Preparedness Agency, 44 FR 74075 dated December 17, 1979).

Claims (litigation), FEMA/GC–1 (Defense Civil Preparedness Agency, 44 FR 74070 dated December 17, 1979).

FEMA Enforcement (Compliance), FEMA/GC–2 (Defense Civil Preparedness Agency, 44 FR 74071 dated December 17, 1979).

Emergency Assignment System, FEMA/OS–1 (formerly called the Emergency Notification Lists, Defense Preparedness Agency, 44 FR 74078 dated December 17, 1979).

Key Personnel Central Locator List FEMA/OS–2 (the Emergency Notification Lists, referenced above has been drafted into two separate systems' notices for the purpose of clarification, Defense Civil Preparedness Agency, 44 FR 74078 dated December 17, 1979).

Payroll and Leave Accounting, FEMA/ACC–1 (Defense Civil Preparedness Agency, 44 FR 74065 dated December 17, 1979).

Travel and Transportation Accounting, FEMA/ACC–2 (Defense Civil Preparedness Agency, 44 FR 74066 dated December 17, 1979).

Equal Employment Opportunity Complaints of Discrimination Files, FEMA/EO–1 (Defense Civil Preparedness Agency, 44 FR 74077 dated December 17, 1979).

Security Management System, FEMA/IG–1 (formerly called the Classified Documents Control Files and Classified Clearances, Defense Civil Preparedness Agency, 44 FR 74083 dated December 17, 1979).

General Investigative Files, FEMA/IG–2 (As a result of the reorganization, the investigative functions of the predecessor agencies and departments were transferred to FEMA which relates to emergency management functions, therefore, we do not consider this to be a new system. See annual publication of systems of records for General Services Administration for investigative files relating to Federal Preparedness Agency; Department of Defense for Defense Civil Preparedness Agency; Department of Housing and Urban Development for Federal Disaster Assistance Administration and Federal Insurance Administration; and Department of Commerce for U.S. Fire Administration. The Department-wide systems relates to the investigative functions of the agencies which merged to form the Federal Emergency Management Agency).

Grievance Records, FEMA/PER–1 (Office of Personnel Management, 44 FR 30884 dated May 29, 1979, as amended by subsequent publication in 44 FR 61708 dated October 26, 1979).

The complex text of the above-listed systems of records appear at the end of this notice.

DATE: The above-listed systems of records shall be effective as proposed without further notice on September 2, 1980, unless comments are received on or before that date which would result in a contrary determination. Any interested party may submit written comments regarding these proposals.

ADDRESS: Address comments to the Federal Emergency Management Agency, Attn: Privacy Act Officer, Rm. 807 1725 I Street, NW., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Hartford at (202) 634–6772.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency. The plan was activated effective April 1, 1979, by Executive Order 12127 "Federal Emergency Management Agency," 44 FR 19367. The plan, Executive Order 12127 and Executive Order 12148 "Federal Emergency Management Agency," effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments or parent agencies.

Therefore, it is necessary to make certain administrative changes to transfer the above-listed systems of records to the Federal Emergency Agency. We do not believe that the changes represent substantial changes within the meaning of OMB's guidelines and have not prepared reports on new systems. However, the Congress and OMB are also invited to submit comments regarding this proposal.

Dated: July 25, 1980.

Bill Combs,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/FA–1

SYSTEM NAME:

Student Application and Registration Records, National Fire Academy.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, U.S. Fire Administration, Office of Superintendent, National Fire Academy, Emmitsburg, Maryland 21727.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and former applicants for admission to the courses and programs of the National Fire Academy and students registered for Academy courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include application forms and other information submitted by the applicants. Information collected includes, but is not limited to, name, sex, date of birth, education level, home address and job title. Files concerning students registered for Academy courses includes the above information in addition to the next of kin (in case of emergency), home and/or business address, name of course, number of course credits, and grade, if any, and medical information in case of student injury or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 93–498; Federal Fire Prevention and Control Act of 1974; 15 U.S.C. 2206; 5 U.S.C. 301; E.O. 12127, 44 FR 19367; and Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSE(S):

For the purpose of determining eligibility and effectiveness of Academy courses and to maintain necessary student records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine eligibility for participation in the courses and programs of the National Fire Academy; to supply students with information on courses, credits and grades; supplying Academy Registrar with record of student enrollment in Academy courses by geographic location; assessing use of course material in the field; and assessing the impact of course material on the community; to Members of the Board of Visitors for the purpose of advisory at the state and evaluating the participants evaluation of courses.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on microfilm and paper.

RETRIEVABILITY:

By name of the applicant.

SAFEGUARDS:

Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Paper records are retained for 1 year, then transferred to microfilm for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Emergency Management Agency, U.S. Fire Administrator, National Fire Academy, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Subject individuals, applicants employers, educational institutions, recommendations and instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/FA–2

SYSTEM NAME:

Federal Employees with Fire Related Expertise.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, U.S. Fire Administration, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees with expertise in fire prevention and control and associated fields.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, agency and area of expertise.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 8(e) and 21(b)(1) and (e) of the Federal Fire Prevention and Control Act of 1974; P.L. 93–498; 88 Stat. 1535 (15 U.S.C. 2207, 2218); E.O. 12127, 44 FR 19367; and Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSE(S):

For the purpose of identifying Federal employees with expertise in fire prevention and control and associated fields.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals is provided to Federal, state, local or international agencies and members of the fire service community, including, but not limited to, fire safety and protection organizations, state fire marshals, and firemen, in response to requests indicating that the individual or organization making the request would benefit from the expertise of individuals in the system. Such disclosures are made only if the subject individual has given prior written consent.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, bound paper directory and magnetic tape.

RETRIEVABILITY:

By individual's name, expertise, agency and geographic location.

SAFEGUARDS:

Personnel screening; hardware and software computer security measures.

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are updated biennially and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Fire Administrator, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Subject individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

President's and Secretary's Award Nominees.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, U.S. Fire Administration, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals nominated to receive the President's Award for outstanding Public Safety Service and individuals nominated to receive the Secretary's Award for Distinguished Public Safety Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the candidate, his or her position and title, whether the nomination is for the President's or Secretary's Award, the public agency served, the locale where the candidate performs his or her duties, the name of the nominating official, a summary description of the outstanding contribution, distinguished service or extraordinary valor of the nominee, and the relevant duties relating thereto, and copies of any published factual accounts of the nominee's accomplishments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 2214; E.O. 12127, 44 FR 19367; and Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSE(S):

For the purpose of selecting individuals who have been nominated to receive the President's Award for Outstanding Public Safety Service and the Secretary's Award for Distinguished Public Safety Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) President's Award Nominees—Information about individuals nominated for the President's Award is provided to selected members of the public safety community, including but not limited to, fire safety and protection organizations, state fire marshals and firemen, civil defense officers, and law enforcement, corrections or court officers in connection with the evaluation and selection of recipients. Information is also provided to the Department of Defense, the Department of Justice, and the Executive Office of the President; (b) Secretary's Award Nominees—Information about individuals nominated for the Secretary's Award is provided to selected members of the fire service community, including but not limited to, fire safety and protection organizations, state fire marshals and firemen in connection with the evaluation and selection of recipients. When it appears that a nominee's accomplishments are in the areas of civil defense or law enforcement, nominations may be sent to the Department of Defense and/or the Department of Justice.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by file number and cross-referenced alphabetically by nominee names.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Fire Administrator, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Heads of Federal government departments and agencies, governors of states or territories, or chief executives of any general governmental unit within any state or territory.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/FA-4

SYSTEM NAME:

National Fire Academy Instructor Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Agency, U.S. Fire Administration, Office of Superintendent, National Fire Academy, Emmitsburg, Maryland 21727.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals teaching Academy courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Instructor's name; home and/or business addresses and telephone numbers; titles of courses taught; dates and locations of courses; and evaluations of courses and instructors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Fire Prevention and Control Act of 1974; 15 U.S.C. 2201, et seq.; 5 U.S.C. 301 and 3109; E.O. 12127, 44 FR 19367; and Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSE(S):

For the purpose of selecting emergency replacement instructors and providing instructors with lists of courses and students taught.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintaining a list of instructors selecting emergency replacement instructors; providing instructors with lists of courses and students taught. The Fire Administration will also use student evaluations of instructors to help determine effectiveness of courses taught. These evaluations will be anonymous. Student evaluations will be a consideration in the rehiring of an instructor.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic storage media; and temporary paper records, which exist only until data is automated.

RETRIEVABILITY:

Filed according to the surname of the Instructor.

SAFEGUARDS:

Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Paper records are retained until information can be automated. Automated data is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Federal Emergency Management Agency, U.S. Fire Administrator, National Fire Academy, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Instructors and students.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/PP-11

SYSTEM NAME:

Industrial Group Consultation.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Plans and Preparedness, Resources Preparedness Office, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals in industrial organizations, or national organizations who participate in emergency management services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, organization affiliation, and speech making.

PURPOSE(S):

For the purpose of obtaining speakers at conventions, seminars, courses, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 50 U.S.C. App. 2253, 2281; and E.O. 12148 dated July 20, 1979.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To communicate with industrial and national organizations who can perform emergency management services; to obtain speakers at conventions, seminars, courses, etc.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 index cards.

RETRIEVABILITY:

By name, company or organizations.

SAFEGUARDS:

All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Files kept until obsolete, than destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Plans and Preparedness, Resources Preparedness Office, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act

Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Directly from the individuals in the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/SUP–1

SYSTEM NAME:

Operating Personnel Folder Files.

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Files are located in Regional, field and Headquarters offices which are located separate from the Headquarters FEMA Personnel Office, which maintains the Official Personnel File, depending upon the post of duty of the employee. It is noted that not all of FEMA supervisors maintain such a file.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current FEMA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relate to personnel matters, such as, copies of Form 50 and 52 Personnel actions (supervisor's copies), awards, letters of appreciation, promotions, step increases, position descriptions, reports of discussions held with employee regarding performance, copies of discussions written to employee concerning performance, leave, overtime hours, locator card information and related employment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; FPM 293–31.

PURPOSE(S):

Because the Official Personnel Folder is maintained in the Headquarters, Washington, D.C., location, it is necessary to have an operating personnel folder available to the supervisor to evaluate performance, and related employment performance for awards, promotions or recommended disciplinary actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For use by the supervisor in evaluating employee performance and monitoring of leave for the purpose of approving employee requests for leave.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and/or index cards.

RETRIEVABILITY:

By name or social security number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms with limited access. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

The files will be destroyed after the employee leaves the Federal Emergency Management Agency through transfer or separation.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters and Regional and Field offices within the Federal Emergency Management Agency, or managerial officials in appropriate posts of duty of employee, Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the employee, from personnel actions as noted in official personnel folders, and from supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

FEMA/OS–1

SYSTEM NAME:

Emergency Assignment System.

SECURITY CLASSIFICATIOIN:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of Operations Support, Western Virginia Operations Division, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Emergency assignees to the FEMA Special Facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel data, social security number, personal data, skills inventory, assignment information, badge number, and other related information for the purpose of in-house official use, based

upon a need-to-know requirement, to assist officials charged with emergency responsibilities in the assignment and coordination of activities in the Western Virginia Operation Division of FEMA.

AUTHORITY FOR MAINTENENCE OF THE SYSTEM:

Executive Order 12148, 44 FR 43239.

PURPOSE(S):

To assist officials charged with emergency responsibilities in the assignment and coordination of activities in the Western Virginia Operations Division of FEMA.

Additional routine uses may include Nos. 1, 2, 3, 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mag-tape, drum, disc and paper.

RETRIEVABILITY:

By name, personal characteristics or skills, badge number, and agency.

SAFEGUARDS:

Personnel screening, hardware and software computer security measures; paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retention of records shall be for duration of assignment. Disposition of records shall be in accordance with the FEMA Records Maintenance and Disposition System.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Western Virginia Operations Division, Office of Operations Support, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/OS-2

SYSTEM NAME:

Key Personnel Central Locator List.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of Operations Support, Interagency Communications Operations Division, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Selected Key FEMA Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files and related documents contain lists of key FEMA officials with their home telephone numbers, office telephone numbers, and itinerary who may be contacted in the event of a national disaster or civil emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12148, 44 FR 43239.

PURPOSE(S):

For the purpose of locating selected Key FEMA Personnel in the event of a national disaster or civil emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event of a national disaster or civil emergency which requires action by FEMA, the list will be referred to in order to locate selected Key Officials.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Paper records in a locked container and/or room. All records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are destroyed on a monthly basis.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Interagency Communications Operations Division, Office of Operations Support, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Telephone numbers and itineraries are furnished by the individuals on the list via telephone on a weekly basis.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/GC-1

SYSTEM NAME:

Claims (litigation).

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of General Counsel, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, whether a FEMA employee or non-FEMA employee, who asserts a remedy from FEMA for some alleged injury to said individual or the individual's property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain claims, complaints or documents or any of these means by which an individual asserts a remedy from FEMA for some alleged injury to said individual or property; the data and documents submitted in support of the claims; the data and documents developed or obtained in making a decision or determination on such claims, including any appeals and any other relevant material; including litigation file if such develops.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 31 U.S.C. 240 et seq.; E.O. 12127, 44 FR 19367; E.O. 12148, 44 FR 43239; Reorganization Plan No. 3 of 1978, 43 FR 41943; 28 U.S.C. 2671 et seq.; and any specific authority depending on the nature of the claim.

PURPOSE(S):

For the purpose of processing claims and determining the validity of the claim.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To those FEMA employees responsible for processing claims, investigating claims, making recommendations concerning the validity of the claim, and making decisions regarding the claims; to other investigative or similar authorities responsible for investigating or making recommendations on complaints or claims, whether or not a part of FEMA or some other agency; to decision-making authorities outside of FEMA when required by law, regulation or order.

Additional routine uses may include Nos. 2, 3, 5, 6 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name within general subject matter files.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Files are retained for 5 years after final decision and then destroyed if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement and the access and contesting requirements under 5 U.S.C. 552a(k)(2). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contest. A determination as to the applicability of an exemption to a specific record shall be made at the time a request for notification, access or contest is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Claim or similar documents with supporting evidence submitted by claimant; Government employees; Members of the public and witnesses and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

FEMA/GC-2

SYSTEM NAME:

FEMA Enforcement (Compliance).

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of General Counsel, Washington, D.C. 20472; all Regional Directors of FEMA, addresses are listed in Appendix AA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, whether a FEMA employee or non-FEMA employee, alleged of violation of or noncompliance with some law or regulatory matter, including FEMA directives, instructions or particular programs administered by FEMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains all allegations, reports, documents or similar items of information which allege that an individual, either acting in his/her official capacity or as a private citizen, has violated or is in nonconformance with some law or regulatory matter, including FEMA directives, instructions, and programs administered by FEMA, or misuse of Federal funds. The file may also include investigative reports or documents furnished by FEMA or any other agency charged with investigative responsibilities and any type of information submitted either by the subject individual or informants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; E.O. 12127, 44 FR 19367; E.O. 12148, 44 FR 43239; Reorganization Plan No. 3 of 1978, 43 FR 41943; and any specific authority depending on the nature of the allegation.

PURPOSE(S):

For the purpose of determining whether an allegation is substantiated and what action should be taken against the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To FEMA employees responsible for processing allegations, investigating the allegations, making recommendations concerning the validity of the allegation and making decisions as to what action, if any, should be taken against the individual; to other agencies charged with investigative responsibilities and enforcement actions of any nature including prosecution for violations of criminal laws; to employers, whether Federal, State or local agencies, whose employee is involved; and to State and local investigative authorities.

Additional routine uses may include Nos. 1, 2, 3, 4, 5, 6 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by name within general subject matter files.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

(a) For FEMA employees—files are retained until obsolete or until separation of employees plus one year, whichever is longer, then destroyed if no longer needed. (b) For non-FEMA employees—files are retained for five years after final decision, then destroyed if no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472; all Regional Directors of FEMA, addresses are listed in Appendix A.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement and the access and contesting requirements under 5 U.S.C. 552a(k)(2). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contest. A determination as to the applicability of an exemption to a specific record shall be made at the time a request for notification, access or contest is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include fule name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Officials or employees charged with responsibility for enforcement action. Other sources include subject individual, informants or other persons knowledgeable of the matter, and organizational or individual records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

SYSTEM NAME:

Payroll and Leave Accounting.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Finance and Administration, Budget and Finance Division, Federal Emergency Management Agency, Washington, D.C. 20472; timekeepers at FEMA headquarters, Staff College (Eventually to become Emergency Management Institute) and U.S. Fire Academy, Emmitsburg, Maryland, Computer Center, and all FEMA Regional offices, addresses, are listed in Appendix AA; bi-weekly payroll records are also maintained at classified location and relocation facilities under the FEMA Vital Operating Records Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All FEMA employees, headquarters and field, including full-time permanent, part-time, temporary, consultants, and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain earnings and leave statements provided directly to employees; net check listing; Federal and state withholding statement; bond applications; bond listing; listing of payroll checks mailed; requests by employees for allotments of pay for credit to savings account with financial institutions; and notification of personnel actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 112(a) of the Budget and Accounting Procedures Act of 1950; 31 U.S.C. 66(a); 5 U.S.C. 5501, et seq., 5525 et seq., and 6301 et seq.

PURPOSE(S):

For the purpose of administering the pay and leave requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (a) By the Department of the Treasury to issue checks and U.S. Savings Bonds; (b) By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness; (c) By state offices of unemployment conpensation in connection with claims by former Agency employees for unemployment compensation; (d) by Federal Employees' Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations; (e) To provide officials of labor organizations

recognized under the Civil Service Reform Act with information as to the identity of Agency employees contributing union dues each pay period and the amount of dues withheld from each contributor; (f) To disclose information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; (g) To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court; (h) To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding; (i) To disclose information to officials of: the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; Social Security Administration; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

Additional routine uses may include any of the uses listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The net check listing, listing of payroll checks mailed, bond lists, and notification of personnel actions consist of paper records in file folders; information from these forms are keyed into a computer system and transmitted to the Department of the Treasury in San Francisco for preparing checks and bonds.

RETRIEVABILITY:

Net check listings, listings of payroll checks mailed, and bond lists are filed by payroll date. Federal and state withholding statements, bond applications, requests by employees for allotments of pay for credit to savings accounts with financial institutions, and notifications of personnel actions are filed alphabetically by name of individual.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Listings of payroll checks mailed and bond lists are destroyed after 2 years. Personnel notification actions are destroyed after 6 years. All other records are retained in accordance with GSA General Records Control absence FEMA regulations governing the retention and disposal of records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Finance and Administration, Budget and Finance Division, Federal Emergency Management Agency, Washington, D.C. 20472; all Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Treasury Form TDX 10–11, G–6, Earnings and Leave Statements; Net check listings; Listing of Payroll Checks Mailed are prepared by the Department of the Treasury in San Francisco; Form W–4, Federal and State Withholding Statements; SF 1192, Bond Application; SF 1198, Request by Employees for Allotment of Pay for Credit to Savings Account with a Financial Organization is submitted by the individual to the Department of the Treasury in San Francisco through FEMA payroll offices; and SF 50, Notification of Personnel Action.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/ACC–2

SYSTEM NAME:

Travel and Transportation Accounting.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Finance and Administration, Budget and Finance Division, Federal Emergency Management Agency, Washington, D.C. 20472; Staff College (Eventually to become Emergency Management Institute) and U.S. Fire Academy, Emmitsburg, Maryland; Computer Center and all FEMA Regional offices, addresses are listed in Appendix AA; at classified location and relocation facilities under the FEMA Vital Operating Records Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All FEMA employees, headquarters and field, including full-time permanent, part-time, temporary, consultants, and former employees who perform (temporary duty or permanent change of duty station) travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain request and authorizations for travel; U.S. Government transportation requests; request for advances of funds; payment records of outstanding travel advances; paid travel vouchers; records of unused tickets; travel history records; collection vouchers for refunds of advances; and correspondence relating to travel claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701; 31 U.S.C. 71; 31 U.S.C. 65; 30 U.S.C. 52; 41 U.S.C. 3101; 50 U.S.C. App. 2253.

PURPOSE(S):

For the purpose of administering travel requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To finance and administration personnel for the purpose of recording and controlling obligations involving travel, and the storage and shipment of household goods, advances, refunds and expenditures of travel funds; to prevent errors leading to improper payments; to detect and recover overpayments; and to support billings to carriers for travel and transportation furnished.

Additional routine uses may include any of the uses listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Travel authorizations are filed alphabetically by organization; transportation requests and records of unused tickets are filed by TR number; records of outstanding advances and travel history records are filed alphabetically by individual; and all advance, refund and payment records are filed by payment date in voucher number sequence.

RETRIEVABILITY:

See Storage section above.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Travel history records are retained indefinitely, all other records are sent to the Federal Records Center after five years where they are destroyed after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Finance and Administration, Budget and Finance Division, Federal Emergency Management Agency, Washington, D.C. 20472; all Regional Directors of FEMA, addresses are listed in Appendix AA.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

FEMA Form 60–2T, Official Travel Authorization; SF 1169, U.S. Government Transportation Request; and DD Form 1131, Request for Advance of Funds are submitted by authorized officials; SF 1038, Application and Account for Advances of Funds are submitted by employees requiring advances; DD Form 1351–2 (PAID) Travel Vouchers are received from the finance and administration office; SF 1170, Redemption of Unused Tickets are prepared from unused tickets turned in by travelers and the file copy of the related Transportation Request and Travel History Record by Individual are prepared from paid vouchers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/EO–1

SYSTEM NAME:

Equal Employment Opportunity Complaints of Discrimination Files.

SECURITY CLASSIFICATION:

Limited Access.

SYSTEM LOCATION:

Federal Emergency Management Agency, Equal Opportunity Office, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any FEMA employee or applicant for employment, headquarters, regional and field offices, including full-time permanent, part-time and temporary employees, who files a complaint of discrimination against FEMA. Also, any persons who file or could file a complaint with FEMA alleging discrimination by a State or local government in violation of Title VI of the Civil Rights Act of 1964 and any other similar legislation involving discrimination by a State or local government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include complaints of discrimination brought against FEMA by employees or applicants because of race, color, religion, sex, age, handicapped, or national origin; records of counselor's reports, records of investigation, records of hearings and disposition of cases involving Equal Employment Opportunity. Files also include reports, documents, and information in support of or contrary to the complaint or potential complaint, records of hearings and disposition of the cases by the States or the Director, Federal Emergency Management Agency or higher authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 92–261 and 93–211 as amended by Public Law 93–516, Equal Employment Opportunity Act of 1972, Executive Orders 11478 and 12067, Title VI, Civil Rights Act of 1964 (78 Stat) (42 U.S.C. 2000d et seq.)

PURPOSE(S):

For the purpose of ascertaining whether discrimination has taken place.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) To EO Office to ascertain whether discrimination has taken place under the Equal Employment Opportunity Commission (EEOC) rules and regulations; (b) to Title VI Officers, Regional Officers and other investigators and reporting officers to ascertain whether discrimination under the Title VI rules and regulations have taken place; (c) to investigators (EEOC, U.S. Army Civilian Appeal Review Office, General Services Administration and private contractors) to secure testimony and affidavits of witnesses and other pertinent data involving Equal Employment Opportunity cases; (d) to State officials and investigators to secure testimony of witnesses and other pertinent data involving Title VI, Civil Rights Act, cases; (e) to FEMA General Counsel for advice and legal assistance during hearings and appeals; (f) to EEOC and other Federal agencies with jurisdiction for hearings and appeals; and (g) to Agency Head and higher authority for purposes of making a decision and (h) to the U.S. Justice Department or other agencies as appropriate for enforcement action and where necessary in reporting.

Additional routine uses may include Nos. 4, 5, 7 and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

The Equal Employment Opportunity files are considered permanent. The Civil Rights Act (Title VI) files are retained for 10 years after completion of the case. Significant and precedent cases are sent to the National Archives and Records Service of the General Services Administration and all others are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement and the access and contesting requirement under 5 U.S.C. 552a(k)(2). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contest. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for notification, access or contest is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

(a) For the Equal Employment Opportunity files—Information is secured from previous employers, friends, and acquaintances of the complainant and the alleged discriminating official, official personnel records, educational institutions, etc.; (b) For Civil Rights Act (Title VI) files—Information is secured from complainants and from FEMA officials who conduct Title VI compliance reviews at the State and local level, from citizens who have been denied services or use of facilities, from State and local government records and institutional and organization records, from State officials who have observed violations or local officials who have reported violations to the State.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

FEMA/IG-1

SYSTEM NAME:

Security Management System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of Inspector General, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FEMA employees, other Federal agency employees, State employees, and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Security records include: Statement of personal history, personal data (e.g., name, address, telephone number and social security number) contained on security clearance forms, rosters, lists, and forms for record container combinations and other related records. Also this system contains records concerning Personnel Security Program for positions associated with computer systems (Chapter 732 of Federal Personnel Manual). Records do not contain investigatory materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12127, 44 FR 19367; Executive Order 12148, 44 FR 43239; Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSE(S):

For the purpose of agency official use, based upon a need-to-know requirement, in maintaining office security for sensitive data and facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

An employee's level of security clearance may be reported to another agency for the purpose of interagency security administration.

Additional routine use may include No. 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mag-tape, drum, disc, paper, and index cards.

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Personnel screening; hardware and software computer security measures. Paper records rare retained in a locked container and/or room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retention of records shall be for duration of employment. Disposition of records shall be in accordance with FEMA Records Maintenance and Disposition System.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FEMA/IG-2

SYSTEM NAME:

General Investigative Files.

SECURITY CLASSIFICATION:

Limited access.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of Inspector General, Washington, D.C. 20472.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual suspected of violoating any criminal, civil, regulatory, licensing, or other enforcement laws, whether Federal, state, local or foreign.

CATEGORIES OF RECORDS IN THE SYSTEM:

The subject records may contain any identifying or other relevant information on subject individuals which might relate to possible violation of criminal, civil, regulatory, licensing, or other enforcement laws, whether Federal, state, local or foreign.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12127, 44 FR 19367; Executive Order 12148, 44 FR 43239; Reorganization Plan No. 3 of 1978, 43 FR 41943.

PURPOSES:

For the purpose of preventing and detecting fraud abuse, conducting and supervising audits and investigations relating to programs and operations, informing the Head of the establishment about problems and deficiencies relating to programs and administration and suggesting corrective actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) In the event that this system of records includes information which indicates a violation or potential violation of law, whether criminal, civil or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued thereto; (b) a record contained in this system of records may be disclosed as a routine use to possible sources of information in connection with civil or criminal investigations or inquiries under circumstances where it is necessary to disclose certain information in order to pose a question to those sources; (c) a record which is contained in this system and derived from another FEMA system of records may be disclosed as a routine use as specified in the Federal Register notice of the system of records from which the record is derived; (d) a record which is contained in this system may be disclosed to State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary, robbery or flood claims.

Additional routine uses may include any of the items listed in Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and card.

RETRIEVABILITY:

By name and file number.

SAFEGUARDS:

Paper records are retained in a locked container and/or room. Records are maintained in areas that are secured by buiding guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Investigative files are retained at least 5 years after completion of the investigation and/or actions based thereon or until the office determines that the records are no longer needed. The files are then transferred to the Federal Records Center and kept for an additional 10 years and then destroyed. Index and cross-index cards are considered permanent or until the office determines that they are no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement and the access and contesting requirement under 5 U.S.C. 552a (j)(2), (k)(1) or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to notification, access and contest. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for notification, access or contest is received. Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

(1) Federal, state, local or foreign government agencies concerned with the administration of criminal justice and non-law enforcement agencies both public and private; (2) Members of the public; (3) Government employees; (4) Published material; (5) Witnesses and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Director, Federal Emergency Management Agency, has determined that this system should be exempted from subsections (c)(3) and (4), (d), (e)(1), (2), (3), (e)(4) (G), (H), and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

FEMA/PER-1

SYSTEM NAME:

Grievance Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Emergency Management Agency, Office of Personnel, Washington, D.C. 20472; and classified location.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees who have submitted grievances with FEMA in accordance with Part 771 of the Office of Personnel Management regulations (5 CFR 771), or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by agency employees under Part 771 of the Office of Personnel Management regulations. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision and related correspondence and exhibits. This system includes files and records of internal grievances and arbitration systems that FEMA may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p218, E.O. 10987, 3 CFR 1959–1963 Comp., p519, agency employees for personal relief in a matter of concern or dissatisfaction which is subject to the control of FEMA management.

PURPOSE(S):

For the purpose of processing grievance complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested; to disclose information to another Federal agency or to a court when the Government is a party to a judicial proceeding before the court; in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data included individually identifiable by inference; to disclosure information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties; to disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding; and to provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessay to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

Additional routine uses may include Nos. 1, 2, 5, and 8 of Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Federal Emergency Management Agency, Washington, D.C. 20472.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. Written requests should be clearly marked "Privacy Act Request" on the envelope and letter. Include full name of the individual, some type of appropriate personal identification, and current address.

For personal visits, the individual should be able to provide some acceptable identification card, or other identification data.

RECORD ACCESS PROCEDURES:

Same as notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the **Federal Register.**

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by (1) the individual on whom the record is maintained; (2) testimony of witnesses; (3) from related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Federal Emergency Management Agency—Appendix A

Introduction to Routine Uses: Certain routine uses have been identified as being applicable to many of the FEMA systems of record notices. The specific routine uses applicable to an individual system of record notice will be listed under the "Routine Use" section of the notice itself and will correspond to the numbering of the routine uses published below. These uses are published only once in the interest of simplicity, economy and to avoid redundancy, rather than repeating them in every individual system notice.

1. *Routine Use—Law Enforcement:* In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil,

criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign charge with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. *Routine Use—Disclosure When Requesting Information:* A record from a FEMA system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, regulatory, licensing or other enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. *Routine Use—Disclosure of Requested Information:* A record from a FEMA system of records may be disclosed to a Federal agency, in response to a written request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. *Routine Use—Grievance, Complaint, Appeal:* A record from a FEMA system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with agency's responsibility for evaluation of Federal personnel management.

To the extent that official personnel records in the custody of FEMA are covered within systems of records published by the Office of Personnel Management as government-wide records, those records will be considered as a part of that government-wide system. Other official personnel records covered by notices published by FEMA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

5. *Routine Use—Congressional Inquiries:* A record from a FEMA system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

6. *Routine Use—Private Relief Legislation:* The information contained in a FEMA system of records may be disclosed as a routine use to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

7. *Routine Use—Disclosure to the Office of Personnel Management:* A record from a FEMA system of records may be disclosed to the Office of Personnel Management Division concerning information on pay and leave benefits, retirement deductions, and any other information concerning personnel actions.

8. *Routeine Use—Disclosure of Information of NARS (GSA):* A record from a FEMA system of records may be disclosed as a routine use to the National Archives and Records Service of the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

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federal register

Friday
August 1, 1980

Part IV

Department of Labor

Office of Pension and Welfare Benefit Programs

Department of the Treasury

Internal Revenue Service

Pension Benefit Guaranty Corporation

Reporting and Disclosure Requirements of Certain Employee Benefit Plans, Technical Amendments; Forms Revisions Pertaining to Certain Annual Information Return/Reports

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Employee Benefit Plans; Rules and Regulations for Reporting and Disclosure

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This document contains technical amendments to Department of Labor (Department) regulations governing reporting and disclosure requirements of certain employee benefit plans. These amendments are necessary in order to accommodate recent revisions to the Return/Report forms such plans must file pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). The revised forms, which implement a triennial filing cycle for affected plans, are reprinted elsewhere in this issue of the **Federal Register.**

DATE: The amendments adopted herein will be effective for plan years beginning on or after January 1, 1980.

FOR FURTHER INFORMATION CONTACT: John Christensen, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4700, 200 Constitution Avenue, N.W., Washington, D.C. 20210; 202–523–8684 (Not a toll-free number).

SUPPLEMENTARY INFORMATION: On June 26, 1979, the Department, the Internal Revenue Service and the Pension Benefit Guaranty Corporation (the Agencies) published a joint proposal in the **Federal Register** (43 FR 37366) regarding the substitution, for the current system of annual financial reporting, of a system by which certain "small" plans would be required to file a complete Return/Report every three years and a short registration form in the other two years. The June 26, 1979 Notice also advised the public that the Department contemplated adopting conforming changes to existing reporting and disclosure regulations in order to effect the transition to a cyclical reporting system, if the proposed forms were adopted. The Agencies have determined to adopt the proposed cyclical reporting scheme for certain plans, and a Notice to this effect appears elsewhere in this issue of the **Federal Register,** along with copies of the revised forms and instructions. The Department is hereby amending 29 CFR 2520.103–1, 2520.104–41, 2520.104–44 and 2520.104–46 in order to accommodate the adoption of these changes to the reporting forms for affected plans. The Department is also taking this opportunity to correct 29 CFR 2520.103–9, regarding the filing address for information filed directly by a bank or insurance carrier.

Accordingly, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended by revising the following sections to read as follows:

1. The introductory paragraph of § 2520.103–1(b) and § 2520.103–1(c) are revised to read as follows:

§ 2520.103–1 Contents of the annual report.

* * * * *

(b) *Contents of the annual report for plans with 100 or more participants electing the limited exemption or alternative method of compliance.* Except as provided in paragraph (d) of this section and in §§ 2520.103–2 and 2520.104–44, the annual report of an employee benefit plan covering 100 or more participants at the beginning of the plan year which elects the limited exemption or alternative method of compliance described in paragraph (a)(2) shall include:

* * * * *

(c) *Contents of the annual report for plans with fewer than 100 participants.* Except as provided in paragraph (d) of this section and in §§ 2520.104–43 and 2520.104a–6, the annual report of an employee benefit plan which covers fewer than 100 participants at the beginning of the plan year shall be Form 5500–C "Return/Report of Employee Benefit Plan (with fewer than 100 participants)" or 5500–K "Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships (with fewer than 100 participants and at least one owner-employee)", or 5500–R "Registration Statement of Employee Benefit Plan (with fewer than 100 Participants)." *See* the "What to File" instructions on these forms.

* * * * *

(d) Section 2520.103–1(d) is added to read as follows: *Special rule.* If a plan has between 80 and 120 participants (inclusive) as of the beginning of the plan year, the plan may elect to file the same category of form (*i.e.,* either Form 5500 and attachments or Forms 5500–C, K, or R) that is filed the previous year.

2. Section 2520.103–9(c) is revised to read as follows:

§ 2520.103–9 Direct filing for bank or insurance carrier trusts and accounts.

* * * * *

(c) *Filing address.* The bank or insurance carrier shall file the information required by paragraph (b)(3)(i) of this section in accordance with the "Where to File" instructions of the Return/Report form.

3. Section 2520.104–41 (b) and (c) are revised to read as follows:

§ 2520.104–41 Simplified annual reporting requirements for plans with fewer than 100 participants.

* * * * *

(b) *Application.* The administrator of an employee pension or welfare benefit plan which covers fewer than 100 participants at the beginning of the plan year and is required to file an annual report under section 104(a)(1)(A) of the Act and § 2520.104a–5 shall, except as permitted under § 2520.103–1(d), file the simplified annual report described in paragraph (c) of this section.

(c) *Contents.* (1) the administrator of (i) an employee pension benefit plan which covers fewer than 100 participants, none of whom is an owner-employee, as defined in section 401(c)(3) of the Internal Revenue Code of 1954, or (ii) an employee welfare benefit plan which covers fewer than 100 participants shall file a Form 5500–C "Return/Report of Employee Benefit Plan (with fewer than 100 participants)," or, as appropriate, a Form 5500–R "Registration Statement of Employee Benefit Plan (with fewer than 100 participants)," in the manner prescribed in § 2520.104a–5.

(2) The administrator of an employee pension Keogh plan which covers fewer than 100 participants, at least one of whom is an owner-employee as defined in section 401(c)(3) of the Internal Revenue Code of 1954, shall file a Form 5500–K "Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships (with fewer than 100 participants and at least one owner-employee)," or, as appropriate, a Form 5500–R "Registration Statement of Employee Benefit Plan (with fewer than 100 participants)," in the manner prescribed in § 2520.104a–5.

4. The introductory paragraph in § 2520.104–44(c), § 2520.104–44(c)(1) and § 2520.104–44(e) are revised to read as follows:

§ 2520.104–44 Limited exemption and alternative method of compliance for annual reporting by unfunded plans and by certain insured plans.

* * * * *

(c) Contents. An employee benefit plan described in paragraph (b) of this section is exempt from complying with the following annual reporting requirements:

(1) Completing certain items of the appropriate Return/Report form relating to financial information and

transactions entered into by the plan. *See* the instructions on the forms for "Insured Plans."

* * * * *

(e) *Example.* A welfare plan which is funded entirely with insurance contracts and which meets all the requirements of exemption under § 2520.104–20 except that it covers 100 or more participants at the beginning of the plan year is not exempt from the annual reporting requirements under § 2520.104–20, but is exempt from certain reporting requirements under § 2520.104–44. Under the latter section, such a welfare plan should file Form 5500, including Schedule A "Insurance Information." However, the plan is not required to engage an independent qualified public accountant and need not complete certain items on form 5500.

5. Section 2520. 104–46(d) is revised to read as follows:

§ 2520.104–46 Waiver of examination and report of an independent qualified public accountant for employee benefit plans with fewer than 100 participants.

* * * * *

(d) *Limitations.* The waiver described in this section does not affect the obligation of a plan described in paragraph (b) (1) or (2) of this section to file a Form 5500–C or –K or, as appropriate, –R and all schedules called for therein. See § 2520.104–41. This section does not apply to plan which elects to file an Annual Return/Report Form 5500 pursuant to § 2520.103–1(d).

Signed at Washington, D.C., this 25th day of July, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 80–23021 Filed 7–29–80; 4:43 pm]

BILLING CODE 4510–29–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

PENSION BENEFIT GUARANTY CORPORATION

Forms Revisions Pertaining to Certain Annual Information Return/Reports

AGENCIES: Department of the Treasury, Department of Labor, and Pension Benefit Guaranty Corporation.

ACTION: Notice of adoption of revised forms.

SUMMARY: This document contains final Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation ("Agencies") forms adopted to implement the triennial filing of the annual return/report for certain plans under the Employee Retirement Income Security Act of 1974 (ERISA). These triennial return/reports will be filed by administrators of pension of welfare benefit plans with fewer than 100 participants at the beginning of the plan year. Other plans will continue to file either Form 5500 or Form 5500–G on an annual basis. The current Forms 5500–C and 5500–K are replaced by the revised Forms 5500–C and 5500–K which are to be filed only once every three years, with a new Form 5500–R—a brief registration statement—filed in each of the two intervening years. The revised Forms 5500–C and 5500–K are enforcement oriented and will provide the information necessary for each Agency to monitor compliance with ERISA. The 5500–R is designed to ensure that the Agencies received annually certain minimal information to permit the continuous review of small plans.

DATES: These forms will be effective for plan years beginning on or after January 1, 1980. Copies of the forms will not be available before January 1981; however, preparers of these forms may rely on the formats contained in this document.

FOR FURTHER INFORMATION CONTACT: Milt Grant, Internal Revenue Service, 202–566–4528, for questions regarding item 6 of the 5500–R and items 25, 26, 27 and 28 of the 5500–C.

George Holmes, Department of Labor, 202–523–7901 or 202–523–8684, for questions regarding item 7 of the 5500–R; items 17, 18, 19, 20, 21, 22 and 23 of the 5500–C; and items 14, 15, 17, 21, 22 and 23 of the 5500–K.

Lorraine McClure, Pension Benefit Guaranty Corporation, 202–254–4716, for questions regarding item 6 of the 5500–R; item 12 of the 5500–C and item 12 of the 5500–K.

The telephone numbers given above are not toll free numbers.

SUPPLEMENTARY INFORMATION: On August 10, 1978, a series of actions to reorganize and reform the regulation of employee benefit plans was announced at the White House. As part of that reform, notice was published in the **Federal Register** (44 FR 37366, June 26, 1979) that the Agencies had under consideration the substitution, for the current system of annual financial reporting, of a system by which certain plans are required to file a complete return/report every 3 years and a registration form in the other two years. In that connection the Agencies proposed the adoption of the following three forms and accompanying instructions:

Form 5500–R, Registration Statement of Employee Benefit Plan, with fewer than 100 participants.

"Revised" Form 5500–C, Return/Report of Employee Benefit Plan with fewer than 100 participants.

"Revised" Form 5500–K, Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships with fewer than 100 participants and at least one owner-employee.

The June 26, 1979 Notice also advised the public that the Department of Labor contemplated adopting conforming changes to existing reporting and disclosure regulations in order to effect the transition to a cyclical reporting system, if the proposed forms were adopted. Such changes appear elsewhere in this issue of the **Federal Register.**

Pursuant to notice published in the **Federal Register** (44 FR 54803, September 21, 1979), a public hearing was held on October 17, 1979 at which time interested persons were afforded the opportunity to present their views on the Agencies' proposals.

The Department of Labor (the Department) has determined to treat this document as "significant" under the Department's Final Guidelines (44 FR 5570, January 26, 1979) implementing Executive Order 12044. Pursuant to the Guidelines, the Department conducted an informal assessment and determined that the Compliance Oriented Triennial Reporting System did not constitute a major project.

The Internal Revenue Service (IRS) has determined that this document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

The Pension Benefit Guaranty Corporation (PBGC) has determined that this document is not "significant" under the PBGC's Statement of Policy and Procedure (43 FR 58237, December 13, 1978) implementing Executive Order 12044.

Discussion of Comments Received and Changes Made

Based upon the Agencies' informational needs concerning small plan compliance and after considering all of the public comments, the Agencies have decided to adopt the forms revision. However, in response to the comments, the Agencies have made numerous modifications and revisions to the proposed forms. The major changes include (1) postponing the compliance oriented triennial reporting from 1979 to 1980, (2) restoring Schedule A, Insurance Information, and Schedule B, Actuarial Information to annual filings, and (3) reducing the length and complexity of many new questions to reduce the plan's overall reporting burden.

The Agencies, also, will permit two filing exceptions with the adoption of these revised forms. First, employee benefit plans will have an option of changing their filing cycle whereby they may file a Form 5500–C or 5500–K for the reporting plan year and file a Form 5500–R for the following two plan years. Second, employee benefit plans with 80 to 120 participants (inclusive) as of the beginning of the plan year may file the same category of form (i.e., Form 5500 or Forms 5500–C, K or R, whichever is applicable) that was filed the previous year.

In addition to questions on Form 5500–C and 5500–K of interest to all of the Agencies, each Agency will individually monitor certain compliance oriented questions. The table below lists the new compliance oriented questions for Forms 5500–C and 5500–K as they appeared in the June 26, 1979 proposed forms and as they have been finalized. A summary of changes made to the proposed questions with reference to the specific Form 5500–C and line items follows the table.

Form 5500-C proposed	Form 5500-C final	Form 5500-K proposed	Form 5500-K final
IRS			
24(b)	7(b)	—	—
25	26	—	—
26	27	—	—
27	28	—	—
28	25	—	—
DOL			
13(a)	18(a)	15	15(a)
13(b)	18(d)	21(a)	15(d)
13(c)	[1]	21(b)	[1]
13(d)	18(c)	21(c)	15(c)
13(e)	18(e)	21(d)	15(e)
—	18(b)[2]	—	15(b)[2]
16	15	—	—
17	16	—	—
18	17	—	—
19(a)	[1]	14(a)	[1]
19(b)	19(a)	14(b)	14(a)
20(a)	19(b)	17(a)	14(b)
20(b)	19(c)	17(b)	14(c)
20(c)	20(a)	—	—
20(d)	20(b)	17(d)	21
20(e)	21(b)	17(c)	17(b)
21(a)	21(a)	18(a)	17(a)
21(b)	21(b)	18(b)	17(b)
21(c)	21(c)	18(c)	17(d)
21(d)	21(d)	18(d)	17(e)
21(e)	21(e)	18(e)	17(f)
21(f)	21(f)	18(f)	17(g)
22	22	22	22
23	23	23	23
—	—	17(e)	17(c)

[1] Eliminated.
[2] New item.

Internal Revenue Service

1. *Item 24(b) (Now 7(b)).* Item 24(b) inquired whether any participants separated from service with a deferred benefit since the end of the plan year covered by the last Form 5500, 5500–C or 5500–K required to be filed for the plan. The time period covered by this item was questioned by several commentators as not being in conformance with Schedule SSA (Form 5500) requirements. As a result of comments, the question has been revised to require a yes/no response as to whether any participants separated from service with a deferred vested benefit, but only during the current or prior plan year.

2. *Item 25 (now item 26).* Item 25 divided employees and participants into various vesting, coverage and forfeiture groupings under three compensation ranges requiring completion of certain information for three years. The commentors suggested that this item was overly detailed and burdensome. Several comments indicated that this item alone would offset any advantages gained through the use of Form 5500–R. As a result of comments, both the compensation ranges and vesting intervals have been removed and the question substantially reduced in length and complexity.

3. *Item 26 (now item 27).* Item 26 dealt with the type of vesting provisions used by the plan. Commentators indicated that since the required information is generally static in nature, it should not be required every third year. As a result of comments, this question has been shortened so that only one box needs to be checked.

4. *Item 27 (now item 28).* Item 27 contained a series of yes/no and fill-in-the-blank type questions dealing with return of contributions, benefits, and lump-sum distributions. The comments suggested that this question as proposed was of limited value. As a result of comments, this item has been substantially revised to now require only three yes/no type responses dealing with receipt of plan assets, ESOPS and section 415 of the Internal Revenue Code.

5. *Item 28 (now item 25).* Item 28 contained a series of yes/no questions concerning integration with social security and plan qualification under the Internal Revenue Code. Commentators indicated that the question on determination letters was confusing and overly detailed. As a result of comments, sub-item 28(d), requesting determination letter information, has been deleted.

Department of Labor

1. *Item 13 (now item 18).* Item 13 contained a series of questions designed to elicit certain information related to small insured plans. In general, the commentors were opposed to the recapture requirements of item 13 regarding commission information related to the sales of insurance products to the plan covering the previous two years. Some commentors indicated that their computer systems were not programmed to retrieve and store this information over the triennial reporting cycle and programming costs would be substantial. They also pointed out that it would be more convenient for them to continue providing Schedule A(s) to the plan administrator each year. As a result of comments, the recapture of insurance information which was to be reported on the 5500–C has been eliminated entirely. The Department has decided to require that insured plans continue to file Schedule A(s) each year. A new sub-item 18(b) has been added to identify "contract administrators" where appropriate.

2. *Item 16 and 17 (now 15 and 16).* These two items required the reporting of the plan's financial statements on two pages. The commentors objected to these items appearing on two different pages of the proposed form. Accordingly, these items were changed to appear on the same page.

3. *Item 18 (now 17).* Item 18 requested percentage calculations on the proportion of plan assets loaned to a party-in-interest, invested in securities issued by a party-in-interest and real estate leased by a party-in-interest. The commentors pointed out that item 18 failed to indicate the time interval or reference date upon which the percentage calculations are to be performed. The Department has clarified this item to provide that the required percentage calculations be made as of the end of the plan year only.

4. *Item 19.* Item 19(a) asked for an information schedule on persons rendering services to the plan who also received compensation from the plan. Comments were received which questioned the utility of continuing to require a separate schedule for these transactions. In response to these comments, and because other questions require reporting on aspects of provision of service transactions which are of major concern to the Department, the Department has decided to eliminate this item as a separate schedule, and to require that such transactions be scheduled only to the extent that they do not qualify for the exemption set forth in section 408(b)(2) of ERISA, and applicable regulations. In this regard, it is important to note that section 408(b)(2) does not exempt plan fiduciaries from the self-dealing and conflict of interest restrictions of section 406(b) of ERISA.

Several comments were also received on item 19(b). These comments objected to the reporting of exempted transactions because such a requirement would expand the present 5500–C party in interest transactions reporting requirements. However, in order to have an effective means to monitor and review the number and types of exempted transactions existing between the plan and a party in interest, the Department has decided to retain this question.

5. *Item 20.* As proposed, this item contained a series of yes/no questions concerning plan transactions of a fiduciary nature which may have occurred during the three year triennial period. Some commentators noted that certain of these questions would require the continuous monitoring by the plan throughout the three year period in order to answer the question accurately. The Department agrees that such monitoring may impose unreasonable administrative burden in some cases.

Accordingly, sub-items 20(c) (now 20(a)) and 20(d) (now 20(b)) have been revised to require plan year-end reporting only.

Some commentors indicated that sub-item 20(d) (now 20(b)), which asks if the plan made loans to or investments in a single enterprise which exceeded 15% of plan assets, would always be answered "yes" if all of a plan's assets were in a savings bank. The Department did not intend that these questions apply to plan assets held in interest bearing bank deposits and an instruction has been added which now clarifies this intent.

6. *Item 21.* Sub-item 20(e), as proposed asked whether the aggregate fair market value of employer securities and employer real property held by a plan exceeded 10% of the fair market value of the assets of the plan. In response to comments, this item has been merged with sub-item 21(b) to eliminate any duplication. Sub-item 21(b), as revised, conforms more closely to the language of section 407 as it pertains to ERISA's 10 percent limitation with respect to the acquisition and holding of employer securities and employer real property by certain plans.

7. *Item 22.* Item 22 requested the name of the plan's designated agent for legal process. Commentors objected to this item as being both burdensome and unnecessary. The Department, however, believes the reporting of this information is important and that such disclosure is necessary to ensure the adequate protection of plan participants.

8. *Item 23.* Item 23 requested the name and address of each of the plan's fiduciaries. Several commentors indicated that such information is generally static and should not be required even every three years. The Department, however, considers this to be basic and important plan information and the effort required of most small plans to provide such data should be minimal.

5500–R

1. *Item 6.* Item 6, as proposed, included a question on whether the plan experienced a funding deficiency for the year the 5500–R is filed. Comments pointed out that it is appropriate and more cost effective to continue to require the Schedule B every year since most of the work underlying Schedule B would have to be completed by an actuary in order to answer this question anyway. As a result of comments, the Agencies have decided to continue to have Schedule B filed on an annual basis.

2. *Item 7.* Item 7(b), as proposed, requested whether the plan acquired any employer real property or employer securities during the plan year covered by the Form 5500–R. Comments to the question suggested that the language should be changed to conform to section 407 of ERISA. Accordingly, the question has been clarified to more closely follow the language of ERISA section 407 covering the 10 percent limitation with respect to acquisitions and holding of employer securities and employer real property.

The forms and instructions contained in this document are adopted pursuant to the authority in sections 104, 109(a) and 4065 of ERISA, and section 6058 of the Internal Revenue Code.

Signed at Washington, D.C. this 25th day of July 1980.

S. A. Winborne,

Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Department of Labor.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

BILLING CODE 7708-01-M

Form **5500-R**
Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

Registration Statement of Employee Benefit Plan

(With fewer than 100 participants)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and section 6058 of the Internal Revenue Code, referred to as the Code.

1980
Amended ☐

This Form is Open to Public Inspection

For the calendar plan year 1980 or fiscal plan year beginning , 1980, and ending , 19 .

▶ **File this form for the plan years that Form 5500-C or Form 5500-K is not required to be filed. (See instruction B.)**

▶ Type or complete this form in ink, and file the original.
▶ If any item does not apply, enter "N/A."

Use IRS label. Otherwise, please print or type.

1 (a) Name of plan sponsor (employer if for a single employer plan)

Address (number and street)

City or town, State and ZIP code

1 (b) Employer identification number

1 (c) Sponsor's telephone number ( )

1 (d) This return/report is filed instead of ☐ 5500-C ☐ 5500-K

1 (e) Latest return/report filed covered the plan year ended ▶

2 (a) Name of plan administrator (if other than plan sponsor)

Address (number and street)

City or town, State and ZIP code

2 (b) Administrator's employer identification no.

2 (c) Administrator's telephone number ( )

3 Name, address, and employer identification number of plan sponsor and/or plan administrator as shown on the latest return/report filed for this plan if different from 1 or 2 above: (a) Sponsor ▶
(b) Administrator ▶

4 (a) Name of plan ▶

4 (b) Effective date of plan ▶

4 (c) Enter three digit plan number ▶

5 Type of plan:
(a) ☐ Defined benefit
(b) ☐ Defined contribution
(c) ☐ Welfare benefit
(d) ☐ Other (specify) ▶

6 Plan information:	Yes	No
(a) Was this plan terminated during this plan year or any prior plan year?		
(b) If "Yes," were all trust assets distributed to participants or beneficiaries or transferred to another plan?		
(c) Was this plan amended during this plan year to reduce any participant's accrued benefits?		
(d) If this is a defined benefit plan or a defined contribution plan subject to the minimum funding standards, has the plan experienced a funding deficiency for this plan year (defined benefit plans attach Schedule B (Form 5500))?		
(e) If (d) is "Yes," have you filed Form 5330 to pay the excise tax?		
(f) Is this plan covered under the Pension Benefit Guaranty Corporation termination insurance program? ☐ Yes ☐ No ☐ Not determined		
(g) If (f) is "Yes" or "not determined," did any event requiring notice to the Pension Benefit Guaranty Corporation occur during this plan year? If "Yes," indicate which event(s) (see instructions) ▶		
(h) Total participants:		
(i) Beginning of plan year ▶		
(ii) End of plan year ▶		
(i) If plan benefits were provided by an insurance company, insurance service or similar organization, enter the number of Schedule A's (Form 5500) attached ▶		
(j) (i) During this plan year or a prior plan year, was any participant(s) separated from service with a deferred vested benefit for which a Schedule SSA (Form 5500) is required to be attached?		
(ii) If "Yes," enter the number of separated participants ▶		

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete.

Date ▶ ---------- Signature of employer/plan sponsor ▶ ----------

Date ▶ ---------- Signature of plan administrator ▶ ----------

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Form 5500–R (1980) Page 2

7 Fiduciary information during this plan year:	Yes	No
(a) Did any plan fiduciary who is an officer or employee of the plan sponsor receive compensation from the plan for his or her services to the plan?		
(b) Did the plan acquire any qualifying employer security or qualifying employer real property, when immediately after such acquisition the aggregate fair market value of employer securities and employer real property held by the plan exceeded 10% of the fair market value of the plan assets?		
(c) Did the plan receive any non-cash contributions?		
(d) Has any plan fiduciary had either a financial interest worth more than $1,000 in any party providing services to the plan or received anything of value from any party providing services to the plan?		
(e) Has any employer owed the plan contributions which were more than three months past due under the terms of the plan?		
(f) Were any loans the plan made or fixed income obligations due the plan in default as of the end of the plan year or classified as uncollectable?		
(g) Were any leases to which the plan was a party in default or classified as uncollectable?		
(h) Party-in-interest information:		
(i) Did the plan lend assets to, borrow from, or guarantee any indebtedness of a party-in-interest?		
(ii) Has the plan purchased any assets from or sold any assets to a party-in-interest?		
(iii) Has the plan leased property to or from a party-in-interest?		

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

1980 Instructions for Form 5500-R

Registration Statement of Employee Benefit Plan

(With fewer than 100 participants)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

NOTICE

For plan years starting in 1980 you will generally need to file Form 5500–C or 5500–K only once every three years. See "B. When to File" below. For the other two years you should file a shorter form instead, Form 5500–R. When you use Form 5500–R, you must attach Schedule SSA (Form 5500), Schedule A (Form 5500), Insurance Information, and Schedule B (Form 5500), Actuarial Information, if they are required to be filed.

If you are filing for a plan year other than a calendar plan year, enter the beginning and ending date of the plan year on the line immediately below the title of this form.

Employers or plan administrators filing Form 5500–R for an employee pension benefit plan of which an organization qualified under section 401 (a) of the Code and exempt from tax under section 501(a) of the Code forms a part should inform the fiduciary of such organization that, if it desires the protection of the statute of limitations provided in section 6501 (a) of the Code, an annual information return under section 6033(a) of the Code should be filed. See General Instruction G for a statement to be attached to this return/report by the fiduciary for that purpose.

General Instructions

A. Who Must File.—Each plan administrator or employer who maintains an employee benefit plan covered by ERISA with fewer than 100 participants at the beginning of the plan year must file a return/report.

B. When to File.—Unless you are filing for the plan's first year or for the year a final return is due, use the following timetable for filing Form 5500–R:

If last digit of plan sponsor's employer identification number is—	File Form 5000–R for—
4, 5, 6, 7, 8, 9 or 0	1980
1, 2, 3, 7, 8, 9 or 0	1981
1, 2, 3, 4, 5 or 6	1982

For the years you are not required to file a Form 5500–R, file a Form 5500–C or Form 5500–K, whichever applies.

Exceptions:

1. The above cycle may, from time to time, be changed by filing Form 5500–C or 5500–K before the year Form 5500–C or 5500–K are otherwise due. When a new cycle is established, a Form 5500–C or 5500–K will be filed for the first year of the new cycle and a Form 5500–R for the next two years of the new cycle.

2. 80–120 Participant Rule.—If the plan has between 80 and 120 participants (inclusive) at the beginning of the plan year, the plan may file the same category of form (i.e., Form 5500 or Forms 5500–C, K or R, whichever is applicable) that was filed the previous year.

For the plan's first year or for the year a final return is due, file Form 5500–C or 5500–K, whichever applies.

File all required forms and schedules on or before the last day of the 7th month following the close of the plan year unless extensions have been granted.

Request for Extension of Time to File.—An extension of time up to two and one-half months may be granted for filing return/reports if a timely application, Form 5558, is filed requesting such an extension.

Exception: Single employer plans and plans of a controlled group of corporations which file consolidated Federal income tax returns, are automatically granted an extension of time to file Form 5500, 5500–C, 5500–K or 5500–R to the due date of the Federal income tax return of the single employer or controlled group of corporations if all the following conditions are met:

(1) The plan year and the tax year coincide;

(2) The single employer or the controlled group has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500, 5500–C, 5500–K or 5500–R.

(3) A copy of the approved IRS extension of time to file the Federal income tax return is attached to each Form 5500, 5500–C, 5500–K or 5500–R filed with IRS.

Short Plan Year.—For a short plan year, file a return/report and all applicable schedules for such short plan year on or before the last day of the seventh month following the close of such short plan year. For a short plan year ending on November 30th or earlier, the prior year Form 5500–R should be filed. Modify the heading of the form to show the beginning and ending date of your short plan year.

Amended Return/Report.—If you file an amended return/report write "Amended Return" across the top of the form and check the box at the top of the form designated "Amendod" immediately below the year of the form. When filing an amended return be sure to put a circle around the item numbers that have been amended.

C. Where to File.—File forms and schdules for the plan with the Internal Revenue Service Center for your area:

If your main office as plan sponsor or administrator is in—	File with the following Internal Revenue Service Center—	
New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY	00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA	05501
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA	31101
Michigan, Ohio	Cincinnati, OH	45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX	73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT	84201
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO	64999
California, Hawaii	Fresno, CA	93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	Memphis, TN	37501
Delaware, District of Columbia, Maryland, Pennsylvania	Philadelphia, PA	19255

If you have no legal residence, main place of business, or main office or agency, file with the Internal Revenue Service Center, Philadelphia, PA 19255.

Caution: A penalty may be assessed for a Form 5500–R which is not timely filed.

D. Signature.—The plan administrator or sponsor who completes Form 5500–R must sign it. If the form is for a single-employer plan, the employer must sign also.

If the plan administrator or sponsor is a joint employer-union board, both an employer representative and a union representative must sign.

Caution: Check to be sure your Form 5500–R is complete. The law imposes penalties if required forms are not filed or are incomplete.

E. Reproduction.—Original returns/reports are preferred, however, legible reproductions of this form may be made after insertion of the required information. However, all signatures on forms filed with IRS must be original signatures, affixed subsequent to the reproduction process.

F. Change of Plan Year.—To change a plan year of certain qualified employee pension benefit plans, you should obtain prior approval from IRS. See section 412 (c)(5) of the Code, and regulations thereunder, and Form 5308, Request for Change in Plan/Trust Year.

G. Any fiduciary (trustee or custodian) of an organization that is qualified under section 401(a) of the Code and exempt from tax under section 501(a) of the Code, who wants to protect the organization under the statute of limitations provided in section 6501(a) of the Code,

should file an annual information return under section 6033(a) of the Code. Use the following statement for that purpose. A reproduction of this statement is also acceptable.

File the statement as an attachment to Form 5500, 5500–C, 5500–K, 5500–G or 5500–R filed for the plan year in which the trust year ends.

(Cut along this line)

This statement constitutes the annual information return required under section 6033(a) of the Internal Revenue Code of 1954 filed for the trust year ending (date) ▶..... P*

Under penalties of perjury, I declare that I am the (trustee) (custodian) of the ▶.....

....., which serves as a part of ▶.....

(Name of trust) (Name of plan)

Date ▶ Signature of fiduciary ▶

*If you reproduce this format, please include a capital letter "P" in the upper right corner so that it will be processed correctly.

Summary of Filing Requirements of Employers and Plan Administrators
(File forms ONLY with IRS)

Type of plan	What to file	When to file
Keogh (H.R. 10) defined contribution plan of a sole proprietor or partnership which has never had any participants other than the sole proprietor or the partners	Not required to file	File all required forms and schedules for each plan on or before the last day of the 7th month following the close of the plan year.
Keogh (H.R. 10) defined benefit plan of a sole proprietor or partnership which has never had any participants other than the sole proprietor or the partners	Form 5500–K or 5500–R	
Keogh (H.R. 10) plan with at least one owner-employee and at least one common-law employee but fewer than 100 participants	Form 5500–K or 5500–R	
Pension plan with fewer than 100 participants and no owner-employee participant	Form 5500–C or 5500–R	
Pension plan with 100 or more participants	Form 5500	
Annuity under Code section 403(b)(1) and Trust under Code section 408(c)	Form 5500, 5500–C or 5500–R	
Custodial account under Code section 403(b)(7)	Form 5500, 5500–C or 5500–R	
Governmental plans and church plans (not electing coverage under section 410(d) of the Code)	Form 5500–G	
Welfare benefit plan	Form 5500, 5500–C or 5500–R	
Pension or welfare plan with benefits provided by an insurance company	Schedule A (Form 5500)	
Pension plan that requires actuarial information	Schedule B (Form 5500)	
Registration statement identifying separated participants with deferred vested benefits from a pension benefit plan	Schedule SSA (Form 5500)	

Specific Instructions for Form 5500–R

(References are to line items on the form)

1(a). Enter the name and address of the plan sponsor. In all cases where the plan covers only the employees of one employer, enter the name of the employer. When this form is used by an individual employer participating in a multiple-employer plan (other), the name of the participating employer should appear in (a).

If you received a Form 5500–R with a preaddressed-removable label, please affix the removable label to the name and address area of the return/report you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

The term "plan sponsor" means—

(i) the employer in the case of an employee benefit plan established or maintained by a single employer,

(ii) the employee organization in the case of a plan established or maintained by an employee organization, or

(iii) in the case of a plan established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers—the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Include enough information in 1(a) to adequately describe the sponsor. For example, Joint Board of Trustees for Local 187 Machinists, rather than just, Joint Board of Trustees.

1(b). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00–1234567.

Employers and plan administrators who do not have an EIN should apply for one on Form SS–4, available from any IRS or Social Security Administration office. Send Form SS–4 to the same Internal Revenue Service Center to which this form is sent.

Controlled groups of corporations whose sponsor is more than one of the members of the controlled group should only insert the EIN of one of the sponsoring members. This EIN is to be used in all subsequent filings of the return/report for the controlled group.

If the plan administrator is a group of individuals, get a single EIN for the group. For example, when applying for a number, enter on line 1 of Form SS–4 the name of the group, such as, "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan."

2(a). If the document constituting the plan appoints or designates a plan administrator, other than the sponsor, enter the name and address.

2(a) and (b). If plan administrator is also the sponsor, enter "Same."

The term "administrator" means—

(i) the person or a group of persons specifically so designated by the terms of the instrument under which the plan is operated.

(ii) if an administrator is not so designated, the plan sponsor/employer or,

(iii) in the case of a plan for which an administrator is not designated and plan sponsor cannot be identified, such other person as prescribed by regulations of the Secretary of Labor.

2(b). A plan administrator as defined above must have an EIN for reporting purposes. Enter the plan administrator's nine-digit EIN here. If the plan administrator has no EIN, see 1(b) above.

Note: *Employees of an employer are not plan administrators unless so designated in the plan document even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must obtain an EIN.*

3. Make an entry only if during the year there was a change in the name, EIN or address of the plan sponsor, and/or in the name, EIN or address of the plan administrator. If there was a change, enter the name, address and EIN as they appeared on the prior return/report.

4(a). Enter the formal name of the plan or sufficient information to identify the plan.

4(b). Enter the date the plan first became effective.

4(c). Enter the three-digit number the employer or plan administrator assigned

to the plan. All welfare plans will be numbered consecutively starting at 501. All other plans will be numbered consecutively starting at 001. If you have only one pension plan enter 001. If you have only one welfare benefit plan enter 501. Once a plan is terminated, the plan number may not be used for any other plan.

Once a plan number is used for a plan it may not be used for any other plan and this number must be used as the plan number for all future filings of return/reports for the plan.

Note: *5(a) and (b) refer to types of pension benefit plans only.*

5(a). Defined benefit plan means a pension plan other than an individual account plan.

5(b). Defined contribution plan means a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account. For example, profit-sharing, stock bonus and money purchase plans.

5(d). If your plan is not included in 5(a), (b), or (c), check (d). For example, section 403(b)(1) annuity arrangements and section 408(c) individual retirement account trusts of employers enter the applicable section number.

6(a). Check "Yes," if plan was terminated or if plan was merged or consolidated into another plan.

6(b). If plan was terminated and trust assets were not completely distributed, a return/report must be filed for each year that the trust has assets. In such case, the return/report must be filed by the plan administrator, if designated, or by the person or persons actually responsible for the control, disposition or management of the cash or property received by or contributed to the plan.

If all the trust assets were allocated to purchase individual annuity contracts and the contracts were distributed to the participants, check "Yes."

6(f). Completion of this item satisfies the reporting requirement under ERISA, section 4065. However, completion of this item does not replace any of the specific reporting requirements under ERISA, sections 4043(b), 4062(e) and 4063(a).

6(g). If 6(f) was checked "Yes," or "not determined," please complete this item. If you checked "Yes," to 6(g) indicating that any event(s) requiring notification to PBGC occurred, designate on the line provided the number of the appropriate event(s).

(1) A notice was received from the Secretary of the Treasury that the plan has ceased to be a plan described in section 4021(a)(2) of ERISA.

(2) The Secretary of Labor has determined the plan is not in compliance with Title I of ERISA.

(3) During the plan year, an amendment was adopted under which the benefit payable with respect to any participant may be decreased.

(4) The number of active participants was less than 80 percent of the number of such participants at the beginning of the plan year, or less than 75 percent of the number of such participants at the beginning of the previous plan year.

(5) The Internal Revenue Service issued a determination that there had been a termination or partial termination of the plan within the meaning of section 411(d)(3) of the Code.

(6) The plan was unable to pay any benefit when due.

(7) One or more distributions were made to a substantial owner (other than on account of death) within a 24 month period. The distribution(s) had a total value of $10,000 or more and immediately after the distribution(s) the plan had nonforfeitable benefits which are not funded. The term "substantial owner" means an individual who:

(A) owns the entire interest in an unincorporated trade or business;

(B) in the case of a partnership is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or profits in such partnership; or

(C) in the case of a corporation owns, directly or indirectly, more than 10 percent in the value of either the voting stock of that corporation or all the stock in that corporation.

The constructive ownership rules of section 1563(e) of the Code apply in the case of a corporation without regard to sections 1563(a)(4) and 1563(e)(3)(C) of the Code. An individual is also treated as a substantial owner under the plan at any time within sixty (60) months preceding the date on which the determination is made.

(8) There has been a merger, consolidation or transfer of plan assets or liabilities.

(9) The Secretary of Labor, under section 110 of ERISA, has prescribed an alternative method of compliance. (Which is not of general applicability.)

(10) Operations ceased at a facility of an employer maintaining a plan, resulting in the separation from employment of more than 20 percent of the employees who are participants in the plan.

(11) A substantial employer withdrew from a plan under which more than one employer makes contributions. The term "substantial employer" means an employer who for any plan year has made contributions to a plan under which more than one employer contributes for each of (a) the two preceding plan years or (b) the second and third preceding plan years—equaling or exceeding 10 percent of all employer contributions paid to or under the plan for each such year.

If one or more of the following events occurred, we would appreciate it if you would so indicate. These events are not required to be reported unless they occurred on or after the effective date of PBGC's final reportable event regulation. See note below.

(12) There has been a bankruptcy, insolvency or similar settlement (e.g., assignment for the benefit of creditors or composition, extension or settlement with creditors) of a contributing sponsor to a single employer plan.

(13) There has been a liquidation or dissolution of a contributing sponsor with respect to a single employer plan.

(14) There has been a transaction involving a contributing sponsor to a single employer plan that results in a change of employer. This event is not required to be reported for plans with less than $1 million in nonforfeitable benefits which are not funded.

Note: *For further information concerning Event Numbers (1) through (9) and (12) (13) and (14) see PBGC's final regulation on Reporting and Notification Requirements for Reportable Events expected to be published in the Federal Register in 1980 to be codified in 29 CFR 2617.*

6(h). The descriptions of "participant" in the instructions below is only for purposes of item 6(h) of this form. Active participants include individuals presently employed by an employer(s), and those not presently so employed and not presently entitled to future benefits, who are retaining or earning credited service under the terms of the plan. Do not include nonvested former employees who have incurred a break in service of the greater of

one year or the break in service period specified in the plan. Do not include former participants to whom an insurance company has made an irrevocable commitment to pay the benefits to which the individual is entitled under the plan.

For welfare plans, dependents are considered to be neither participants nor beneficiaries.

Total participants include: (i) active participants, (ii) retired or separated participants receiving benefits, (iii) retired or separated participants entitled to future benefits and (iv) deceased participants whose beneficiaries are receiving or are entitled to receive benefits.

6(j). Plan administrators are cautioned that section 6057(e) of the Code provides that the plan administrator is required to furnish participants with an individual statement which must include the same information reported on Schedule SSA with respect to such participant.

7. Insured Plans.—Pension plans holding only allocated insurance contracts which fully guarantee the amount of benefit payments and for which no trust is involved need not complete items 7(b), 7(c) and 7(e) through 7(h). See 29 CFR 2520.104–44.

The followiny definitions are to assist the filer and are only for understanding this form.

(1) Fiduciary.—A person is a fiduciary with respect to a plan to the extent: (a) he or she exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (b) he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (c) he or she has any discretionary authority or discretionary responsibility in the administration of such plan.

(2) Employer Real Property.—Real property (and related personal property) which is leased to an employer of employees covered by the plan, or to an affiliate of such employer.

(3) Employer Security.—A security issued by an employer of employees covered by the plan or by an affiliate of such employer.

(4) Qualifying Employer Security.—An employer security which is a stock or a marketable obligation is considered a qualifying employer security. For purposes of this definition, the term marketable obligation means a bond, debenture, note, or certificate, or other evidence of indebtedness (obligation) if:

(i) such obligation is acquired—

(A) on the market, either (1) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price (1) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (2) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(ii) immediately following acquisition of such obligation—

(A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(iii) immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

(5) Qualifying Employer Real Property.—Employer real property is considered qualifying employer real property:

(i) if a substantial number of the parcels are dispersed geographically;

(ii) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(iii) even if all such real property is leased to one lessee (which may be an employer, or an affiliate of any employer); and

(iv) if the acquisition and retention of such property comply with the provisions of Part I of ERISA (other than sections 404(a)(1)(B) to the extent it requires diversification, and sections 404(a)(1)(C), 406 and 407(a)).

Line 7(h). Party-in-interest.—The term "party-in-interest" (for purposes of this form, party-in-interest is deemed to include a disqualified person—see section 4975(e)(2) of the Code) means, as to an employee benefit plan:

(A) any fiduciary (including but not limited to, any administrator, officer, trustee or custodian), counsel or employee of such employee benefit plan;

(B) a person providing services to such plan;

(C) an employer any of whose employees are covered by such plan;

(D) an employee organization any of whose members are covered by such plan;

(E) an owner, direct or indirect, of 50% or more of—(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, (ii) the capital interest or the profits interest of a partnership, or (iii) the beneficial interest of a trust or unincorporated enterprise, which is an employer or an employee organization described in subparagraph (C) or (D);

(F) a relative of any individual described in subparagraph (a), (b), (C) or (E);

(G) a corporation, partnership, or trust or estate of which (or in which) 50% or more of—(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (ii) the capital interest or profits interest of such partnership, or (iii) the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D), or (E).

(H) an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors) or a 10% or more shareholder directly or indirectly, of a person described in subparagraph (B), (C), (D), (E) or (G) or of the employee benefit plan or;

(I) a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in subparagraph (B), (C), (D), (E), or (G).

☆ U.S. GOVERNMENT PRINTING OFFICE : 1980—O-313-205

Form **5500-C**
Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

Return/Report of Employee Benefit Plan

(With fewer than 100 participants)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and sections 6057(b) and 6058(a) of the Internal Revenue Code, referred to as the Code.

1980
Amended ☐
This Form is Open to Public Inspection

For the calendar plan year 1980 or fiscal plan year beginning , 1980 and ending , 19 .

File original of this form, including schedules and attachments, completed in ink or type. If any item does not apply, enter "N/A."

- ▶ File this form for the initial plan year and for the plan year in which a final return/report would be filed. This form should also be filed for 1980 if the last digit of the plan sponsor's employer identification number is 1, 2 or 3.
- ▶ Do not file this form for Keogh (H.R. 10) plans with fewer than 100 participants and with at least one owner-employee participant. File Form 5500-K instead.
- ▶ Governmental plans and church plans (not electing coverage under section 410(d) of the Code). **Do not file this form.** File Form 5500-G instead.
- ▶ Pension benefit plans, unless otherwise excepted, complete all items. Annuity arrangements of certain exempt organizations, and individual retirement account trusts of employers complete only items 1 through 6, 9 and 10.
- ▶ Certain welfare benefit plans are not required to file this form—see instructions.
  Welfare benefit plans required to file this form do not complete items 7(b), 12, 14 and 24 through 28.
- ▶ Plan number—Your 3 digit plan number must be entered in item 5(c); see instruction 5(c) for explanation of "plan number."

Use IRS label. Otherwise, please print or type.

1 (a) Name of plan sponsor (employer if for a single employer plan)

Address (number and street)

City or town, State and ZIP code

1 (b) Employer identification number

1 (c) Telephone number of sponsor ( )

1 (d) If plan year changed since last return/report check here ▶ ☐

2 (a) Name of plan administrator (if other than plan sponsor)

Address (number and street)

City or town, State and ZIP code

1 (e) Business code number

2 (b) Administrator's employer identification no.

2 (c) Telephone number of administrator ( )

3 Name, address and identification number of plan sponsor and/or plan administrator as they appeared on the last return/report filed for this plan if not the same as in 1 or 2 above: (a) Sponsor ▶ .....
(b) Administrator ▶

4 Check appropriate box to indicate the type of plan entity (check only one box):
(a) ☐ Single-employer plan
(b) ☐ Plan of controlled group of corporations or common control employers
(c) ☐ Multiemployer plan
(d) ☐ Multiple-employer-collectively-bargained plan
(e) ☐ Multiple-employer plan (other)

5 (a) (i) Name of plan ▶ .....

(ii) ☐ Check if name of plan changed since the last Form 5500-C return/ report.

5 (b) Effective date of plan

5 (c) Enter three digit plan number ▶

6 Check at least one item in (a) or (b) and applicable items in (c): (a) Welfare benefit plan: (i) ☐ Health insurance
(ii) ☐ Life insurance (iii) ☐ Supplemental unemployment (iv) ☐ Other (specify) ▶ .....

(b) Pension benefit plan:
(i) Defined benefit plan—(Indicate type of defined benefit plan below):
(A) ☐ Fixed benefit (B) ☐ Unit benefit (C) ☐ Flat benefit (D) ☐ Other (specify) ▶ .....

(ii) Defined contribution plan—(Indicate type of defined contribution plan below):
(A) ☐ Profit-sharing (B) ☐ Stock bonus (C) ☐ Target benefit (D) ☐ Other money purchase
(E) ☐ Other (specify) ▶ .....

(iii) ☐ Defined benefit plan with benefits based partly on balance of separate account of participant (section 414(k) of the Code)
(iv) ☐ Annuity arrangement of a certain exempt organization (section 403(b)(1) of the Code)
(v) ☐ Custodial account for regulated investment company stock (section 403(b)(7) of the Code)
(vi) ☐ Trust treated as an individual retirement account (section 408(c) of the Code)
(vii) ☐ Other (specify) ▶ .....

(c) Other plan features: (i) ☐ Thrift-savings (ii) ☐ Keogh (H.R. 10) plan
(iii) ☐ Pension plans maintained outside the United States (see instructions) (iv) ☐ Participant-directed account plan

(d) Single employer plans enter the taxable year end of the employer . . ▶ Month Day Year

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Date ▶ ..... Signature of employer/plan sponsor ▶ .....

Date ▶ ..... Signature of plan administrator ▶ .....

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	Yes	No
7 (a) Total participants (i) Beginning of plan year ▶ ... (ii) End of plan year ▶ ...		
(b) (i) During this plan year or the prior plan year, was any pension benefit plan participant(s) separated from service with a deferred vested benefit for which a Schedule SSA (Form 5500) is required to be attached?		
(ii) If "Yes," enter the number of separated participants ▶		
8 Plan amendment information (welfare plans do NOT complete (b)(ii)): (a) Were any plan amendments to this plan adopted since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan?		
(b) If "Yes," (i) And if any amendments have resulted in a change in the information contained in a summary plan description or previously furnished summary description of modifications:		
(A) Have summary descriptions of changes been sent to participants?		
(B) Have summary descriptions of the changes been filed with DOL?		
(ii) Does any such amendment result in the reduction of the accrued benefit of any participant under the plan?		
(c) Enter the date the most recent amendment was adopted ▶ Month ... Year ...		
(d) (i) Has a summary plan description been filed with DOL for this plan?		
(ii) If (i) is "Yes," what was the employer identification number and the plan number used to identify it? Employer identification number ▶ Plan number ▶		
9 Plan termination information: (a) Was this plan terminated during this plan year or any prior plan year?		
(b) If "Yes," were all trust assets distributed to participants or beneficiaries or transferred to another plan?		
(c) If item 12(a) is to be checked "Yes" and 9(a) is "Yes," has a notice of intent to terminate been filed with PBGC?		
10 (a) Was this plan merged or consolidated into another plan or were assets or liabilities transferred to another plan since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan?		

If "Yes," identify other plan(s):	(c) Employer identification number(s)	(d) Plan number(s)
(b) Name of plan(s) ▶		

(e) Has Form 5310 been filed? ☐ Yes ☐ No

11 Indicate funding arrangement:
(a) ☐ Trust (b) ☐ Fully insured (c) ☐ Combination (d) ☐ Other (specify) ▶ ...
(e) If (b) or (c) are checked enter number of Schedule A's (Form 5500) which are attached ▶

	Yes	No
12 (a) Is the plan covered under the Pension Benefit Guaranty Corporation termination insurance program? ☐ Yes ☐ No ☐ Not determined		
If "Yes," or "not determined" list employer identification number and/or plan number used in any filing with PBGC if the number was different than the numbers listed in item 1(b) or 5(c) ▶		
(b) If (a) is "Yes," or "not determined" did one or more reportable events or other events requiring notice to PBGC occur since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan?		
(c) If (b) is "Yes," indicate which events occurred that require notice to the PBGC (see instructions) ▶		
13 (a) Is the plan insured by a fidelity bond?		
(i) If "Yes," enter name of surety company ▶		
(ii) Amount of bond coverage ▶		
(b) Was any loss discovered since the last return/report Form 5500, 5500-C or 5500-K was filed for this plan?		
14 (a) Is this a defined benefit plan subject to the minimum funding standards for this plan year? If "Yes," attach Schedule B (Form 5500).		
(b) Is this a defined contribution plan, i.e., money purchase or target benefit, subject to the minimum funding standards (if a waiver was granted see instructions)?		
If "Yes," complete (i) (ii) and (iii) below:		
(i) Amount of employer contribution required for the plan year ▶ $		
(ii) Amount of contribution paid by the employer for the plan year ▶ $		
Enter date of last payment by employer ▶ Month ... Day ... Year ...		
(iii) If (i) is greater than (ii) subtract (ii) from (i) an denter the funding deficiency here. Otherwise enter zero. (If you have a funding deficiency file Form 5330.) ▶ $		

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Form 5500-C (1980) Page 3

15 Plan assets and liabilities at the beginning and the end of the current plan year (list all assets and liabilities at current value). A fully insured welfare plan or a pension plan with no trust and which is funded entirely by allocated insurance contracts which fully guarantee the amount of benefit payments should check the box and not complete this item . . . . ▶ ☐

Note: *Include all plan assets and liabilities of a trust or separately maintained fund. If more than one trust/fund, report on a combined basis. Include all insurance values except for the value of that portion of an allocated insurance contract which fully guarantees the amount of benefit payments. Round off amounts to nearest dollar. If you have no assets to report enter zero on line 15(g).*

Assets	a. Beginning of year	b. End of year
(a) Cash—		
(i) Interest bearing		
(ii) Non-interest bearing		
(b) Receivables		
(c) Investments—		
(i) Government securities		
(ii) Pooled funds/mutual funds		
(iii) Corporate (debt and equity instruments)		
(iv) Real estate and mortgages		
(v) Other		
(d) Buildings and other depreciable property		
(e) Unallocated insurance contracts		
(f) Other assets		
(g) Total assets, sum of (a) through (f)		
Liabilities and Net assets		
(h) Payables		
(i) Acquisition indebtedness		
(j) Other liabilities		
(k) Total liabilities, sum of (h) through (j)		
(l) Net assets, (g) minus (k)		

16 Plan income, expenses and changes in net assets during the plan year. Include all income and expense of a trust(s) or separately maintained fund(s) including any payments made for allocated insurance contracts. Round amounts to nearest dollar.

	a. Amount	b. Total
(a) Contributions received or receivable in cash from—		
(i) Employer(s) (including contributions on behalf of self-employed individuals)		
(ii) Employees		
(iii) Others		
(b) Noncash contributions		
(c) Earnings from investments (interest, dividends, rents, royalties)		
(d) Net realized gain (loss) on sale or exchange of assets		
(e) Other income (specify) ▶		
(f) Total income, sum of (a) through (e)		
(g) Distribution of benefits and payments to provide benefits—		
(i) Directly to participants or their beneficiaries		
(ii) To insurance carrier or similar organization for provision of benefits (including prepaid medical plans)		
(iii) To other organizations or individuals providing welfare benefits		
(h) Interest expense		
(i) Administrative expenses (salaries, fees, commissions, insurance premiums)		
(j) Other expenses (specify) ▶		
(k) Total expenses, sum of (g) through (j)		
(l) Net income, (f) minus (k)		
(m) Changes in net assets—		
(i) Unrealized appreciation (depreciation) of assets		
(ii) Other changes (specify) ▶		
(n) Net increase (decrease) in net assets for the year (l) plus (m)		
(o) Net assets at beginning of year (line 15(l), column (a))		
(p) Net assets at end of year, (n) plus (o) (equals line 15(l), column (b))		

17 As of the end of the plan year:

(a) What percentage of plan assets are loaned to a party-in-interest?	%
(b) What percentage of plan assets are invested in securities issued by a party-in-interest?	%
(c) What percentage of plan assets are invested in real estate which is leased by a party-in-interest?	%

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Form 5500–C (1980)

	Yes	No
18 Since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan:		
(a) Has there been a termination in the appointment of any trustee, accountant, insurance carrier, enrolled actuary, administrator, investment manager or custodian?		
If "Yes," explain and include the name, position, address and telephone number of the person whose appointment has been terminated ▶		
(b) Has the plan used the services of a contract administrator?		
If "Yes," enter the contract administrator's name and employer identification number (see instructions) ▶ . .		
(c) Indicate the amount of the plan's administrative expenses for the: (*i*) Preceding year ▶ $_____, (*ii*) Second preceding year ▶ $_____		
(d) Have any insurance policies or annuities been replaced?		
(e) Was the plan funded with: (*i*) ☐ Individual policies or annuities (*ii*) ☐ Group policies or annuities (*iii*) ☐ Both		
19 Since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan:		
(a) Other than transactions described in the exceptions outlined in the instructions, were there any transactions, directly or indirectly, between the plan and a party-in-interest?		
If "Yes," see specific instructions.		
(b) Has the plan granted an extension on any loan for which prior to the granting of an extension, it has not received all the principal and interest payments due under the terms of the loan?		
(c) Has the plan granted an extension of time or renewal for the payment of any obligation owed to it which amounts to more than 10% of the plan assets?		
20 As of the end of any plan year since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan:		
(a) Did the plan have investments of the type reportable under item 15(c)(iv) or (v) which in the aggregate exceeded 15% of plan assets in either category?		
(b) Did the plan have loans outstanding or investments in a single enterprise (other than the United States Government) which exceeded 15% of plan assets?		
21 During the plan year covered by this return:		
(a) Did any plan fiduciary who is an officer or an employee of the plan sponsor receive compensation from the plan for his or her services to the plan?		
(b) Did the plan acquire any qualifying employer security or qualifying employer real property, when immediately after such acquisition the aggregate fair market value of employer securities and employer real property held by the plan exceeded 10% of the fair market value of the plan assets?		
(c) Has any plan fiduciary had either a financial interest worth more than $1,000 in any party providing services to the plan or received anything of value from any party providing services to the plan?		
(d) Has any employer owed the plan contributions which were more than three months past due under the terms of the plan?		
(e) Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified as uncollectable?		
(f) Were any leases to which the plan was a party in default or classified as uncollectable?		

22 Who is the plan's designated agent for legal process ▶

23 Give the name and address of each fiduciary (including trustees) to the plan ▶

	Yes	No
24 Is this plan an adoption of a: (a) ☐ Master/prototype, (b) ☐ Field prototype, (c) ☐ Pattern, (d) ☐ Model plan, or (e) ☐ Bond purchase plan? If "Yes," enter the four or eight digit IRS serial number (see instructions) ▶		
25 (a) Is this plan integrated with social security?		
(b) Is it intended that this plan qualify under section 401 or 405 of the Code?		
(c) If (b) is "Yes," have you received a determination letter from the IRS for this plan?		
(d) Does the employer/sponsor listed in item 1(a) of this form maintain other qualified pension benefit plans? If "Yes," list the plan number(s) of the other plans ▶		
26 Plans which check Item 25(b) "No," do not complete this item. Employees and active participants as of the end of the plan year (if a sponsor chooses to complete item (a) and (b) as of a date within the plan year other than the end of the plan year, enter date ▶.....):		
(a) Does the plan satisfy the percentage tests of section 410(b)(1)(A) of the Code (see instructions) If "Yes," complete the total column only for item (b) and complete all columns for item (c). If "No," complete all columns for all the items.		

(See instructions for exception.)	A. Officers and shareholders	B. Others	C. Total
(b) (i) Total number of employees			
(ii) Excluded from plan because:			
(A) Collective bargaining agreement			
(B) Other statutory exclusion			
(C) Ineligible (see instructions)			
(D) Total: add (A), (B) and (C)			
(iii) Active participants			
(c) Total number of participants in this plan separated from service without full vesting in:			
(i) The current plan year		see instructions	
(ii) The preceding plan year			
(iii) The second preceding plan year			
(iv) Total: add (i), (ii) and (iii)			

27 Vesting (check only one box to indicate the vesting provisions of the plan):	Check (V)
(a) Full and immediate vesting or full vesting within 3 years)	
(b) No vesting in years 1 through 9 and full vesting after the 10th year of service	
(c) For each year of employment, commencing with the 4th such year, vesting equal to 40% after 4 years of service, 5% additional for the next 2 years, and 10% additional for each of the next 5 years	
(d) 100% vesting within 5 years after contributions are made (class year plan only)	
(e) Other vesting	

	Yes	No
28 (a) Did the employer receive plan assets (including a return of contributions) since the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan?		
(b) If a defined benefit plan which provides for annual, automatic increases in the maximum dollar limitations under section 415 of the Code, does the plan provide that any such increase is effective no earlier than the calendar year for which IRS determines that increase under section 415(d) of the Code?		
(c) Is this a plan with Employee Stock Ownership Plan (ESOP) features?		
(i) If "Yes," was a current appraisal of the value of the stock made immediately prior to the contribution of the stock or the purchase of the stocks by the trust?		
(ii) If (i) is "Yes," was the appraisal made by an unrelated third party?		
(iii) If (ii) is "No," was the appraisal made in accordance with the provisions of Revenue Ruling 59-60?		

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

1980 Instructions for Form 5500-C

Return/Report of Employee Benefit Plan (With fewer than 100 participants)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

NOTICE

File 1980 forms for plan years starting in 1980.

For plan years beginning in 1980, only sponsors whose employer identification number has a last digit of 1, 2, or 3 are to file Form 5500–C. For exceptions see General Instruction A, What to File. All other sponsors who would normally file Form 5500–C should file Form 5500–R, Registration Statement of Employee Benefit Plan.

Plans with other than calendar plan years complete the fiscal plan year block immediately below the title block on the form.

For short plan years see General Instruction I.

Employers or plan administrators filing Form 5500–C for an employee pension benefit plan of which an organization qualified under section 401(a) of the Code and exempt from tax under section 501(a) of the Code forms a part should inform the fiduciary of such organization that, if it desires the protection of the statute of limitations provided in section 6501(a) of the Code, an annual information return under section 6033(a) of the Code should be filed. See General Instruction N for a statement to be attached to this return/report by the fiduciary for that purpose.

Who Must File

This form is to be filed for pension benefit plans and welfare benefit plans as described in A. and B. below.

A. Pension Benefit Plans.—Each plan administrator or employer who maintains an employee pension benefit plan (defined benefit or defined contribution plan) covered by ERISA must file a return/report.

Such return/report must be filed for each plan, whether or not qualified, including each plan under which benefits have ceased to accrue and/or for each plan for which contributions have been discontinued (sometimes referred to as "frozen plan" or "wasting trust").

Employers or plan administrators that maintain an annuity arrangement under section 403(b)(1) of the Code must file a return/report.

Exception: *Governmental plans and church plans (not electing coverage under section 410(d) of the Code) need not file a return/report for any section 403(b)(1) annuity arrangements which they maintain. See 29 CFR 2510.3–2(f) for certain annuity arrangements which need not file.*

All exempt organizations that maintain custodial accounts for regulated investment company stock under section 403(b)(7) of the Code must file returns/reports.

Each employer who maintains an individual retirement account trust under section 408(c) of the Code must file a return/report.

Governmental units and churches (not electing coverage under section 410(d) of the Code) that have pension benefit plans (defined benefit or defined contribution) must file an annual return/report on Form 5500–G for governmental and church plans. However, governmental plans and church plans (not electing coverage under section 410(d) of the Code) are not required to file Schedules A, B and SSA.

Church plans electing coverage under section 410(d) of the Code must file Form 5500, 5500–C or 5500–K, whichever is applicable.

Pension benefit plans maintained outside the United States primarily for nonresident aliens must file the return/report when the plan is maintained by:

(i) a domestic employer, OR

(ii) a foreign employer with income derived from sources within the United States (including foreign subsidiaries of domestic employers),

but only if such employer is claiming a deduction on its U.S. income tax return for contributions made to the plan.

When these are non-qualified plans that are required to file a Form 5500–C for 1980, do not complete items 8, 13, 14 and 17 through 28. Be sure to check item 6(c)(iii).

The administrator of an employee benefit plan which covers residents of Puerto Rico (including a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply), the Virgin Islands, Guam, Wake Island, American Samoa, or the Canal Zone, is required to file a return/report.

B. Welfare Benefit Plans.—Each administrator of a welfare benefit plan covered by Part I of Title I of ERISA must file a return/report.

Exception 1: *A welfare benefit plan having fewer than 100 participants at the beginning of the plan year is not required to file a return/report if: (1) benefits are paid as needed solely from the general assets of the employer or employee organization maintaining the plan, (2) benefits are provided exclusively through insurance contracts or policies issued by an insurance company or similar organization (such as Blue Cross, Blue Shield or a health maintenance organization) which is qualified to do business in any state, the premiums for which are paid directly by the employer or employee organization from its general assets, or partly from its general assets and partly from contributions by its employees or members (which are forwarded by the employer or employee organization within 3 months of receipt), or (3) both. See 29 CFR 2520.104–20.*

Exception 2: *Administrators of welfare benefit plans which participate in group insurance arrangements need not file returns/reports on such plans as single employer plans where a single consolidated return/report for all welfare benefit plans in the group insurance arrangement has been filed by the trust or other applicable entity pursuant to 29 CFR 2520.104–43.*

C. Pension Benefit Plans and Welfare Benefit Plans Excluded From Filing.—Plans excluded from filing are:

1. Unfunded pension benefit plans and unfunded or insured welfare plans maintained by an employer for the purpose of providing benefits for a select group of management or highly compensated employees which plan satisfies the requirements of Department of Labor Regulations 29 CFR 2520.104–23 and 2520.104–24;

2. Plans maintained solely for the purpose of complying with workmen's compensation, unemployment compensation or disability insurance laws,

3 Unfunded excess benefit plans;

4. Welfare benefit plans maintained outside the U.S. primarily for persons substantially all of whom are non-resident aliens.

D. Type of Filers.—

1. *Single Employer.*—A single employer plan is a plan which is maintained by one employer or solely by one employee organization. One return/report must be filed for each such plan. A member of a controlled group of corporations or of common control trades or businesses who maintains a plan not involving other members of the controlled group is required to file as a single employer plan. Therefore, one return/report must be filed for each such plan.

2. *Controlled Group of Corporations and Common Control Trades or Businesses.*—A plan of only members of a controlled group of corporations or of only members of common control trades or businesses is a plan maintained by such controlled group of corporations or by such common control trades or businesses (as defined in section 414(b) and (c) of the Code). One return/report must be filed for each such plan. An individual employer is not to file any return/report with respect to such plan.

In the case of a pension benefit plan that includes a controlled group of corporations or a group of common control trades or businesses and, in addition, includes an employer(s) who is not a member of such group, file one return/report for the group and one return/report for each employer who is not a member of the group.

Exception: *If the benefits are payable to employees who are covered by the plan from the total assets without regard to their respective employer's contributions, file one return/report for the plan as a whole but complete item 26 only for the employees of the controlled group. In addition each employer who is not a member of the controlled group is to file Form 5500–C (regardless of the number of participants) completing only items 1, 2, 3, 4(e), 5, 6, 9 and 26 or a Form 5500–R, whichever is applicable.*

3. *Multiemployer.*—A multiemployer plan is a plan defined in section 3(37) of ERISA or section 414(f) of the Code. One return/report must be filed for each such plan. Contributing employers are not to file individually with respect to such plans.

4. *Multiple - Employer - Collectively - Bargained Plan.*—A multiple-employer-collectively-bargained plan involves more than one employer, is collectively bargained and is collectively funded but does not meet the definition of a multiemployer plan. One return/report must be filed for each such plan. Participating employers are not to file individually with respect to such plan.

5. *Multiple-Employer Plan (Other).*—A multiple-employer plan (other) involves more than one employer and is not a multi-employer plan, a collectively-bargained plan or a plan of a controlled group of corporations or of trades or businesses under common control. A multiple-employer plan (other) will only include those plans where individual employer contributions are available to pay benefits to participants of all participating employers. One return/report must be filed for each such plan. In addition, for pension benefit plans each participating employer is to file a Form 5500–C (regardless of the number of participants), completing only items 1, 2, 3, 4(e), 5, 6, 9 and 26 or a Form 5500–R, whichever is applicable.

Note: *If a participating employer is also the sponsor of the multiple-employer plan (other), the plan number on the return/report filed for the plan should be 333. The Form 5500–C or Form 5500–R filed by the participating employer should list this appropriate plan number (001 if this is the employer's only pension plan).*

In the case of a plan participated in by more than one employer and the plan provides that each employer's contributions are available to pay benefits only for that employer's employees who are covered by the plan, one return/report must be filed for each participating employer. These filers will be considered single employers and should complete the entire form.

General Information

Section 6058 of the Code and sections 104 and 4065 of ERISA provide that each plan administrator/sponsor (sole proprietor, partnership, corporation, association, joint board of trustees, exempt organization or other employer) who maintains an employee benefit plan subject to ERISA must file, annually, information concerning each such plan.

In order to reduce duplication of reporting and the burden of compliance with ERISA by plan administrators and employers, the Internal Revenue Service (IRS), Department of Labor (DOL) and Pension Benefit Guaranty Corporation (PBGC) have designed consolidated return/report forms.

The PBGC annual report required under Title IV, section 4065 of ERISA and formerly filed separately with PBGC on Form PBGC–1, Schedule A is now included in this combined report.

General Instructions

A. What to File.—

Form 5500, Annual Return/Report of Employee Benefit Plan, must be filed annually to report for each plan with 100 or more participants at the beginning of the plan year.

Form 5500–C, Return/Report of Employee Benefit Plan, must be filed periodically to report for each pension benefit plan with fewer than 100 participants at the beginning of the plan year, none of whom is an owner-employee. Form 5500–C must be filed periodically to report for each welfare benefit plan with fewer than 100 participants at the beginning of the plan year (unless otherwise exempted).

Form 5500–K, Return/Report of Employee Pension Benefit Plan, must be filed periodically for each owner-employee plan that has fewer than 100 participants at the beginning of the plan year and at least one owner-employee participant.

Note: *An owner-employee means (1) an individual who owns 100% of an unincorporated trade or business or (2) in case of a partnership, a partner who owns more than 10% of either the capital interest or the profits interest in such partnership.*

Form 5500–C or Form 5500–K is to be filed for (i) the initial plan year, (ii) the year a final return would be filed and (iii) in the intervening years according to the following schedule:

Last digit of plan sponsor's employer Identification number is—	File Form 5500–C or 5500–K for—
1, 2 or 3	1980
4, 5 or 6	1981
7, 8, 9 or 0	1982

Exception: *The above cycle may, from time to time, be changed by filing Form 5500–C or 5500–K before the year Forms 5500–C or 5500–K are otherwise due. When a new cycle is established, a Form 5500–C or 5500–K will be filed for the first year of the new cycle and a Form 5500–R for the next two years of the new cycle.*

Form 5500–R, Registration Statement of Employee Benefit Plan (with fewer than 100 participants) must be filed for plan years when Form 5500–C or Form 5500–K is not required to be filed because the last digit of the sponsor's employer identification number does not coincide with the digits for the current year on the above schedule. (see above exception to filing for 5500–C and 5500–K schedule).

Exception: 80–120 Participant Rule.—*If the plan has between 80 and 120 participants (inclusive) at the beginning of the plan year, the plan may file the same category of form (i.e., Form 5500 or Forms 5500–C, K or R, whichever is applicable) that was filed the previous year.*

Form 5500–G, Annual Return/Report of Employee Benefit Plan, must be filed annually for each government plan and each church plan (not electing coverage under section 410(d) of the Code).

Schedule A (Form 5500), Insurance Information, should be attached to Forms 5500, 5500–C, 5500–K or 5500–R in every case where any benefits under the plan are provided by an insurance company, insurance service or other similar organization.

Exception: *An employee benefit plan which covers only an individual or an individual and his or her spouse who wholly owns a trade or business, whether incorporated or unincorporated, or a partner in a partnership and his or her spouse need not file a Schedule A (Form 5500).*

Schedule B (Form 5500), Actuarial Information, should be attached to Forms 5500, 5500–C, 5500–K or 5500–R for most defined benefit plans. See instructions for Schedule B.

Schedule SSA (Form 5500), Registration Statement Identifying Separated Participants With Deferred Vested Benefits, may be required to be filed for separated participants. See "When to Report Separated Participants" in the instructions to Schedule SSA.

Note: *Code section 403(b)(1) annuity arrangements need only complete items 1 through 6, 9 and 10 of Form 5500–C.*

Code section 408(c) trusts need only complete items 1 through 6, 9 and 10 of Form 5500–C.

Insured Plans.—Pension plans holding only allocated insurance contracts which fully guarantee the amount of benefit payments and for which no trust is involved need not complete items 15, 16, 17, 19, 20, 21(b), 21(d), 21(e) and 21(f) of Form 5500–C but must check the box in the heading of item 15. Pension plans and welfare plans for which an intermediary trust is involved need to complete these items, but are not to construe the allocated insurance contracts as an asset to be reported in item 15. See 29 CFR 2520.104–44.

B. When to File.—File all required forms and schedules on or before the last day of the 7th month following the close of the plan year unless extensions have been granted.

Request for Extension of Time to File.—An extension of time up to two and one-half months may be granted for filing return/reports if a timely application, Form 5558, is filed requesting such an extension.

Exception: *Single employer plans and plans of a controlled group of corporations, which file consolidated Federal income tax returns, are automatically granted an extension of time to file Form 5500, 5500–C, 5500–K or 5500–R to the due date of the Federal income tax return of the single employer or controlled group of corporations if all the following conditions are met:*

1. The plan year and the tax year coincide.

2. The single employer or the controlled group has been granted an extension of time to file its Federal income tax return to a date later than the normal due date for filing the Form 5500, 5500–C, 5500–K or 5500–R.

3. A copy of the appoved IRS extension of time to file the Federal income tax return is attached to each Form 5500, 5500–C, 5500–K or 5500–R filed with IRS.

C. Where to File.—All forms and schedules should be filed with the Internal Revenue Service Center indicated below.

If the principal office of the plan sponsor or the plan administrator is located in	Use the following Internal Revenue Service Center address	
New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY	00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA	05501
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA	31101
Michigan, Ohio	Cincinnati, OH	45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX	73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT	84201
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO	64999
California, Hawaii	Fresno, CA	93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	Memphis, TN	37501
Delaware, District of Columbia, Maryland, Pennsylvania	Philadelphia, PA	19255

If you have no legal residence, principal place of business or principal office or agency in any Internal Revenue District, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

Note: *The annual statement of assets and liabilities of a common/collective trust or a pooled separate account submitted by a bank or insurance company in accordance with 29 CFR 2520.103–9(b)(3) should be sent to: Common/Collective Trust or Pooled Separate Account N4635, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20216.*

D. Final Return/Report.—If all assets

under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries, write "Final Return" across the top of the return/report filed for such plan. The year of complete distribution is the last year a return/report must be filed with respect to the plan.

E. Penalties.—

Caution: *ERISA imposes penalties for failure to furnish complete information and failure to file statements and return/reports.*

A penalty of $10 (not to exceed $5,000) for each day for failure to file returns in connection with certain plans of deferred compensation, certain trusts and annuities and bond purchase plans. See section 6652 (f) of the Code.

A penalty of $1 (not to exceed $5,000) for each participant for whom a registration statement (required of certain plans) is not filed multiplied by the number or days during which the statement is not timely filed. See section 6652(e)(1) of the Code.

A penalty of $1 (not to exceed $1,000) for each day for failure to file a notification of change of status of a plan. See section 6652(e)(2) of the Code.

Caution: *The following penalties which are imposed by ERISA may be applied upon conviction.*

Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall upon conviction be fined not more than $5,000 or imprisoned not more than one year, or both. See section 501 of ERISA.

A penalty up to $10,000 or 5 years imprisonment, or both, is provided for any person who makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by ERISA. See section 1027, Title 18, U.S. Code as amended by section 111 of ERISA.

F. Signature.—All returns/reports filed must be signed by the plan administrator. Also, a return/report filed for a single employer plan must be signed by the employer.

When the plan sponsor or the plan administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign. Participating employers in a Multiple-Employer Plan (Other) who are required to file Form 5500–C or 5500–R are required to sign the return/report. The plan administrator's signature is not required on the Form 5500–C or 5500–R filed by the participating employer.

G. Reproductions.—Original returns/reports are preferred, however, legible reproductions of this form may be made after insertion of the required information. However, all signatures on forms filed with IRS must be original signatures, affixed subsequent to the reproduction process.

H. Change of Plan Year.—To change a plan year of certain qualified employee pension benefit plans, you should obtain prior approval from IRS. See section 412 (c)(5) of the Code, and regulations thereunder, and Form 5308, Request for Change in Plan/Trust Year.

I. Short Plan Year.—For a short plan year, file a return/report and all applicable schedules for such short plan year on or before the last day of the seventh month following the close of such short plan year. For a short plan year ending on November 30th or earlier, the prior year Form 5500–C should be filed. Modify the heading of the form to show the beginning and ending of your short plan year.

J. Amended Return/Report.—If you file an amended return/report, write "Amended Return" across the top of the form and check the box at the top of the form under the 1980. When filing an amended return be sure to put a circle around the numbers of the items that have been amended.

K. Notification Under Section 6057(b)(3) and (4) of the Code.—The filing of the return/report and indicating thereon that the plan was terminated satisfies the notification required by section 6057(b)(3). The filing of Form 5310 satisfies the notification required by section 6057(b)(4).

L. Help the Retiring Employee.—Many retirees are being assessed penalties for failure to file Form 1040–ES, Declaration of Estimated Tax for Individuals. We believe many retirees are not aware that they may be required to file Form 1040–ES. Therefore, we ask all employers and plan administrators to tell retiring employees that they may be required to file Form 1040–ES. Also, please tell them that they may request the payor to withhold income tax for them.

M. Deduction.—Worksheets on page 10 are provided to assist you in determining the deduction under section 404 of the Code. Do not file these worksheets.

N. Any fiduciary (trustee or custodian) of an organization that is qualified under section 401(a) of the Code and exempt from tax under section 501(a) of the Code, who wants to protect the organization under the statute of limitations provided in section 6501(a) of the Code, should file an annual information return under section 6033(a) of the Code. Use the following statement for that purpose. A reproduction of this statement is also acceptable.

File the statement as an attachment to Form 5500, 5500–C, 5500–K, 5500–G, or 5500–R filed for the plan year in which the trust year ends.

(Cut along this line)

This statement constitutes the annual information return required under section 6033(a) of the Internal Revenue Code of 1954 filed for the trust year ending (date) ▶..... **P***

Under penalties of perjury, I declare that I am the (trustee) (custodian) of the ▶.....

....., which serves as a part of ▶.....

(Name of trust) (Name of plan)

Date ▶ **Signature of fiduciary ▶**

*If you reproduce this format, please include a capital letter "P" in the upper right corner so that it will be processed correctly.

Summary of Filing Requirements of Employers and Plan Administrators

(File forms ONLY with IRS)

Type of plan	What to file	When to file
Keogh (H.R. 10) defined contribution plan of a sole proprietor or partnership which has never had any participants other than the sole proprietor of the partners	Not required to file	File all required forms and schedules for each plan on or before the last day of the 7th month following the close of the plan year.
Keogh (H.R. 10) defined benefit plan of a sole proprietor or partnership which has never had any participants other than the sole proprietor or partners	Form 5500–K or 5500–R	
Keogh (H.R. 10) plan with at least one owner-employee and at least one common-law employee but fewer than 100 participants	Form 5500–K or 5500–R	
Pension plan with fewer than 100 participants and no owner-employee participant	Form 5500–C or 5500–R	
Pension plan with 100 or more participants	Form 5500	
Annuity under Code section 403(b)(1) and Trust under Code section 408(c)	Form 5500, 5500–C or 5500–R	
Custodial account under Code section 403(b)(7)	Form 5500, 5500–C or 5500–R	
Governmental plans and church plans (not electing coverage under section 410(d) of the Code)	Form 5500–G	
Welfare benefit plan	Form 5500, 5500–C or 5500–R	
Pension or welfare plan with benefits provided by an insurance company	Schedule A (Form 5500)	
Pension plan that requires actuarial information	Schedule B (Form 5500)	
Registration statement identifying separated participants with deferred vested benefits from a pension plan	Schedule SSA (Form 5500)	

Specific Instructions for Form 5500–C

References are to line items on the form.

1(a). Enter the name and address of the plan sponsor. In all cases where the plan covers only the employees of one employer, enter the name of the employer. When this form is used by an individual employer participating in a multiple-employer plan (other), the name of the employer should appear in (a).

If you received a Form 5500–C with a preaddressed-removable label, please affix the removable label to the name and address area of the return/report you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

The term "plan sponsor" means—

(i) the employer in the case of an employee benefit plan established or maintained by a single employer,

(ii) the employee organization in the case of a plan established or maintained by an employee organization, or

(iii) in the case of a plan established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers—the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Include enough information in 1(a) to adequately describe the sponsor. For example, Joint Board of Trustees for Local 187 Machinists, rather than just, Joint Board of Trustees.

1(b). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00–1234567.

Employers and plan administrators who do not have an EIN should apply for one on Form SS–4, available from any IRS or Social Security Administration office. Send Form SS–4 to the same Internal Revenue Service Center to which this form is sent.

Controlled groups of corporations whose sponsor is more than one of the members of the controlled group should only insert the EIN of one of the sponsoring members. This EIN is to be used in all subsequent filings of the return/report for the controlled group.

If the plan administrator is a group of individuals, get a single EIN for the group. For example, when applying for a number, enter on line 1 of Form SS–4 the name of the group, such as, "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan."

1(c). From the list of business codes on pages 8 and 9, enter the one that best describes the nature of the employer's business. If more than one employer is involved, enter the business code for the predominant business activity. Church plans enter code number 9002.

2(a). If the document constituting the plan appoints or designates a plan administrator, other than the sponsor, enter the name and address.

2(a) and (b). If plan administrator is also the sponsor, enter "Same."

The term "administrator" means—

(i) the person or a group of persons specifically so designated by the terms of the instrument under which the plan is operated.

(ii) if an administrator is not so designated, the plan sponor/employer or,

(iii) in the case of a plan for which an administrator is not designated and plan sponsor cannot be identified, such other person as prescribed by regulations of the Secretary of Labor.

2(b). A plan administrator as defined above must have an EIN for reporting purposes. Enter the plan administrator's nine-digit EIN here. If the plan administrator has no EIN, see 1(b) above.

Note: *Employees of an employer are not plan administrators unless so designated in the plan document even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must obtain an EIN.*

3. Make an entry only if during the year there was a change in the name, EIN or address of the plan sponsor, and/or in the name, EIN or address of the plan administrator. If there was a change, enter the name, address and EIN as they appeared on the prior return/report.

4(a). Check for a single-employer plan, that is a plan which is maintained by one employer, or one employee organization. Also, check for plans that would be considered a multiple-employer plan (other) except that the individual employer's contributions are available only to pay benefits for that employer's employees who are covered by the plan.

Also check for a single-employer plan that is collectively bargained.

4(b). Check for a plan participated in by more than one employer where each employer is a member of a controlled group of corporations (section 414(b) of the Code) and for a plan participated in by more than one employer where each employer is a member of a group of employers under common control (section 414(c) of the Code).

4(c). Check for a multiemployer plan as defined in section 414(f) of the Code and section 3(87) of ERISA.

4(d). Check for a plan of more than one employer that is collectively-bargained, is collectively funded and is not a multiemployer plan, a plan of a controlled group of corporations or a plan of trades or businesses under common control.

4(e). Check for a multiple-employer plan (other) when filed by the plan administrator for the plan as a whole. Also check when filed for an employer who is participating in a plan where individual employer contributions are available to pay benefits to participants of all participating employers.

5(a). Enter the formal name of the plan or sufficient information to identify the plan.

5(b). Enter the date the plan first became effective.

5(c). Enter the three-digit number the employer or plan administrator assigned to the plan. All welfare plan numbers will start at 501. All other plans start at 001. If you have only one pension plan enter 001. If you have only one welfare benefit plan enter 501.

Once a plan number is used for a plan it may not be used for any other plan and this number must be used as the plan number for all future filings of return/reports for the plan.

6(a). Welfare plans do not complete (b), (c), or (d). Health maintenance organization check (iv) and enter health maintenance organization.

6(b)(i). In the case of a defined benefit plan, check the box that will best indicate the method used to determine the retirement benefit, for example:

(A) a benefit of X% of compensation is a fixed benefit,

(B) a benefit of X% of compensation times years of service is a unit benefit, and

(C) a benefit of a stated dollar amount payable after a specified number of years of service is a flat benefit.

6(b)(ii). Check (C) for a money purchase plan if the contribution is determined by a target benefit calculation. Check (D) for all money purchase plans that do not have a target benefit calculation.

6(c)(iii). Pension benefit plans maintained outside the United States primarily for non-resident aliens who must file Form 5500–C check this box.

6(c)(iv). Check if plan is a pension plan which provides for individual accounts and permits a participant or beneficiary to exercise independent control over the assets in his or her account (see section 404(c) of ERISA).

6(d). For single-employer plans enter the date the employer's taxable year ends. For example, if the taxable year is a calendar year enter 12–31–80. For all plans with more than one employer, enter "N/A."

7. The descriptions of "participant" in the instructions below is only for purposes of items 7 and 26 of this form. Active participants include individuals presently employed by an employer(s), and those not presently so employed and not presently entitled to future benefits, who are retaining or earning credited service under the terms of the plan. Do not include nonvested former employees who have incurred a break in service of the greater of one year or the break in service period specified in the plan. Do not include former participants to whom an insurance company has made an irrevocable commitment to pay the benefits to which the individual is entitled under the plan.

7(a). Total participants includes: (i) active participants, (ii) retired or separated participants receiving benefits, (iii) retired or separated participants entitled to future benefits and (iv) deceased participants whose beneficiaries are receiving or are entitled to receive benefits.

For welfare plans, dependents are considered to be neither participants nor beneficiaries.

7(b). Plan administrators are cautioned that section 6057(e) of the Code provides that the plan administrator is required to furnish participants with an individual statement which must include the same information reported on Schedule SSA with respect to such participant.

8(a). Check "Yes," if an amendment to the plan was adopted since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan regardless of the effective date of the amendment.

8(b)(ii). Check "Yes," only if the accrued benefits were reduced. For example, a plan provides a benefit of 2% for each year of service; the plan is amended to provide that for all years under the plan the benefit will be 1½% for each year of service.

8(c). Enter date of most recent amendment adopted regardless of the effective date of such amendment.

9(a). Check "Yes," if plan was terminated or if plan was merged or consolidated into another plan.

9(b). If plan was terminated and trust assets were not completely distributed, a return/report must be filed for each year that the trust has assets. In such case, the return/report must be filed by the plan administrator, if designated, or by the person or persons actually responsible for the control, disposition or management of the cash or property received by or contributed to the plan.

If all the trust assets were allocated to purchase individual annuity contracts and the contracts were distributed to the participants, check "Yes."

10. If this plan was merged or consolidated into another plan(s), or plan assets or liabilities were transferred to another plan(s), it is necessary to show what other plan or plans were involved.

10(a). Check "Yes" if plan was terminated or if plan was merged or consolidated into another plan.

10(c). Enter the EIN of the sponsor, employer if for a single-employer plan, of the other plan.

11(b). Check for a trust or arrangement providing benefits exclusively through insurance and/or annuity contracts. If your plan is funded exclusively through insurance or annuity contracts you still are required to complete item 15, unless you meet the requirements listed above item 15. If you meet these requirements check the box above item 15 and do not complete item 15.

11(c). Check for a trust or arrangement providing benefits partially through insurance and/or annuity contracts.

12(a). If uncertainty exists as to coverage status of the plan under Title IV of ERISA, check the box "not determined" and a coverage determination will be made by PBGC.

12(c). Completion of this item satisfies the reporting requirement under ERISA, section 4065. However, completion of this item does not replace any of the specific reporting requirements under ERISA, section 4043(b), 4062(e) and 4063(a).

If 12(b) was checked "Yes," indicating that certain events occurred requiring notification to the PBGC, designate which events (1) through (13) below occurred. To do this, enter the event's corresponding number on the line provided.

(1) A notice was received from the Secretary of the Treasury that the plan has ceased to be a plan described in section 4021(a)(2) of ERISA.

(2) The Secretary of Labor has determined the plan is not in compliance with Title I of ERISA.

(3) During the plan year, an amendment was adopted under which the benefit payable with respect to any participant may be decreased.

(4) The number of active participants was less than 80 percent of the number of such participants at the beginning of the plan year, or less than 75 percent of the number of such participants at the beginning of the previous plan year.

(5) The Internal Revenue Service issued a determination that there had been a termination or partial termination of the plan within the meaning of section 411(d)(3) of the Code.

(6) The plan was unable to pay any benefit when due.

(7) One or more distribution(s) were made to a substantial owner (other than on account of death) within a 24 month period. The distribution(s) had a total value of $10,000 or more and immediately after the distribution(s) the plan had nonforfeitable benefits which are not funded. The term "substantial owner" means an individual who:

(A) owns the entire interest in an unincorporated trade or business;

(B) in the case of a partnership is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or profits in such partnership; or

(C) in the case of a corporation, owns, directly or indirectly, more than 10 percent in the value of either the voting stock of that corporation or all the stock in that corporation.

The constructive ownership rules of section 1563(e) of the Code apply in the case of a corporation without regard to sections 1563(a)(4) and 1563(e)(3)(C) of the Code. An individual is also treated as a substantial owner under the plan at any time within sixty (60) months preceding the date on which the determination is made.

(8) The Secretary of Labor, under section 110 of ERISA, has prescribed an alternative method of compliance.

(9) Operations ceased at a facility of an employer maintaining a plan, resulting in the separation from employment of more than 20 percent of the employees who are participants in the plan.

(10) A substantial employer withdrew from a plan under which more than one employer makes contributions. The term "substantial employer" means an employer who for any plan year has made contributions to a plan under which more than one employer contributes for each of (a) the two preceding plan yeares or (b) the second and third preceding plan years—equaling or exceeding 10 percent of all employer contributions paid to or under the plan for each such year.

If one or more of the following events occurred, we would appreciate it if you would so indicate. These events are not required to be reported unless they occurred on or after the effective date of PBGC's final reportable event regulation. See note below.

(11) There has been a bankruptcy, insolvency or similar settlement (e.g., assignment for the benefit of creditors or composition, extension or settlement with creditors) of a contributing sponsor to a single employer plan.

(12) There has been a liquidation or dissolution of a contributing sponsor with respect to a single employer plan.

(13) There has been a transaction involving a contributing sponsor to a single employer plan that results in a change of employer. This event is not required to be reported for plans with less than $1 million in nonforfeitable benefits which are not funded.

Note: *For further information concerning Event Numbers (1) through (9), and (11) and (12) see PBGC's final regulation on Reporting and Notification Requirements for Reportable Events expected to be published in the Federal Register in 1980 to be codified in 29 CFR 2617.*

13(b). Loss means any loss to the plan caused by the fraud or dishonesty of any plan official or employee of the plan or of other person handling funds of the plan.

14(b). If a waiver of a funding deficiency has been granted, do not complete (i), (ii) and (iii) but complete 1, 2, 3, 7, 8 and 9 of Schedule B (Form 5500). An enrolled actuary need not sign Schedule B under these circumstances.

14(b)(iii). File Form 5330 with IRS to pay the 5% excise tax on the funding deficiency.

15. The financial information for 15 and 16 may be based on either the cash, modified accrual or accrual basis for recognition of transactions as long as one method is applied consistently throughout items 15 and 16.

The term "current value" means fair market value where available and otherwise the fair value as determined in good faith by a trustee or a named fiduciary pursuant to the terms of the plan, assuming an orderly liquidation at the time of such determination.

If the assets of two or more plans are maintained in one trust (except common/collective trusts) such as where an employer has two plans which are funded through a single trust, items 15 and 16 should be completed by entering the plan's allocable portion of each line item.

In case of any plan in which plan assets are maintained in two or more trust funds (except common/collective trusts) financial information must be reported on a combined basis in 15 and 16.

Common/Collective Trusts and Pooled Separate Accounts.—For plans with assets in common or collective trusts or pooled separate accounts, the value of the units of participation is to be reported in item 15(c)(ii). Additionally, the return/report must also include either (1) the most recent statement of assets and liabilities of any common or collective trust or pooled separate account or (2) a certification that the plan has received a copy of such statement from the bank or insurance company together with the EIN of the bank or insurance company and the number(s) they use to identify such trust or separate accounts. Item 16 should include information regarding the value of units of participation held by the plan in common or collective trust or separate accounts and transactions involving the acquisition and disposition by the plan of units of participation in the trust or separate account. However, item 16 should not include individual transactions of the common or collective trust or separate account. For further details see 29 CFR sections 2520.103–3, 2520.103–4, 2520.103–5 and 2520.103–9.

15(c)(i). Investments in securities of U.S. or State and municipal quasi-governmental corporations should be included here.

15(d). Show value of building and other depreciable property used in the operation of the plan. Buildings and other property held for investment should be shown in 15(c).

15(e). The current value of unallocated insurance contracts as shown on line item 15(e) may be determined by using the same method used to complete line 6(e) and 7 of Schedule A (Form 5500) as long as it is stated as at the beginning and the end of the plan year.

Enter the current value of the plan's interest in non-pooled separate accounts

as of the beginning and end of the plan year. Unallocated insurance contracts funded with pooled separate accounts should be entered in 15(c)(ii).

15(f). Enter the current value of any assets other than those categories listed in (a) through (e) above.

Liabilities.—Do not include the value of future pension payments in 15(h), (i), or (j).

15(h). Enter total amount of claims which have been processed and approved for payment directly from the trust but have not been paid. Do not include the value of future pension payments.

15(i). Acquisition Indebtedness.—

(1) *General Rule.*—The term "acquisition indebtedness" means with respect to any debt-financed property, the outstanding amount of the principal indebtedness incurred:

(a) by the organization in acquiring or improving such property;

(b) before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(c) after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably forseeable at the time of such acquisition or improvement.

For further explanation see section 514(c) of the Code.

16(a). If trust is on the accrual basis, enter amount of contributions received or accrued.

16(b). Show current value, at date contributed, of securities or other noncash property contributed to the plan.

16(g)(i). If distributions include securities or other property, show the current value, at date distributed, in this figure.

16(g)(iii). Include here such items as amount for prepaid legal services, day care services, training and apprenticeship services.

16(m)(i). This amount shall be computed as follows: (1) Subtract the cost or adjusted basis of all assets from the current value of all assets at the beginning of the year; (2) Subtract the cost or adjusted basis of all assets from the current value of all assets at the end of the year; (3) if the result under (2) is greater than the result under (1), enter the difference on line (m)(i); if the result under (1) is greater than the result under (2), enter the difference in parentheses on line (m)(i).

16(m)(ii). Adjustments that are not shown on line (i) should be entered on line (ii). For example, material adjustments relating to prior years such as the write-off of an account receivable, bond or note.

17. All percentage calculations are to be made as of the end of the plan year. Use item 15(g) column b for plan asset calculations.

The term "party-in-interest" (for purposes of this form, party-in-interest is deemed to include a disqualified person—see section 4975(e)(2) of the Code) means, as to an employee benefit plan—

(A) any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel or employee of such employee benefit plan;

(B) a person providing services to such plan;

(C) an employer any of whose employees are covered by such plan;

(D) an employee organization any of whose members are covered by such plan;

(E) an owner, direct or indirect, of 50% or more of—(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, (ii) the capital interest or the profits interest of a partnership, or (iii) the beneficial interest of a trust or unincorporated enterprise, which is an employer or an employee organization described in subparagraph (C) or (D);

(F) a relative of any individual described in subparagraph (A), (B), (C) or (E);

(G) a corporation, partnership, or trust or estate of which (or in which) 50% or more of—(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation, (ii) the capital interest or profits interest of such partnership, or (iii) the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D) or (E);

(H) an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in subparagraph (B), (C), (D), (E) or (G), or of the employee benefit plan; or

(I) a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in subparagraph (B), (C), (D), (E) or (G).

18(b). Include any individual, trade or business, whether incorporated or unincorporated, responsible for managing the clerical operations (e.g. handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis. Do not include salaried staff or employees of the plan or banks or insurance carriers. The employer identification number (EIN) of the business being reported or the EIN of the individual's employer should follow the name. For example: John Smith (99–1234567).

18(c). Calculate administrative expense for prior years as it is calculated for item 16(i) for this plan year. The item must only be completed to reflect the plan years for which a Form 5500–R was filed for this plan.

18(d) and (e). Only plans which have checked 11(b) or 11(c) need to complete these items.

18(d). Replaced means a policy has been discontinued and a new policy written. It does not include incremental policies. For example, it does not include individual life policies written to reflect salary increases.

19(a). Party-in-Interest Transactions.—If 19(a) was checked "Yes," describe each transaction in the following or similar format, except for the following transactions:

(1) Payments of insurance premiums:

(2) Benefit payments authorized by the plan;

(3) The investment of plan assets in—(i) deposits in a bank or similar financial institution supervised by a State or Federal agency, (ii) a common or collective trust fund or pooled investment fund maintained by a bank or trust company supervised by a State or Federal agency, or (iii) a pooled investment fund of an insurance company qualified to do business in a State.

(4) Receipt of cash contributions from a party-in-interest reportable in 16(a) of this form; and

(5) Any person who rendered services to the plan which are statutorially exempt under section 408(b) of ERISA and the regulations thereunder.

If the assets or investments of two or more plans are maintained in one trust (except common or collective trusts) the entries in the schedule which relate to the trust shall be completed by entering the plan's applicable portion of the total dollar amounts.

If you relied upon a statutory or administrative exemption in entering into a transaction described in the schedule, enter in column k ("exemption") the section of ERISA or the number of the administrative exemption upon which you relied. Also use column k to indicate that an application for an administrative exemption is pending.

a. Identity of party involved	b. Relationship to plan, employer or other party-in-interest	c. Description of transactions including maturity date, rate of interest, collateral, par or maturity value	d. Purchase price	e. Selling price	f. Lease rental	g. Expense incurred in connection with transaction	h. Cost of asset	i. Current value of asset	j. Net gain or (loss) on each transaction	k. Exemption

20(b). Do not include assets reportable in item 15(a)(i) for this computation.

21. The following definitions are to assist the filer and are only for understanding this form.

(1) Fiduciary.—A person is a fiduciary with respect to a plan to the extent: (i) he or she exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he or she renders investment advise for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he or she has any discretionary authority or discretionary responsibility in the administration of such plan.

(2) Employer Real Property.—Real property (and related personal property) which is leased to an employer of employees cov-

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ered by the plan, or to an affiliate of such employer.

(3) Employer Security.—A security issued by an employer of employees covered by the plan, or by an affiliate of such employer.

(4) Qualifying Employer Security.—An employer security which is a stock or a marketable obligation is considered a qualifying employer security. For purposes o fthis definition, the term marketable obligation means a bond, debenture, note, or certificate, or other evidence of indebtedness (obligation) if:

(i) such obligation is acquired—

(A) on the market, either (1) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) from an underwriter, at a price (1) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circuclar filed with the Securities and Exchange Commission, and (2) at which a substantial portion of the same issue is acquired by person independent of the issuer; or

(C) directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(ii) immediately following acquisition of such obligation—

(A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(iii) immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

(5) Qualifying Employer Real Property.—Employer real property is considered qualifying employer real property.

(i) if a substantial number of the parcals are dispersed geographically;

(ii) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(iii) even if all such real property is leased to one lessee (which may be an employer, or an affiliate of any employer); and

(iv) if the acquisition and retention of such property comply with the provisions of Part I of ERISA (other than sections 404(a)(1)(B) to the extent it requires diversification, and sections 404(a)(1)(C), 406 and 407(a)).

22. Enter the name and address of the person designated as agent for the service of legal process. This should be either the name of an individual or the title of the position occupied by the individual who will receive service. If no person has been designated to date, one should be designated. A post office box is not satisfactory as the business address.

23. List the name and address of each person considered to be a fiduciary with respect to the plan. Information furnished will not be determinative as to whether a party is in fact a fiduciary to the plan. See item 21 instructions for the definition of fiduciary.

24. The IRS serial number is the eight digit letter serial number, provided by the IRS for master, prototype, field prototype, and pattern plans (e.g. C7600630) or the four digit serial number provided on the cover of the model plan, or the four-digit Form number of the applicable bond purchase plan (either 4578 or 6022).

26. Complete as of the end of the plan year. For purposes of vesting, only consider vesting in employer contributions.

Information should be provided for all employees of a controlled group or under common control even if they are not participating in the plan. Enter on line (b)(i) the required information for all member employers. Enter on line (b)(ii) only the employees of the member employers which do not participate in the plan.

Multiemployer plans described in section 414(f) of the Code and multiple-employer-collectively-bargained plans only complete the total columns in 26. Do not complete 26(b).

Some sponsors may wish to provide additional explanatory material in regard to item 26. That material may be attached to this form.

26(a). The percentage test of section 410(b)(1)(A) is met if, and only if:
(1) line (i) of the schedule below is 70% or larger or,
(2) line (j) is 70% or larger and line (k) is 80% or larger.

	Number
(a) Total employed	
(b) Exclusions under plan (do not count an employee more than once):	
(i) Minimum age (specify) ▶ ..... Years of service (specify) ▶	
(ii) Employees included in collective bargaining	
(iii) Nonresident aliens who receive no earned income from Unted States sources	
(c) Total exclusions, sum of (b)(i) through (iii)	
(d) Employees not excluded under the statute, (a) less (c)	
(e) Ineligible under plan on account of (do not count an employee included in (b)):	
(i) Minimum pay (specify) ▶	
(ii) Hourly-paid	
(iii) Maximum age (specify) ▶	
(iv) Other (specify) ▶	
(f) Employee ineligible, sum of (e)(i) through (iv)	
(g) Employees eligible to participate, line (d) less line (f)	
(h) Number of employees participating in plan	
(i) Percent of nonexcluded employees who are participating, (h) divided by (d)	%
Complete (j) only if (i) is less than 70% and complete (k) only if (j) is 70% or more.	
(j) Percent of nonexcluded employees who are eligible to participate, (g) divided by (d)	%
(k) Percent of eligible employees who are participating, (h) divided by (g)	%

26(b). If you checked (a) "No," and all the active plan participants own less than a 10 percent interest in the corporate or non-corporate employer, do not complete 26(b) but attach an explanation of how your plan meets the coverage requirements of section 410(b)(1)(B) of the Code.

26(b)(ii)(B). If (a) is checked "Yes," include on this line those employees who do not satisfy the minimum age or service requirements, or are air pilots, or nonresident aliens.

26(b)(ii)(C). If (a) is checked "Yes," enter here the number of all employees excluded from coverage because they are either ineligible or have elected not to participate even though eligible.

26(c). Enter the number of employees separated from service with less than 100% vesting in their benefits.

For 1980 c(ii) and c(iii) should not be completed.

For 1981 c(iii) should not be completed.

For 1982 c(i), c(ii) and c(iii) must be completed.

Code for Principal Business Activity and Principal Product or Service

These industry titles and definitions are based, in general, on the Enterprise Standard Industrial Classification system developed by the Office of Management and Budget, Executive Office of the President, to classify enterprises by type of activity in which they are engaged. The system follows closely the Standard Industrial Classification used to classify establishments.

AGRICULTURE, FORESTRY, AND FISHING

Code

Farms:
0120 Field crop.
0150 Fruit, tree nut, and vegetable.
0180 Horticultural specialty.
0230 Livestock.
0270 Animal specialty.

Agricultural services and forestry:
0740 Veterinary services.
0750 Animal services, except veterinary.
0780 Landscape and horticultural services.
0790 Other agricultural services.
0800 Forestry.

Fishing, hunting, and trapping:
0930 Commercial fishing, hatcheries and preserves.
0970 Hunting, trapping, and game propagation.

MINING

Metal mining:
1010 Iron ores.
1070 Copper, lead and zinc, gold and silver ores.
1098 Other metal mining.
1150 Coal mining.

Oil and gas extraction:
1330 Crude petroleum, natural gas, and natural gas liquids.
1380 Oil and gas field services.

Nonmetallic minerals (except fuels) mining:
1430 Dimension, crushed and broken stone; sand and gravel.
1498 Other nonmetallic minerals, except fuels.

CONSTRUCTION

General building contractors and operative builders:
1510 General building contractors.
1531 Operative builders.

Heavy construction contractors:
1611 Highway and street construction.
1620 Heavy construction, except highway.

Special trade contractors:
1711 Plumbing, heating, and air conditioning.
1721 Painting, paper hanging, and decorating.
1731 Electrical work.
1740 Masonry, stonework, and plastering.
1750 Carpentering and flooring.
1761 Roofing and sheet metal work.
1771 Concrete work.
1781 Water well drilling.
1790 Miscellaneous special trade contractors.

MANUFACTURING

Food and kindred products:
2010 Meat products.
2020 Dairy products.
2030 Preserved fruits and vegetables.
2040 Grain mill products.
2050 Bakery products.
2060 Sugar and confectionery products.
2081 Malt liquors and malt.
2088 Alcoholic beverages, except malt liquors and malt.
2089 Bottled soft drinks, and flavorings.
2096 Other food and kindred products.
2100 Tobacco manufacturers.

Textile mill products:
2228 Weaving mills and textile finishing.
2250 Knitting mills.
2298 Other textile mill products.

Apparel and other textile products:
2315 Men's and boys' clothing.
2345 Women's and children's clothing.
2388 Hats, caps, millinery, fur goods, and other apparel and accessories.
2390 Misc. fabricated textile products.

Lumber and wood products, except furniture:
2415 Logging camps and logging contractors, sawmills and planing mills.
2430 Millwork, plywood, and related products.
2498 Other wood products, including wood buildings and mobile homes.
2500 Furniture and fixtures.

Code

Paper and allied products:
2625 Pulp, paper, and board mills.
2699 Other paper products.

Printing, publishing, and allied industries:
2710 Newspapers.
2720 Periodicals.
2735 Books, greeting cards, and misc. publishing.
2799 Commercial and other printing, and printing trade services.

Chemicals and allied products:
2815 Industrial chemicals, plastics materials and synthetics.
2830 Drugs.
2840 Soap, cleaners, and toilet goods.
2850 Paints and allied products.
2898 Agricultural and other chemical products.

Petroleum refining and related industries (including those integrated with extraction):
2910 Petroleum refining (including those integrated with extraction).
2998 Other petroleum and coal products.

Rubber and misc. plastics products:
3050 Rubber products; plastics footwear, hose and belting.
3070 Misc. plastics products.

Leather and leather products:
3140 Footwear, except rubber.
3198 Other leather and leather products.

Stone, clay, glass, and concrete products:
3225 Glass products.
3240 Cement, hydraulic.
3270 Concrete, gypsum, and plaster products.
3298 Other nonmetallic mineral products.

Primary metal industries:
3370 Ferrous metal industries; misc. primary metal products.
3380 Nonferrous metal industries.

Fabricated metal products, except machinery and transportation equipment:
3410 Metal cans and shipping containers.
3428 Cutlery, hand tools, and hardware; screw machine products, bolts, and similar products.
3430 Plumbing and heating, except electric and warm air.
3440 Fabricated structural metal products.
3460 Metal forgings and stampings.
3470 Coating, engraving, and allied services.
3480 Ordnance and accessories, except vehicles and guided missiles.
3490 Misc. fabricated metal products.

Machinery, except electrical:
3520 Farm machinery.
3530 Construction, mining, and materials handling machinery and equipment.
3540 Metalworking machinery.
3550 Special industry machinery, except metalworking machinery.
3560 General industrial machinery.
3570 Office, computing, and accounting machines.
3598 Engines and turbines, service industry machinery, and other machinery, except electrical.

Electrical and electronic machinery, equipment, and supplies:
3630 Household appliances.
3665 Radio, television, and communication equipment.
3670 Electronic components and accessories.
3698 Other electric equipment.

Transportation equipment:
3710 Motor vehicles and equipment.
3725 Aircraft, guided missiles and parts.
3730 Ship and boat building and repairing
3798 Other transportation equipment.

Measuring and controlling instruments; photographic and medical goods, watches and clocks:
3815 Scientific instruments and measuring devices; watches and clocks.

Code

3845 Optical, medical, and ophthalmic goods.
3860 Photographic equipment and supplies.
3998 Other manufacturing products.

TRANSPORTATION, COMMUNICATION, ELECTRIC, GAS, AND SANITARY SERVICES

Transportation:
4000 Railroad transportation.

Local and interurban passenger transit:
4121 Taxicabs.
4189 Other passenger transportation.

Trucking and warehousing:
4210 Trucking, local and long distance.
4289 Public warehousing and trucking terminals.

Other transportation including transportation services:
4400 Water transportation.
4500 Transportation by air.
4600 Pipe lines, except natural gas.
4722 Passenger transportation arrangement.
4723 Freight transportation arrangement.
4799 Other transportation services.

Communication:
4825 Telephone, telegraph, and other communication services.
4830 Radio and television broadcasting.

Electric, gas, and sanitary services:
4910 Electric services.
4920 Gas production and distribution.
4930 Combination utility services.
4990 Water supply and other sanitary services.

WHOLESALE TRADE

Durable:
5010 Motor vehicles and automotive equipment.
5020 Furniture and home furnishings.
5030 Lumber and construction materials.
5040 Sporting, recreational, photographic, and hobby goods, toys, and supplies.
5050 Metals and minerals, except petroleum and scrap.
5060 Electrical goods.
5070 Hardware, plumbing and heating equipment.
5083 Farm machinery and equipment.
5089 Other machinery, equipment, and supplies.
5098 Other durable goods.

Nondurable:
5110 Paper and paper products.
5129 Drugs, drug proprietaries, and druggists' sundries.
5130 Apparel, piece goods, and notions.
5140 Groceries and related products, except meats and meat products.
5147 Meats and meat products.
5150 Farm-product raw materials.
5160 Chemicals and allied products.
5170 Petroleum and petroleum products.
5180 Alcoholic beverages.
5190 Misc. nondurable goods.

RETAIL TRADE

Building materials, hardware, garden supply, and mobile home dealers:
5211 Lumber and other building materials dealers.
5231 Paint, glass, and wallpaper stores.
5251 Hardware stores.
5261 Retail nurseries and garden stores.
5271 Mobile home dealers.

General merchandise:
5331 Variety stores.
5398 Other general merchandise stores.

Food stores:
5411 Grocery stores.
5420 Meat and fish markets and freezer provisioners.
5431 Fruit stores and vegetable markets.
5441 Candy, nut, and confectionery stores.
5451 Dairy products stores.
5460 Retail bakeries.
5490 Other food stores.

Automotive dealers and service stations:
5511 New car dealers (franchised).
5521 Used car dealers.
5531 Auto and home supply stores.
5541 Gasoline service stations.
5551 Boat dealers.
5561 Recreational vehicle dealers.
5571 Motorcycle dealers.
5599 Aircraft and other automotive dealers.

Apparel and accessory stores:
5611 Men's and boys' clothing and furnishings.
5621 Women's ready-to-wear stores.
5631 Women's accessory and specialty stores.
5641 Children's and infants' wear stores.
5651 Family clothing stores.
5661 Shoe stores.

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Code

5681 Furriers and fur shops.
5699 Other apparel and accessory stores.

Furniture, home furnishings, and equipment stores:

5712 Furniture stores.
5713 Floor covering stores.
5714 Drapery, curtain, and upholstery stores.
5719 Home furnishings, except appliances.
5722 Household appliance stores.
5732 Radio and television stores.
5733 Music stores.

Eating and drinking places:

5812 Eating places.
5813 Drinking places.

Miscellaneous retail stores:

5912 Drug stores and proprietary stores.
5921 Liquor stores.
5931 Used merchandise stores.
5941 Sporting goods stores and bicycle shops.
5942 Book stores.
5943 Stationery stores.
5944 Jewelry stores.
5945 Hobby, toy, and game shops.
5946 Camera and photographic supply stores.
5947 Gift, novelty, and souvenir shops.
5948 Luggage and leather goods stores.
5949 Sewing, needlework, and piece goods stores.
5961 Mail order houses.
5962 Merchandising machine operators.
5963 Direct selling organizations.
5982 Fuel and ice dealers (except fuel oil and bottled gas dealers).
5983 Fuel oil dealers.
5984 Liquefied petroleum gas (bottled gas).
5992 Florists.
5993 Cigar stores and stands.
5994 News dealers and newsstands.
5996 Other miscellaneous retail stores.

FINANCE, INSURANCE AND REAL ESTATE

Banking:

6030 Mutual savings banks.
6060 Bank holding companies.
6090 Banks, except mutual savings banks and bank holding companies.

Credit agencies other than banks:

6120 Savings and loan associations.
6140 Personal credit institutions.
6150 Business credit institutions.
6199 Other credit agencies.

Security, commodity brokers, dealers, exchanges, and services:

6212 Security underwriting syndicates.
6218 Security brokers and dealers, except underwriting syndicates.
6299 Commodity contracts brokers and dealers; security and commodity exchanges; and allied services.

Insurance:

6355 Life insurance.
6356 Mutual insurance, except life or marine and certain fire or flood insurance companies.
6359 Other insurance companies.
6411 Insurance agents, brokers, and services.

Real Estate:

6511 Real estate operators (except developers) and lessors of buildings.
6516 Lessors of mining, oil, and similar property.
6518 Lessors of railroad property and other real property.
6531 Real estate agents, brokers and managers.
6541 Title abstract offices.
6552 Subdividers and developers, except cemeteries.
6553 Cemetery subdividers and developers.
6599 Other real estate.
6611 Combined real estate, insurance, loans and law offices.

Holding and other investment companies:

6742 Regulated investment companies.
6743 Real estate investment trusts.
6744 Small business investment companies.
6749 Holding and other investment companies, except bank holding companies.

SERVICES

Hotels and other lodging places:

7012 Hotels.
7013 Motels, motor motels, and tourist courts.
7021 Rooming and boarding houses.
7032 Sporting and recreational camps.
7033 Trailer parks and camp sites.
7041 Organizational hotels and lodging houses on a membership basis.

Personal services:

7215 Coin-operated laundries and dry cleaning.
7219 Other laundry, cleaning, and garment services.
7221 Photographic studios, portrait.
7231 Beauty shops.
7241 Barber shops.
7251 Shoe repair and hat cleaning shops.
7261 Funeral services and crematories.
7299 Miscellaneous personal services.

Business services:

7310 Advertising.
7340 Services to buildings.
7370 Computer and data processing services.
7392 Management, consulting, and public relations services.
7394 Equipment rental and leasing.
7398 Other business services.

Automotive repair and services:

7510 Automotive rentals and leasing, without drivers.
7520 Automobile parking.
7531 Automobile top and body repair shops.
7538 General automobile repair shops.
7539 Other automotive repair shops.
7540 Automotive services, except repair.

Miscellaneous repair services:

7622 Radio and TV repair shops.
7628 Electrical repair shops, except radio and TV.
7641 Reupholstery and furniture repair.
7680 Other miscellaneous repair shops.

Motion pictures:

7812 Motion picture production, distribution, and services.
7830 Motion picture theaters.

Amusement and recreation services:

7920 Producers, orchestras, and entertainers.
7932 Billiard and pool establishments.
7933 Bowling alleys.
7980 Other amusement and recreation services.

Medical and health services:

8011 Offices of physicians.
8021 Offices of dentists.
8031 Offices of osteopathic physicians.
8041 Offices of chiropractors.
8042 Offices of optometrists.
8048 Registered and practical nurses.
8050 Nursing and personal care facilities.
8060 Hospitals.
8071 Medical laboratories.
8072 Dental laboratories.
8098 Other medical and health services.

Other Services:

8111 Legal services.
8200 Educational services.
8911 Engineering and architectural services.
8932 Certified public accountants.
8933 Other accounting, auditing, and bookkeeping services.
8999 Other services, not elsewhere classified.

TAX-EXEMPT ORGANIZATIONS

9001 Church.
9002 Church plans making an election under section 410(d) of the Internal Revenue Code.
9319 Other tax-exempt organizations.
9904 Governmental instrumentality or agency.

WORKSHEET A

Worksheet for determining the deduction for contributions made on behalf of common-law employees and for contributions made on behalf of self-employed individuals to defined benefit plans. This may be made part of your permanent record—it should not be filed.

1 Limitation on amount deductible under a defined benefit plan: (a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) Amount necessary to meet minimum funding standards	
(e) Amount deductible under section 404(a)(1)(A)(ii)	
(f) Amount deductible under section 404(a)(1)(A)(iii)	
(g) Amount equal to the full funding limitation determined under section 412 of the Code	
(h) Deduction, applicable line (d), (e) or (f) not to exceed the lesser of line (c) or (g)	
2 Primary limitation on amount deductible under a profit-sharing or stock bonus plan:	
(a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) 15% of compensation paid to all participants	
(e) Deduction, lesser of line (c) or (d)	
3 Secondary limitation on amount deductible under a profit-sharing or stock bonus plan:	
(a) Amount of employer contributions for the taxable year	
(b) 25% of compensation paid to all participants	
(c) Aggregate primary limitations for all prior years and current year	
(d) Aggregate prior years' deductions	
(e) Excess of (c) over (d)	
(f) Lesser of (b) or (e)	
(g) Deduction, smaller of (a) or (f)	
4 Limitation on amount deductible under a money purchase plan: (a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) Normal cost (current year's service costs)	
(e) Credits and gains	
(f) Basic limit on deduction, (d) less (e)	
(g) Minimum contributions required under section 412 if larger than (f)	
(h) Deduction, (f) or (g) but not to exceed (c)	
5 Limitation on amount deductible under overlapping plans, section 404(a)(7) of the Code:	
(a) 25% of compensation paid to all participants	
(b) Total amount of employer contributions otherwise deductible under all overlapping plans	
(c) Smaller of (a) or (b)	
(d) Carryover from prior year under section 404(a)(7) of the Code	
(e) Lesser of (a) or the sum of (c) and (d)	
(f) Amount contributed to meet minimum funding standards	
(g) Deduction, greater of (e) or (f)	
6 Limitation on deduction for employer contributions to a non-qualified plan:	
(a) Amount* of employer contributions for the taxable year that is nonforfeitable to the participants	
(b) Amount* of prior years' employer contributions that became nonforfeitable to the participants this year	
(c) Allowable deduction for this year, (a) plus (b)	
*Such amount must be reported on the employees' Forms W–2.	

WORKSHEET B

Worksheet for determining the deduction for contributions made on behalf of self-employed individuals to defined contribution plans ONLY. For determining the deduction for contributions to defined benefit plans use Worksheet A lines 1(a) through (h). This may be made part of your permanent record—it should not be filed.

1 Employer contributions made to the plan for sole proprietor or partners	
2 Less amount allocated to life insurance protection (the term insurance premium)	
3 Net contributions	
4 Earned income of sole proprietor or of all participating partners but not in excess of $50,000 for a sole proprietor or for any one partner	
5 15% of line 4 (Exceptions: If a sole proprietor or a partner has less than $5,000 earned income and his or her adjusted gross income, computed without regard to this deduction, does not exceed $15,000, enter the lesser of the amount on line 4 or $750 with respect to such sole proprietor or partner.)	
6 Deduction: For defined contribution plan, enter the smaller of line 3 or 5	

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313–199–1

Form **5500-K**

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships

(With fewer than 100 participants and at least one owner-employee)

This form is required to be filed under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6057(b) and 6058(a) of the Internal Revenue Code (the Code)

1980

Amended ☐

This Form is Open to Public Inspection

For calendar plan year 1980 or fiscal plan year beginning , 1980, and ending , 19

File original of this form, including schedules and attachments, completed in ink or type. **If an item does not apply, enter "N/A."**

Note: *Partnerships with Keogh (H.R. 10) plans that do not have an owner-employee participant must file Form 5500 or 5500–C.*

- ▶ File this form for the initial plan year and for the plan year in which a final return/report would be filed. This form should also be filed for 1980 if the last digit of the plan sponsor's employer identification number is 1, 2, or 3.
- ▶ File one Form 5500–K for each plan you have in which an owner-employee is a participant.
- ▶ Plans in which an owner-employee(s) (sole proprietor or partners) is the only participant, see instructions.
- ▶ Plans in which the owner-employee(s) (sole proprietor or partners) and spouse are the only participants need to complete only items 1 through 11(d), 13, 14(a), 18, 19 and 20 of this form.
- ▶ Plan Number—Your 3 digit plan number must be entered in item 5(c); see instruction 5(c) for explanation of "plan number."

Use IRS label. Otherwise, please print or type.

1 (a) Name of plan sponsor (employer if single employer plan) | 1 (b) Employer identification number

Address (number and street) | 1 (c) Telephone number of sponsor ( )

City or town, State and ZIP code | 1 (d) If plan year changed since last return/report check here . ▶ ☐

2 (a) Name of plan administrator (if other than plan sponsor) | 1 (e) Business code number

Address (number and street) | 2 (b) Administrator's employer identification no.

City or town, State and ZIP code | 2 (c) Telephone number of administrator ( )

3 Name, address and identification number of plan sponsor and/or plan administrator as they appear on the last return/report filed for this plan, if not the same as in 1 or 2 above: (a) Sponsor ▶
(b) Administrator ▶

4 Check appropriate box to indicate the type of plan entity (check only one box): (a) ☐ Single-employer
(b) ☐ Other (specify) ▶

5 (a) *(i)* Name of plan ▶ | (b) Effective date of plan

(ii) ☐ Check if name of plan changed since the last return/report | (c) Enter three digit plan number ▶

6 Type of plan (check applicable box(es)): (a) ☐ Defined benefit (pension plan) (b) ☐ Money purchase
(c) ☐ Profit-sharing (d) ☐ Participant-directed account plan

		Yes	No
7 (a)	Participants employed and active participants at the end of plan year:		
	(i) Self-employed (including owner-employees)		
	(ii) Other participants (include participating spouse of self-employed, if applicable)		
	(iii) Total (add lines 7(a)(i) and (ii))		
(b)	Total participants (see specific instruction 7(b)): *(i)* At beginning of the plan year		
	(ii) At the end of the plan year		
(c)	Total employees other than self-employed		
(d)	*(i)* During this plan year or the prior plan year, was any participant(s) separated from service with a deferred vested benefit for which a Schedule SSA (Form 5500) is required to be filed with this Form 5500–K?		
	(ii) If "Yes," enter the number of separated participants ▶		
8 (a)	Were any plan amendments to this plan adopted since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan?		
(b)	*(i)* Has a summary plan description been filed with DOL for this plan?		
	(ii) If (i) is "Yes," what was the employer identification number and the plan number used to identify it? Employer identification number ▶ Plan number ▶		
9	Termination information: (a) Was this plan terminated during this plan year or any prior plan year?		
(b)	If "Yes," were all trust assets distributed to participants or beneficiaries or transferred to another plan?		
(c)	If item 12(a) is to be checked "Yes" and 9(a) is "Yes," has a notice of intent to terminate been filed with PBGC?		

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Date ▶ Signature of employer/plan sponsor ▶

Date ▶ Signature of plan administrator ▶

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A Plans in which an owner-employee(s) (sole proprietor or partner) and spouse are the only participants—On pages 2 and 3 complete only 10, 11(a) through (d), 13, 14(a), 18, 19 and 20; and, check this box . . . . . ▶ ☐

10 (a) Was this plan merged or consolidated into another plan or were assets or liabilities transferred to another plan since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan? . . . . . ☐ Yes ☐ No

If "Yes," enter information about other plan(s):

(b) Name of plan(s) ▶	(c) Employer identification number(s)	(d) Plan number(s)

(e) Has Form 5310 been filed? . . . . . ☐ Yes ☐ No

11 Indicate funding arrangement:

(a) ☐ Trust (b) ☐ Fully insured (c) ☐ Combination

(d) ☐ Other (specify) ▶

(e) If (b) or (c) is checked enter number of Schedule A's (Form 5500) which are attached . . . . ▶

12 (a) Is the plan covered under the Pension Benefit Guaranty Corporation termination insurance program? . . . . . ☐ Yes ☐ No ☐ Not determined

If "Yes," or "not determined" list employer identification number and/or plan number used in any filing with PBGC if the number was different than the numbers listed in item 1(b) or 5(c) ▶

	Yes	No
(b) If (a) is "Yes," or "not determined" did one or more reportable events or other events requiring notice to PBGC occur since the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan?		

(c) If (b) is "Yes," indicate which events occured that required notice to the PBGC (see instructions) ▶

13 Please furnish the following financial information for the plan (round off amounts to nearest dollar):

(a) Net assets (current value) at beginning of plan year	
(b) Contributions by employer and employees for the plan year	
(c) Plan's income for the plan year	
(d) Expenditures for the plan year	
(e) Distributions made for the plan year	
(f) Other changes in net assets	
(g) Net assets (current value) at end of the plan year	

14 Since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K which was filed for this plan:	Yes	No
(a) Other than transactions described in the exceptions outlined in the instructions were there any transactions, directly or indirectly, between the plan and a party in interest? . . . . . If "Yes," see specific instructions.		
(b) Has the plan granted an extension on any loan for which prior to the granting of an extension, it has not received all the principal and interest payments due under the terms of the loan?		
(c) Has the plan granted an extension of time or renewal for payment of any obligations owed to it which amounts to more than 10% of plan assets?		

15 Since the end of the plan year covered by the last return/report Form 5500, 5500-C or 5500-K was was filed for this plan:	Yes	No
(a) Has there been a termination in the appointment of any trustee, accountant, insurance carrier, enrolled actuary, administrator, investment manager or custodian? . . . . . If "Yes," attach an explanation including the name, address and telephone number of the person whose appointment has been terminated.		
(b) Has the plan used the services of a contract administrator? . . . . . If "Yes," enter the contract administrator's name and employer identification number (see instructions) ▶		

15 (c) Indicate the amount of the plan's administrative expense for the:

(i) Current year	
(ii) Preceding year	
(iii) Second preceding year	

(d) Have any insurance policies or annuities been replaced?		
(e) Was the plan funded with: (i) ☐ Individual policies or annuities (ii) ☐ Group policies or annuities (iii) ☐ Both		

16 (a) Is the plan insured by a fidelity bond? . . . . . | | |

(i) If "Yes," enter name of surety company ▶ . . . . . | | |

(ii) Amount of bond coverage ▶ . . . . . | | |

(b) Was any loss discovered since the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan? . | | |

17 During the plan year covered by this return:

(a) Did any plan fiduciary who is an officer or an employee of the plan sponsor receive compensation from the plan for his or her services to the plan? . . . . . | | |

(b) Did the plan acquire any qualifying employer security or qualifying employer real property, when immediately after such acquisition the aggregate fair market value of employer securities and employer real property held by the plan exceeded 10% of the fair market value of the plan assets? . . . . . | | |

(c) Did the plan receive any non-cash contributions? . . . . . | | |

(d) Has any plan fiduciary had either a financial interest worth more than $1,000 in any party providing services to the plan or received anything of value from any party providing services to the plan? . . . . . | | |

(e) Has any employer owed the plan contributions which were more than three months past due under the terms of the plan? . . . . . | | |

(f) Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified as uncollectable? . . . . . | | |

(g) Were any leases to which the plan was a party in default or classified as uncollectable? . . . . . | | |

18 Is this plan an adoption of a:

(a) ☐ Master/prototype, (b) ☐ Pattern plan, or (c) ☐ Bond purchase plan? . . . . . | | |

If "Yes," enter the eight digit IRS letter serial number (see instructions) or if a bond purchase plan enter 4578 ▶ | | |

19 (a) Is this a defined benefit plan subject to the minimum funding standards for this plan year? . . . . . | | |

If "Yes," attach Schedule B (Form 5500).

(b) Is this a defined contribution plan, i.e., money purchase or target benefit, subject to the minimum funding standards (if a waiver was granted, see instructions)? . . . . . | | |

If "Yes," complete (i), (ii) and (iii) below. Sole proprietor or partnership with no employees during the year, enter "N/A".

(i) Amount of employer contribution required for the plan year under section 412 of the Code . . . . | |

(ii) Amount of contribution paid by the employer for the plan year . . . . . | |

Enter date of last payment by employer . . . . . ▶ Month ..... Year ..... | |

(iii) If (i) is greater than (ii), subtract (ii) from (i) and enter the funding deficiency here. Otherwise enter zero. (If you have a funding deficiency file Form 5330.) . . . . . | |

20 Employer's taxable year ends . . . . . ▶ Month Day Year

21 As of the end of any plan year since the end of the plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was filed for this plan, did the plan have loans outstanding or investments in a single enterprise (other than United States Government) which exceeded 15% of plan assets?	Yes	No

22 Who is the plan's designated agent for legal process? ▶

23 Give the name and address of each fiduciary (including trustees) to the plan ▶

If additional space is required for any item, attach additional sheets the same size as this form.

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Program

Pension Benefit Guaranty Corporation

1980 Instructions for Form 5500-K

Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships

(with fewer than 100 participants and with at least one owner-employee)

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

NOTICE

For plan years beginning in 1980, only sponsors whose employer identification number has a last digit of 1, 2, or 3 are to file Form 5500–K. For exceptions see General Instruction A, What to File. All other sponsors who would normally file Form 5500–K should file Form 5500–R, Registration Statement of Employee Benefit Plan.

Owner-Employee Plans Which are Not Required to File.—*Defined contribution plans (profit-sharing or money purchase pension plans) in which owner-employees are the only participants during the current plan year and have been the only participants in all prior plan years need not file Form 5500–K or Form 5500–R for plan year 1980.*

All defined benefit Keogh (H.R. 10) plans which have never had any participants but the owner-employees are required to file Form 5500–K or 5500–R whichever is applicable for the plan year beginning in 1980.

Plans with other than calendar plan years complete the fiscal plan year information line immediately below the title block on the form.

For short plan years see General Instruction I.

Employers or plan administrators filing Form 5500–K for an employee pension benefit plan of which an organization qualified under section 401(a) of the Code and exempt from tax under section 501(a) of the Code forms a part, should inform the fiduciary of such organization that, if it desires the protection of the statute of limitations provided in section 6501(a) of the Code, an annual information return under section 6033(a) of the Code should be filed. See General Instruction P for a statement to be attached to this return/report by the fiduciary for that purpose.

Who Must File

A. Pension Benefit Plans.—Every sole proprietor, partnership, administrator or plan administrator who administers or maintains a Keogh plan, including plans under which benefits have ceased to accrue and/or for which contributions have been discontinued, with fewer than 100 participants at the beginning of the plan year and with at least one owner-employee, must file a return/report.

Note: *An owner-employee means (1) an individual who owns 100% of an unincorporated trade or business or (2) in case of a partnership, a partner who owns more than 10% of either the capital interest or the profits interest in such partnership.*

Exception: *Defined contribution plans (profit-sharing or money purchase pension plans) in which owner-employees are the only participants during the current plan year and have been the only participants in all prior plan years need not file Form 5500–K or Form 5500–R for plan year 1980.*

B. Type of Filers.—

1. Single Employer.—A single employer plan is a plan which is maintained by one employer. One return/report must be filed for each such plan.

A member of common control trades or businesses who maintains a plan not involving other members of the common control trades or businesses is required to file as a single employer. Therefore, one return/report must be filed for each such plan.

2. Common Control Trades or Businesses.—A plan of only members of common control trades or businesses is a plan maintained by such common control trades or businesses. See section 414(c) of the Code. One return/report must be filed for each plan. An individual employer is not to file any return/report with respect to such plan.

In the case of a plan that includes a group of common control trades or businesses and, in addition, includes an employer(s) who is not a member of such group, file one return/report for the group and one return/report for each employer who is not a member of the group. Exception: if the benefits are payable to employees who are covered by the plan from the total assets without regard to their respective employer's contributions, file one annual return/report for the plan as a whole—in addition, each employer who is not a member of the common control trades or businesses is to file Form 5500–C (regardlesss of the number of participants) completing only items 1, 2, 3, 4(e), 5, 6, 9 and 26 or a Form 5500–R, whichever is applicable.

3. Multiemployer.—A multiemployer plan is a plan defined in section 3(37) of ERISA or section 414(f) of the Code. One return/report must be filed for each such plan. Contributing employers are not to file individually with respect to such plans.

4. Multiple-Employer-Collectively-Bargained Plan.—A multiple-employer-collectively-bargained plan involves more than one employer, is collectively bargained and is collectively funded but does not meet the definition of a multiemployer plan. One return/report must be filed for each such plan. Participating employers are not to file individually, with respect to such plan.

5. Multiple-Employer Plan (Other).—A multiple-employer plan (other) involves more than one employer and is not a multiemployer plan, a collectively-bargained plan or a plan of trades or businesses under common control. A multiple-employer plan (other) will only include those plans where individual employer contributions are available to pay benefits to participants of all participating employers. One return/report must be filed for each such plan. In addition, each participating employer is to file a Form 5500–C (regardless of the number of participants), completing only items 1, 2, 3, 4(e), 5, 6, 9 and 26 or a Form 5500–R whichever is applicable.

Note: *If a participating employer is also the sponsor of the multiple-employer plan (other), the plan number on the return/report filed for the plan shpuld be 333. The Form 5500–C or Form 5500–R filed by the participating employer should list the appropriate plan number (001 if this is the employer's only plan).*

In the case of a plan participated in by more than one employer, and the plan provides that each employer's contributions are available to pay benefits only for that employer's employees who are covered by the plan, one return/report must be filed for each participating employer. These filers will be considered single employers and should complete the entire form. Filers of a Form 5500–K check item 4(a).

General Information

Section 6058 of the Code and sections 104 and 4065 of ERISA provide that each plan administrator/sponsor (sole proprietor or partnership) who maintains an employee pension benefit plan subject to ERISA must file, annually, information concerning each such plan.

In order to reduce duplication of reporting and the burden of compliance with ERISA by plan administrators and employers, the Internal Revenue Service (IRS), Department of Labor (DOL) and Pension Benefit Guaranty Corporation (PBGC) have designed consolidated return/report forms.

The PBGC annual report required under Title IV, section 4065 of ERISA and formerly filed separately with PBGC on Form PBGC–1, Schedule A is now included in this combined report.

General Instructions

A. What to File.—Form 5500–K, Return/Report of Employee Pension Benefit Plan, must be filed periodically for each owner-employee plan that has fewer than 100 participants at the beginning of the plan year and at least one owner-employee participant.

Note: *An owner-employee means (1) an individual who owns 100% of an unincorporated trade or business or (2) in case of a partnership, a partner who owns more than 10% of either the capital interest or the profits interest in such partnership.*

Form 5500–K is to be filed for (i) the initial plan year, (ii) the year a final return would be filed and (iii) in the intervening years according to the following schedule:

Last digit of plan sponsor's employer identification number is—	File Form 5500–K for—
1, 2 or 3	1980
4, 5 or 6	1981
7, 8, 9 or 0	1982

Exceptions: *The above cycle may, from time to time, be changed by filing Form 5500–C or 5500–K before the year Forms 5500–C or 5500–K are otherwise due. When a new cycle is established, a Form 5500–C or 5500–K will be filed for the first year of the new cycle and a Form 5500–R for the next two years of the new cycle.*

Form 5500–R, Registration Statement of Employee Benefit Plan (with fewer than 100 participants), must be filed for plan years when Form 5500–K is not required to be filed because the last digit of the sponsor's employer identification number does not coincide with the digits for the current year on the above schedule (see above exception to filing for 5500–C and 5500–K schedule).

Exception: 80-120 Participant Rule.—*If the plan has between 80 and 120 participants (inclusive) at the beginning of the plan year, the plan may file the same category of form (i.e., Form 5500 or Forms 5500–C, K or R, whichever is applicable) that was filed the previous year.*

Schedule A (Form 5500), Insurance Information, must be attached to Form 5500–K or 5500–R in every case where any benefits under the plan are provided by an insurance company, insurance service or other similar organization.

Exception: *An employee benefit plan which covers only an individual or an individual and his or her spouse who wholly owns a trade or business, whether incorporated or unincorporated, or a partner in a partnership and his or her spouse need not file a Schedule A (Form 5500).*

Schedule B (Form 5500), Actuarial Information, must be attached to Form 5500–K or 5500–R for defined benefit plans. See instructions to Schedule B.

Schedule SSA (Form 5500), Registration Statement Identifying Separated Participants With Deferred Vested Benefits, may be required to be filed for separated participants. See "When to Report Separated Participants" in the instructions to Schedule SSA.

Keogh plans with no owner-employee participant may not file Form 5500–K.

Keogh plans with no owner-employee participant and fewer than 100 participants must file Form 5500–C, Return/Report of Employee Benefit Plan.

Keogh plans with 100 or more participants, whether or not there is an owner-employee in the plan, must file Form 5500, Annual Return/Report of Employee Benefit Plan.

A plan in which the owner-employee and spouse are the only participants must complete **only** items 1 through 11 (d), 13, 14(a), 18, 19 and 20 of this form and check the box in item A at the top of page 2.

Insured Plans.—Pension plans holding only allocated insurance contracts and for which no trust is involved need not complete item 13, 14, 17(b), 17(c), 17(e), 17(f), 17(g) and 21 of Form 5500–K. Pension plans holding allocated insurance contracts for which an intermediary trust is involved need to complete these items, but are not to construe the allocated insurance contracts as an asset to be reported in item 13. See 29 CFR 2520.104–44.

B. When to File.—File all required forms and schedules for each plan on or before the last day of the 7th month following the close of the plan year.

Request for Extension of Time to File.—An extension of time up to two and one-half months may be granted for filing return/reports if a timely application, Form 5558, is filed requesting such an extension.

Exception: *Single Employer Plans where plan year and employer's tax year coincide. If the employer has been granted an extension to file the employer's tax return beyond the due date of the Form 5500, 5500–C, 5500–K or 5500–R, such extension also applies to the Form 5500, 5500–C, 5500–K or 5500–R. A copy of the approved IRS extension to file the income tax return must be attached to each Form 5500, 5500–C, 5500–K or 5500–R that is filed after the normal due date.*

C. Where to File.—All forms and schedules should be filed with the Internal Revenue Service Center indicated below:

If the principal office of the plan sponsor or the plan administrator is located in	Use the following Internal Revenue Service Center	
New Jersey, New York City and counties of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY	00501
New York (all other counties), Connecticut, Maine, Massachusetts New Hampshire, Rhode Island, Vermont	Andover, MA	05501
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA	31101
Michigan, Ohio	Cincinnati, OH	45999
Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX	73301
Alaska, Arizona, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT	84201
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO	64999
California, Hawaii	Fresno, CA	93888
Indiana, Kentucky, North Carolina, Tennessee, Virginia, West Virginia	Memphis, TN	37501
Delaware, District of Columbia, Maryland, Pennsylvania	Philadelphia, PA	19255

If you have no legal residence, principal place of business or principal office or agency in any Internal Revenue District, file your return with the Internal Revenue Service Center, Philadelphia, PA 19255.

D. Final Return/Report.—If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries, write "Final Return" across the top of the return/report filed for such plan. The year of complete distribution is the last year a return/report must be filed with respect to the plan.

E. Penalties.—

Caution: *ERISA imposes penalties for failure to furnish complete information and failure to file statements and returns/reports.*

A penalty of $10 (not to exceed $5,000) may be imposed for each day for failure to file returns in connection with certain plans of deferred compensation, certain trusts and annuities and bond purchase plans. See section 6652(f) of the Code.

A penalty of $1,000 for failure to file an actuarial report. See section 6692 of the Code.

A penalty of $1 (not to exceed $5,000) for each participant for whom a registration statement (required of certain plans) is not filed multiplied by the number of days during which the statement is not timely filed. See section 6652(e)(1) of the Code.

A penalty of $1 (not to exceed $1,000) for each day for failure to file a notification of change of status of a plan. See section 6652(e)(2) of the Code.

Caution: *The following penalties which are imposed by ERISA may be applied upon conviction.*

Any individual who willfully violates any provision of Part I of Title I of ERISA shall upon conviction be fined not more than $5,000 or imprisoned not more than one year, or both. See section 501 of ERISA.

A penalty up to $10,000 or 5 years imprisonment, or both, is provided for any person who makes any false statement or representation of fact knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact required by ERISA. See section 1027, Title 18,

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U.S. Code as amended by section 111 of ERISA.

F. Signature.—All returns/reports must be signed by the plan administrator. Also, a return/report filed for a single employer plan must be signed by the employer.

Exception: *Return/reports of plans in which the owner-employee or the owner-employee and spouse are the only participants (see specific instruction 7(b) regarding total participants) only needs to be signed by either the employer or the plan administrator.*

When the plan sponsor or the plan administrator is a joint employer-union board or committee, at least one employer representative and one union representative must sign.

G. Reproductions.—Original returns/reports are preferred. However, legible reproductions of this form may be made after insertion of the required information. All signatures on forms filed with IRS must be **original signatures** affixed subsequent to the reproduction process.

H. Change of Plan Year.—To change a plan year of certain qualified employee pension benefit plans, you should obtain prior approval from IRS. See section 412 (c)(5) of the Code and the regulations thereunder, and Form 5308, Request for Change in Plan/Trust Year.

I. Short Plan Year.—For a short plan year file a return/report for such short plan year on or before the last day of the seventh month following the close of such short plan year. For a short plan year ending on November 30th or earlier, the prior year Form 5500–K should be filed. Modify the heading of the form to show the beginning and ending date of your short plan year.

J. Amended Return/Report.—If you file an amended return/report, write "Amended Return" across the top of the form and check the box at the top of the form under the 1980. When filing an amended return be sure to put a circle around the numbers of the items that have been amended.

K. Notification Under Section 6057 (b)(3) and (4) of the Code.—The filing of the annual return/report and indicating thereon that the plan was terminated satisfies the notification required by section 6057(b)(3). The filing of Form 5310 satisfies the notification of the merger or consolidation of the plan with any other plan or its division into two or more plans as required by section 6057(b)(4).

L. Help the Retiring Employee.—Many retirees are being assessed penalties for failure to file Form 1040–ES, Declaration of Estimated Tax for Individuals. We believe many retirees are not aware that they may be required to file Form 1040–ES. Therefore, we ask all employers and plan administrators to tell retiring employees that they may be required to file Form 1040–ES. Also, please tell them that they may request the payor to withhold income tax for them.

M. Deduction.—Worksheets on pages 7 and 8 are provided to assist you in determining the deduction under section 404 of the Code. Do not file these worksheets.

N. Excess Contributions.—File Form 5330 to pay the excise tax on excess contributions made on behalf of an owner-employee.

O. Premature Distribution.—A distribution from a Keogh (H.R. 10) plan to an owner-employee before age 59½ is subject to an additional income tax under section 72(m)(5) of the Code. This tax is to be reported on Form 1040.

P. Any fiduciary (trustee or custodian) of an organization that is qualified under section 401(a) of the Code and exempt from tax under section 501(a) of the Code, who wants to protect the organization under the statute of limitations provided in section 6501(a) of the Code, should file an annual information return under section 6033(a) of the Code. Use the following statement for that purpose. A reproduction of this statement is also acceptable.

File the statement as an attachment to Form 5500, 5500–C, 5500–K, 5500–G or 5500–R filed for the plan year in which the trust year ends.

(Cut along this line)

This statement constitutes the annual information return required under section 6033(a) of the Internal Revenue Code of 1954 filed for the trust year ending (date) ▶..... **P***

Under penalties of perjury, I declare that I am the (trustee) (custodian) of the ▶.....

....., which serves as a part of ▶.....
(Name of trust) (Name of plan)

Date ▶ Signature of fiduciary ▶

*If you reproduce this format, please include a capital letter "P" in the upper right corner so that it will be processed correctly.

Specific Instructions for Form 5500–K

References are to line items on the form.

1(a). Enter the name and address of the plan sponsor. In all cases where the plan covers only the employees of one employer, enter the name of the employer.

If you received a Form 5500–K with pre-addressed-removable label, please affix the removable label to the name and address area of each return/report you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

The term "plan sponsor" means—

(i) the employer in the case of an employee benefit plan established or maintained by a single employer.

(ii) the employee organization in the case of a plan established or maintained by an employee organization, or

(iii) in the case of a plan established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers—the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Include enough information in 1(a) to adequately describe the sponsor. For example, Joint Board of Trustees for Local 187 Machinists, rather than just, Joint Board of Trustees.

1(b). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer. For example, 00–1234567. Do not enter your Social Security number.

Employers and plan administrators who do not have an EIN should apply for one on Form SS–4, available from any IRS or Social Security Administration office. Send Form SS–4 to the same Internal Revenue Service Center to which this form is sent.

1(e). From the list of business codes on pages 6 and 7, enter the one that best describes the nature of the employer's business.

2(a). If the document constituting the plan appoints or designates a plan administrator other than the sponsor, enter the name and address.

2(a) and (b). If plan administrator is also the sponsor, enter "Same."

The term "administrator" means—

(i) the person or a group of persons specifically so designated by the terms of the instrument under which the plan is operated,

(ii) if an administrator is not so designated, the plan sponsor/employer, or

(iii) in the case of a plan for which an administrator is not designated and plan

sponsor cannot be identified, such other person as prescribed by regulations of the Secretary of Labor.

2(b). A plan administrator as defined in 2(a) and (b) above must have an EIN for reporting purposes. Enter the plan administrator's nine-digit EIN here. If the plan administrator has no EIN, see 1(b) above.

Note: *Employees of an employer are not plan administrators unless so designated in the plan document even though they engage in administrative functions of the plan. If an employee of the employer is designated as the plan administrator, that employee must obtain an EIN.*

3. Make an entry only if during the year there was a change in the name, EIN or address of the plan sponsor, and/or in the name, EIN or address of the plan administrator. If there was a change, enter the name, address and EIN as they appeared on the prior return/report.

4. If this return/report is for a sole proprietor or a partnership, check box (a). Check box (b) in all other cases, such as a plan of common control employers.

5(a)(i). Enter the formal name of the plan or sufficient information to identify the plan.

5(b). Enter the date the plan first became effective.

5(c). Enter the three-digit number the employer or plan administrator assigned to the plan. All welfare plan numbers will start at 501. All other plans start at 001. If you have only one pension plan enter 001. If you have only one welfare plan enter 501.

Once a plan number is used for a plan it may not be used for any other plan and this number must be used as the plan number for all future filings of return/reports for the plan.

6(a). Check if the amount of contributions is established to fund predetermined retirement benefits. Check if plan is other than a money purchase plan or a profit sharing plan.

6(b). Check if the amount of contributions is a fixed percentage of compensation or earned income, regardless of profits.

6(c). Check if the amount of contributions is determined as a percentage of profits.

6(d). Check if plan is a pension plan which provides for individual accounts and permits a participant or beneficiary to exercise independent control over the assets in his or her account (see section 404(c) of ERISA). This box is to be checked in addition to box (b) or (c).

7. The description of "participant" in the instructions below is only for purposes of item 7 of this form. Active participants include individuals presently employed by an employer(s), and those not presently so employed and not presently entitled to future benefits, who are retaining or earning credited service under the terms of the plan. Do not include nonvested former employees who have incurred breaks in service of the greater of one year or the break in service period specified in the plan. Do not include former participants to whom an insurance company has made irrevocable commitments to pay the benefits to which the individuals are entitled under the plan.

7(a). Complete as of the end of the plan year.

7(a)(i). Self-employed includes partners no matter what their percentage of ownership in capital interest or profits interest.

7(a)(ii). Plans in which the spouse of the self-employed (sole proprietor or partners) is a participant should include the spouse in line 7(a)(ii).

7(b). Total participants includes: *(i)* the total in 7(a), *(ii)* retired or separated participants receiving benefits, *(iii)* retired or separated participants entitled to future benefits and *(iv)* deceased participants whose beneficiaries are receiving or are entitled to receive benefits.

7(d). Plan administrators are cautioned that section 6057(e) of the Code provides that the plan administrator is required to furnish each such participant an individual statement which must include the same information reported on Schedule SSA with respect to such participant.

8(a). Check "Yes," if an amendment to the plan was adopted since the end of the last plan year covered by the last return/report Form 5500, 5500–C or 5500–K which was required to be filed for this plan, regardless of the effective date of the amendment.

9. If plan was terminated and trust assets were not completely distributed, a return/report must be filed for each year that the trust has assets. In such case, the return/report must be filed by the plan administrator, if designated, or by the person or persons actually responsible for the control, disposition or management of the cash or property received by or contributed to the plan.

9(a). Check "Yes," if plan was terminated or if plan was merged or consolidated into another plan.

9(b). If all the trust assets were allocated to purchase individual annuity contracts and the contracts were distributed to the participants, check "Yes."

10. If this plan was merged or consolidated into another plan(s) or plan assets or liabilities were transferred to another plan(s), it is necessary to show what other plan or plans were involved.

10(a). Check "Yes," if plan was merged or consolidated into another plan.

10(c). Enter the EIN of the sponsor, employer if for a single-employer plan, of the other plan.

11(a). Check for a trust which funds no benefits through insurance or annuity contracts.

11(b). Check for a trust or arrangement providing benefits exclusively through insurance and/or annuity contracts.

11(c). Check for a trust or arrangement providing benefits partially through insurance and/or annuity contracts.

12. If uncertainty exists as to coverage status of the plan under Title IV of ERISA check box "Not determined" and a determination will be made by PBGC.

12(c). Completion of this item satisfies the reporting requirement under ERISA, section 4065. However, completion of this item does not replace any of the specific reporting requirements under ERISA, section 4043(b), 4062(e) and 4063(a).

If 12(b) was checked "Yes," indicating that certain events occurred requiring notification to the PBGC, designate which events (1 through 13 below) occurred. To do this, enter the event's corresponding number on the line provided.

(1) A notice was received from the Secretary of the Treasury that the plan has ceased to be a plan described in section 4021(a)(2) of ERISA.

(2) The Secretary of Labor has determined the plan is not in compliance with Title I of ERISA.

(3) During the plan year, an amendment was adopted under which the benefit payable with respect to any participant may be decreased.

(4) The number of active participants was less than 80 percent of the number of such participants at the beginning of the plan year, or less than 75 percent of the number of such participants at the beginning of the previous plan year.

(5) The Internal Revenue Service issued a determination that there had been a termination or partial termination of the plan within the meaning of section 411(d)(3) of the Code.

(6) The plan was unable to pay any benefit when due.

(7) One or more distributions were made to a substantial owner (other than on account of death) within a 24 month period. The distribution(s) had a total value of $10,000 or more and immediately after the distribution(s) the plan had nonforfeitable benefits which are not funded. The term "substantial owner" means an individual who:

(A) owns the entire interest in an unincorporated trade or business;

(B) in the case of a partnership is a partner who owns, directly or indirectly, more than 10 percent of either

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the capital interest or profits in such partnership; or

(C) in the case of a corporation owns, directly or indirectly, more than 10 percent in the value of either the voting stock of that corporation or all the stock in that corporation.

The constructive ownership rules of section 1563(e) of the Code apply in the case of a corporation without regard to sections 1563(a)(4) and 1563(e)(3)(C) of the Code. An individual is also treated as a substantial owner under the plan at any time within sixty (60) months preceding the date on which the determination is made.

(8) The Secretary of Labor, under section 110 of ERISA, has prescribed an alternative method of compliance. (Which is not of general applicability.)

(9) Operations ceased at a facility of an employer maintaining a plan, resulting in the separation from employment of more than 20 percent of the employees who are participants in the plan.

(10) A substantial employer withdrew from a plan under which more than one employer makes contributions. The term "substantial employer" means an employer who for any plan year has made contributions to a plan under which more than one employer contributes for each of (a) the two preceding plan years or (b) the second and third preceding plan years—equaling or exceeding 10 percent of all employer contributions paid to or under the plan for each such year.

If one or more of the following events occurred, we would appreciate it if you would so indicate. These events are not required to be reported unless they occurred on or after the effective date of PBGC's final reportable event regulation. See note below.

(11) There has been a bankruptcy, insolvency or similar settlement (e.g., assignment for the benefit of creditors or composition, extension or settlement with creditors) of a contributing sponsor to a single employer plan.

(12) There has been a liquidation or dissolution of a contributing sponsor with respect to a single employer plan.

(13) There has been a transaction involving a contributing sponsor to a single employer plan that results in a change of employer. This event is not required to be reported for plans with less than $1 million in nonforfeitable benefits which are not funded.

Note: *For further information concerning Event Numbers (1) through (8) and (11) (12) and (13), see PBGC's final regulation on Reporting and Notification Requirements for Reportable Events expected to be published in the Federal Register in 1980 to be codified in 29 CFR 2617.*

13. The financial information may be based on either the cash, modified accrual or accrual basis for recognition of transactions as long as one method is applied consistently throughout item 13. Include insurance contracts with unallocated funds, etc.

The term "current value" means fair market value where available and otherwise the fair value as determined in good faith by a trustee or a named fiduciary pursuant to the terms of the plan at the time of such determination.

13(a). Enter the amount of net assets as of the end of the previous plan year as shown on the previous year's Form 5500–K.

13(b). Any contributions made for the plan year before the due date of the employer's Federal income tax return (including any extension thereof) should be included on this line.

13(e). Include all distributions of benefits paid directly to participants or their beneficiaries and payments to provide benefits made to insurance carriers or similar organizations.

13(f). Other changes include unrealized appreciation/depreciation on investments.

13(g). All contributions entered on line 13(b) should be included in net assets at the end of the plan year.

14(a). Party-in-Interest Transactions.—If 14(a) is checked "Yes," describe each transaction in the following or similar format, except for the following transactions:

(1) Payments of insurance premiums;

(2) Benefit payments authorized by the plan;

(3) The investment of plan assets in—(i) deposits in a bank or similar financial institution supervised by a State or Federal agency, (ii) a common or collective trust fund or pooled investment fund maintained by a bank or trust company supervised by a State or Federal agency, or (iii) a pooled investment fund of an insurance company qualified to do business in a State;

(4) Receipt of cash contributions from a party-in-interest reportable in 13(b) of this form; and

(5) Any person who rendered services to the plan which are statutorily exempt under section 408(b) of ERISA and the regulations thereunder.

If the assets or investments of two or more plans are maintained in one trust (xecept common or collective trusts) the entries in the schedule which relate to the trust shall be complete by entering the plan's applicable portion of the total dollar amounts.

If you relied upon a statutory or administrative exemption in entering into a transaction described in the schedule, enter in column k ("exemption") the section of ERISA or the number of the administrative exemption upon which you relied. Also use column k to indicate that an application for an administrative exemption is pending.

a. Identity of party involved	b. Relationship to plan employer or other party-in-interest	c. Description of transactions including maturity date, rate of interest, collateral, par or maturity value	d. Purchase price	e. Selling price	f. Lease rental	g. Expense incurred in connection with transaction	h. Cost of asset	i. Current value of asset	j. Net gain or (loss) on each transaction	k. Exemption

The term "party-in-interest" (for purposes of this form, party-in-interest is deemed to include a disqualified person—see section 4975(e)(2) of the Code) means as to an employee benefit plan—

(A) any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel or employee of such employee benefit plan;

(B) a person providing services to such plan;

(C) an employer any of whose employees are covered by such plan;

(D) an employee organization any of whose members are covered by such plan;

(E) an owner, direct or indirect, of 50% or more of—*(i)* the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation, *(ii)* the capital interest or the profits interest of a partnership, or *(iii)* the beneficial interest of a trust or unincorporated enterprise, which is an employer or an employee organization described in subparagraph (C) or (D);

(F) a relative of any individual described in subparagraph (A), (B), (C) or (E);

(G) a corporation, partnership, or trust or estate of which (or in which) 50% or more of—*(i)* the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of interest or profits interest of such partnership, or *(iii)* the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D), or (E);

(H) an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in subparagraph (B), (C), (D), (E) or (G), or the employee benefit plan; or

(I) a 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in subparagraph (B), (C), (D), (E) or (G).

15(b). Include any individual, trade or business, whether incorporated or unincorporated, responsible for managing the clerical operations (e.g., handling membership rosters, claim payments, maintaining books and records) of the plan on a contractual

basis. It will include salaried staff or employees of the plan or banks or insurance carriers. The employer identification number (EIN) of the business being reported or the EIN of the individual's employer should follow the name. For example: John Smith (99–1234567).

15(d) and (e). Only plans which have checked 11(b) or 11(c) need to complete these items.

15(d). Replaced means a policy has been discontinued and a new policy written. It does not include incremental policies. For example, it does not include individual life policies written to reflect salary increases.

16. Loss means any loss to the plan caused by the fraud or dishonesty of any plan official or employee of the plan or of other person handling funds of the plan.

17. The following definitions are to assist the filer and are only for understanding this form.

(1) Fiduciary.—A person is a fiduciary with respect to a plan to the extent: (i) he or she exercises any discretionary authority to discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he or she renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he or she has any discretionary authority or discretionary responsibility in the administration of such plan.

(2) Employer Real Property.—Real property (and related personal property) which is leased to an employer or employees covered by the plan, or to an affiliate of such employer.

(3) Employer Security.—A security issued by an employer or employees covered by the plan, or by an affiliate of such employer.

(4) Qualifying Employer Security.—An employer security which is a stock or a marketable obligation is considered a qualifying employer security. For purposes of this definition, the term marketable obligation means a bond, debenture, note, or certificate, or other evidence of indebtedness (obligation) if:

(i) such obligation is acquired—
  (A) on the market, either (1) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (2) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;
  (B) from an underwriter, at a price (1) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (2) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or
  (C) directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;
(ii) immediately following acquisition such obligation—
  (A) not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and
  (B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and
(iii) immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

(5) Qualifying Employer Real Property.—Employer real property is considered qualifying employer real property:
(i) if a substantial number of the parcels are dispersed geographically;
(ii) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;
(iii) even if all such real property is leased to one lessee (which may be an employer, or an affiliate of any employer); and
(iv) if the acquisiton and retenton of such property comply with the provisions of Part I of ERISA (other than section 404(a)(1)(B)) to the extent it requires diversification, and sections 404(a)(1)(C), 406 and 407(a).

18. The IRS serial number is the eight-digit letter serial number provided by the IRS for master, prototype, and pattern plans (e.g. 07600630).

19(b). If a waiver of a funding deficiency has been granted, do not complete items 19(b)(i), (ii) and (iii) but complete 1, 2, 3 and 9 of Schedule B (Form 5000). An enrolled actuary need not sign Schedule B under these circumstances.

19(b)(i), (ii) and (iii). Sole proprietors or partnerships with no employees during the plan year, enter "N/A."

19(b)(iii). File Form 5330 with IRS to pay the 5% excise tax on the funding deficiency.

20. When filed for an individual employer, enter the date the employer's taxable year ends. For example, if the taxable year is a calendar year, enter 12/31/80. For all plans with more than one employer, enter "N/A."

21. Do not include the interest bearing and cash portion of 13(g) in the computation.

22. Enter the name and address of the person designated as agent for the service of legal process. This should be either the name of an individual or the title of the position occupied by the individual who will receive service. If no person has been designated to date, one should be designated. A post office box is not satisfactory as the business address.

23. List the name and address of each person considered to be a fiduciary with respect to the plan. Information furnished will not be determinative as to whether a party is in fact a fiduciary to the plan. See item 17 instructions for the definition of fiduciary.

Codes for Principal Business Activity and Principal Product or Service

These industry titles and definitions are based, in general, on the Enterprise Standard Industrial Classification system developed by the Office of Management and Budget, Executive Office of the President, to classify enterprises by type of activity in which they are engaged. The system follows closely the Standard Industrial Classification used to classify establishments.

AGRICULTURE, FORESTRY, AND FISHING

Code

Farms:
0120 Field crop.
0150 Fruit, tree nut, and vegetable.
0180 Horticultural specialty.
0230 Livestock.
0270 Animal specialty.

Agricultural services and forestry:
0740 Veterinary services.
0750 Animal services, except veterinary.
0780 Landscape and horticultural services.
0790 Other agricultural services.
0800 Forestry.

Fishing, hunting, and trapping:
0930 Commercial fishing, hatcheries and preserves.
0970 Hunting, trapping, and game propagation.

MINING

Metal mining:
1010 Iron ores.
1070 Copper, lead and zinc, gold and silver ores.
1098 Other metal mining.
1150 Coal mining.

Oil and gas extraction:
1330 Crude petroleum, natural gas, and natural gas liquids.
1380 Oil and gas field services.

Nonmetallic minerals (except fuels) mining:
1430 Dimension, crushed and broken stone; sand and gravel.
1498 Other nonmetallic minerals, except fuels.

Code

CONSTRUCTION

General building contractors and operative builders:
1510 General building contractors.
1531 Operative builders.

Heavy construction contractors:
1611 Highway and street construction.
1620 Heavy construction, except highway.

Special trade contractors:
1711 Plumbing, heating, and air-conditioning.
1721 Painting, paperhanging, and decorating.
1731 Electrical work.
1740 Masonry, stonework, and plastering.
1750 Carpentering and flooring.
1761 Roofing and sheet metal work.
1771 Concrete work.
1781 Water well drilling.
1790 Miscellaneous special trade contractors.

MANUFACTURING

Food and kindred products:
2010 Meat products.
2020 Dairy products.
2030 Preserved fruits and vegetables.
2040 Grain mill products.
2050 Bakery products.
2060 Sugar and confectionery products.
2081 Malt liquors and malt.
2088 Alcoholic beverages, except malt liquors and malt.
2089 Bottled soft drinks, and flavorings.
2096 Other food and kindred products.
2100 Tobacco manufacturers.

Code

Textile mill products:
2228 Weaving mills and textile finishing.
2250 Knitting mills.
2298 Other textile mill products.

Apparel and other textile products:
2315 Men's and boys' clothing.
2345 Women's and children's clothing.
2388 Hats, caps, millinery, fur goods, and other apparel and accessories.
2390 Misc. fabricated textile products.

Lumber and wood products, except furniture:
2415 Logging camps and logging contractors, sawmills and planing mills.
2430 Millwork, plywood, and related products.
2498 Other wood products, including wood buildings and mobile homes.
2500 Furniture and fixtures.

Paper and allied products:
2625 Pulp, paper, and board mills.
2699 Other paper products.

Printing, publishing, and allied industries:
2710 Newspapers.
2720 Periodicals.
2735 Books, greeting cards, and misc. publishing.
2799 Commercial and other printing, and printing trade services.

Chemicals and allied products:
2815 Industrial chemicals, plastics materials and synthetics.
2830 Drugs.
2840 Soap, cleaners, and toilet goods.
2850 Paints and allied products.
2898 Agricultural and other chemical products.

Petroleum refining and related industries (including those integrated with extraction):
2910 Petroleum refining (including those integrated with extraction).
2998 Other petroleum and coal products.

Rubber and misc. plastics products:
3050 Rubber products; plastics footwear, hose and belting.
3070 Misc. plastics products.

Leather and leather products:
3140 Footwear, except rubber.
3198 Other leather and leather products.

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Code

Stone, clay, glass, and concrete products:
3225 Glass products.
3240 Cement, hydraulic.
3270 Concrete, gypsum, and plaster products.
3298 Other nonmetallic mineral products.

Primary metal industries:
3370 Ferrous metal industries; misc. primary metal products.
3380 Nonferrous metal industries.

Fabricated metal products, except machinery and transportation equipment:
3410 Metal cans and shipping containers.
3428 Cutlery, hand tools, and hardware; screw machine products, bolts, and similar products.
3430 Plumbing and heating, except electric and warm air.
3440 Fabricated structural metal products.
3460 Metal forgings and stampings.
3470 Coating, engraving, and allied services.
3480 Ordnance and accessories, except vehicles and guided missiles.
3490 Misc. fabricated metal products.

Machinery, except electrical:
3520 Farm machinery.
3530 Construction, mining and materials handling machinery and equipment.
3540 Metalworking machinery.
3550 Special industry machinery, except metalworking machinery.
3560 General industrial machinery.
3570 Office, computing, and accounting machines.
3598 Engines and turbines, service industry machinery, and other machinery, except electrical.

Electrical and electronic machinery, equipment, and supplies:
3630 Household appliances.
3665 Radio, television, and communication equipment.
3670 Electronic components and accessories.
3698 Other electric equipment.

Transportation equipment:
3710 Motor vehicles and equipment.
3725 Aircraft, guided missiles and parts.
3730 Ship and boat building and repairing.
3798 Other transportation equipment.

Measuring and controlling instruments; photographic and medical goods, watches and clocks:
3815 Scientific instruments and measuring devices; watches and clocks.
3845 Optical, medical, and ophthalmic goods.
3860 Photographic equipment and supplies.
3998 Other manufacturing products.

TRANSPORTATION, COMMUNICATION, ELECTRIC, GAS, AND SANITARY SERVICES

Transportation:
4000 Railroad transportation.

Local and interurban passenger transit:
4121 Taxicabs.
4189 Other passenger transportation.

Trucking and warehousing:
4210 Trucking, local and long distance.
4289 Public warehousing and trucking terminals.

Other transportation including transportation services:
4400 Water transportation.
4500 Transportation by air.
4600 Pipelines, except natural gas.
4722 Passenger transportation arrangement.
4723 Freight transportation arrangement.
4799 Other transportation services.

Communication:
4825 Telephone, telegraph, and other communication services.
4830 Radio and television broadcasting.

Electric, gas, and sanitary services:
4910 Electric services.
4920 Gas production and distribution.
4930 Combination utility services.
4990 Water supply and other sanitary services.

WHOLESALE TRADE

Durable:
5010 Motor vehicles and automotive equipment.
5020 Furniture and home furnishings.
5030 Lumber and construction materials.
5040 Sporting, recreational, photographic, and hobby goods, toys, and supplies.
5050 Metals and minerals, except petroleum and scrap.
5060 Electrical goods.
5070 Hardware, plumbing and heating equipment.
5083 Farm machinery and equipment.
5089 Other machinery, equipment, and supplies.
5098 Other durable goods.

Nondurable:
5110 Paper and paper products.
5129 Drugs, drug proprietaries, and druggists' sundries.
5130 Apparel, piece goods, and notions.

Code

5140 Groceries and related products, except meats and meat products.
5147 Meats and meat products.
5150 Farm-product raw materials.
5160 Chemicals and allied products.
5170 Petroleum and petroleum products.
5180 Alcoholic beverages.
5190 Misc. nondurable goods.

RETAIL TRADE

Building materials, hardware, garden supply, and mobile home dealers:
5211 Lumber and other building materials dealers.
5231 Paint, glass, and wallpaper stores.
5251 Hardware stores.
5261 Retail nurseries and garden stores.
5271 Mobile home dealers.

General merchandise:
5331 Variety stores.
5398 Other general merchandise stores.

Food stores:
5411 Grocery stores.
5420 Meat and fish markets and freezer provisioners.
5431 Fruit stores and vegetable markets.
5441 Candy, nut, and confectionery stores.
5451 Dairy products stores.
5460 Retail bakeries.
5490 Other food stores.

Automotive dealers and service stations:
5511 New Car dealers (franchised).
5521 Used car dealers.
5531 Auto and home supply stores.
5541 Gasoline service stations.
5551 Boat dealers.
5561 Recreational vehicle dealers.
5571 Motocycle dealers.
5999 Aircraft and other automotive dealers.

Apparel and accessory stores:
5611 Men's and boys' clothing and furnishings.
5621 Women's ready-to-wear stores.
5631 Women's accessory and specialty stores.
5641 Children's and infants' wear stores.
5651 Family clothing stores.
5661 Shoe stores.
5681 Furriers and fur shops.
5699 Other apparel and accessory stores.

Furniture, home furnishings, and equipment stores:
5712 Furniture stores.
5713 Floor covering stores.
5714 Drapery, curtain, and upholstery stores.
5719 Home furnishings, except appliances.
5722 Household appliance stores.
5732 Radio and television stores.
5733 Music stores.

Eating and drinking places:
5812 Eating places.
5813 Drinking places.

Miscellaneous retail stores:
5912 Drug stores and proprietary stores.
5921 Liquor stores.
5931 Used merchandise stores.
5941 Sporting goods stores and bicycle shops.
5942 Book stores.
5943 Stationery stores.
5944 Jewelry stores.
5945 Hobby, toy, and game shops.
5946 Camera and photographic supply stores.
5947 Gift, novelty, and souvenir shops.
5948 Luggage and leather goods stores.
5949 Sewing, needlework, and piece goods stores.
5961 Mail order houses.
5962 Merchandising machine operators.
5963 Direct selling organizations.
5982 Fuel and ice dealers (except fuel oil and bottled gas dealers).
5983 Fuel oil dealers.
5984 Liquefied petroleum gas (bottled gas).
5992 Florists.
5993 Cigar stores and stands.
5994 News dealers and newsstands.
5996 Other miscellaneous retail stores.

FINANCE, INSURANCE, AND REAL ESTATE

Banking:
6030 Mutual savings banks.
6060 Bank holding companies.
6090 Banks, except mutual savings banks and bank holding companies.

Credit agencies other than banks:
6120 Savings and loan associations.
6140 Personal credit institutions.
6150 Business credit institutions.
6199 Other credit agencies.

Security, commodity brokers, dealers, exchanges, and services:
6212 Security underwriting syndicates.
6218 Security brokers and dealers, except underwriting syndicates.
6299 Commodity contracts brokers and dealers; security and commodity exchanges; and allied services.

Insurance:
6355 Life insurance.
6356 Mutual insurance, except life or marine

Code

and certain fire or flood insurance companies.
6359 Other insurance companies.
6411 Insurance agents, brokers, and services.

Real Estate:
6511 Real estate operators (except developers) and lessors of buildings.
6516 Lessors of mining, oil, and similar property.
6518 Lessors of railroad property and other real property.
6531 Real estate agents, brokers and managers.
6541 Title abstract offices.
6552 Subdividers and developers, except cemeteries.
6553 Cemetery subdividers and developers.
6599 Other real estate.
6611 Combined real estate, insurance, loans and law offices.

Holding and other investment companies:
6742 Regulated investment companies.
6743 Real estate investment trusts.
6744 Small business investment companies.
6749 Holding and other investment companies, except bank holding companies.

SERVICES

Hotels and other lodging places:
7012 Hotels.
7013 Motels, motor hotels, and tourist courts.
7021 Rooming and boarding houses.
7032 Sporting and recreational camps.
7033 Trailer parks and camp sites.
7041 Organizational hotels and lodging houses on a membership basis.

Personal services:
7215 Coin-operated laundries and dry cleaning.
7219 Other laundry, cleaning and garment services.
7221 Photographic studios, portrait.
7231 Beauty shops.
7241 Barber shops.
7251 Shoe repair and hat cleaning shops.
7261 Funeral services and crematories.
7299 Miscellaneous personal services.

Business services:
7310 Advertising.
7340 Services to buildings.
7370 Computer and data processing services.
7392 Management, consulting, and public relation services.
7394 Equipment rental and leasing.
7398 Other business services.

Automotive repair and services:
7510 Automotive rentals and leasing, without drivers.
7520 Automobile parking.
7531 Automobile top and body repair shops.
7538 General automobile repair shops.
7539 Other automotive repair shops.
7540 Automotive services, except repair.

Miscellaneous repair services:
7622 Radio and TV repair shops.
7628 Electrical repair shops, except radio and TV.
7641 Reupholstery and furniture repair.
7680 Other miscellaneous repair shops.

Motion pictures:
7812 Motion picture production, distribution, and services.
7830 Motion picture theaters.

Amusement and recreation services:
7920 Producers, orchestras, and entertainers.
7932 Billiard and pool establishments.
7933 Bowling alleys.
7980 Other amusement and recreation services.

Medical and health services:
8011 Offices of physicians.
8021 Offices of dentists.
8031 Offices of osteopathic physicians.
8041 Offices of chiropractors.
8042 Offices of optometrists.
8048 Registered and practical nurses.
8050 Nursing and personal care facilities.
8060 Hospitals.
8071 Medical laboratories.
8072 Dental laboratories.
8098 Other medical and health services.

Other services:
8111 Legal services.
8200 Educational services.
8911 Engineering and architectural services.
8932 Certified public accountants.
8933 Other accounting, auditing, and bookkeeping services.
8999 Other services, not elsewhere classified.

TAX-EXEMPT ORGANIZATIONS

9001 Church.
9002 Church plans making an election under section 410(d) of the Internal Revenue Code.
9319 Other tax-exempt organization.
9904 Governmental instrumentality or agency.

Worksheet A

Worksheet for determining the deduction for contributions made on behalf of common-law employees and self-employed individuals who are participants in a defined benefit plan. This may be made part of your permanent record—it should not be filed.

1 Limitation on amount deductible under a defined benefit plan:	
(a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) Amount necessary to meet minimum funding standards	
(e) Amount deductible under section 404(a)(1)(A)(ii) of the Code	
(f) Amount deductible under section 404(a)(1)(A)(iii) of the Code	
(g) Amount equal to the full funding limitation determined under section 412 of the Code	
(h) Deduction, applicable line (d), (e) or (f) not to exceed the lesser of line (c) or (g)	
2 Primary limitation on amount deductible under a profit-sharing or stock bonus plan:	
(a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) 15% of compensation paid to all participants	
(e) Deduction, lesser of line (c) or (d)	
3 Secondary limitation on amount deductible under a profit-sharing or stock bonus plan:	
(a) Amount of employer contributions for the taxable year	
(b) 25% of compensation paid to all participants	
(c) Aggregate primary limitations for all prior years and current year	
(d) Aggregate prior years' deductions	
(e) Excess of (c) over (d)	
(f) Lesser of (b) or (e)	
(g) Deduction, lesser of line (a) or (f)	
4 Limitation on amount deductible under a money purchase plan:	
(a) Amount of employer contributions for the taxable year	
(b) Contribution carryover from prior year	
(c) Total, (a) plus (b)	
(d) Normal cost (current year's service costs)	
(e) Credits and gains	
(f) Basic limit on deduction, (d) less (e)	
(g) Minimum contributions required under section 412 if larger than (f)	
(h) Deduction, (f) or (g) but not to exceed (c)	
5 Limitation on amount deductible under overlapping plans, section 404(a)(7) of the Code:	
(a) 25% of compensation paid to all participants	
(b) Total amount of employer contributions otherwise deductible under all overlapping plans	
(c) Smaller of (a) or (b)	
(d) Carryover from prior year under section 404(a)(7) of the Code	
(e) Lesser of (a) or the sum of (c) and (d)	
(f) Amount contributed to meet minimum funding standards	
(g) Deduction, greater of (e) or (f)	
6 Limitation on deduction for employer contributions to a non-qualified plan:	
(a) Amount* of employer contributions for the taxable year that is nonforfeitable to the participants	
(b) Amount* of prior year's employer contributions that became nonforfeitable to the participants this year	
(c) Allowable deduction for this year, (a) plus (b)	
*Such amounts must be reported on the employees' Forms W-2.	

Worksheet B

Worksheet for determining the deduction for contributions made on behalf of self-employed individuals for defined contribution plans only. For determining the deduction for defined benefit plans use Worksheet A lines 1(a) through (h). This may be made part of your permanent record—it should not be filed.

1 Employer contributions made to the plan for sole proprietor or partners	
2 Less amount allocated to life insurance protection (the term insurance premium)	
3 Net contributions	
4 Earned income of sole proprietor or of all participating partners but not in excess of $50,000 for a sole proprietor or for any one partner	
5 15% of line 4. (Exceptions: If a sole proprietor or a partner has less than $5,000 earned income and his or her adjusted gross income, computed without regard to this deduction, does not exceed $15,000, enter the lesser of the amount on line 4 or $750 with respect to such sole proprietor or partner.)	
6 Deduction, enter the smaller of lines 3 or 5	

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Part V

Environmental Protection Agency

State and Local Assistance: Grants for Underground Water Source Protection Programs; Miscellaneous Amendments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1539-8]

State and Local Assistance: Grants for Underground Water Source Protection Programs; Miscellaneous Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment to the regulations governing grants for underground water source protection programs under Section 1443(b) of the Safe Drinking Water Act makes several miscellaneous changes.

One of the changes clarifies that data for Indian lands has been included to determine the State grant allocation and that EPA shall use the portion of the State grant allocation based upon Indian lands to fund its implementation activities for Indian lands. The second change specifies the grant allocation for fiscal years 1980 and 1981. The remainder of the changes correct reference citations and delete items rendered unnecessary due to change in program strategy.

EFFECTIVE DATES: August 1, 1980.

ADDRESSEES: Comments on these regulation amendments should be addressed to: Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0850.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Belk, Chief, Ground Water Protection Branch, Office of Drinking Water (WH-550), 401 M Street, S.W., Washington, D.C. 20460, 202-426-3934.

SUPPLEMENTARY INFORMATION: EPA published final regulations governing underground water source protection program grants in the **Federal Register** on October 12, 1978 (43 FR 47130). This program is listed in the Catalog of Federal Domestic Assistance as program number 66.433, State Underground Water Source Protection Program Grants. Since that time we have identified a need for several miscellaneous amendments. The changes in this amendment describe how EPA considers data for Indian lands in the allotment of funds. These amendments do not change the method of allotments or place any additional requirements on the grant program. This amendment also includes changes which simplify the language and readability of the regulations. A discussion of the changes is presented below.

The references to "Part 129" which appear in §§ 35.650 through 35.680 are changed to "Part 146." The grant regulations contain reference to the underground injection control regulations which EPA anticipated reproposing in 40 CFR Part 129. EPA reproposed the underground injection control regulations as 40 CFR Part 146 on April 26, 1979 (44 FR 23738).

Section 35.655. We are amending § 35.655 to incorporate former §§ 35.655-1 and 35.655-2. This section is amended to clarify that the data base will be revised as new information becomes available. New §§ 35.655 (b) and (c) clarify how EPA considers data related to population area and injection practices on Indian lands in the allotment formula. A new § 35.655(d) is added which provides a $30,000 minimum grant allotment. § 35.655-1(b) is renumbered as § 35.655(e).

Section 35.656(a). The language of this subsection has been revised to improve the readability of the regulation and include the clarification of how EPA considers data for Indian lands in the allotment of funds.

Section 35.657(b). The amendment to this subsection is strictly editorial to include words omitted in the October 12, 1978, **Federal Register.**

Section 35.659. This section is amended to simplify the language and clarify the eligibility requirements. EPA has listed all States as requiring underground injection control programs, thus, all States will be eligible for fiscal year 1981 grants.

Section 35.664. This section is amended to eliminate the restriction that only fiscal year 1979 grants may be for a period less than the Federal fiscal year. Our intention is that the initial grant, regardless of fiscal year, could be for a period of more or less than the Federal fiscal year as determined by the Regional Administrator.

Section 35.670-2(c). This subsection is amended to clarify that the plan for the identification and designation of aquifers relates only to aquifers exempted as underground drinking water sources. This clarification reflects a change in the underground injection control regulations in 40 CFR Part 146.

Section 35.670-3(b). This subsection is being amended to provide the Regional Administrators with flexibility in requiring draft applications.

Section 35.670-4(a). Two changes are being made in this subsection to clarify the types of activities that may be funded under Data Management and Surveillance and Investigation. Subsection 35.670-4(a)(8) is being amended to provide for modification of existing ADP systems with EPA approval. Subsection 35.670-4(a)(9) is being broadened to allow for water quality and monitoring studies relating to exempted aquifers.

We are republishing the underground water source protection program grant regulations (40 CFR 35.650 through 35.680 and 35.400 through 35.425) in its entirety to provide users an updated regulation and eliminate confusion or possible oversight of these amendments.

Dated: June 26, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management (WH-556).

1. 40 CFR Part 35, Subpart B, is amended by revising §§ 35.400-35.425 to read as follows:

PART 35—STATE AND LOCAL ASSISTANCE

Subpart B—Program Grants

Sec.

35.400 Purpose.
35.400-1 Air pollution control agency grant awards.
35.400-2 Water pollution control program grant awards.
35.400-3 Public water system supervision program grant awards.
35.400-4 Solid and hazardous waste management program support grant awards.
35.00-5 [Reserved]
35.400-6 Underground water source protection program grant awards.
35.403 Authority.
35.404 Annual guidance.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of agency performance.
35.415 Financial status report.
35.420 Payment.
35.425 Federal and grantee program support.

Subpart B—Program Grants

Authority: Secs. 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g)); sections 106 and 501 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); sections 1443 and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j-2 and 300j-9); sections 3011, 4007, 4008 and 4009 of the Solid Waste Disposal Acts, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948 and 6949).

§ 35.400 Purpose.

This subpart establishes and codifies policy and procedures for air pollution, water pollution, public water system supervision, solid and hazardous waste management support, and underground water source protection program grants, and supplements the EPA general grant regulations and procedures (Part 30 of this chapter). These grants are intended to aid programs for air pollution control, water pollution control, public water

system supervision, solid and hazardous waste management, and underground water source protection at the State, interstate, or local level.

§ 35.400–1 Air pollution control agency grant awards.

Grants may be awarded to air pollution control agencies for the planning, development, establishment, improvement, and maintenance of programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in accordance with the applicable implementation plan.

§ 35.400–2 Water pollution control program grant awards.

Grants may be awarded to State and interstate water pollution control agencies to assist them in developing or administering programs for the prevention, reduction, and elimination of water pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

§ 35.400–3 Public water system supervision program grant awards.

Grants may be awarded to State agencies to assist them in developing or administering public water system supervision programs.

§ 35.400–4 Solid and hazardous waste management program support grant awards.

Grants may be awarded to agencies having responsibility for solid and hazardous waste management to assist them in developing and implementing solid and hazardous waste management work programs.

§ 35.400–5 [Reserved]

§ 35.400–6 Underground water source protection program grant awards.

Grants may be awarded to eligible States to assist them in developing and administering programs to protect underground sources of drinking water by adoption and enforcement of a program which meets the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Safe Drinking Water Act and regulations promulgated under these sections.

§ 35.403 Authority.

This subpart is issued under sections 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g)); sections 106 and 501 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); sections 1443 and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j–2 and 300j–9); sections 3011, 4007, 4008 and 4009 of the Solid Waste Disposal Acts, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948 and 6949).

§ 35.404 Annual guidance.

The Environmental Protection Agency will develop and disseminate annual guidance to be used by the grantee to structure air pollution, water pollution, public water system supervision, solid and hazardous waste management, and underground water source protection programs for the coming Federal fiscal year. The guidance will contain a statement of the national strategy, including national objectives and national priorities for the year, together with planning figures for Federal program grant assistance based on the EPA budget approved by the President. The annual guidance will be disseminated each year as soon as practicable during the month of February.

§ 35.405 Criteria for evaluation of program objectives.

(a) Programs set out in the application and submitted in accordance with these regulations shall be evaluated in writing by the Regional Administrator to determine:

(1) Consistency and compatibility of objectives and expected results with EPA national and regional priorities in implementing purposes and policies of the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, or the Resource Conservation and Recovery Act.

(2) Feasibility of achieving objectives and expected results in relation to existing problems, past performance, program authority, organization, resources and procedures.

(b) Approval of the program developed under § 35.526 (air) or § 35.565 (water pollution) or § 35.626 (public water system supervision) or § 35.718 (solid and hazardous waste management) or § 35.650 (underground water source protection) shall be based on the extent to which the applicant's program satisfies the above criteria.

§ 35.410 Evaluation of agency performance.

(a) A performance evaluation shall be conducted at least annually by the Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved objectives and outputs described in the work program. The evaluation shall be consistent with the requirements of § 35.538 for air pollution control agncies, § 35.570 for water pollution control agencies, § 35.626(d) for public water system supervision agencies, § 35.744 for solid and hazardous waste management agencies and § 35.680 for underground water source protection agencies.

(b) The Regional Administrator shall prepare a written report of the annual evaluation. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.415 Financial status report.

Within 90 days after the end of each budget period, the grantee must submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615–3 of this chapter until this report is received.

§ 35.420 Payment.

Grant payments will be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of all allowable costs incurred from the beginning of the approved budget period, provided that monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs incurred in the last month of the prior budget period.

§ 35.425 Federal and grantee program support.

(a) For purposes of establishing the amount of resources which will be committed by the agency to particular budget categories or program elements under §§ 35.527 (air), 35.561(a) (water), § 35.626–1 (public water system supervision), or 35.670–2 (underground water source protection), Federal and grantee financial contributions shall be considered as combined sums, and shall not be separately identified for each budget category or program element. For purposes of this subpart, and under § 30.700(a) of this chapter, all project expenditures by the grantee shall be deemed to include the Federal share.

(b) A grantee may not unilaterally reduce the non-Federal share of project costs. In the event of a significant proposed or actual reduction in the non-Federal contribution, the Regional Administrator must consider a reduction in the Federal share or an increase to the Federal percentage.

2. 40 CFR Part 35, Subpart B, is amended by revising sections: 35.650 through 35.680–2 to read as follows:

State Underground Water Source Protection Program Grants

Sec.

35.650 Scope and purpose.
35.653 Definitions.
35.655 Determination of allotments.
35.656 Determination of reallotments.
35.657 Rate of Federal assistance.
35.659 Eligibility for grant award.
35.660 Limitation on grant award.
35.661 A-95 Clearinghouse review.
35.662 Allowable costs.
35.664 Budget period.
35.666 Reduction of grant amount.
35.670 Annual State program grant plan.
35.670-1 General.
35.670-2 State program grant preparation.
35.670-3 State program grant submission.
35.670-4 Major program elements and outputs.
35.670-5 Regional Administrator's action on grant application.
35.675 Assignment of personnel.
35.680 Program evaluation and reports.
35.680-1 Program evaluation.
35.680-2 Reports.

State Underground Water Source Protection Program Grants

Authority: Secs. 1443 and 1450 of Pub. L. 93-523, as amended by Pub. L. 95-190, 88 Stat. 1660 (42 U.S.C. 300j-2 and 300j-9).

§ 35.650 Scope and purpose.

Sections 35.650 through 35.680 of this subpart establish regulations and procedures for providing program grant funds to eligible States for the development and administration of underground water source protection programs as authorized by Section 1443(b) of the Safe Drinking Water Act as amended. These regulations supplement EPA General Grant Regulations and Procedures set forth in Part 30 of this chapter and § 35.400 through § 35.425, which apply to all EPA Program Grants.

§ 35.653 Definitions.

Other terms used herein shall have the same meaning as prescribed in the definition of terms contained in Part 146 of this chapter. As used in this subpart, except as otherwise specifically provided:

(a) "Act" means the Public Health Service Act as amended by the Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.).

(b) "Allotment" means the sum reserved for each State from funds appropriated by Congress. An allotment is not an absolute entitlement of funds for any State; rather, it represents the amount for which an eligible State may apply.

(c) "State" means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Marianas.

(d) "Eligible State" means:

(1) A State listed by the Administrator under Section 1422(a) as requiring an underground injection control program *or* (2) a State that—

(i) Requests to be included on the list within the time specified by the Administrator, (ii) declares its intent to implement a program in accordance with Section 1421 of the Act, *and* (iii) is subsequently listed by the Administrator as requiring an underground injection control program.

(e) "Underground water source protection program" means a program for:

(1) Adopting and enforcing a program which meets the requirements of Section 1421 of the Act and regulations in Part 146 of this chapter and (2) keeping records and making reports required by Section 1422(b)(1)(A)(ii) of the Act.

§ 35.655 Determination of allotments.

(a) An allotment of funds among the States for fiscal year 1979 shall be made on the basis of the following factors and weights.

(1) The population of each State in proportion to the total population of all States (weight factor: 10 percent). Population statistics are drawn from Table 10, of the Statistical Abstract of the United States, 1977.

(2) The geographical area of each State in proportion to the total geographical area of all States (weight factor: 10 percent). Geographical area statistics are drawn from Table 327 of the Statistical Abstract of the United States, 1977.

(3) The number of injection practices in the State in proportion to the total number of injection practices in all States (weight factor: 80 percent). Injection practices included are: industrial and municipal wate disposal wells, brine disposal and injection for enhanced recovery, mining sites, gas storage reservoirs and manufacturing and service establishments. Until data is available from the inventories and assessments of injection practices, initial statistics on these practices may be obtained from:

(i) National Environmental Research Center Report, "Review and Assessment of Deep Well Injection of Hazardous Waste," 1975.

(ii) Interstate Oil Compact Commission, "Water Problems Associated with Oil Production in the United States," Oklahoma City, Oklahoma.

(iii) U.S. Department of Interior, Bureau of Mines, "Mineral Industry Services, Director of Company Producing Salts in U.S.," 1976.

(iv) American Gas Association 25th Annual Report, "The Underground Storage of Gas in the United States and Canada," December 31, 1975.

(v) U.S. Department of Commerce, Bureau of Census, "Statistical Abstract of the United States," 1977.

(vi) EPA Staff Documents, "Development of the Methodology for Listing States," (with supporting data).

(b) The allocation factors in § 35.655(a) include data related to population, area and injection practices on Indian lands.

(c) The grant amount associated with § 35.655(b) shall be awarded to a State only if the State has developed an underground injection control program for those lands and has the authority either by law or agreement to implement and enforce the underground injection control program. For such lands where the State does not have such authority; the funds associated with § 35.655(b) may be used by EPA under § 35.656(a).

(d) An allotment to a State shall not be less than $30,000.

(e) The allotted amounts will be rounded to the nearest hundred dollars.

§ 35.656 Determination of reallotments.

(a) Funds allotted to eligible States shall not be available for reallotment unless so determined by the Administrator. Subject to the limitations contained in the Appropriations Act, allotments and any subsequent reallotments for (1) any eligible State which has not applied for or (2) for any eligible State which indicates it will not assume primary enforcement responsibility for the underground injection control program or (3) for any funds made available under § 35.655(b), may be used in part, or in whole, by the Administrator to implement underground injection control programs in those States.

(b) As soon as possible after determination of State eligibility under § 35.659, but in no event later than April 1, the Administrator will reallot remaining unobligated funds to eligible States except as provided in § 35.656(a). The reallotment will include sums allotted to States which do not meet the eligibility criteria in § 35.659 and other funds made available by reduction of grant amounts under § 35.666. The funds will be realloted on the basis of the factors and weights set forth in § 35.655(a).

(c) From the funds realloted, the Administrator will issue advices of allowance to the Regional Administrators for reallotments to eligible States.

§ 35.657 Rate of Federal assistance.

(a) The rate of Federal assistance shall not exceed 75 percent of the allowable costs of the EPA approved State's underground water source protection program as described in § 35.670.

(b) The actual amount of each eligible State's grant shall be determined at the time of the grant award by the Regional Administrator, but the actual amount received in any fiscal year shall not exceed the total of the State's allotment and any reallotments.

§ 35.659 Eligibility for grant award.

Only States which are listed by the Administrator as requiring underground injection control programs will be eligible for grants.

§ 35.660 Limitation on grant award.

(a) Notwithstanding any other provision of this part, the Regional Administrator may not approve an application of an eligible State for its initial grant to carry out an underground water source protection program unless the Regional Administrator determines that the eligible State: (1) has established, or will establish, within two years from the date of the grant award, an underground water source protection program as defined in Section 1421 of the Act, and (2) will assume within that two-year period and maintain primary enforcement responsibility for underground water source protection within the State in accordance with Part 146 of this chapter.

(b) Notwithstanding any other provision of this chapter, no grant shall be made to an eligible State for any period beginning two years after the award of the eligible State's initial grant, unless the eligible State has assumed and is maintaining primary enforcement responsibility within the State in accordance with Part 146 of this chapter.

(c) No grant will be awarded if the Regional Administrator determines that Federal grant funds will supplant rather than supplement non-Federal funding committed to underground water source protection efforts by the eligible State.

(d) Beginning in fiscal year 1980, State programs funded under the Act will be part of a State/EPA Agreement.

§ 35.661 A-95 Clearinghouse review.

All States applying for assistance under the Catalog of Federal Domestic Assistance program number 66.433, State Underground Water Source Protection Program Grants, shall comply with all applicable requirements of the Office of Management and Budget (OMB) Circular A-95 in accordance with § 30.305 of this Chapter.

§ 35.662 Allowable costs.

Allowable costs shall be determined in accordance with § 30.705 of this chapter by showing that the costs are reasonable and proper for carrying out an approved grant program. No funds shall be used (1) to routinely study and monitor aquifers, (2) to assist States in undertaking broad geological studies, (3) to conduct geological studies in support of sole source aquifer petitions, or (4) to support State data management activities other than those required under § 35.670–2(h) of this subpart.

§ 35.664 Budget period.

The budget period for the grant shall be the Federal fiscal year, except that the budget period for the initial grant may be for a period of more or less than the Federal fiscal year as determined by the Regional Administrator.

§ 35.666 Reduction of grant amount.

(a) If the Regional Administrator's annual performance evaluation reveals that the grantee will fail, or has failed, to achieve the expected outputs or to perform the activities described in the grantee's approved program, the grant amount may be reduced by the approved estimated program cost to produce such outputs under § 35.670. These funds will be available for allotment or reallotment in accordance with §§ 35.655 and 35.656.

(b) A State shall be notified prior to any reduction in the amount of Federal support. This notification shall include the reasons for reduction and, if appropriate, what steps the State must take to regain funding.

§ 35.670 Annual State program grant plan.

§ 35.670–1 General.

(a) Any State applying for a grant shall prepare a program plan and submit it to the Regional Administrator for approval. The program plan shall address the requirements of §§ 35.650 through 35.680 and the narrative requirements of Part IV of the grant application.

(b) The application for an initial grant shall include a letter from the Chief Executive of the State stating that the State (1) has established or intends to establish an underground water source protection program within two years from the award of the initial grant, and (2) has or intends to assume within such two-year period primary enforcement responsibility in accordance with the requirements of Part 146 of this chapter. For fiscal year 1979, the letter may be submitted within six months of the initial grant award. For subsequent fiscal years, the letter shall be included with the initial application.

(c) The Chief Executive shall designate a State agency to administer the grant and coordinate the State program with EPA. However, an eligible State may allocate funds among State agencies as it deems appropriate, as long as such allocations are generally proportional to their respective share of the approved plan for conducting the State underground water source protection program.

§ 35.670–2 State program grant preparation.

Each State applying for a grant shall prepare, in consultation with the Regional Administrator, an annual plan as follows:

(a) The State plan shall identify and describe the underground injection control problem in the State.

(b) The State plan shall relate the utilization of available resources—both Federal and non-Federal—to the achievement of expected outputs and shall include:

(1) A summary of the current year's work program and resources.

(2) A description by program element (see § 35.670–4) of the State's proposed work program for the coming year, including:

(i) A description within each program element of the work to be performed and outputs to be achieved (with identification of estimated related costs and work years to be expended) and the relationship to the State plan;

(ii) An identification of all funds, both Federal and non-Federal, which the State anticipates receiving during the fiscal year for the work program, and

(iii) The proposed distribution of funds and output achievement responsibilities among State and sub-State entities.

(c) A plan must be included for the detailed identification and designation of aquifers or their portions which will be exempted as underground sources of drinking water.

(d) The initial State submission for the first grant must include a brief description of the State's existing program with associated resources.

(e) The program plan shall describe how the planned accomplishments address the underground injection problem in the State and are consistent with the objectives of the Act and EPA's annual program guidance.

(f) The State permit plan required under Part 146 of this chapter.

(g) A plan for regulating any other practices which may be regulated by either rule or permit as specified in Part 146 of this chapter.

(h) A plan for the completion of inventories and asessment of underground injection facilities.

§ 35.670-3 State program grant submission.

Each State applying for a grant shall submit an annual program as follows:

(a) For fiscal year 1979, each eligible State must submit an application which includes the annual State program plan as required by § 35.670 to the Regional Administrator no later than March 1, 1979.

(b) For fiscal year 1980 and subsequent fiscal years, an eligible State must submit a draft State program plan in accordance with § 35.670 to the Regional Administrator no later than June 1 of each year unless otherwise agreed to by the Regional Administrator.

(c) For fiscal year 1980 and subsequent fiscal years, an eligible State must submit a final application, which includes the annual State program plan submission, to the Regional Administrator no later than August 1.

§ 35.670-4 Major program elements and outputs.

(a) The following program elements are appropriate for carrying out underground water source protection programs. Other program elements may be included in the State program plan if the State can demonstrate that such other program element is appropriate for the conduct of its underground water source protection program. For an eligible State with primary enforcement responsibility, the State must include program elements satisfying the requirements of Part 146 of this chapter. Information on each major program element shall be presented in summary form and shall include:

(1) *Inventories and assessment of underground injection facilities.* Plan and schedule of activities for the completion of inventories and assesment of underground injection facilities within the timeframe set forth in Part 146 of this chapter. Subsequent to the initial grant, an updated summary inventory of underground injection facilities of the preceding calendar year must be provided to EPA prior to December 1 of each fiscal year.

(2) *Administration and program development.* Planning, development and coordination of program activities for the management of an underground water source protection program including general program direction and supervision; development of staffing and budget needs; and development and evaluation of basic underground water source protection legislation, regulations, policies and public information.

(3) *Technical assistance.* Surveys of underground injection operations on an established schedule with written survey reports to the well injection operators; technical assistance to well injection operators, water suppliers, and others regarding the plan, design, operation, maintenance, treatment, quality control and assessment of underground injection operations.

(4) *Plan review and approval.* A plan review and approval activity for new or proposed underground injection operations, and modifications or additions to existing underground injection operations.

(5) *Permit approval.* An activity for the issuance and review of underground injection control permits and for the inspection or monitoring of permits issued.

(6) *Training.* An activity for the training of State personnel.

(7) *Enforcement.* An activity for the establishment and implementation of procedures for the administrative and judicial enforcement of State undergound water source protection responsibilities.

(8) *Data management.* A data management activity for input into the centralized EPA system to maintain essential records needed to conduct the underground water source protection program and for its submission to EPA, including the maintenance of an inventory for all underground injection operations. EPA approved modifications of existing State ADP systems to accommodate new data requirements of the underground injection control regulations.

(9) *Surveillance and investigation.* The maintenance of a coordinated activity with State and local agencies to detect, investigate and report suspected ground water contamination cases. The conduct of water quality and monitoring studies relating to exempted aquifers.

(b) *Public participation and information.* Each State program plan shall include a program element for public participation. This element shall include a public education and information program to encourage informed public involvement in the planning and operation of the federally assisted State underground water source protection program, provision for consultation with the public in significant decisions in program plan implementation, and a system for handling citizen complaints. The State shall prepare a summary of its responses to public comment following significant decisions in the course of program plan implementation and shall make these available to the public. The State's public participation activities shall be summarized in the State's annual report. In determining the adequacy of the public participation program element proposed by the State, the Regional Administrator shall be guided by the requirements of Part 25 of this Chapter.

§ 35.670-5 Regional Administrator's action on grant application.

(a) Each eligible State's final grant application shall be approved or disapproved by the Regional Administrator within 45 days of receipt.

(b) Should the Regional Administrator's review of the final grant application reveal that the planned accomplishments are not consistent with the level of funding requested, the Regional Administrator shall negotiate with the eligible State. Funds released by this procedure will be available for use in accordance with § 35.656.

§ 35.675 Assignment of personnel.

Upon written request of a State agency, the Regional Administrator may assign EPA personnel to such State agency, under Section 1450(c) of the Act upon such terms and conditions as the Administrator may establish.

§ 35.680 Program evaluation and reports.

§ 35.680-1 Program evaluation.

Program evaluation is primarily a grantee responsibility and should be continuous throughout the budget period. It is EPA policy to limit EPA evaluation to that which is necessary for responsible management of regional and national efforts to control underground injection. The Regional Administrator shall conduct at least annually a State performance evaluation which shall include a review and assessment of the State's effectiveness in meeting objectives and outputs in carrying out related activities as set forth in the grantee's approved program. An exit interview will be conducted following the program evaluation to inform the grantee of any preliminary EPA findings and recommendations.

§ 35.680-2 Reports.

The Regional Administrator shall prepare a summary of evaluation findings. The report prepared by the Regional Administrator should outline deficiencies in program performance through the time of the evaluation. When appropriate, the report shall contain recommendations for upgrading current State operations as well as provide guidance for the development of the upcoming grant application. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings and recommendations.

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Part VI

Environmental Protection Agency

Women's Business Enterprise Policy for the Construction Grants Program; Final Program Requirements Memorandum

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1540-2]

Women's Business Enterprise Policy for the Construction Grants Program; Final Program Requirements Memorandum

AGENCY: The Environmental Protection Agency.

ACTION: Final Program Requirements Memorandum.

SUMMARY: This Program Requirements Memorandum (PRM) is to establish a Women's Business Enterprise (WBE) policy for the Environmental Protection Agency's (EPA) Construction Grants Program. The purpose of the final policy is to increase participation of women-owned businesses in the construction of wastewater treatment works funded by EPA.

DATES: Effective date: October 1, 1980.

ADDRESSES: Comments will be accepted on a continuing basis, and any comments received will be considered in reviewing program implementation. Comments may be sent to:

Women's Business Enterprise Officer, U.S. Environmental Protection Agency, Office of Small and Disadvantaged Business Utilization, 401 M Street S.W., Washington, D.C. 20460, or to the Office of Civil Rights and Urban Affairs in each Region.

SUPPLEMENTARY INFORMATION: The Program Requirements Memorandum (PRM) set forth below is part of EPA's implementation of the requirements of Executive Order 12138 (May 18, 1979; see 44 FR 29637, May 22, 1979) and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. § 1251 note). The PRM will apply to EPA grantees and their consultants and contractors under the program of assistance for construction of wastewater treatment works authorized by Section 201 of the Clean Water Act (33 U.S.C. 1281).

EPA has developed Women's Business Enterprise (WBE) policies for its direct contracting activities, and these are being implemented separately. EPA also intends to address utilization of WBE under grants other than grants for construction of wastewater treatment works.

The first draft of the PRM was circulated for comment to all EPA regional offices and to interested organizations, businesses, state and local agencies, and individuals. Based on comments received, the draft was revised and published as a proposed PRM at 45 FR 26934 (April 21, 1980). Public meetings were held in Washington, D.C., Chicago, Illinois, and Seattle, Washington, on April 25, May 13, and May 14, respectively, for comment on the proposed PRM. In addition, EPA representatives visited a number of localities throughout the country in order to increase public participation in the development of the PRM. Written comments were received through June 30, 1980.

During April, May, and June, 1980, EPA conducted a survey in order to assess the number of women's businesses available to participate in projects under EPA's Construction Grants Program. The survey results served as one basis for EPA's conclusion that a goal-oriented policy for women-owned business participation is appropriate. This study also provided information to be used in developing a source list of WBEs.

The public meetings, comments, and survey addressed a number of aspects of the PRM and the manner of its implementation. Some commentors objected to the PRM on the general ground that these additional requirements are burdensome and interfere with the primary purpose of the Construction Grants Program, that is, treatment of municipal wastewater. The need for such a policy was determined by the Interagency Task Force on Women Business Owners and reflected in Executive Order 12138. The results of EPA's survey and the comments of WBEs, women's organizations, and several state agencies further indicate that such a policy is appropriate. EPA has made every effort to implement Executive Order 12138 as consistently as possible with established industry practice and in the least burdensome manner possible.

Fully two-thirds of the written comments, as well as the majority of comments at the public meetings, addressed the need for a goal. These comments ranged from those stating that WBEs are too few to warrant any goal to those stating that a 20 or 25 percent goal should be established. Often commentors recommended goals reflecting their perception of WBE availability in their geographic area. EPA has considered these comments in light of the survey results. Although those results revealed a greater number of women-owned businesses with apparent capability to participate in the Construction Grants Program than originally anticipated, and there is increasing evidence of women entering the architectural, engineering, construction and related areas, EPA has concluded that a national goal of two percent (2%) of total contract dollars to be awarded under EPA Construction Grants is appropriate. EPA recognizes, however, that a higher goal may better reflect available WBEs in some areas, and a lower goal may be appropriate in other areas. Furthermore, since WBE participation is to be calculated as the amount of contract dollars to WBEs of total prime contract dollars awarded, the size and nature of projects are significant factors in determining a realistic goal. For these reasons, EPA has concluded that the Regional Administrators in each Region must set a regional goal which may be equal to or higher than the national goal. The Region may also designate a goal for each project, which may be equal to, higher than, or lower than the regional goal, depending upon the factors outlined above. The goal will apply to prime construction contracts of $500,000 and over and to all prime contracts for architectural, engineering, and related services of $10,000 and over.

Several local and state agencies as well as businesses requested that the responsibilities of EPA, the grantee, and bidders/offerors be clarified. The PRM has been revised to eliminate this confusion. Primary responsibility for ensuring that the policy requirements are met rests with the grantee. Although EPA will monitor compliance, the grantee remains the primary implementor of the PRM. This responsibility will be included in the grant agreement as a grant condition. However, the primary implementation responsibility of the grantee does not diminish the obligation of bidders/offerors to make positive efforts to utilize women-owned businesses.

Part of the grantee's obligation is to disseminate information regarding available women-owned businesses. In order to facilitate information collection and distribution, EPA will compile a source list to be maintained on a computer in Headquarters and to be available to the Regions and the public. EPA will continue updating and maintaining such a list until this service is assumed by another, more appropriate, agent or until deemed by EPA as being relatively unnecessary. This list will not represent the exclusive source of WBE information, however, nor will its use exhaust the obligations of grantees, or consultants and contractors under the PRM.

One additional area receiving substantial comment is that of certification of WBEs. EPA shares the concern of commentors that only *bona fide* women-owned businesses benefit from the policy. After considering the

variety of recommendations for assessing WBE authenticity, EPA determined that WBEs will be deemed *bona fide* based on self-certification unless challenged and found unqualified under the criteria in the PRM. A challenge to a WBE's authenticity may serve as grounds for protest pursuant to EPA procedures at 40 CFR 35.939. It should be noted that EPA's source list does not serve as EPA certification of the authenticity or competency of WBEs. The grantee will have primary responsibility to implement the PRM by refusing to give credit towards the goal for those firms failing to establish their WBE qualifications.

Several women and trade organizations noted the need for training opportunities for women-owned businesses. EPA is continuing to explore avenues of training opportunities currently provided by other federal agencies and private organizations. Training is but one area of special need brought to EPA's attention. Problems concerning insurance, bonding, discriminatory building codes, and financing are also noted and are receiving attention by EPA and other federal agencies.

EPA has revised the PRM with respect to implementation of the definition of "women-owned business." Because of the difficulty in applying the requirement that 51 percent of the business be women-owned in states with community property laws, those laws will not be taken into consideration for purposes of determining ownership under this PRM. If taken into consideration, community property laws could have the effect of disqualifying otherwise qualified WBEs while technically qualifying businesses that are at least 51 percent owned by men. For these reasons, the effect of these laws will not be considered under this PRM.

Commentors again suggested that the WBE policy be administered in conjunction with EPA's Minority Business Enterprise (MBE) Policy. Some commentors preferred a single goal for WBE and MBE participation rather than establishment of separate goals. There are a number of similarities between the policies and, when possible, they will be administered together. Our goal is to issue by December 1, 1980, additional guidance in order to combine, to the extent possible, procedures to implement the WBE and MBE policies. Questions such as the time to require submission of documentation of positive efforts, level of information required, method of calculating WBE participation, and others, will be addressed at that time. In view of need to implement the WBE and MBE procedures simultaneously, applicability of the policies and requirements of this PRM shall apply to all projects for which assistance is awarded after January 31, 1981. EPA will not combine the WBE and MBE goals, however. The purposes of the two policies are distinct. In order to provide maximum opportunities to the beneficiaries of these policies, credit for minority women-owned businesses must apply toward one goal or the other. The PRM provides that contractors and consultants may apply part of a minority WBE's contract dollars to MBE and part to WBE for the purposes of calculating MBE and WBE participation.

In the publication of the proposed PRM, the possible transfer of oversight responsibilities for WBE and MBE to the Office of Small and Disadvantaged Business Utilization (OSDBU) was mentioned. This reorganization within EPA will take place prior to the October 1, 1980, effective date of the PRM. All references to the Headquarters Office of Civil Rights (OCR) in the proposed PRM have therefore been changed to OSDBU in the final document.

The effective date of the PRM is October 1, 1980. However, in recognition of the need to allow sufficient lead time for proper implementation and to avoid problems of retroactivity, the policies and requirements of this PRM shall apply to all projects for which assistance is awarded after January 31, 1981.

Dated: July 18, 1980.

Barbara Blum,

Deputy Administrator.

Construction Grants Program Requirements Memorandum PRM #80–4

July 17, 1980.

To: Regional Administrators, Attn: Office of Civil Rights and Urban Affairs and Water Division Directors.

From: Barbara Blum, Deputy Administrator.

Eckardt C. Beck II, Assistant Administrator for Water and Waste Management.

Subject: Implementation of Women's Business Enterprise Support Program.

Purpose: To Establish Policies Related To Use of Women-Owned Businesses.

Discussion: Executive Order 12138, issued May 18, 1979, requires EPA to establish a program of appropriate affirmative action in support of Women's Business Enterprise (WBE) and to prohibit actions or policies which discriminate against women-owned businesses on the basis of sex. Section 13 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. § 1251 note) prohibits discrimination on the basis of sex in the distribution of benefits under or in the participation in any program or activity receiving funding under the Federal Water Pollution Control Act.

Policy: The policy of EPA is to encourage increased participation by women-owned businesses in all subagreements under EPA grants for construction of wastewater treatment works. This policy implements Executive Order 12138 and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. The policy is intended to provide opportunities for immediate participation of women-owned firms in work performed under the Construction Grants Program, and to encourage the development and participation of new women-owned firms. Compliance with this policy, and the requirements under "implementation" below, shall be a condition of all EPA grants for construction of wastewater treatment works, within the limits of the "applicability" provision below.

Implementation

A. *Applicability.* The policies and requirements of this PRM shall be applicable to all projects for which assistance is awarded after January 31, 1981. Nothing in this PRM precludes a grantee, contractor, or consultant from voluntarily implementing these or similar policies for prior projects, and EPA encourages such action.

B. *What Constitutes a Women-Owned Business.* The term "women-owned business," and its variations, means a business which is at least 51 percent owned by a woman or women who also control and operate it. 1. Ownership. Determination of whether a business is at least 51 percent owned by a woman or women shall be made without regard to community property laws. For example, an otherwise qualified WBE which is 51 percent owned by a married woman in a community property state will not be disqualified because her husband has a 50 percent interest in her share. Similarly, a business which is 51 percent owned by a married man and 49 percent owned by an unmarried woman will not become a qualified WBE by virtue of his wife's 50 percent interest in his share of the business.

2. Control and operation. "Control" means exercising the power to make policy decisions, and "operate" means being actively involved in day-to-day management.

3. These are some of the factors to be considered in determining whether the requisite ownership and control exist: a. The percentage of stock owned in a

corporation or the proportion of capital invested in a partnership.

b. Whether ownership is meaningful (e.g., whether the woman's ownership interest is such that the woman owner can sell the business or liquidate at will, or whether the woman owner's interest is subject to a controlling lien on her interest).

c. The provisions for sharing income and losses.

d. Whether there is evidence that the woman owner participates significantly in business policy development and decisions of importance to the business (e.g., whether there are procedures requiring her "sign-off" on significant actions; or whether there is evidence of substantial change in actions in response to her comments).

e. Whether corporate history indicates that the business is, in fact, woman controlled (e.g., female ownership prior to competition for a contract under this policy would be a factor tending to support validity; on the other hand, further inquiry might be appropriate if changes in ownership had occurred within a few weeks or months prior to competition, if a change in ownership involved related persons, or if the change involved the same parties in interest: i.e., a former female minority stockholder in a family business who suddenly becomes a majority stockholder).

4. Self-certification. a. Women-owned businesses shall furnish capability statements and certification of qualification as WBEs to the grantee.

b. EPA and its grantees reserve the right to review the representation (including the right to require other evidence satisfactory to the grantee or EPA).

c. Firms which are not *bona fide* women-owned and controlled are not entitled to benefit from the opportunities under this policy. Those found not to meet the definition are subject to sanctions, which include a finding of nonresponsibility and, in willful cases, criminal prosecution under 18 U.S.C. § 1001.

5. Credit under this policy shall be granted for WBEs performing a useful business function according to custom and practice of the industry. No credit will accrue for a WBE acting merely as a passive conduit of funds to some other, non-WBE, entity, where such activity is unnecessary to accomplish the project.

C. *Goals for Use of Women-Owned Firms.* 1. National Goals. EPA has established a national goal of two percent (2 percent) of total prime contract dollars awarded.

2. Regional Goals. Each Region shall establish a regional goal equal to or higher than the national goal. Each Region shall establish regional goals no later than February 1, 1981. These goals shall be based on the best available information about current and potential availability of women-owned businesses. Until regional goals are established, the national goal shall be the applicable goal for the region. The Region shall reassess the goals at least annually.

3. Project Goals. The Region may establish a goal higher or lower than the regional goal for individual projects, depending upon availability of WBEs and the nature of the project.

4. Application of Goal. All prime construction contracts of $500,000 or more and all prime contracts for architectural, engineering, and related services of $10,000 or more shall be subject to the application of the goal.

5. Method of Calculating WBE Participation. The percentage of contract dollars awarded to women-owned businesses of total contract dollars (as defined in paragraph C.4.) awarded under a grant shall represent the level of WBE participation.

D. *EPA Responsibilities.*

1. Headquarters Responsibilities. a. The Women's Business Enterprise Officer in OSDBU with the assistance of the Office of Water Program Operations will compile and maintain a source list of WBEs. This source list will be available to the Regions for distribution to grantees, consultants, contractors, and bidders/offerors. The source list will not serve as EPA certification or recognition of the authenticity or competency of any WBE listed. The purpose of the source list is to serve as one, but not the exclusive, resource for locating WBEs.

b. The Women's Business Enterprise Officer will provide assistance and direction in support of the policy in this memorandum, and, within the limits of available resources, will coordinate an outreach program to identify and inform women-owned businesses which are potential participants in the Construction Grants Program.

2. Regional Responsibilities. a. Each Regional Administrator shall ensure that EPA regional responsibilities under this memorandum are met. Each Regional Administrator will make an effort to ensure that a broad range of WBEs in a variety of disciplines will be used to meet the goals. Each Regional Administrator is authorized to establish and publish other criteria for determining what constitutes a WBE firm, if the requirements of local business practices or state laws in a region justify further means of ensuring that the objectives of Executive Order 12138 are met.

b. Each Regional Administrator shall establish a regional goal, with the assistance of the Director of the Office of Civil Rights and Urban Affairs (OCRUA) and the Water Division Director and with the advice of Regional Counsel. The Region in consultation with the grantee may establish project goals. In establishing goals, the Region shall consider views of women-owned businesses, women's organizations, reresentatives of construction and engineering firms, technical and professional organizations, women's banks, affected public agencies, and the public.

c. Promptly after establishing its regional goal in accordance with paragraph C.2. each Region shall distribute a statement of its goals and this policy to the affected States, grantees, all potential grantees (i.e., those in the fundable portion of the State's project priority list), women-owned firms on the source lists grantees have developed under paragraph E., and other appropriate organizations and individuals. This distribution shall be repeated at regular intervals and whenever goals change.

d. In administering this PRM, each Region shall ensure that grantees and their consultants and contractors do not "double count" minority women for purposes of the WBE and MBE goals. The prime contractors and consultants may choose the goal towards which the minority WBE will apply. It will be acceptable for the contractors and consultants to divide the total credit between the WBE and MBE goals. For example, where a minority WBE will perform six percent of the work, the credit may be distributed in a number of ways, including:

1. 6% to WBE, 0% to MBE; or

2. 0% to WBE, 6% to MBE; or

3. divided, for example 3% to WBE, 3% to MBE.

e. Each Region shall review solicitation inserts to ensure that this policy is adequately reflected in all solicitations for contracts and other subagreements under grants. OCRUA may assist in the review of solicitation documents.

f. Each Region shall establish a process of review and monitoring to ensure that grantees and their consultants and contractors make positive efforts to use women-owned businesses.

g. Each Region shall maintain records on awards of contracts to WBE firms, to be submitted quarterly to Headquarters Office of Water Program Operations,

which in turn will apprise OSDBU of regional performance.

h. Each Region shall assist the Women's Business Enterprise Officer in OSDBU in developing source lists of WBE firms, in cooperation with grantees, States, and interested persons and organizations.

E. *Grantee Responsibilities.* The grantee has primary responsibility for taking positive actions to ensure maximum feasible participation by women-owned firms in Steps 1, 2, 3 and 2+3 projects. At a minimum, these positive efforts shall include the following: 1. Each grantee shall include the project goal in each procurement solicitation.

2. Each grantee must ensure that procurement documents contain the following information: a. Clear notice of the applicable goal, including a number or range of numbers, and the obligations of the bidder/offeror under the policy.

b. The method by which positive efforts of the bidder or offeror will be evaluated.

c. A notice of federal and grantee sanctions for failure to comply with the positive efforts in the solicitation documents.

d. A copy of this policy.

3. Each grantee shall cooperate with the State and appropriate Regional Office in developing and updating a source list of women-owned businesses which might be interested in seeking a consultancy, contract, or other subagreement under the EPA-assisted project.

4. Each grantee shall provide a source list of women-owned firms to all prospective consultants and contractors, and inform them of EPA policy on use of women-owned businesses.

5. Each grantee shall ensure that notification of prospective procurement actions is provided to women-owned firms in sufficient time to respond. This responsibility includes ensuring that the grantee's contractors, consultants, and subcontractors, in their respective procurement action, notify women-owned firms in a timely fashion.

6. Each grantee shall verify that women-owned businesses designated by bidders or offerors are available to participate in the project. This verification will occur as part of the determination of a bidder or offeror responsibility.

7. Each grantee is encouraged to provide liaison services between WBEs and prospective bidders/offerors.

Note.—Reasonable costs of WBE liaison services, as determined by the EPA Project Officer, are allowable costs (liaison services are the services of a grantee, staff person or other entity which helps the grantee conduct responsibilities related to this policy).

F. *Responsibilities of Consulting Firms and Contractors.* All consulting firms and contractors of the grantee, including WBE firms, are expected to make good faith positive efforts to identify and use women-owned businesses, in accordance with the policy, goals, and requirements of this memorandum. Appropriate positive efforts should begin during negotiation or bid preparation and continue throughout the life of the contract. Such efforts shall include, but not be limited to, the following: 1. Extending opportunities to women-owned businesses for subcontracting, joint ventures, and provision of equipment, supplies, and services.

2. Notifying women-owned businesses on a source list obtained from the grantee, and other women-owned businesses known to the contractor or consultant, of goals and opportunities to compete for or do business with the contractor or consultant within sufficient time to respond. Use of EPA's source list does not, in and of itself, satisfy the requirements to use positive efforts.

3. Providing the grantee with adequate documentation of positive efforts, including nature and dollar amount of work to be performed by WBEs, and, if the goal will not be met according to the estimates currently available, documentation showing WBEs contacted, WBE responses, and reasons for non-selection of WBEs.

4. Maintaining records, to be available to the grantee and EPA, of the efforts under paragraphs 1., 2., and 3., and of awards to women-owned firms.

5. Making positive efforts to compensate for any changes in plans to award subcontracts to women-owned firms, and informing the grantee and EPA of such actions.

6. Meeting the requirements of paragraph (J) below.

G. *What Women-Owned Firms Should Do.* Women-owned businesses should become knowledgeable about and involved in the State and local project planning process under the Construction Grants Program. Women-owned firms should provide statements as to the nature and scope of their business and capability statements to the Women's Business Enterprise Officer in OSDBU for inclusion on the source list, as well as to the EPA Regional OCRUA, appropriate State and local government agencies, and contractors and consultants doing business in the Construction Grants Program. WBEs should make efforts to establish contracts and rapport with businesses recognized as potential contractors and consultants.

H. *Sanctions.* 1. Responsibility Determination. In the event a bidder or offeror fails to objectively demonstrate positive efforts the grantee shall request, in writing, that the bidder or offeror provide evidence of positive efforts within 15 days of the request, or be held nonresponsible. The Regional Administrator may instruct the grantee to request such documentation after the Region reviews bid documents submitted by the grantee or any other available information. If the bidder or offeror fails to comply adequately with the request, the grantee shall determine this bidder or offeror to be nonresponsible, and shall so advise the bidder or offeror promptly in writing with an explanation of the basis for the determination. A finding of nonresponsibility on a contract shall not prejudice the right of that bidder or offeror to submit bids or proposals on other EPA-funded projects. However, in determining responsibility, the grantee will consider any evidence it has concerning performance in relation to WBE obligations and goals under other contracts.

2. Protests. a. If the bidder or offeror disagrees with this determination of nonresponsibility under paragraph H.1. the bidder or offeror may then file a protest under 40 CFR § 35.939.

b. A disappointed bidder, offeror or listed WBE may also file a protest under 40 CFR § 35.939 to challenge a determination that the apparent low bidder or offeror fulfilled the positive efforts requirements of this PRM.

3. Exceptions. Nothwithstanding paragraph 1., the grantee may award a contract (with the approval of the Regional Administrator) where the bidder or offeror did not demonstrate positive efforts, if (a) delay incident to resolicitation would cause substantial harm to the grantee, and (b) the contract (i) requires specific positive efforts for compliance with this policy (including goals) during contract performance, and (ii) includes appropriate sanctions for failure to perform in accordance with the contract. (e.g., termination or liquidated damages).

4. Grantee's failure. If a grantee fails to meet its obligations under paragraph 1. above, or fails to meet any other requirement in this memorandum, EPA may declare the grantee nonresponsible under 40 CFR § 30.340, or deny, modify, suspend, or terminate assistance in accordance with 40 CFR Part 30, Subpart H.

I. *Grantee's Higher Goals.* Nothing in this policy prevents a grantee from

setting higher goals for use of women-owned firms on work under EPA grants.

J. *Contractors' and Consultants' Responsibilities After Award.* If requested, contractors and consultants shall submit to the grantee copies of, or information concerning, awards to women-owned firms, and lists of WBE firms contacted and used. From time to time (but not more often than quarterly), the contractor or consultant will be expected to comply with requests from the grantee for information on the status of compliance with the policy and requirements in this memorandum. In the event a consultant or contractor fails to conform to its obligations under this memorandum, the grantee will require corrective efforts or, as appropriate, modify, suspend or terminate the contract or subagreement.

K. *Reexamination of Policy.* 1. Review of the national goal will take place annually.

2. By October 1, 1983, the Administrator will examine this policy and its implementation and may modify the policy as is appropriate.

[FR Doc. 80-23203 Filed 7-31-80, 8:45 am]

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federal register

Friday
August 1, 1980

Part VII

Department of the Treasury

Customs Service and Bureau of Alcohol, Tobacco and Firearms

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Executive Order 12044, "Improving Government Regulations," and the Treasury Department directive implementing that Executive Order, Customs has prepared and is publishing for public information a list of significant regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory project described in the agenda, communicate with the person identified as the "Contact." Comments or inquiries of a general nature should be directed to: Todd J. Schneider, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1978, the Department of the Treasury published a report in the **Federal Register** (43 FR 52120) to implement EO 12044. The report included a directive that each Treasury bureau or office shall publish a semiannual agenda of significant regulations either under development or under review. The agenda is to describe each regulatory project ("project") being considered, the need for and legal basis for the action being taken, the name and telephone number of a knowledgeable agency official, and whether a regulatory analysis will be prepared. In addition, subsequent agendas will show the status of projects referred to in the previously published agenda. A notice published in the preliminary pages of the **Federal Register** on October 10, 1978 (43 FR xii), provides that Customs will publish its semiannual agenda on February 1 and August 1 of each year.

The following is the fourth semiannual agenda to be published by Customs. It has been determined that only one of the projects listed, that designated "Entry of merchandise/Parts 24, 141, 142, 144," will require a regulatory analysis under the criteria set out in the Executive Order and implementing Treasury directive. However, that project remains under study and a draft regulatory analysis will not be available to the public unless it is determined to proceed with the project and a notice of proposed rulemaking is published in the **Federal Register.**

General statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, United States Code (19 U.S.C. 66, 1624). When appropriate, specific statutory authority is indicated after the description of each project.

In accordance with the Treasury directive implementing EO 12044, no action, other than preliminary studies, may be taken on any project commenced after May 22, 1978, without Secretarial approval of a "work plan." work on many of the described projects commenced before May 22, 1978, and, therefore, no work plan will be prepared. For these projects, and others which are in an early stage of preparation, no work plans are available to the public. However, projects which either have had work plans approved or are the subject of documents published in the **Federal Register** (FR) as an advance notice of proposed rulemaking (ANPRM), a notice of proposed rulemaking (NPRM), or a final rule—Treasury Decision (T.D.), are identified by work plan number or **Federal Register** citation. Approved work plans are available to the public under the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and Part 103, Customs Regulations (19 CFR Part 103). Requests should be addressed to the Freedom of Information and Privacy Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2325, Washington, D.C.20229.

By direction of the Secretary of the Treasury.

Dated: June 23, 1980.

R. E. Chasen,

Commissioner of Customs.

Part I—*Regulations Under Development*

Title/Citation (19 CFR—)	Summary
Public gaugers-Petroleum/Parts 4 and 151	*Description:* Ensure maintenance of reliable statistics by implementing standardized guidelines and procedures for monitoring imports of petroleum and petroleum products. *Need:* Implement recommendations of Customs Petroleum Task Force. *Authority:* 19 U.S.C. 1202. *Contact:* Alice Rigdon (202–566–5354). *Status:* Work Plan 79–27 approved; NPRM published December 21, 1979 (44 FR 75684); T.D. 80–142 published May 30, 1980 (45 FR 36376).
Vessels; foreign repairs/§§ 4.7 and 4.14	*Description:* Revision of requirements and procedures for handling entries relating to foreign repairs and equipment purchases by U.S. vessels. *Need:* To expedite processing of entries. *Authority:* 19 U.S.C. 1466, 1498, 1514. *Contact:* James Fritz (202–566–5706). *Status:* NPRM published April 4, 1978 (43 FR 14060); T.D. under development.
Air commerce/Parts 6, 10, and others	*Description:* Establish new rules for (1) duty-free trade in civil aircraft and parts for civil aircraft, and (2) dutiability of foreign repairs to, and foreign purchases of parts and materials for, U.S.-registered civil aircraft. *Need:* To implement Title VI, Civil Aircraft Agreement, of Pub. L. 96–39, "Trade Agreements Act of 1979." *Authority:* General. *Contact:* John Mathis (202–566–5706). *Status:* Work Plan 79–30 approved; NPRM published January 8, 1980 (45 FR 1633); T.D. under development.
Air commerce/§§ 6.3 and 6.8	*Description:* Simplification and clarification of aircraft clearance procedures. *Need:* To facilitate clearance of aircraft departing U.S. *Authority:* 49 U.S.C. 1509. *Contact:* John Mathis (202–566–5706). *Status:* Work Plan 79–6 approved; T.D. under development.
Petroleum/Part 10	*Description:* Regulation of petroleum exports from Canada. *Need:* Conforming amendment required by Pub. L. 95–159. *Authority:* General. *Contact:* G. Scott Shreve (202–566–8121). *Status:* T. D. under development.
Endangered species-Antiques/Parts 10 and 12	*Description:* Provide for importation of specified antique articles otherwise prohibited entry by Endangered Species Act of 1973 at designated ports of entry. *Need:* Implement provisions of Pub. L. 95–632, "Endangered Species Act Amendments of 1978". *Authority:* 19 U.S.C. 1202. *Contact:* Harrison Feese (202–566–8651). *Status:* Work Plan 79–26 approved; NPRM under joint development by Customs and Fish and Wildlife Service.
Conforming amendments/Parts 10, 12, and others	*Description:* Conform regulations to provisions of various titles of Pub. L. 96–39, "Trade Agreements Act of 1979." *Need:* Miscellaneous amendments required by the Trade Agreements Act of 1979. *Authority:* General.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
	Contact: Benjamin Mahoney (202-566-5765). *Status:* Work Plan 79-31 in review at Treasury Department; T.D. under development.
Carnets (E.C.S./A.T.A.)/Parts 10 and 114	*Description:* Substitute use of A.T.A. carnet for E.C.S. carnet in relation to the entry of commercial samples. *Need:* United States withdrawal from Customs Convention on E.C.S. carnets (TIAS 6632) and accession to the Convention on A.T.A. Carnets (TIAS 6631). *Authority:* General. *Contact:* Jerrald Worley (202-566-8551). *Status:* T.D. under development.
Entry of noise-emitting merchandise; standards and labeling/ Part 12.	*Description:* Regulations to administer the EPA noise emission standard and labeling requirements on certain imported merchandise. *Need:* To implement provision of Pub. L. 92-572, "Noise Control Act of 1972". *Authority:* General. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM under joint development by Customs and EPA.
Importation of motor vehicles/§ 12.73	*Description:* Conform regulations governing importation of motor vehicles under Clean Air Act to proposed EPA amendments on Federal emission standards. *Need:* To implement provisions of "Clean Air Act of 1955" as amended by Pub. L. 95-95. *Authority:* 19 U.S.C. 1484. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM published in Federal Register on July 21, 1980 (45 F.R. 48817).
Entry of electronic products/§§ 12.90 and 12.91	*Description:* Implement FTC labeling requirements for certain imported electronic products. *Need:* Required by provisions of Pub. L. 93-523, "Public Health Service Act". *Authority:* General. *Contact:* Darrell Kast (202-566-5765). *Status:* NPRMs published September 5, 1975 (40 FR 41118) and July 27, 1976 (41 FR 31223); procedures under joint development by Customs and FTC.
Entry of energy-using products; labeling/§ 12.92	*Description:* Implement FTC labeling requirements for certain imported energy-using products. *Need:* Required by provisions of Pub. L. 94-163, "Energy Policy Conservation Act". *Authority:* General. *Contact:* Harrison Feese (202-566-8651). *Status:* NPRM under joint development by Customs and FTC.
In-bond transportation of merchandise/Parts 18, 123 and 144.	*Description:* Change time limits and other rules relating to in-bond transportation of merchandise. *Need:* To give Customs greater control over merchandise transported in bond. *Authority:* 19 U.S.C. 1552, 1553, 1557, 1623. *Contact:* J. Bradley Lund (202-566-5354). *Status:* NPRM published August 13, 1976 (41 FR 34271); T.D. under development.
Transportation in bond; short shipments/section 18.6	*Description:* Require entry, for statistical purposes, of merchandise at port of destination in event of nondelivery to Customs of entire shipment or one or more packages in shipment, even if merchandise not recovered intact. *Need:* Implement provision of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978." *Authority:* 19 U.S.C. 1484, 1552, 1553. *Contact:* William Marchi (202-566-8235). *Status:* Work Plan in review in Customs.
Transportation in bond/§ 18.8	*Description:* Increase amount of liquidated damages required/by carrier's bond for shortage, failure to deliver or irregular delivery of duty-free merchandise. Carrier also would be liable for duty on dutiable merchandise, as well a liquidated damages. *Need:* To clarify carrier's obligations under required bond and provide for liquidated damages as deterrent to violations *Authority:* 19 U.S.C. 1551, 1623. *Contact:* William Rosoff (202-566-5856). *Status:* Work Plan 79-11 approved; NPRM under development.
Customs warehouses and container stations; fees/Parts 19 and 24.	*Description:* Increase fee accompanying application to establish bonded warehouse, require fee with application to alter existing bonded warehouse or to establish container station. *Need:* Recover costs of services from recipients directly receiving benefits beyond those accruing to general public. *Authority:* 31 U.S.C. 483a. *Contact:* John Holl (202-566-5354). *Status:* NPRM published in the FEDERAL REGISTER July 10, 1980 (45 FR 46442)
Drawback; identification of entries/Part 22	*Description* Require drawback entries be identified at time of entry. *Need:* To reduce delays in processing drawback claims. *Authority:* 19 U.S.C. 1313; 31 U.S.C. 483a. *Contact:* George Steuart (202-566-5761) *Status:* ANPRM under development.
Drawback; bulk-fungible goods/§ 22.5	*Description:* Allow drawback without actual use of bulk-fungible goods if substituted for goods of same kind/quality. *Need:* To extend to other articles privileges now applicable to petroleum products. *Authority:* General *Contact:* Donald Beach (202-566-5856).

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
	Status: Action on NPRM suspended pending economic analysis and study as to whether legislation is required.
Entry of merchandise/Parts 24, 141, 142, 144	*Description:* To reduce the 10-working day period during which estimated duties must be deposited after merchandise is released under an entry or a permit for immediate delivery. *Need:* To improve the Government's cash flow by earlier collection of duties. *Authority:* 19 U.S.C. 1484, 1505, 1557. *Contact:* Benjamin Mahoney (202-566-5765). *Status:* Possibility of accelerated duty payment remains under study; draft regulatory analysis being prepared; Work Plan in review at Treasury Department.
Customs accounting procedures, Bonds/Parts 24 and 113	*Description:* Charge interest on delinquent accounts of importers and others with Customs. *Need:* To encourage importers to pay Customs bills promptly and thereby improve cast flow. *Authority:* 19 U.S.C. 1623. *Contact:* Robert B. Hamilton (202-566-2598). *Status:* Work Plan 80-2 approved; NPRM under development.
Customhouse brokers/Part 111	*Description:* Amend regulations relating to responsibilities of customhouse brokers. *Need:* To clarify responsibilities of customhouse brokers and to ensure uniform compliance with applicable regulations. *Authority:* 19 U.S.C. 1641. *Contact:* Edward B. Gable, Jr. (202-566-7238). *Status:* Action on Work Plan 79-5 suspended pending review of related legislative proposals.
Carriers of bonded merchandise/§ 112.11	*Descriptionn:* Revise criteria for designating private carriers of bonded merchandise to require only that they file bonds and transport their own property. *Need:* To lessen restrictions of prior regulation. *Authority:* 19 U.S.C. 1551. *Contact:* Donald Beach (202-566-5856). *Status:* Work Plan 79-10 approved; NPRM under development.
Customs Bonds/Part 113	*Description:* Consolidation of Customs bonds and related forms. *Need:* To simply bond structure and language preparatory to expansion of AMPS program. *Authority:* 19 U.S.C. 1623. *Contact:* Joseph Goody (202-566-4434). *Status:* ANPRM under development.
Customs bonds, letter of credit/Part 113	*Description:* Authorize use of letter of credit in lieu of foreign-trade zone bond to guarantee payment of claims made by Customs against a foreign-trade zone operator. *Need:* To facilitate use of foreign-trade zones. *Authority:* 19 U.S.C. 81c, 1623. *Contact:* William Rosoff (202-566-5856). *Status:* NPRM under development (consolidated with "Trade fairs", § 147.45, below).
Contiguous countries, manifest discrepancies/§ 123.9	*Description:* Establish uniform procedures for handling manifest discrepancies of vehicles and certain vessels arriving from contiguous countries. *Need:* To facilitate entry of vessels and vehicles from Canada or Mexico. *Authority:* General. *Contact:* Donald Reusch (200-566-5706). *Status:* NPRM published July 28, 1978 (43 FR 32817); I.D. in review at Treasury Department.
Contiguous countries, railroad equipment/§ 123.12	*Description:* Admission of empty foreign railroad equipment without entry and payment of duty in certain instances. *Need:* To clarify permitted use of foreign railroad equipment. *Authority:* General. *Contact:* Michael Tomenga (202-566-5706). *Status:* Work Plan 79-18 under development.
Contiguous countries; manifest validation/§§ 123.41 and 123.42.	*Description:* Require truck driver carrying merchandise between U.S. and Canada to present manifest for validation by U.S. Customs at U.S. port of departure. *Need:* Jointly initiated by U.S. and Canadian Customs to prevent evasion of duty when merchandise re-enters U.S. from Canada on in-transit documentation. *Authority:* 19 U.S.C. 1553, 1554. *Contact:* J. Bradley Lund (200-566-5354). *Status:* NPRM published December 9, 1976 (41 FR 53810); new NPRM under development.
Copyright/Part 133	*Description:* Amendments to regulations relating to recordation of copyrights with Customs. *Need:* To implement provisions of Pub. L. 94-533, "Copyright Act of 1976". *Authority:* 17 U.S.C. 1603. *Contact:* Samuel Orandle (202-566-5765). *Status:* NPRM under joint development by Customs and Copyright Office.
Entry of merchandise; special permits for immediate delivery/ Parts 141 and 142.	*Description:* Revise Consumption Entry (Customs Form 7501) to accommodate new entry procedures. *Need:* To implement provisions of Pub. L. 95-410, "Customs Procedural Reform and Simplification Act of 1978". *Authority:* 19 U.S.C. 1484. *Contact:* William Wagner (202-566-5307). *Status:* Request for comments on the proposed form published May 23, 1979 (44 FR 29916); comments under review at Customs.
Entry of merchandise/§ 141.89	*Description:* To revise the additional information required on entry of footwear. *Need:* To assist Customs in the appraisement and classification of imported footwear.

Part I—*Regulations Under Development—Continued*

Title/Citation (19 CFR—)	Summary
	Authority: 19 U.S.C. 1202, 1481, 1484.
	Contact: Linda Mays (202-566-8592).
	Status: NPRM published July 28, 1978 (43 FR 32819); after consideration of comments, a second NPRM under development.
Foreign-trade zones/§ 146.48	*Description:* Change of appraisement practice involving costs of processing and profit for certain merchandise produced in foreign-trade zones.
	Need: To encourage use of domestic labor and materials in foreign-trade zones.
	Authority: 19 U.S.C. 81h.
	Contact: Thomas Lobred (202-566-8181).
	Status: NPRM published May 21, 1979 (44 FR 29489); T.D. 80-87 published March 20, 1980 (45 FR 17976).
Trade fairs/§ 147.45	*Description:* Removal of trade fair merchandise from foreign-trade zones for consumption without permission of Foreign-Trade Zones Board.
	Need: Amendments required to implement provisions of Pub. L. 91-692.
	Authority: 19 U.S.C. 81h.
	Contact: William Rosoff (202-566-5856).
	Status: NPRM under development (consolidated with "Customs bonds, letter of credit", Part 113, above).
Registration of merchandise/§ 148.1	*Description:* New instructions for registration of personal effects taken abroad.
	Need: To ensure uniform registration procedures.
	Authority: 19 U.S.C. 1498.
	Contact: Joseph O'Gorman (202-566-8157)
	Status: Work Plan under development.
Personal declarations and exemptions/§ 148.73	*Description:* Execution of written baggage declarations by military personnel.
	Need: To conform Customs and DOD regulations.
	Authority: General.
	Contact: Donald Thompson (202-566-8164).
	Status: NPRM under development.
Examination of merchandise/§ 151.2	*Description:* Expand Accelerated Cargo Clearance and Entry Processing Test (ACCEPT), an automated selective merchandise examination system, to various ports of entry.
	Need: Facilitate movement of merchandise by fewer but more intensive examinations.
	Authority: 19 U.S.C. 1202, 1499.
	Contact: Michael Lanoue (202-566-5315).
	Status: Work Plan. 79-20 approved; NPRM in review at Treasury Department.
Appraisement of merchandise/Part 152	*Description:* Amendments required by new International Valuation Code agreed to in Multilateral Trade negotiations.
	Need: To implement Title II, Customs Valuation, of Pub. L. 96-39, "Trade Agreements Act of 1979."
	Authority: General.
	Contact: Thomas Lobred (202-566-8181).
	Status: Work Plan 79-26 approved; NPRM published March 31, 1980 (45 FR 20912); T.D. under development.
Recordkeeping, inspection, search, and seizure/§ 162.47	*Description:* Waiver of bond requirements by district director for individuals who show proof of inability to obtain bond.
	Need: Decisions of U.S. Courts of Appeals, *Wiren* v. *Eide,* 542 F. 2d 757 (9 Cir. 1976), and *Lee & Rich* v. *Thornton,* 538 F2d, 27 (2 Cir. 1976).
	Authority: General.
	Contact: Joseph Priddy (202-566-8332).
	Status: T.D. under development.

Part II—*Existing Regulations To Be Reviewed*

Bond/Part 18	*Description:* Transportation in bond and merchandise in transit.
	Need: To ensure consistency of format and style.
	Contact: James Seal (202-566-8237).
	Status: Customs review of draft completed; NPRM under development.
Finance/Part 24	*Description:* Customs financial and accounting procedure.
	Need: To ensure consistency of format and style.
	Contact: James Seal (202-566-8237).
	Status: Customs review of draft completed; NPRM under development.
Duties/Parts 10 and 54	*Description:* Articles conditionally free, subject to reduced rate, etc, and certain importations temporarily free of duty.
	Need: To ensure consistency of format and style.
	Contact: Jenny Johnson (202-566-8237).
	Status: Customs review of draft completed; NPRM under development.
Freedom of Information/Part 103	*Description:* Availability of Information.
	Need: To conform to amendments to Freedom of Information Act made by Pub. L. 93-502.
	Contact: Harold Loring (202-566-8237).
	Status: NPRM published August 20, 1979 (44 FR 48709); T.D. under development.
Drawback/Part 22	*Description:* Drawback.
	Need: To modernize procedures relating to claims for drawback.
	Contact: George Steuart (202-566-5761).
	Status: Customs review or draft completed; NPRM under development.

[FR Doc. 80-23214 Filed 7-31-80; 8:45 am]
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Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 80-9]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Semiannual agenda of regulations, significant and selected nonsignificant, under development and review.

SUMMARY: This semiannual agenda lists regulations that the Bureau of Alcohol, Tobacco and Firearms (ATF) will be developing and reviewing from August 1, 1980, through February 1, 1981. The purpose of the semiannual agenda is to give the public adequate notice of AFT regulatory activities.

FOR FURTHER INFORMATION CONTACT:

For general information about this semiannual agenda, contact Robert White.

For information about any particular item on the semiannual agenda, contact the individual listed in the second column, subheading "Contact," for that item.

Unless otherwise noted, the telephone number for all contact persons is: 202-566-7626 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Description

This semiannual agenda of regulations is divided into two parts. Part I lists all regulation projects concerned with the development of regulations which AFT has under consideration as of August 1, 1980. Part II lists, existing regulations which are being reviewed pursuant to Treasury Directive 50-04.F, paragraph 12. A table, which defines abbreviations used throughout this semiannual agenda, follows Part II. Part I and Part II are set up in columnar form and are composed of the following divisions:

1. Title/Citation

The first column states briefly the subject of the regulation and the affected part number of Title 27 of the Code of Federal Regulations.

2. Summary

The second column includes—

Description—A description of the proposed or final rule, or of the regulatory matter under consideration;

Need—A brief statement of why the regulation is needed;

Legal basis—The legal basis for the action being taken;

Contact—The name of the person to be contacted for additional information;

Status—The current or anticipated chronology of the development of the regulation, including any final action taken since the last semiannual agenda;

Priority—If the regulation project is assigned the letter "A", it is considered top priority, a "B" regulation project is considered high priority, and a "C" regulation project is considered regular.

Regulatory analysis—If a regulatory analysis is required for a regulation project, a statement to that effect will appear.

The next ATF semiannual agenda will be published in the **Federal Register** of Monday, February 2, 1981.

Issuance

By direction of the Secretary of the Treasury, this semiannual agenda of regulations reads as set forth below.

Signed: June 26, 1980.

G. R. Dickerson,

Director.

Part I—Regulations Under Development

Title/Citation	Summary
	ALCOHOL
50 ml Container for Wine (27 CFR 4.73).	*Description:* Adds a 50 ml (1.7 fluid ounce) size to the standards of fill for wine. [Rev.] *Need:* Some types of wine, especially sherry and port wines, have traditionally been produced in a miniature size for sale by airlines and railroads. Under current regulations, no sizes smaller than 100 ml may be used in the United States. *Legal basis:* 27 U.S.C. 205. *Contact:* Charles N. Bacon. *Status:* NPRM published March 17, 1980 (45 FR 17025); comment period ended May 16, 1980; comments are being evaluated. *Priority:* C.
Grape Brandy (27 CFR Part 5).....	*Description:* ATF will consider whether a standard of identity for "varietal grape brandy" should be added to the present labeling designations of "brandy" and "grape brandy". [Rev.] *Need:* Responds to a petition to permit the labeling and advertising of brandies as produced from specific varieties of grapes. *Legal basis:* 27 U.S.C. 205. *Contact:* Armida N. Stickney. *Status:* ANPRM published January 2, 1980 (45 FR 50); comment period ended June 2, 1980; comments are being evaluated. *Priority:* B.
Credit to Retailers in Arrears (27 CFR Part 6).	*Description:* ATF will consider what approach to take regarding repayment of indebtedness where producers/wholesalers have extended credit to retail liquor dealers in excess of the usual and customary credit period of 30 days. *Need:* Some wholesalers and producers have created "tied-houses" with retailers by advancing large amounts of credit for long periods of time. Revenue Ruling 54-162 does not adequately resolve this problem. *Legal basis:* 27 U.S.C. 205. *Contact:* Charles N. Bacon. *Status:* NPRM to be published in September 1980. *Priority:* A.
Prohibited Trade Practices under the FAA Act (27 CFR Parts 6, 8, 10, and 11).	*Description:* Cmplements the trade practice subsections, 5(a)-5(d), of the FAA Act. Regulations will specify practices which are prohibited by the FAA Act and will list exceptions to those prohibitions. [Rev.] *Need:* Provisions of the FAA Act have been implemented through letters, ATF Rulings, and circulars. A need exists to update, revise, and codify these rulings. *Legal basis:* 27 U.S.C. 205. *Contact:* Charles N. Bacon. *Status:* T.D. under development; publication targeted for September 1980. *Priority:* A.
Proposed Viticultural Areas (27 CFR Part 9).	*Description:* Each project would establish an American viticultural area for purposes of labeling and advertising of wine. [New] *Need:* Respond to petitions from industry members to establish viticultural areas. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* Refer to the list of projects which follows. *Priority:* A.
1. Augusta, Missouri.....	*Status:* T.D. published June 20, 1980 (45 FR 41632).
2. The Pinnacles, Napa Valley, California.	*Status:* Public hearing transcript under study. (Inquire contact person for further information on status.)
3. Los Carneros, North Coast, Santa Cruz, Santa Maria Valley, Sonoma Valley, California.	*Status:* NPRM under internal development; publication targeted for August 1980; public hearing for January 1981.
4. Lime Kiln Valley, Guenoc Valley, San Pasqual Valley, California; Fennville, Michigan.	*Status:* NPRM under internal development; publication targeted for September 1980; public hearing for February 1981.
Determination of Color in White Wine and Treatment of Sherry with Activated Carbon (27 CFR Part 240).	*Description:* ATF proposed to (1) replace the Lovibond Method with the Association of Official Analytical Chemists (AOAC) Method 11.B01-11.B02 for determining color in wine, (2) provide winemakers continuing authority to treat sherry with activated carbon in order to remove excess color, and (3) set a new limitation on the amount of activated carbon to remove excess coloring from sherry. [Rev.] *Need:* Regulatory changes may be necessary to accommodate technological advances. *Legal basis:* 26 U.S.C. 5382. *Contact:* Armida N. Stickney. *Status:* NPRM published July 10, 1979 (44 FR 40351); comment period closed September 10, 1979; T.D. publication targeted for October 1980. *Priority:* C.
Alcohol Fuels; Implementing a portion of the Crude Oil Windfall Profit Tax Act of 1980 (27 CFR Part 19).	*Description:* The new law vests the Secretary of the Treasury with authority to provide for the waiver of provisions of law and regulations for distilled spirits plants established solely to produce, process and store, and use or distribute distilled spirits exclusively for fuel use. [New and Rev.]

Part I—Regulations Under Development—Continued

Title/Citation	Summary
	Need: ATF issued temporary regulations, effective July 1, 1980, to implement the law. *Legal basis:* 26 U.S.C. 5181. *Contact:* John Jarowski. *Status:* Temporary T.D. with N. published June 20, 1980. (45 FR 41838). Comment period ends October 20, 1980. T.D. publication targeted for February 1981. *Priority:* A.
Regulations Implementing the Distilled Spirits Tax Revision Act of 1979 (27 CFR Parts 5, 13, 19, 170, 173, 194, 195, 196, 197, 200, 211, 212, 213, 231, 240, 250, 251, and 252).	*Description:* The Distrilled Spirits Tax Revision Act of 1979 (1) eliminated the wine gallon method for imposing the distilled spirits tax, (2) eliminated the rectification tax, and (3) converted DSP/s from the former distilled spirits tax system to an all-in-bond tax system. [Rev.] *Need:* The Act was passed by Congress as a part of the Trade Agreements Act of 1979 and became effective on January 1, 1980. As a result, ATF issued temporary regulations. *Legal basis:* Statutory provisions are contained in 26 U.S.C. Chapter 51. *Contact:* Edward J. Sheehan. *Status:* Temporary T.D. with N. published December 11, 1979 (44 FR 71612, 44 FR 71613). Comment period on temporary regulations ends September 11, 1980. T.D. publication targeted for March 1981. However, pending legislation (H.R. 7171) to revert to the pre-1980 tax treatment of wine and flavors could delay issuance of the final rule. *Priority:* A.
Reporting Taxes Due to the Governments of Puerto Rico and the Virgin Islands (27 CFR Part 19).	*Description:* ATF proposes to move the reporting requirements for Puerto Rican and Virgin Islands spirits bottled at domestic distilled spirits plants from the point such spirits enter the processing account to the point of tax determination. This project requires active coordination with the insular governments and with other Federal agencies involved with the transfer of tax revenues. Their input will have a significant impact on any regulatory changes finally adopted. *Need:* This method for determining the taxes to be transferred to the treasuries of Puerto Rico and the Virgin Islands would more accurately match taxes transferred with actual revenues collected and would be consistent with the method followed prior to January 1, 1980. *Legal basis:* 27 U.S.C. 5555 and 26 U.S.C. 5207. *Contact:* John Jarowski. *Status:* Revision under internal development. *Priority:* A.
New Completely Denatured Alcohol Formula No. 20 (27 CFR Parts 211 and 212).	*Description:* Establishes a new completely denatured alcohol formula suitable for blending in motor fuels. [New] *Need:* A new completely denatured alcohol formula may be more suitable for blending with gasoline in the production of gasohol. *Legal basis:* 26 U.S.C. 5241. *Contact:* Norman P. Blake. *Status:* Temporary T.D. with N. published March 27, 1980 (45 FR 20420); comment period ended May 27, 1980; publication of T.D. targeted for August 1980. *Priority:* A.
Special Tax (27 CFR Parts 179, 194, 197, 245 250, 251, and 252).	*Description:* Implements adjustments in interest applicable to overpayments and underpayments of special tax, and conforms ATF regulations to changes made by the Internal Revenue Service on Form 11. [Rev.] *Need:* Regulations need to be revised to conform to Form 11, and to revise the interest rate statement. *Legal basis:* Pub. L. 93-625 and 26 U.S.C. 6621 and 7805. *Contact:* Steve Simon. *Status:* T.D. w/o N. published May 21, 1980 (45 FR 33978).
	PROCEDURES AND PRACTICES
Electronic Fund Transfers of Alcohol Excise Tax Payments (27 CFR Parts 19, 70, 170, 240, 245, and 270; 26 CFR Parts 301 and 601).	*Description:* This regulation project would modify the present system of collecting alcohol excise taxes by return. The proposed system would require that certain alcohol taxpayers make their payments via electronic fund transfer directly to financial institutions. [Rev.] *Need:* This project would implement the cash management recommendations resulting from the President's Reorganization Project. *Legal basis:* 26 U.S.C. 5061(a), 5703(b), and 7805. *Contact:* Armida N. Stickney or James A. Hunt. *Status:* NPRM published June 6, 1980 (45 FR 38258); comment period closes August 5, 1980. *Priority:* A. *Regulatory Analysis:* A draft regulatory analysis has been prepared.
ATF Procedural Rules (27 CFR Parts 70 and 71; 26 CFR Parts 301 and 601).	*Description:* Incorporates all of the procedural requirements which relate to ATF and which now appear in Internal Revenue Service Regulations, 26 CFR Parts 301 and 601, into ATF procedural regulations. [Rev.] *Need:* Eliminates a source of confusion and places all of the procedural regulations into Title 27: Alcohol, Tobacco Products and Firearms. *Legal basis:* 26 U.S.C. 7805. *Contact:* Steve Simon. *Status:* T.D. without N. under internal development; publication targeted for December 1980. *Priority:* B.
Appeal Procedure for Claims for Abatement, Remission or Refund of Excise Taxes (27 CFR Part 70).	*Description:* Establishes an appeal procedure whereby claims denied at the regional level may be appealed to the ATF Director. [New] *Need:* Current regulations do not provide an appeal process for a claimant who feels that a claim was unfairly denied by the regional regulatory administrator (except in the case of newly discovered information). *Legal basis:* 26 U.S.C. 7805. *Contact:* John Ference. *Status:* Target date for publication of NPRM is October 1980. *Priority:* A.
Disclosure of Tax Return Information (27 CFR Part 71).	*Description:* Proposed regulations would implement Title XIII of Pub. L. 94-455, relating to disclosure of tax return information. [New] *Need:* Due to changes made by Pub. L. 94-455, regulations may be needed to govern disclosure of tax return information. *Legal basis: 26 U.S.C. 6103.* *Contact:* Armida N. Stickney. *Status:* Currently under internal study and development. *Priority:* A.

Part I—Regulations Under Development—Continued

Title/Citation	Summary
	TOBACCO PRODUCTS
Records Requirement for Cigarette Distributors (27 CFR Part 296, Subpart F).	*Description:* Implements recordkeeping provisions of Pub. L. 95–575 in order to curtail trafficking in contraband cigarettes. [New] *Need:* Records to trace the movement of cigarettes are essential to enforcement of this law. *Legal basis:* Pub. L. 95–578 (18 U.S.C. 2343). *Contact:* Tom Minton. *Status:* T.D. published July 21, 1980 (45 FR 48609). Effective date: September 19, 1980. *Priority:* A.
Tobacco Excise Tax Acceleration Project (27 CFR Parts 270, 275, and 285).	*Description:* This regulatory project would change the deferral and return periods for tobacco excise tax payments and would use electronic fund transfers for the payment of those excise taxes. [Rev.] *Need:* This project would implement the cash management recommendations resulting from the President's Reorganization Project. *Legal basis:* 26 U.S.C. 5061(a), 5703(b), and 7805. *Contact:* Armida N. Stickney or James A. Hunt. *Status:* NPRM published June 6, 1980 (45 FR 38271); comment period closes August 5, 1980. *Priority:* A. *Regulatory Analysis:* A draft regulatory analysis has been prepared.

Part II—Regulations Under Review

Title/Citation	Summary
	ALCOHOL
Wine; Standard of Identity for Cider (27 CFR Part 4).	*Description:* Liberalizes standard of identity for cider by permitting cider to be made from a mixture of apples and pears. [Rev.] *Need:* Responds to a petition from an industry member. *Legal basis:* 27 U.S.C. 205. *Contact:* Tom Minton. *Status:* ANPRM published January 15, 1980 (45 FR 2855); comment period ended March 17, 1980, comments under review. *Priority:* B.
Wine; Bottles per Shipping Case (27 CFR Part 4).	*Description:* Eliminates the regulatory requirement that wine be packed with a specified number of bottles per case. [Res.] *Need:* The requirement to pack a specified number of bottles per case has resulted in numerous requests for exemptions due to various reasons. These exemptions have proven to be an administrative burden on ATF, and have hindered industry. Elimination of this requirement would remove an unnecessary restriction. *Legal basis:* 27 U.S.C. 205. *Contact:* James A. Hunt. *Status:* Incorporated in the project to add a 50 ml size to the standards of fill for wine (See Part I).
Labeling of Wine (27 CFR Part 4)	*Description:* Amends labeling regulations to make bulkpacked wine for consumers conform to same labeling rquirements as wine bottled in bottles. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Health Hazards Related to Alcoholic Consumption (27 CFR Parts 4, 5, and 7).	*Description:* To consider the need for health warning labels or alternate programs. [New] *Contact:* Michael Dressler at 202–566–7591. *Status:* A notice with invitation to comment was published February 26, 1980 (45 FR 12577). Under Pub. L. 96–180, a preliminary report on proposed Government actions was sent to the President and the Congress June 1, 1980. Under further study by the Treasury Department and the Health and Human Services Department.
Advertising of Wine, Distilled Spirits, and Malt Beverages (27 CFR Parts 4, 5, and 7).	*Description:* The advertising regulations under section 5(f) of the FAA Act are bring reviewed for updating and possible revision. [Rev.] *Need:* Regulatory changes may be necessary to accommodate social and technological advances. *Legal basis:* 27 U.S.C. 205. *Contact:* Roger Bowling. *Status:* ANPRM published on November 21, 1978 (43 FR 54266); NPRM under internal development; publication targeted for October 1980. *Priority:* A.
Partial Ingredient Labeling for Wine, Distilled Spirits, and Malt Beverages (27 CFR Parts 4, 5, and 7).	*Description:* A major revision of FAA labeling requirements for all domestic and imported alcoholic beverages would require that labels list essential components, colorings, flavorings, and preservatives or provide on the label an address from which this information can be obtained. [Rev.] *Need:* This proposal would assist consumers in identifying ingredients contained in alcoholic beverages. *Legal basis:* 27 U.S.C. 205. *Contact:* Norman P. Blake or Roger L. Bowling. *Status:* T.D. published June 13, 1980 (45 FR 40538); regulations effective October 14, 1980, with compliance mandatory January 1, 1983. *Priority:* A. *Regulatory Analysis:* A regulatory analysis has been prepared.
Distilled Spirits Liquor Bottles (27 CFR Parts 19, 173, 194, 250, and 251).	*Description:* Eliminates registration of liquor bottle manufacturers with ATF. Liquor bottle indicia requirement would be amended to read "Liquor Bottle" and transferred to Parts 19, 250, and 251. Simplifies procedures for approval by ATF of distinctive liquor bottles. [Res. & Rev.] *Need:* Contains substantive rules which have not been significantly revised in the preceding six years. *Legal basis:* 26 U.S.C. 5301 and 7805. *Contact:* Robert L. White. *Status:* NPRM currently under internal development; publication targeted for September 1980. *Priority:* B.

Part II—Regulations Under Review—Continued

Title/Citation	Summary
Bonding Requirements (27 CFR Part 211).	*Description:* Bond requirements would be eliminated. [Res.] *Need:* A study of bonding requirements and previous bond defaults has shown that it may be possible to eliminate bond requirements for some taxpayers without jeopardy to Federal revenues. *Legal basis:* 26 U.S.C. 5272. *Contact:* John Linthicum. *Status:* NPRM publication targeted for November 1980. *Priority:* B.
Elimination of Bonding Requirements for Experiment DSP/s (27 CFR 201.65).	*Description:* Reduces bonding requirements on certain experimental DSP/s producing alcohol for fuel use. [Rev.] *Status:* Project canceled due to new law and implementing regulations. (See Part I, Alcohol Fuels, 27 CFR Part 19.)
Formulas for Denatured Alcohol and Rum (27 CFR Part 212).	*Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to formulas of denatured alcohol and rum. [Rev.] *Need:* Revision of 27 CFR Part 212 may be necessary to accommodate industry practices and changes in chemical terminology. *Legal basis:* 26 U.S.C. 5241. *Contact:* Steve Simon. *Status:* NPRM is under internal development; publication targeted for October 1980. *Priority:* C.
Wine; Recodification (27 CFR Parts 240, 231, and 170; Subpart Z).	*Description:* Updates, simplifies, and clarifies regulations relating to wine. Incorporates all regulations and outstanding ATF rulings relating to the production of wine into one CFR Part. [Rev.] *Need:* Present rules are at times redundant and confusing. *Legal basis:* 26 U.S.C. 7805. *Contact:* Tom Minton. *Status:* ANPRM published May 22, 1979 (44 FR 29691); Comment period for ANPRM extended until August 20, 1980. *Priority:* B.
Production of Beer (27 CFR Part 245).	*Description:* A reissuance of regulations relating to the production of beer. Requirements would be simplified, and technological advances will be incorporated into the regulations. [Rev.] *Need:* Contains substantive rules which have not been significantly revised in the preceding six years, and which are complex and may be simplified and clarified. *Legal basis:* 26 U.S.C. 5051–5056, 26 U.S.C. 5401–5417. *Contact:* Charles N. Bacon. *Status:* Revision under internal development; NPRM publication targeted for February 1981. *Priority:* B.
Export of Bulk Beer (27 CFR Parts 245 and 252).	*Description:* Allows the export of beer in bulk containers without payment of tax. [Res.] *Need:* Would eliminate an unnecessary burden on the brewing industry. *Legal basis:* 26 U.S.C. 5053. *Contact:* Charles N. Bacon. *Status:* NPRM under review within ATF. *Priority:* C.
Use of Alternatives to Strip Stamps by Non-domestic Bottlers and Importers (27 CFR Parts 250 and 251).	*Description:* Would allow for the use of alternative devices by foreign, Puerto Rican, and Virgin Islands bottlers of distilled spirits and by importers. [Rev.] *Need:* To extend to non-domestic bottlers and importers the same privilege to use alternative devices as domestic bottlers currently enjoy. *Legal basis:* 26 U.S.C. 5202, 5235, and 7805. *Contact:* Robert White. *Status:* NPRM under internal development; publication targeted for September 1980. *Priority:* C.
U.S. Customs Certification on Distilled Spirits from Puerto Rico (27 CFR Part 250).	*Description:* This regulation changes the Customs certification of distilled spirits entering the United States from Puerto Rico. [Rev.] *Need:* The U.S. Customs Service does not consider Puerto Rican distilled spirits as an import; therefore, it may be necessary to revised the certification procedures for spirits which are brought into the United States from Puerto Rico. *Legal basis:* 26 U.S.C. 7805. *Contact:* James A. Hunt. *Status:* NPRM under internal development; publication targeted for winter 1981 *Priority:* A.
Exportation of Wine, Distilled Spirits, and Malt Beverages (27 CFR Part 252.	*Description:* This regulatory project will update, clarify, simplify, and reissue the regulations relating to the exportation of wine, distilled spirits, and malt beverages. [Rev.] *Status:* This project is suspended due to manpower allocation to regulation projects with greater public impact.
Markings on Cases of Liquors for Export (27 CFR Part 252).	*Description:* Deletes the regulatory requirement to mark packages or cases of wine, beer, or distilled spirits for export with the words "Without Payment of Tax" or "Drawback Claimed". [Rev.] *Need:* The requirement to mark cases of distilled spirits, wine, or beer for export is burdensome to proprietors of DSP/s, vintners, and brewers; and this requirement does not serve to protect the revenue. *Legal basis:* 26 U.S.C. 5206, 5368, 5412. *Contact:* Charles N. Bacon. *Status:* Revision under internal development; NPRM publication targeted for September 1980. *Priority:* A.
	EXPLOSIVES
Amendments to Explosives Regulations (27 CFR Part 181).	*Description:* Proposed amendments include: (1) A lengthened renewal period for licenses and permits, (2) an amended inventory of explosives, (3) revision of recordkeeping and storage requirements, and (4) addition of new terms and revision of existing language. [Rev.] *Need:* The explosives regulations have not been significantly revised in the past six years. Many technological advances may have made these regulations obsolete. *Legal basis:* 18 U.S.C. 847. *Contact:* James A. Hunt. *Status:* Revision under development; NPRM targeted for September 1980. *Priority:* A.
	FIREARMS
Definition of "Engaged in the Business" (27 CFR Part 178).	*Description:* This regulation project attempts to define the term "engaged in the business". The law and regulations do not define this term. [Rev.]

Part II—Regulations Under Review—Continued

Title/Citation	Summary
	Need: Is the subject of criticism by the public and of request by the Congress for review. *Legal basis:* 18 U.S.C. 926. *Contact:* Robert White. *Status:* ANPRM published December 19, 1979 (44 FR 75186); comment period ended April 17, 1980; comments are being evaluated. *Priority:* A.
Sales of Firearms at Gun Shows (27 CFR Part 178).	*Description:* This regulation project would allow licensees to sell firearms at organized gun shows held in the same State as the licensee's premises. [Rev.] *Need:* Present regulations require licensees to conduct business only at the address shown on the license. ATF wishes to determine if licensees should be permitted to conduct business at gun shows. *Legal basis:* 18 U.S.C. 926. *Contact:* James A. Hunt *Status:* ANPRM published April 22, 1980 (45 FR 26982); comment period ended June 23, 1980; comments are being evaluated. *Priority:* A.
Suspension Procedures for Firearms Licenses and Explosives Licenses or Permits (27 CFR Parts 178 and 181).	*Description:* This regulation would allow ATF to suspend the license or permit of Federal firearms licensees or of explosives licensees or permittees. [Rev.] *Need:* When adverse administrative actions are taken against the holder of a Federal firearms license or explosives license or permit, current regulations provide only for the revocation of, or for the denial of an application for, the license or permit. ATF wishes to determine if suspension of the license or permit for a period of time should be used as an alternative adverse administrative action. *Legal basis:* 18 U.S.C. 847 and 926. *Contact:* Norman Blake. *Status:* ANPRM published May 20, 1980 (45 FR 33651); comment period ended July 21, 1980; comments are being evaluated. *Priority:* A
	TOBACCO PRODUCTS
Shipment of Tobacco Articles from Puerto Rico to the United States (27 CFR Part 275).	*Description:* Eliminates U.S. Customs Service involvement on shipment of Puerto Rican tobacco products to the United States. Eliminates direct ATF supervision of tobacco product shipments from Puerto Rico. [Res.] *Need:* Would eliminate administrative burden for government and industry. *Legal basis:* 26 U.S.C. 7651. *Contact:* John Linthicum. *Status:* Under internal development; NPRM targeted for March 1981. *Priority:* B.
Manufacturer's Identification on Tobacco Products Packages (27 CFR Parts 270, 290, and 295).	*Description:* Removes a regulatory requirement relating to labeling. Permits identification of the manufacturer of cigarettes or cigars by means of a code on the label. [Rev.] *Need:* Special permission for manufacturer identification by code has been approved for use on some labels in certain cases, and no jeopardy to the revenue has been experienced. Consequently, all manufacturers may be permitted to use this method, on condition that ATF be permitted to identify the codes to any member of the public making a request for such identification. *Legal basis:* 26 U.S.C. 5723. *Contact:* Steve Simon. *Status:* NPRM currently under internal development; publication targeted for September 1980. *Priority:* C.
Markings on Packages of Large Cigars (27 CFR Parts 270, 275, 290, and 295).	*Description:* Removes the requirement to mark the wholesale price on packages of large cigars. This requirement was added by Pub. L. 94–455. [Res.] *Need:* The requirement has not been invoked by those affected or by ATF for more than one year. *Legal basis:* Pub. L. 94–455 and 26 U.S.C. 7805. *Contact:* Steve Simon. *Status:* Publication of T.D. w/o N. targeted for September 1980. *Priority:* C.

Table of Abbreviations

Abbreviation	Meaning
ANPRM	Advance notice of proposed rulemaking.
ATF	Bureau of Alcohol, Tobacco and Firearms.
CFR	Code of Federal Regulations.
DSP	Distilled spirits plant.
FR	Federal Register.
FAA Act	Federal Alcohol Administration Act.
FDA	Food and Drug Administration.
New	New regulation is proposed.
NPRM	Notice of proposed rulemaking.
Pub. L.	Public Law.
Res.	Rescission of an existing regulation.
Rev.	Revision or amendment of an existing regulation.
T.D.	Treasury decision.
T.D. with N.	[Temporary] Treasury decision with notice.
T.D. w/o N.	Treasury decision without notice.
Treasury	Department of the Treasury.

[FR Doc. 80–23213 Filed 7–31–80; 8:45 am]

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federal register

Friday
August 1, 1980

Part VIII

Department of Justice

Office of Justice Assistance Research and Statistics

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

DEPARTMENT OF JUSTICE

Office of Justice Assistance Research and Statistics

28 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda of Significant Regulations Under Development or Review

AGENCY: Office of Justice Assistance, Research and Statistics.

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: This semiannual agenda of significant regulations is issued pursuant to section 2(a) of Executive Order No. 12044 (43 FR 12661), which requires the publication at least semiannually of an "agenda of significant regulations under development or review."

The purpose of this semiannual agenda is to provide the public with information about regulatory activity within the Office of Justice Assistance, Research and Statistics (OJARS), the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS).

On December 27, 1979, the Justice System Improvement Act of 1979 was enacted. The Act established the OJARS, the LEAA, and NIJ, and the BJS. OJARS directly provides staff support to, and coordinates the activities of the NIJ, the BJS, and the LEAA. OJARS, as part of its coordination function, publishes the semiannual agenda of Significant Regulations. The last Agenda was Published on January 31, 1980.

FOR FURTHER INFORMATION CONTACT: For inquiries or comments related to specific regulations in the Agenda, the public is encouraged to contact the appropriate knowledgeable official. Questions or comments concerning the overall Agenda should be sent to Leonard Oberlander, Office of Planning and Management, Office of Justice Assistance, Research and Statistics, U.S. Department of Justice, 633 Indiana Avenue N.W., Washington, DC 20531 (202) 724-7636.

SUPPLEMENTARY INFORMATION: The semiannual agenda covers new significant regulations under development at the time this agenda is prepared, or which OJARS anticipates to be under development within the next twelve months. It also inclused existing significant regulations under review with an eye toward possible revision or those OJARS expects to begin reviewing before the publication of the next semiannual agenda. For all regulations that were included in the last semiannual agenda published in the **Federal Register** on January 31, 1980 a status update is included. Following are agenda entries for each significant regulation under development or review, or anticipated to be so prior to the publication of the next semiannual agenda, and a status update for all entries that were included in the last semiannual agenda published on January 31, 1980 in the **Federal Register.**

A. PLANS FOR MODIFYING REGULATIONS

1. Title. Confidentiality of Identifiable Research and Statistical Information

Description of the Regulation. OJARS is amending its regulations governing research and statistical information, 28 CFR Part 22, to conform them to the statutory amendments made by the Justice System Improvement Act of 1979 (JSIA). 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 Justcie Assistance, Research and Statistics as well as the Law Enforcement Assistance Administration.

Legal Basis. The Justice System Improvement Act of 1979, Pub. L. 96-157.

Regulatory Analysis. A regulatory analysis is not required.

Knowledgeable Official. Thomas J. Madden, General Counsel, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724-7792.

2. Title. Criminal Intelligence Systems Operating Policies

Description of the Regulation. 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 intellegence 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.

Policies for the funding and operation of the Law Enforcement Assistance Administration Discretionary funded Intelligence Systems were adopted June 30, 1978 (43 FR 28572). The LEAA was reorganized by the Justice System Improvement Act of 1979, 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 are not in violation of the privacy and constitutional rights of individuals.

Accordingly, the 1978 guidelines are being revised to cover the 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 adminstration of that program.

Legal Basis. 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 (January 2, 1971), the Crime Control Act of 1973, Pub. L. 93-83, 87 Stat. 197 (August 6, 1973), the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93-415, 88 Stat. 1109 (September 7, 1974), the Public Safety Officer's 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 (October 15, 1976), the Juvenile Justice Amendments of 1977, Pub. L. 95-155, 91 Stat. 1048 (October 3,

1977), and the Justice System Improvement Act of 1979, Pub. L. 96–157, 93 Stat. 1167.

Regulatory Analysis. A regulatory analysis is not required.

Knowledgeable Official. Thomas J. Madden, General Counsel, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–7792.

3. Title. Procedures Relating to the Implementation of the National Environmental Policy Act (28 CFR 19.1, et seq.)

Description of the Regulation. The National Environmental Policy Act (NEPA) requires regulatory agencies to consider the effect of their actions on the environment. NEPA requires that each agency, before taking an action, analyze potential environmental effects and prepare an Environmental Impact Statement (in cases where the environment may be affected) or a Finding of No Significant Impact upon the proposed action on the environment. The Department of Justice has a separate proposal giving general guidance on this issue.

On December 27, 1979, the Justice System Improvement Act of 1979 reorganized the Department of Justice's Law Enforcement Assistance Administration (LEAA) by establishing the Office of Justice Assistance, Research, and Statistics. OJARS is the coordinating and support organization for three financial organizations: The National Institute of Justice, the Bureau of Justice Statistics, and the LEAA itself. These organizations undertake few projects which significantly affect the environment. In addition, OJARS has adopted the policy of prohibiting the use of its funds by State or local governments to undertake any new construction projects.

Accordingly, we expect the number of projects necessitating the use of the NEPA regulations will be small. However, OJARS must have specific NEPA regulations governing the allotment of funds to State and local agencies for criminal justice improvement programs, such as prison renovations, which may affect the environment. Therefore, OJARS is simplifying and clarifying its current regulations to eliminate unnecessary expenditures of staff time and effort for compliance with the requirements of NEPA.

The regulation will provide for the removal of the current 29 CFR Part 19 and replacement with updated and simplified procedures. These procedures supplement the proposed procedures of the Department of Justice and provide only such guidance as is specific for OJARS.

Legal Basis. National Environmental Policy Act, 42 U.S.C. 4201, *et seq.;* Environmental Quality Improvement Act, as amended, 42 U.S.C. 4371, *et seq.;* (Council on Environmental Quality, "Regulations to Implement the National Environmental Policy Act") 40 CFR Part 1500, *et seq.*

Regulatory Analysis. A regulatory analysis is not required.

Knowledgeable Official. Joan Lewis, Environmental Coordinator, Office of Justice Assistance, Research and Statistics, 633 Indiana Avenue N.W., Washington D.C. 20531 (202) 724–7659.

B. NEW REGULATIONS UNDER DEVELOPMENT

The Office of Justice Assistance, Research and Statisitics has no new regulations under development to report in this agenda. However, pending Congressional actions may require OJARS, LEAA, BJS or NIJ to initiate plans for developing new regulations at a future date. Announcements of any actions taken by these agencies to develop new regulations will be published in the **Federal Register.**

C. STATUS OF REGULATIONS PREVIOUSLY LISTED IN THE SEMIANNUAL AGENDA OF SIGNIFICANT REGULATIONS PUBLISHED ON JANUARY 31, 1980 (FR 45 7118)

1. Title. Nondiscrimination in Federally Assisted Programs

OJARS published two proposed amendments to its Nondiscrimination Regulations for public comment in the **Federal Register** on May 20, 1980 (45 FR 33652). On April 30, 1980, OJARS published final Nondiscrimination Regulations in the **Federal Register** (45 FR 28704). Sections 42.203(b)(8) and 42.204(b) were published as "reserved" on April 30 so that the agency could separate the two rules it determined appropriate to propose for public comment from the remainder of the rules published as final. After the public comment period for the proposed amendments, those amendments will be published in final to amend 28 CFR Part 42 by adding §§ 42.203(b)(8) and 42.204(b).

For further information contact: Thomas J. Madden, General Counsel, OJARS or David I. Tevelin, Attorney Advisor, Office of General Counsel, OJARS, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–6235.

2. Title. Joint ACTION/LEAA Urban Crime Prevention Program for Fiscal Year 1980

The final program announcement for the Joint ACTION/LEAA Urban Crime Prevention Program was published in the **Federal Register** on February 4, 1980. For further information contact: Ernest Milner, Director, Governmental and External Affairs Division, Office of Community Anti-Crime Program, LEAA, 63 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–6242.

3. Title. Community Anti-Crime Program Guidelines

The final guideline for the Community Anti-Crime Program was published in the **Federal Register** on February 15, 1980 as part of the National Priority Program and Discretionary Program Announcements. For further information contact: James Hagerty, Director, Community Anti-Crime Program Division, Office of Community Anti-Crime Programs, LEAA, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–6315.

4. Title. Guide for Graduate Research Fellowship Program

The target dates for this regulation have been updated. The National Institute of Justice plans to publish a proposed guideline for public comment in August 1980, and to publish a final guideline in October 1980. For further information contact Annesley Schmidt, Office of Research Programs, NIJ, 633 Indiana Avenue N.W., Washington, D.C. 20531 (301) 492–9104.

5. Title. Administrative Review Procedure, 28 CFR Part 18

The target dates for this regulation have been updated. OJARS will publish for comment proposed regulations in the **Federal Register** in August 1980. Final regulations should be published within 60 days after the end of the comment period on the proposed regulations.

On June 27, 1980, the agency proposed an amendment to this regulation that would affect the venue of administrative hearings (45 FR 43436). Public comment is being solicited for 30 days.

More information about this regulation can be obtained from Thomas J. Madden, General Counsel, OJARS, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–7792.

6. Title. Financial Management for Planning and Action Grants, M 7100.1A

OJARS has revised this guide, which is a reference source and guide for financial questions arising in the administration of programs funded by the Justice System Improvement Act of

1979 and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The revised guide is now titled, "Financial and Administrative Guide for Grants." The proposed revised "Financial Administrative Guide for Grants" was published for public comment in the **Federal Register** on March 3, 1980. OJARS expects to issue the guide as final in July 1980. More information about this guide can be obtained from Arthur E. Curry, Director, Policy Development and Training Division, Office of the Comptroller, OJARS, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–5863.

7. Title. National Priority Program and Discretionary Program Announcements

These program announcements were referred to in the previous semiannual agenda as Program Announcements and Application Kits for National Priority and Discretionary Programs. Information that LEAA originally planned to incorporate in application kits was incorporated into the program announcements that were published in the **Federal Register** on February 15, 1980, after a public comment period. Accordingly, final National Priority Program and Discretionary Program Announcements were published in a single announcement in the **Federal Register** on February 15, 1980. As noted in the previous semiannual agenda, four programs of the Office of Juvenile Justice and Delinquency Prevention were scheduled to be published for comment and issued as final in the **Federal Register** on separate dates. These announcements of additions to the National Priority Program and Discretionary Program Announcements were published as final on the following dates:

(A) Violent Juvenile Offender Research and Development Program, published May 13, 1980;

(B) Removing Juveniles from Adult Jails and Lock-Ups, published May 20, 1980;

(C) Delinquency Prevention Through Capacity Building, published May 14, 1980; and

(D) Delinquency Prevention Research and Development, published April 23, 1980.

Additionally, a technical change to the National Priority Program and Discretionary Program Announcements was published in the **Federal Register** on April 23, 1980.

For further information contact Eugene Dzikiewicz, Acting Deputy Assistant Administrator, OCJP, LEAA 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–7678. For further information pertaining to programs of the Office of Juvenile Justice and Delinquency Prevention contact Ira M. Schwartz, Administrator, Office of Juvenile Justice and Delinquency Prevention, LEAA, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–7751.

8. Title. Change to Guide for Discretionary Grant Programs, M4500.1G, FY 79: Prevention of Delinquency through Alternative Education

The guideline for this additional program of the Office of Juvenile Justice and Delinquency Prevention was published as final in the **Federal Register** on February 13, 1980.

9. Title. Equal Opportunity Employment Program Guidelines, 28 CFR 42.301 et seq. and

10. Title. Equal Service Program Guidelines

The target dates for both of these proposed regulations (9) and (10) have been updated. OJARS expects to publish both sets of Guidelines, for comment, in August 1980 and to publish final Guidelines in November 1980. For further information contact David I. Tevelin, Office of General Counsel, OJARS, 633 Indiana Avenue N.W., Washington, D.C. 20531 (202) 724–7792.

11. Title. Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979

These regulations were published in the **Federal Register** for comment on January 14, 1980. The draft regulations covered the formula grant programs authorized by Part D of the Justice System Improvement Act of 1979 and Part B of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Final publication of regulations governing Part D of the Justice System Improvement Act of 1979 has been suspended.

The Law Enforcement Assistance Administration is publishing final regulations for the implementation of the formula grant program authorized by Part B of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) expects to publish these regulations as final in late July or early August 1980. OJJDP expects that the JJDP Act of 1974, as amended will be reauthorized in early fall of 1980. The reauthorization may require changes or modifications to these regulations. OJJDP will announce, shortly after the expected reauthorization, its intentions regarding any necessary further actions on these regulations.

Semiannual Agenda Overview

Title of regulations	Target dates: Publish for comment	Target dates: Issuance of final regulation
A. Regulations Under Review and Revision		
1. Confidentiality of Identifiable Research and Statistical Information	6-13-80	9-80
2. Criminal Intelligence Systems Operating Policies	6-13-80	9-80
3. Procedures Relating to the Implementation of the National Environmental Policy Act (28 CFR 19.1, *et seq.*)	7-80	9-80
B. New Regulations Under Development: None		
C. Status of Regulations Previously Listed in the Semiannual Agenda of Significant Regulations Published on January 31, 1980 (45 FR 7118)		
1. Nondiscrimination in Federally Assisted Programs	5-20-80	8-80
2. Joint ACTION/LEAA Urban Crime Prevention Program for Fiscal Year 1980	10-16-79	2-4-80
3. Community Anti-Crime Program Guidelines	12-12-79	2-15-80
4. Guide for Graduate Research Fellowship Program	8-80	10-80
5. Administrative Review Procedure, 28 CFR Part 18	8-80	10-80
6. Financial and Administrative Guide for Grants	3-3-80	7-80
7. National Priority Program and Discretionary Program Announcements—Parts of the above published for comment and issued as final on separate dates in Federal Register. These are programs of the Office of Juvenile Justice and Delinquency Prevention	12-12-79	2-15-80
(A) Violent Juvenile Offender Research and Development Program	4-1-80	5-13-80
(B) Removing Juveniles from Adult Jails and Lock-Ups	3-25-80	5-20-80
(C) Delinquency Prevention Through Capacity Building	3-21-80	5-14-80
(D) Delinquency Prevention Research and Development	3-12-80	4-23-80
8. Change to Guide for Discretionary Grant Programs, M4500.1G FY 79: Alternative Education	10-15-79	2-13-80
9. Equal Opportunity Employment Program Guidelines, 28 CFR 42.301 *et seq.*	8-80	11-80
10. Equal Service Program Guidelines	8-80	11-80
11. (a) Regulations Implementing Part D (formula grants) of the Justice System Improvement Act of 1979	1-14-80	(1)
11. (b) Regulations Implementing Part B (formula grants) of the JJDP Act of 1974, as amended	1-14-80	7-80 or 8-80

[1] Suspended.

Henry S. Dogin,

Director, Office of Justice Assistance, Research and Statistics.

[FR Doc. 80-23237 Filed 7-31-80; 8:45 am]

BILLING CODE 4410-18-M

federal register

Friday
August 1, 1980

Part IX

Department of Education

Loans for College Housing Program for Fiscal Year 1980

DEPARTMENT OF EDUCATION

24 CFR Part 279[1]

Loans for College Housing Program for Fiscal Year 1980

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education issues regulations for the College Housing program. These regulations are applicable to the Fiscal Year 1980 college housing program. They include categories of loan requests eligible for funding, restrictions on the number of applications per institution, the maximum loan amounts, and the distribution of available funds among different categories of loans.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write to the contact person listed under Further Information.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas F. McAnallen, Director, Higher Education Facilities Branch, U.S. Department of Education (Room 3716, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202; Telephone: (202) 245–3253 or Mr. Robert W. Wilden, Director, Elderly, Cooperative and Health Facilities Division, Department of Housing and Urban Development, (Room 6136), 451 7th Street, S.W., Washington, D.C. 20410. Telephone: (202) 755–6528.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development published a Notice of Proposed Rulemaking on April 28, 1980, 45 FR 28298 to add a new Subpart E to implement the continuation of the college housing program for Fiscal Year 1980.

Under Section 306 of Pub. L. 96–88, Department of Education Organization Act, the College Housing Program was transferred by Determination Order of the Office of Management and Budget from the Department of Housing and Urban Development to the Department of Education on May 4, 1980. Accordingly, references in Part 279 to the Secretary of Housing and Urban Development are to be construed as reference to the Secretary of Education.

To facilitate the transfer and assure an orderly operation of the program, the two Departments have entered into an Interagency Agreement whereby the Department of Housing and Urban Development will continue to perform day-to-day operations of the program, including the processing of loan requests through September 30, 1980, on behalf of the Department of Education.

The Secretary of Education will issue fund reservations based on HUD processing of loan requests under Subpart E. Therefore, applicants for college housing loans will continue to obtain advice from and submit applications to the appropriate HUD Area Office.

The amendment incorporates relevant provisions of the current regulations, and implements congressional directives as contained in the Report No. 96–249 of the House Committee on Appropriations on the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, dated July 7, 1979 (Pub. L. 96–103).

The Secretary anticipates that approximately $85 million will be available from loan repayments for use in making new fund reservations in Fiscal Year 1980.

The new Subpart E incorporates many of the provisions of Subpart D of the regulations; however, several changes are made, as follows:

1. Clarification is provided in § 279.42 as to the treatment of applications from individual campuses in a multi-campus university.

2. Section 279.42 includes a new requirement that the applicant submit a copy of the resolution of its governing body, authorizing the making of the College Housing Loan Application.

3. Section 279.42 was changed to eliminate the requirement that up to ten percent of the total available funds be reserved in connection with applications from educational institutions which are located in or near a Housing Neighboring Strategy Area.

4. Section 279.42 has been changed to clarify that the Secretary's authority to reserve for historically black colleges not less than ten percent of the total funds available pertains to those applications from historically black colleges that are intended to assist in remedying the adverse effects of past or present discrimination on the adequacy of the colleges' housing and related dining facilities. It also clarifies the procedures to be used in applying the ten percent set-aside.

The reservation for historically black colleges was adopted by the Department of Housing and Urban Development (HUD) in the program regulations for Fiscal Year 1979. HUD adopted this reservation in support of the President's initiative to aid in the strengthening of historically black colleges, noting that many of these colleges face extinction because of mounting financial difficulties, due in part to poor dormitory facilities which limit student enrollment. HUD also noted that since students at these colleges have been primarily drawn from low and moderate income families, the colleges have been unable to develop the financial means to address these difficulties. 44 FR 40868 (July 12, 1979).

The Education Department shares HUD's view that although the historically black colleges perform an important function in providing educational opportunities to thousands of students, financial problems continue to threaten the survival of these institutions. In connection with a bill before Congress to amend and extend the Higher Education Act of 1965, the House Committee on Education and Labor has also recently noted that

> * * * the plight of the traditionally black institutions, especially those in the private sector, has been one of austere endowments, low operating budgets and little resource development monies. If one were to line up all institutions in the country in ascending order of development, * * * at the lower end of the spectrum of development would be many of the traditionally and historically black institutions.

House Report No. 96–520 (October 17, 1979), pp. 12–13. These problems derive largely from patterns of discrimination which existed long before the enactment of the Civil Rights Act of 1964 and have yet to be remedied by the implementation of that Act and other measures intended to eradicate discrimination.

Like the other provisions of these regulations, the reservation for historically black colleges applies only to the operation of the program in Fiscal Year 1980. The 10 percent figure, which is somewhat lower than the percentage of blacks in the Nation's population, is not to be construed as rigidly establishing the amount of the set-aside. The regulations give the Secretary discretion in determining the amount of the set-aside on the basis of the harm deriving from discrimination that is reflected in applications from historically black colleges.

5. Section 279.43, while leaving the loan limit at $5,000,000, drops the limit of

[1] The authority for administering 24 CFR Part 279 was transferred from the Department of Housing and Urban Development to the Department of Education by the Department of Education Reorganization Act, Pub. L. 96–88, 93 Stat. 668. This transfer of authority will be reflected by a redesignation document to be published in the near future.

$2,500 per full-time student, and increases the limits per occupant. It also clarifies the meaning of "occupant" by stating that the limits apply to adult occupants. The use of the mortgage limits under Section 221(d)(4) of the National Housing Act for apartment dwellings is dropped because it proved to be unworkable.

6. Section 279.44 has been changed so that in the event of a tie in ranking numbers, priority consideration will be given to applications where rehabilitation proposed to reduce fuel consumption or other operating costs of existing housing and related dining facilities involves conversion of heating systems from oil or gas to coal or solar heating systems.

7. Section 279.44 has been changed to provide a further breakdown of applications for new construction, acquisition and rehabilitation to divide student housing into four sub-categories, based on full-time student enrollment. Clarifying language has been added to indicate that "enrollment" in all cases means "full-time student enrollment."

The period for receipt of comments on the proposed rule closed on May 28, 1980. The Department of Housing and Urban Development received twelve comments on or before the closing date. All comments were carefully considered and the comments and responses are listed below:

Comment. The expansion from two to four sub-categories for funding under the category of new construction, acquisition or rehabilitation of student housing and the proposed distribution of funds among the four categories generated the greatest response. Ten of the twelve comments received commented on this subject.

Six commenters either favored the proposed breakdown of funding or wanted greater funding of schools with enrollments of less than 3,000 students. Four commenters favored elimination of the sub-categories based on enrollment altogether; one of these favored limiting all funds in this category to schools with enrollments of less than 3,000 students.

One commenter suggested that the funds be allocated based on the relative number of institutions in each category. Such an allocation would result in an increase from twenty percent to thirty percent for institutions with enrollments below 3,000 students, a decrease from twenty percent to fifteen percent for schools of 5,000–9,999 and a decrease from fifteen percent to ten percent for schools with enrollments of 10,000 or more.

Response. A change has been made. The Secretary finds this last comment to be the most reasonable suggestion as to how funds should be sub-allocated, and has adopted the suggested change in the final regulation.

Comment. One commentor objected that the proposed rule permits schools to compete based on a current severe housing shortage, without regard to whether a shortage existed at the time the college housing program was reactivated in 1976. The commenter proposed that ranking for schools in the new construction, acquisition or rehabilitation of student housing category be done based on the lower of the current student housing need or the housing need in existence in 1976.

Response. No change is made. The Secretary does not agree that such an interpretation is required by the language of the Appropriation Acts, and believes that if the Congress intended such an interpretation, the Appropriations Acts would have been more specific. The commenter's argument rests on the use of the word "still" in the Committee reports, which say, "The basic intent of the Committee in continuing the program is to provide for those colleges and universities that still have a genuine dormitory shortage." The Secretary's position is that the emphasis is on meeting current severe housing shortages, regardless of whether they existed prior to 1976, or not.

Comment. Several commenters pointed out the need for clarification on various points. One commenter stated that clarification was needed regarding separate campuses in a multi-campus university, and took the position that those campuses having a separate FICE number should be permitted to apply on their own, and be treated as separate applications.

Response. A change has been made. The Secretary agrees, and has provided clarifying language in § 279.42.

Comment. One commenter stated that the definition of "occupant" should be expanded to include a spouse, so that the per occupant cost limit could not be interpreted to exclude the spouse.

Response. A change has been made. The language in § 279.43 of the regulations has been amended to clarify that the cost limits apply to adult occupants.

Comment. One commenter pointed out that the meaning of "enrollment" under § 279.44 needed clarification.

Response. A change has been made. The term "full-time student enrollment" is therefore used where the term "enrollment" was used in the proposed rule.

Comment. Three commenters recommended that the ranking fourmula for new construction, acquisition or rehabilitation for student housing be changed.

Response. No change has been made. At this time the Secretary does not believe that the formula should be changed. The breakdown of funding into four sub-categories based on enrollment offers a reasonable system for distributing limited funds, using the current formula.

Comment. Two commenters expressed concern that no safeguards have been built into the selection process to assure the accuracy of self-reported data, and suggested that procedures be utilized which will allow verification of data contained in the applications.

Response. The Secretary has not made changes to the final regulations because the issue of verifying the accuracy of submitted data is an administrative, not a regulatory issue. However, specific instructions have been issued to field offices which will require applicants to submit full documentation supporting the data in the application. Applicants will be instructed that loan applications will not be acceptable for processing without the required documentation.

Comment. One commenter stated that "commuting distance" should be defined and offered the following definition: "unreasonable commuting distance means the distance beyond the limits of standard public municipal bus, trolley, subway, or similar service and/or bus or similar services provided by the institution or for the institution by any other agency or organization."

Response. No change has been made. While the Secretary agrees that it would be desirable to define "unreasonable commuting distance" it is unlikely that a single definition could be developed which would be applicable in all parts of the country. However, future consideration will be given to the feasibility of developing a series of definitions which could fit all locations and circumstances.

Comment. One commenter suggested that each applicant be permitted to submit one application under each category for funding, rather than being restricted to a single application under all categories.

Response. A change has been made. The Secretary agrees, and § 279.42 of the regulations has been amended accordingly.

Comment. One commenter requested reinstatement of the Neighborhood Strategy Area (NSA) set-aside.

Response. No change is made. Due to very limited funds and insufficient evidence of need for such a set-aside,

the Secretary is not reinstating the NSA set-aside.

Comment. One commenter recommended that funding be increased from twenty-five percent to fifty percent of the total funds available for the category of rehabilitation proposed to reduce fuel consumption or other operating cost of existing eligible housing and related dining facilities.

Response. No change is made. While the Secretary agrees that a valid need exists for additional funds in this category, the funds would have to be taken out of the category of new construction, acquisition or rehabilitation of student housing. Since there is also a severe need in the latter category, particularly among the smaller institutions, the Secretary did not accept the recommendation to increase the proportion of the total funding available for the former category.

Comment. One commenter questioned the need for inclusion of faculty housing under the college housing program.

Response. No change is made. The Secretary determined that no change is necessary, since faculty housing can only be funded if there are insufficient fundable proposals under the other categories to utilize existing funds.

Other Information

Since the amendments contained in these final regulations are to apply to the Fiscal Year 1980 College Housing Program, applicants are encouraged to submit applications to the appropriate HUD Area Offices at once, and HUD Area Offices are expected to process and rank applications promptly. While final actions may not be taken until these regulations become effective, all actions prior to final selections may proceed at once.

Part 279, Subpart A will continue to apply to all applications submitted prior to October 1, 1976, Subpart B will continue to apply to all applications submitted between October 1, 1976 and September 30, 1977. Subpart C will continue to apply to all applications submitted between October 1, 1977 and September 30, 1978, and Subpart D will continue to apply to all applications submitted between October 1, 1978 and September 30, 1979.

The Secretary has determined that these regulations will not have a significant impact upon the quality of the environment. A finding of inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the finding of inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(Catalog of Federal Domestic Assistance No. N/A. Part I of OMB Circular A-95 does not apply to this program)

Dated: July 28, 1980.

Shirley M. Hufstedler,

Secretary of Education.

PART 279—COLLEGE HOUSING PROGRAMS ADMINISTERED BY THE DEPARTMENT OF EDUCATION

Part 279 of Title 24 of the Code of Federal Regulations, is amended by revising the part heading to read: Part 279, College Housing Programs Administered by the Department of Education, and by adding a new Subpart E to read as follows:

Subpart E—College Housing Program for Fiscal Year 1980

Sec.

279.41 Applicability of Part 279 to the 1980 program.
279.42 Applications for reservation of funds.
279.43 Limitations on loan amounts.
279.44 Priority categories and funding criteria.

Authority: Section 401 et seq. of the Housing Act of 1950, as amended, 12 U.S.C. 1749; Section 306 of the Department of Education Organization Act, 20 U.S.C. 3446.

Subpart E—College Housing Program for Fiscal Year 1980

§ 279.41 Applicability of Part 279 to the 1980 program.

All provisions of Subpart D of this Part 279 concerning policies and requirements for projects to be funded under the College Housing Program for Fiscal Year 1979 shall apply to projects to be funded under the College Housing Program for Fiscal Year 1980 except as follows: §§ 279.36, 279.37 and 279.38.

(12 U.S.C. 1749 et seq.)

§ 279.42 Applications for reservation of funds.

(a) Only one application for reservation of funds may be submitted and considered per institution under each category of funding stated in § 279.44. A campus of a multi-campus university shall be considered as a separate institution, provided the campus applicant has its own Federal Interagency Committee on Education (FICE) identification number.

(b) Information and application forms may be obtained from and applications submitted to the HUD field office which serves the area in which the educational institution is located. Applications may be submitted any time after publication of this subpart, and will be accepted until close of business on August 15, 1980.

(c) Applications for assistance consist of two parts:

(1) Part 1 must be submitted to receive consideration for a fund reservation and must include the following information:

(i) Name, type, and accreditation of the educational institution;

(ii) Description and estimated cost of the proposed project including engineering data, appraisals (if available) or other documentation on which estimated costs are based;

(iii) With respect to applications proposing rehabilitation to reduce fuel consumption or other operating costs of existing eligible housing and related dining facilities, an estimate of annual operating cost savings, if any, based on the difference between the annual average of routine project operating expenses for the previous three years and anticipated first year operating expenses estimated on the basis of the current prices of fuel, supplies, and services;

(iv) Evidence of need for the proposed project including documentation which supports the eligible applicants estimate of such need;

(v) Preliminary plans and specifications (if applicable);

(vi) Proposed method of financing;

(vii) Certified copies of resolution of the applicant's governing body, authorizing the making of the College Housing Loan Application.

(2) Part 2 must be submitted to receive consideration for loan approval and must include the information specified in § 279.17.

(d) Applications for reservations of funds shall be submitted to and reviewed by HUD field offices. Field offices will recommend reservations for projects in accordance with the priority categories and funding criteria described in § 279.44. No project will be recommended for fund reservation where the applicant is in financial delinquency with respect to any outstanding college housing loan. Further, no application competing under the funding category described in § 279.44(a)(1) shall be recommended for funding where the ranking number assigned to that application exceeds the number of months of the maximum loan term as set forth in § 279.39(b): (i.e., 480 months for a 40-year loan.)

(e) Because of the limited amount of funds available and the uncertainty as to which areas will generate the greatest demand for funds, no predetermined allocation of funds to the field offices will be made. Funds will be reserved, subject to availability, for specific

projects by the Secretary of Education on the basis of the field office recommendations.

(f) The priority categories and funding criteria specified in § 279.44 will be used by all field offices. Therefore, the ranking numbers assigned to individual applications in accordance with that section will permit a comparison by HUD headquarters among applications recommended for funding by different field offices.

(g) In the event HUD headquarters receives more recommendations for fund reservations than can be funded, HUD headquarters will prepare a nationwide priority list for each of the categories specified in § 279.44(a) by using the ranking numbers assigned by the field offices on the basis of the criteria described in that section. Fund reservations will then be made by the Secretary of Education on the basis of the nationwide lists. However, the Secretary of Education—subject to the statutory restriction that not more than 12½ percent of funds may be made available in any one State—may deviate from this ranking system as necessary to ensure that, within each category described in § 279.44(a), not less than ten percent of the total funds available and not less than 10 percent of the number of loans made are to be reserved in connection with those applications from historically black colleges that are intended to assist in remedying the adverse effects of past or present discrimination on the adequacy of the colleges' housing and related dining facilities.

(h) Applications for which funds are not reserved by the close of business on September 30, 1980, shall be returned to the applicant by the field office.

(12 U.S.C. 1749)

§ 279.43 Limitations on loan amounts.

(a) The maximum loan that any eligible applicant may request is the lesser of the following: $5,000,000; or $14,500 per adult occupant based on design capacity of the proposed housing, plus $65 per gross square foot of any related dining facilities other than individual apartment kitchens and dining facilities.

(b) The minimum loan that may be requested is $25,000.

(c) In order to exclude projects that are uneconomical or exceed reasonable design standards, a development cost (exclusive of land or extraordinary project costs as determined by the Secretary of Education) in excess of $17,000 per adult occupant based on the design capacity of the proposed housing will not be approved.

(d) The per occupant limitations specified in paragraphs (a) and (c) of this section will be adjusted to reflect local construction costs on the basis of a nationwide cost index of local construction costs to be furnished by HUD headquarters.

(12 U.S.C. 1749(c))

§ 279.44 Priority categories and funding criteria.

(a) In recommending and making reservations of funds, all eligible applications shall be placed in the following categories and ranked by field offices and HUD headquarters according to the funding criteria indicated below:

(1) Rehabilitation proposed to reduce fuel consumption or other operating costs of existing eligible housing and related dining facilities. Applications in this category shall be ranked on the basis of the estimated number of months or fractions thereof before the operating cost savings will equal the development cost as defined in § 279.27(d). In order to provide priority considerastion to those applications which involve conversion of heating or cooling systems from oil or gas to coal or solar heating systems, these applications shall be chosen over other applications not proposing conversion in the event of a tie in ranking numbers. If there is a tie in ranking numbers between two applications for which the above priority is inapplicable, and one of the applications is from an institution which proposed rehabilitation of housing and related dining facilities originally financed under the college housing program, that application shall be chosen over other applications which cover facilities not originally so financed.

(2) New construction or acquisition of student housing and related dining facilities, conversion of non-dwelling structures to such facilities, and rehabilitation (other than for the purpose specified in paragraph (a)(1) of this section) of existing eligible housing and related dining facilities, to alleviate a current severe student housing shortage. Applications in this category shall be ranked on the basis of the number of accommodations needed to alleviate the shortage at the institution to be served by the proposed project, multiplied by the same number expressed as a percentage of the full-time student enrollment, at the educational institution to be served by the proposed project.

(3) New construction or acquisition of faculty housing and related dining facilities, conversion of non-dwelling structures to such facilities, and rehabilitation (other than for the purposes specified in paragraph (a)(1) of this section) of existing eligible housing and related dining facilities to alleviate a current faculty housing shortage. Applications in this category shall be ranked on the basis of the number of accommodations needed to alleviate the shortage at the institution to be served by the proposed project, multiplied by the same number expressed as a percentage of the full-time faculty at the institution to be served by the proposed project.

(b) Fund reservations for applications described in paragraph (a)(1) of this section will be made in the following order:

(1) For applications in the category described in paragraph (a)(1) of this section, recommended to HUD headquarters, reservations will be made in aggregate amounts up to twenty-five percent of the total funds available.

(2) For applications in the category described in (a)(2) of this section, recommended to HUD headquarters, reservations will be made in aggregate amounts of up to thirty percent of the total funds available to institutions having full-time student enrollments of less than 3,000; twenty percent of the total funds to be reserved for institutions having full-time student enrollments of 3,000 to 4,999; fifteen percent of the funds to be reserved for insitutions having full-time students enrollments of 5,000 to 9,999 and ten percent of the funds to be reserved for institutions with full-time student enrollments of 10,000 or more. In the event that the aggregate reservations made for any of these enrollment sub-categories are less than the available funds reserved for those sub-categories, the unused funds shall be used to make reservations in the other enrollment sub-categories.

(3) In the event that the aggregate reservations made in either category (a)(1) or (a)(2) are less than the available funds for that category, the unused funds shall be used to make reservations for applications in the other category. Funds will be reserved, subject to availability, for applications in the category described in paragraph (a)(3) of this section only after all eligible applications in (a)(1) and (a)(2) of this section have received reservations.

(12 U.S.C. 1749a(c)(2))

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Part X

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Community Development Block Grants for Indian Tribes and Alaskan Natives, Housing Assistance Plan (HAP)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 571

[Docket No. R-80-745]

Community Development Block Grants for Indian Tribes and Alaskan Natives, Housing Assistance Plan (HAP)

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This amendment applies the Housing Assistance Plan (HAP) requirement of the Community Development Block Grant Program to eligible Indian Tribes including Alaskan Natives. These HAP regulations are intended to make the program requirement flexible and responsive to the special needs, cultural traditions and legal circumstances of Indian Tribes and Alaskan Natives.

EFFECTIVE DATE: September 12, 1980.

FOR FURTHER INFORMATION CONTACT: Marcia A. B. Brown, Assistant to the Director for Indian Community Development Programs, Office of Policy Planning, Office of Community Planning and Development, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6092. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On December 19, 1979 the Secretary of the Department of Housing and Urban Development published as a proposed rule as an amendment to the regulations for the Community Development Block Grant Program for Indian Tribes and Alaskan Natives covering the Housing Assistance Plan requirements. Comments were invited until February 19, 1980. Two public comments were received.

Background

Section 107(a)(7) of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et. seq.) established a separate Community Development Block Grant Program for Indian Tribes, including Alaskan Natives. Interim regulations, covering the entire CDBG program for Indian Tribes, were published on March 28, 1978 (43 FR 12222) and a final rule was published on December 15, 1978 (43 FR 58734). The final rule, however, specifically reserved §§ 571.305(d) and 571.405(e) for the Housing Assistance Plan. The Department chose to first publish the HAP amendments as a proposed rule to permit public comment because there were substantive changes in §§ 571.305(d) and 571.405(e) from the interim rule.

Public Comments

One comment concurred with the Department's action to tailor the HAP to the special conditions and circumstances of Indian reservations and Alaskan Villages. Of primary concern to the commenter was that in so doing, HUD should not reduce the coordination necessary between agencies and programs involved in Indian housing. In response to this concern, HUD has clarified regulatory language that as originally worded may have been interpreted to mean that the information requested pertained only to HUD's programs. In addition the specific reference to coordination in 571.305(d)(1)(v) has been expanded.

A second comment described the proposed regulations as thorough but will prove to be cumbersome. The commenter made the suggestion that for consistency HUD should accept the Bureau of Indian Affairs definition of standard housing. This was considered, but since HUD is in the business of providing housing the standards used should closely resemble HUD's standards.

Revisions Made to the Proposed Rule: Several revisions have been made to the proposed HAP to clarify certain references, definitions, and instructions. First, references made to reservations were dropped since they implied that the regulations applied only to reservation-based applicants. Instead a definition has been inserted which describes the jurisdiction of the applicant preparing the HAP.

Second, the reference to housing conditions standards selected by the applicant needed modification. The existing regulation indicated that the standard selected by the applicant should meet or exceed HUD's housing quality standards. This was modified because such a requirement was stricter than similar requirements for housing condition standards for non-Indian HAPs. Applicants instead are encouraged to choose a standard which meets or exceeds HUD's housing quality standards. In addition the reference made to applicants using BIA's Annual Housing Inventory was clarified further. Applicants using BIA data may use BIA's standards, but they are not required to do so, particularly if they have other housing conditions data to supplement the BIA housing survey data.

Other minor revisions which were made include:

—References to special housing needs to indicate that the need for reservation housing for off-reservation Indians who desire to move onto the reservation should be addressed where applicable;

—References to three year goals for comprehensive grants were expanded to indicate that comprehensive grant applicants would be required to submit consecutive annual goals and a three year goal;

—The requirement that goals for the number of standard units to be provided was clarified to show that it was not limited by inference to HUD sources;

—Section 571.305(d)(3) which originally allowed applicants to make the decision on whether an estimation or a waiver request was more appropriate when data were incomplete, was revised to require consultation with the appropriate HUD officials. HUD will provide assistance to those applicants who have difficulty obtaining and evaluating data; and

—Renumbering the paragraphs for consistency.

Special Information

A finding of inapplicability with respect to environmental impact has been prepared in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. Copies of the finding are available for inspection and copying in the Office of the Rules Docket Clerk, Office of The General Counsel; Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410. This rule is listed as item number CPD-35-78 in The Department's semiannual agenda of significant rules.

Accordingly 24 CFR Parts 571.305(d) and 571.405(e) are added to read as follows:

§ 571.305 Application requirements.

* * * * *

(d) Housing Assistance Plan. (1) Applicants for assistance under this Part are required to submit a Housing Assistance Plan (HAP). The information provided in a HAP should be quantified as much as possible and all data provided shall meet the standards set forth in § 571.300(b). Jurisdiction for the HAP should be the area over which the applicant has legal authority whether it be reservation, trust lands, or native villages or, as is the case in Oklahoma, the population for which the applicant bears responsibility. Housing Assistance Plan shall include the following items:

(i) A description of existing housing conditions in the applicant's jurisdiction indicating the number of standard and

substandard permanent nonseasonal dwelling units by tenure (i.e. owner-occupied and renter occupied). For purposes of establishing housing conditions, the applicant may choose one of the housing condition standards in existence or devise a standard of its own. Applicants are encouraged to select housing condition standards which recognize as substandard those units which significantly fall short of the housing quality standards as set forth in the Section 8 Housing Assistance Payments Program—Existing Housing (See Appendix A of this section). Applicants using BIA data may use BIA's standards for the preparation of the HAP.

The description of housing stock may be derived from a data source selected by the applicant. The applicant shall indicate the date and source of the data used including any surveys it may undertake;

(ii) A determination of housing needs by tenure which identifies:

(A) Additional units needed,

(B) Units needing rehabilitation,

(C) Units needing replacement.

Applicants are encouraged to identify and plan for any special housing needs which may exist in their jurisdictions. Minimally, applicants shall address the following special needs: overcrowded housing; elderly and handicapped housing; and, where applicable, requests by off-reservation Indians to move into reservation housing. The applicant may choose to go beyond the minimal requirements in its HAP and identify the housing needs of female-headed households, households expected to move back to the reservation, families living in traditional Indian houses, and other special groups;

(iii) A listing of firm financial commitments obtained by the applicant to finance the new construction or rehabilitation of units, by tenure type, which have not been made available for occupancy. Commitments shall be indicated by resource agency (e.g., HUD, BIA, FmHA, etc.);

(iv) A statement of housing goals which the applicant intends to achieve during the period of its Basic Grant (one year goals) or its Comprehensive Grant (annual and three year goals). The goals shall include the number of additional standard units to be provided through new construction and rehabilitation, by tenure type and by source of funding, not including any housing units identified under paragraph (d)(1)(iii) of this section;

(v) A strategy, in narrative form, for implementing the HAP. The strategy shall list housing priorities in rank order; identify known obstacles to implementing the HAP and the anticipated means of resolution; describe locations of existing and proposed housing and the means of coordination with other existing and proposed development; indicate any Tribal assistance to be provided; and identify Federal, State, and local governmental bodies with which the applicant has discussed the preparation of the HAP.

(2) Applicants proposing to rehabilitate any housing shall provide for frequent interim and final inspections by qualified, objective inspectors.

(3)(i) The requirements of § 571.305(d) and § 571.405(e) may be waived for a particular fiscal year by the Secretary or designee only in the event that all or a significant portion of the required data is unavailable and the applicant cannot undertake its own survey prior to the submission deadline or cannot afford to do so. The applicant is responsible for initiating a waiver request.

(ii) If only an insignificant portion of the required data is unavailable, the applicant should use estimates rather than request a waiver of the entire Housing Assistance Plan. When data are incomplete, the applicant shall decide in consultation with the appropriate HUD officials whether an estimation or a waiver request is more appropriate.

(4) Applicants shall report the information for the Housing Assistance Plan on a form prescribed by the Secretary.

(5) In providing housing assistance to the jurisdiction described within the applicant's HAP, HUD to the extent practicable, will deliver housing assistance in a manner which is consistent with the applicant's HAP goals and strategies.

* * * * *

Appendix A to Section 571.305—HUD Housing Quality Standards

7420.3 REV

§ 882.109 Housing quality standards.

Housing used in this program shall meet the Performance Requirements set forth in this section. In addition, the housing shall meet the Acceptability Criteria set forth in this section except for such variations as are proposed by the PHA and approved by HUD. Local climatic or geological conditions or local codes are examples which may justify such variations.

(a) *Sanitary Facilities.*—(1) *Performance Requirement.* The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

(2) *Acceptability Criteria.* A flush toilet in a separate, private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

(b) *Food Preparation and Refuse Disposal.*—(1) *Performance Requirement.* The dwelling unit shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.

(2) *Acceptability Criteria.* The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the Owner or the Family, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

(c) *Space and Security.*—(1) *Performance Requirement.* The dwelling unit shall afford the Family adequate space and security.

(2) *Acceptability Criteria.* A living room, kitchen area, and bathroom shall be present; and the dwelling unit shall contain at least one sleeping or living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.

(d) *Thermal Environment.*—(1) *Performance Requirement.* The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

(2) *Acceptability Criteria.* The dwelling unit shall contain safe heating and/or cooling facilities which are in proper operating condition and can provide adequate heat and/or cooling to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.

(e) *Illumination and Electricity.*—(1) *Performance Requirement.* Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.

(2) *Acceptability Criteria.* Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets one of which may be an overhead light, shall be present and operable in the living area, kitchen area, and each bedroom area.

(f) *Structure and Materials.*—(1) *Performance Requirement.* The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the

occupants and so as to protect the occupants from the environment.

(2) *Acceptability Criteria.* Ceilings, walls and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weathertight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition. In the case of a mobile home, the home shall be securely anchored by a tiedown device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind overturning and sliding.

(g) *Interior Air Quality.*—(1) *Performance Requirement.* The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupants.

(2) *Acceptability Criteria.* The dwelling unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

(h) *Water Supply.*—(1) *Performance Requirement.* The water supply shall be free from contamination.

(2) *Acceptability Criteria.* The unit shall be served by an approved public or private sanitary water supply.

(i) *Lead Based Paint.*—(1) *Performance Requirement.* (i) The dwelling unit shall be in compliance with HUD Lead Based Paint regulations, 24 CFR, Part 35, issued pursuant to the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4301, and the Owner shall provide a certification that the dwelling is in accordance with such HUD Regulations.

(ii) If the property was constructed prior to 1950, the Family upon occupancy shall have been furnished the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning.

(2) *Acceptability Criteria.* Same as Performance Requirement.

(j) *Access.*—(1) *Performance Requirement.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

(2) *Acceptability Criteria.* The dwelling unit shall be useable and capable of being maintained without unauthorized use of other private properties. The building shall provide an alternate means of egress in case of fire (such as fire stairs or egress through windows).

(k) *Site and Neighborhood.*—(1) *Performance Requirement.* The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the occupants.

(2) *Acceptability Criteria.* The site and neighborhood shall not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazards or mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

(l) *Sanitary Condition.*—(1) *Performance Requirement.* The unit and its equipment shall be in sanitary condition.

(2) *Acceptability Criteria.* The units and its equipment shall be free of vermin and rodent infestation.

(m) *Congregate Housing.* The foregoing standards shall apply except for paragraph (b) of this section, Food Preparation and Refuse Disposal. In addition the following standards shall apply:

(1) The unit shall contain a refrigerator of appropriate size.

(2) The central dining facility (and kitchen facility, if any) shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner, and there shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

§ 571.405 Full application requirements.

* * * * *

(e) Housing Assistance Plan. Applicants for assistance under this subpart are required to submit a Housing Assistance Plan as described in § 571.305(d) but with three consecutive annual goals and a three year goal.

* * * * *

(Section 107 of The Housing and Community Development Act of 1974, as amended (42 U.S.C. 50301 et seq.))

Issued at Washington, D.C., July 24, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

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Part XI

Commodity Futures Trading Commission

Commission Alteration of Contract Market Rules Governing Addition of Delivery Months: Final Rules

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 7

Commission Alteration of Contract Market Rules Governing Addition of Delivery Months

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of Final Rules.

SUMMARY: This Commodity Futures Trading Commission regulation has altered Rules 3202(A) and 3602(A) of the Chicago Mercantile Exchange (CME) and Rule 1805.01 of the Board of Trade of the City of Chicago (CBT). The Commission has altered these contract market rules to require explicitly that the determination of either exchange to schedule new or additional delivery months in 13-Week United States Treasury and One-Year United States Treasury Bill futures contracts or 20-Year United States Treasury Bond futures contracts must be submitted to the Commission for review.

EFFECTIVE DATE: July 24, 1980.

FOR FURTHER INFORMATION CONTACT: Theodore W. Urban, Deputy Director, Division of Trading and Markets, 2033 K Street, N.W., Washington, D.C. 20581, Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission recently has observed the attempts of the CME and the CBT to expand substantially (approximately double) the delivery months in which they currently trade futures contracts in 13-Week United States Treasury Bills ("90-day or 13-Week T-Bills") and 20-Year United States Treasury Bonds ("long term or 20-year T-Bonds"), respectively. Neither contract market submitted rules or resolutions to the Commission to effect its actions to list and trade additional delivery months before the actions became effective and trading commenced in these contracts. Thus, the Commission did not have the opportunity provided under Section 5a(12) of the Commodity Exchange Act (Act) and regulation 1.41, 17 CFR 1.41 (1979), thereunder to approve these contract market rules or to consider whether review of these rules was appropriate.[1]

In particular, on May 21, 1980, the CME Board of Governors adopted Resolution 80.374, which authorized the listing of 90-day T-Bill contracts for delivery in the months of October 1980, January 1981, April 1981, July 1981, October 1981, January 1982 and April 1982; i.e., those months which comprise the "January Cycle". These new months were in addition to contracts in the delivery months of December, March, June, and September ("December cycle") which the CME historically had traded since it was first designated as a contract market in 90-day T-Bills.[2] Pursuant to this Resolution, the CME Executive Committee acted on June 30, 1980 to authorize the initiation of trading in these new months commencing on July 2, 1980 and trading in fact commenced on that date. The CME did not submit either Resolution 80.374 or any memorialization of the Executive Committee's action of June 30, 1980 to the Commission for notification purposes under Section 5a(1) of the Act, for prior approval under Section 5a(12) of the Act and regulation 1.41(b), or for consideration under regulation 1.41(c).

Similarly, on July 2, 1980, the Financial Instruments Committee of the CBT adopted a Resolution by which it determined, effective July 3, 1980, to list long-term T-Bond futures contracts for delivery in the months of August 1980, November 1980, February 1981 and May 1981; i.e., those months which comprise the "August cycle", in addition to the delivery months of the September cycle (September, December, March and June) in which it had been trading since initially designated.[3] On July 3, 1980, before the commencement of trading in the new delivery months, the CBT, by Resolution, deferred the effective date for the commencement of trading in the August cycle until further notice.

On July 11, 1980, the day after a hearing conducted by the Commission concerning the possible listing of new delivery months, the CBT reconsidered its determination to defer the effective date for commencement of trading in the new delivery months of its long-term T-Bond contract. In lieu of further deferral, the CBT authorized trading to commence that morning and, as authorized, such trading commenced in the new delivery months 10:00 AM CDT on the morning of July 11, 1980. The Commission was not provided with any opportunity under Section 5a(12) of the Act or regulation 1.41 to consider a submission by the CBT with respect to this action.

Both exchanges took action under contract market rules which do not explicitly require that the contract market submit such actions for review by the Commission. CME Rule 3202A provides, with respect to its 13-Week T-Bill contract that:

> Futures contracts shall be scheduled for trading during such hours and delivery in such months as may be determined by the Board of Governors.

CME Rule 3602(A) contains identical language with respect to delivery months in the CME's One-Year United States Treasury Bill futures contract ("One-year T-Bills").[4] Similarly, CBT Rule 1805.01, pertaining to its long-term T-Bond contract provides that:

> Trading in long term U.S. Treasury Bonds may be conducted in the current month and any subsequent months as determined by the Financial Instruments Committee or the Board.

In view of the actions by the CME and CBT to list new contracts months without submitting notice to the Commission of such actions, the Commission, on July 3, 1980, delivered by hand a letter to the CME requesting, pursuant to Section 8a(7) of the Act, that it alter or supplement Rule 3202(A) and Resolution 80.374, as well as Rule 3602(A) pertaining to the One-year T-Bill contract. On the same date, the Commission delivered by hand a similar letter to the CBT, by which it requested that the CBT alter or supplement Rule 1805.01 and the resolutions adopted by its Financial Instruments Committee which authorized the addition of new delivery months in the CBT's long-term T-Bond contract.[5] The Commission basically requested the contract markets to amend their rules expressly to limit

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[1] The actions of the contract markets in listing and trading additional delivery months without any submission to the Commission under Section 5a(12) of the Act and regulation 1.41 are currently the subject of civil actions instituted by the Commission. *Commodity Futures Trading Commission* v. *Board of Trade of the City of Chicago*, (No. 80–C–3625, N.D. Ill.) July 14, 1980; *Commodity Futures Trading Commission* v. *Chicago Mercantile Exchange*, (No. 80–C–3626, N.D. Ill.) July 14, 1980.

[2] The Commission initially designated the International Monetary Market of the Chicago Mercantile Exchange ("IMM") as a contract market in the 13-Week T-Bill contract on November 26, 1975.

[3] The Commission designated the CBT as a contract market in long-term T-Bonds on August 2, 1977.

[4] The Commission designated the CME as a contract market for One-year T-Bills on August 25, 1978. Following the pattern in its 13-Week T-Bill contract, trading months in the One-year T-Bill contract historically have been scheduled only in the December cycle. To date, the Commission is not aware of any action or intent by the CME to list any additional delivery months for trading in the One-year T-Bill contract.

[5] Notice of the Commission's request to both exchanges and of the opportunity for comment and public hearing was published in the **Federal Register** (45 FR 45996 (July 8, 1980)). In addition, the Commission on July 3, 1980 delivered copies of the letter by which it requested the CME to alter its rules to CME member firms which had cleared transactions in the new delivery months of the 90-day T-Bill contract executed on July 2, 1980.

the delivery months in the futures contracts in question to the months they historically had traded, to provide explicitly that the addition of new months was subject to Commission review, and, in the case of the CME, to limit trading in the newly-listed cycle to liquidation only.

Both contract markets were advised by the Commission in their respective letters that, if they did not submit by July 7, 1980, rules effecting the changes that the Commission had requested, the Commission would hold public hearings on July 10, 1980 to determine whether, under Section 5a(12) of the Act, to disapprove the rules and resolutions cited by the Commission, or whether, under Section 8a(7) of the Act, to alter or supplement those rules or resolutions as requested by the Commission in its letter. Neither contract market made the changes requested by the Commission.

Accordingly, the Commission, consistent with the concerns expressed in its July 3, 1980 letter, held a public hearing at 10:00 a.m. on July 10, 1980 to consider possible Commission action with respect to the CME rules and resolutions and to receive oral or written data, views and arguments from the CME and other interested persons.[6] A second public hearing was held at 2:00 p.m., July 10, 1980 to consider essentially the same issues with respect to the CBT rule and resolutions and to receive oral or written data, views and arguments from the CBT and other interested persons.

At the hearing to consider the CME rules and resolutions, the CME asserted that the listing of contract months is a matter committed to the discretion of its Board of Governors and that it has been CME's standard practice to add new delivery months and extend contract cycles in existing months without notifying the Commission in advance for approval under Section 5a(12) of the Act or consideration of whether such review was necessary under Commission regulation 1.41(c).[7] The CME further contended that the Commission's approval of a rule that does not specify months listed for trading entitles the contract market to list new months without making any submission to the Commission. Further, the CME stated its belief that according to the terms of Rules 3202A and 3602A it was not necessary for the CME to adopt any amendments to list different or additional trading months. The CBT took a similar position in its presentation at the hearing on July 10, 1980.[8] Both contract markets also raised objections to the procedures which the Commission employed in conducting these rulemaking proceedings. The Commission addresses those objections below.

In addition to presentations by the two contract markets, the Commission received written statements from both the Department of the Treasury ("Treasury")[9] and the Board of Governors of the Federal Reserve System ("FRB").[10] Representatives of both agencies presented the written statements at each hearing and were available to respond to questions from Commissioners present at the hearing and from the Commission's staff. The Treasury commented in its letters that the actions of the CME and CBT raised "serious questions about the adequacy of the present regulatory structure, the appropriate degree of competition among the exchanges, and the potential adverse impact of Treasury futures on the management of the public debt." Further, the Treasury stated its understanding that exchanges "would not overlap in their delivery months" and that thus "there would be no exacerbation of both deliverable supply problems and the special problems in the areas of surveillance and emergency procedures created by overlapping futures contracts."

The FRB stated its understanding that "because of the sizable number of Treasury futures contracts now trading, FTC approval is required not only to begin trading on entirely new contracts but also to add delivery months to old contracts—even where the specification of such contracts may have been very broad when first authorized during the initial stages of financial futures market development. The key reason a current CFTC review is needed is to assure that new contracts and added delivery dates on old contracts do not build a potential for delivery that is too large relative to the supply of cash market securities readily available."

No additional written comments were received nor did any other interested person appear at either hearing.

II. Objections to Commission's Rulemaking Procedures

The CME and the CBT both have raised several objections to the procedures used by the Commission in this proceeding. The CME raised these objections by way of letters, motions and statements prior to and at the public hearing.[11] The CBT raised similar objections and specifically incorporated the objections of the CME as its own.[12] The Commission has considered these objections and finds them to be without merit.

A. Procedural Objections

The CME raised several procedural objections to the hearing conducted by the Commission on July 10, 1980. Among other things, the CME asserted that it had a right to an impartial hearing officer, to receive a formal statement of the "charges", to cross-examine and to summon witnesses (including members of the Commission's staff), and to require production of documents.

This proceeding was initiated by the Commission in order to gather facts and obtain views from the contract markets involved and other interested persons relevant to its determination whether to alter or disapprove contract market rules pursuant to Section 8a(7) or 5a(12) of the Act. A proceeding conducted under these provisions is informal in nature; it does not attempt to determine whether any person has violated a provision of the Act or the Commission's Regulations thereunder. Accordingly, the rights associated with formal adjudications are inapplicable to a Commission proceeding under these provisions.[13]

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[6] Following the contract markets' refusal to make the requested changes, the Commission, on July 7, 1980, sent each contract market a letter restating the purpose of the hearings to be held on July 10, 1980 and describing the procedures to be followed by participants in those hearings.

[7] Transcript of Public Hearing *In re Chicago Mercantile Exchange*, July 10, 1980 ("CME Transcript") at 25 and 68.

[8] Transcript of Public Hearing *In re Board of Trade of the City of Chicago*, July 10, 1980 ("CBT Transcript") at 9–12. On July 11, 1980 the CBT submitted a supplement to the oral and written statements which it presented on July 10, 1980.

[9] The Treasury submitted two letters which addressed its concerns with the actions of the CME and the CBT, respectively. Letters dated July 9, 1980 from Deputy Secretary of the Treasury Robert Carswell to Chairman James M. Stone of the Commission. On July 11, 1980, the Treasury supplemented the record in the CBT proceeding by submitting a letter from John E. Schmidt, Deputy Assistant Secretary of the Treasury to John L. Manley, Director of the Commission's Division of Trading and Markets, who presided at the hearing, concerning the basis of the Treasury's understanding that the CBT would confine its 20-year T-Bond trading to delivery months in its September cycle.

[10] The FRB submitted one letter which expressed its concerns with respect to the actions of both the CME and CBT. Letter dated July 9, 1980 from Chairman Paul A. Volcker of the FRB to Chairman Stone of the Commission.

[11] *See, e.g.*, letter dated July 8, 1980 from Jerrold E. Salzman, Counsel to the CME, to Ms. Jane K. Stuckey, Secretary of the Commission (hereinafter the "July 8, 1980 Salzman letter") and CME Transcript at 8–19.

[12] *See, e.g.*, CBT Transcript at 6–7.

[13] *See generally, United States* v. *Florida East Coast Railway Co.*, 410 U.S. 224 (1973); *Ethyl Corporation* v. *Environmental Protection Agency*, 541 F.2d 1 (D.C. Cir. 1976), *cert. denied*, 426 U.S. 941 (1976). The fact that a particular contract market is the sole subject of a Section 5a(12) or 8a(7)

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Indeed, Congress clearly confirmed its intent that Section 5a(12) and 8a(7) proceedings generally be governed by informal rulemaking procedures. During the Congressional hearings in 1978 on the reauthorization of the Commission, the CBT urged Congress to amend various sections of the Act, including Sections 5a(12) and 8a(7), to require the Commission to conduct hearings under those sections "on the record", *i.e.*, to require such hearings to be conducted in accordance with Sections 554, 556 and 557 of the Administrative Procedure Act applicable to adjudicatory proceedings and to certain rulemakings required to be conducted "on the record".[14] The Commission took the position that proceedings under Sections 5a(12) and 8a(7) were in the nature of rulemaking and should generally be governed by informal procedures.[15] Congress agreed with the Commission's position and declined to amend these sections as requested by the CBT.[16] In this proceeding the Commission has determined to alter contract market rules under Section 8a(7). In doing so the Commission has made precisely the type of policy judgments inherent in the rulemaking process.[17]

Moreover, the CME's argument that an adjudicatory-type hearing is required ignores not only the governing statutory provisions of the Commodity Exchange Act, but is flatly at odds with controlling case law. In addressing the procedures which should be employed in informal rulemaking, the Supreme Court has held that a court may not require an administrative agency to utilize procedures in informal proceedings in addition to those expressly required by Section 553 of the Administrative Procedure Act.[18] The court explained that "[r]eviewing courts are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them",[19] and stated that agencies " 'should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties'."[20] In light of these principles, the Commission, in conducting this proceeding, clearly was not compelled to follow procedures other than those prescribed under Section 8a(7) of the Act.

Accordingly, the contract markets' objections with respect to the right of cross-examination, to call witnesses, to require an Administrative Law Judge to chair the hearing and to require the Commission to produce documents are denied. Similarly, their motions for a "formal statement of charges" is denied.[21]

Just prior to presentation of its statement at the hearing, the CME requested access to documents which the Commission intended to consider during the proceeding, so that the CME might respond to those documents in its presentation.[22] Specifically, the CME requested documents concerning any understanding by government agencies regarding non-proliferation of trading in certain futures contracts, the Commission's decision to initiate this proceeding,[23] and documents in support of any order directing the amendment of CME rules and resolutions. As with any rulemaking proceeding, all substantive documents on which the Commission's action is based are public documents, available to the CME, and are part of this record. There is no requirement, however, that they be produced at the moment the CME presents its own statement.[24]

The CME also contended that the Commission must prove and permit the CME to rebut that it is necessary or appropriate for the protection of persons using the markets and to insure fair trading that the CME alter or supplement its rules. In informal rulemaking, however, an agency acts as a fact gatherer, applying its expertise to determine whether a rule or modification of an existing rule is needed. The only burden on the Commission is to ensure, as it has done here, that its action is

> Reasonable and within the range of authority conveyed, that it has been formulated in the manner prescribed, and that the disappointed have had the opportunity provided by Congress to try to make their views prevail.[25]

B. Section 15 Considerations

The CME also objects that the Commission has failed to comply with section 15 of the Act, 7 U.S.C. 19 (1976), because it failed to consult with the Department of Justice in this matter.[26] Section 15, however, does not require the Commission to consult with any

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proceeding does not, in and of itself, mandate the use of adjudicatory procedures under the Administrative Procedure Act. *See, e.g., Hercules, Inc.* v. *Environmental Protection Agency*, 598 F.2d 91 (D.C. Cir. 1978).

[14] *See Hearings on the Reauthorization of the Commodity Futures Trading Commission (S. 2391) Before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry*, 95th Cong., 2d Sess. Pt. II, 504 (1978); *Hearings on H.R. 10285 Before the Subcommittee on Conservation and Credit of the House Committee on Agriculture*, Ser. No. 95–QQ, 95th Cong., 2d Sess. 282.

[15] *Hearings on H.R. 10285 Before the Subcommittee on Conservation and Credit of the House Committee on Agriculture*, Ser. No. 95–QQ, 95th Cong., 2d Sess. 590–592 (testimony of William T. Bagley, then Chairman of the Commission).

[16] *See* S. Rep. No. 850, 95th Cong., 2d Sess. 29 (1978).

[17] *See* 5 U.S.C. § 551(4) (1976). *See generally, United States* v. *Florida East Coast Railway Co., supra* 410 U.S. 224.

[18] *Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council, Inc.*, 435 U.S. 519 (1978).

[19] *Id.* at 524.

[20] *Id.* at 543, *quoting Federal Communications Commission* v. *Schreiber*, 381 U.S. 279, 290 (1975); *Federal Communications Commission* v. *Pottsville Broadcasting Co.*, 309 U.S. 134, 143 (1940). *See also Belenke* v. *Securities and Exchange Commission*, 606 F.2d 193, 198–199 (7th Cir. 1979) and *Illinois* v. *Nuclear Regulatory Commission*, 591 F.2d 12, 14–16 (7th Cir. 1979).

[21] Under Section 8a(7) of the Act, the Commission is required only to make an "appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices" and "after appropriate notice" to commence a proceeding to determine whether to alter or supplement the rules. In its July 3, 1980 letters, the Commission provided both the CME and the CBT with a statement of its concerns and the manner in which it requested that the contract markets alter and supplement their rules. That letter also informed each contract market that if it failed to conform its rules to the Commission's request a public hearing would be held on July 10, 1980. As noted above, that letter was supplemented by a notice published in the **Federal Register** and copies of the July 3, 1980 letter to the CME were distributed to all clearing members who held positions in the January cycle of 13-week T-Bills as of July 2, 1980. No such distribution was made to CBT clearing members who held positions in the January cycle of 13-week T-Bills as of July 2, 1980. No such distribution was made to CBT clearing members since the CBT had not commenced trading in the February cycle long-term T-Bonds at that time. The foregoing actions of the Commission afforded the contract markets more than adequate notice of this proceeding and specifically refute the CME's objections that the Commission violated the provisions of Commission regulation 13.3, 17 CFR § 13.3 (1979), by not publishing notice of the proceeding in the **Federal Register** or serving personally those who are subjects of the proceeding.

[22] *See e.g.*, CME Transcript at 13–19 and the July 8, 1980 Salzman letter.

[23] Part of this request called for "a transcription" of the Commission meeting which resulted in the hearing. That decision, however, was made by Commission seriatim approval under regulation 140.12, 17 CFR 140.12 (1979). This alternative previously had been discussed at meetings of the Commission at which the alternatives of the Commission's participation in a civil action or participation in a particular case of formal agency adjudication were also discussed. These meetings were closed to the public pursuant to 5 U.S.C. 552b(c)(10). In any event, the meetings did not concern the substance of the Commission's findings in, and is not a part of the record of, this proceeding.

[24] *Ethyl Corporation* v. *Environmental Protection Agency, supra* 541 F. 2d at 52–53.

[25] *Automotive Parts and Accessories Association, Inc.* v. *Boyd*, 407 F. 2d 330, 343 (D.C. Cir. 1968). *Accord, Citizens to Preserve Overton Park, Inc.* v. *Volpe*, 401 U.S. 402, 416 (1971).

[26] *See, e.g.*, the CME July 9, 1980 Motion appended to the July 8, 1980 Salzman letter.

other department or agency.[27] In adopting these regulations, the Commission has, of course, considered its responsibilities under Section 15 of the Act. That section provides that in approving or requiring a contract market rule the Commission shall consider:

> The public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act * * *.

One fundamental objective of the Act is to insure that contract market rules comport with the provisions and policies of the Commodity Exchange Act and the rules thereunder. The Commission's review of new months which a contract market may wish to list for trading, including its consideration of any possible anticompetitive effect of such trading, may delay the contract market's entry into a particular market. While the delay itself could conceivably have an anticompetitive impact upon a contract market, this possibility clearly is outweighed by the need of the Commission to review contract market rules.

> To make certain that in every instance the rules fully protect all traders and the public and provide for orderly trading in futures contracts.[28]

In fact, the Commission's action in altering these contract market rules should further the purposes of Section 15 of the Act by making clear that all contract markets which trade futures contracts on government securities are on an equal procedural footing in seeking to schedule new delivery months in these contracts. The Commission is not in any way foreclosing competitive entry into duplicative trading months, but is merely assuring the appropriate exercise of its statutory authority under Section 5a(12) of the Act. And, as discussed more fully below, the Commission has a particular statutory responsibility to ensure orderly trading of futures contracts involving government securities, such as those involved in this proceeding.

Accordingly, none of the objections raised by either the CME or the CBT with respect to procedures or Section 15 considerations poses any impediment to the Commission's determination here to alter contract market rules pursuant to Section 8a(7) of the Act.

[27] Compare, Section 2(a)(8)(B), Pub. L. 95-405, Sec. 2(13), 92 Stat. 866-67 (1978).

[28] H. R. Rep., No. 975, 93D Cong., 2d Sess. 78 (1974) (statement of Dr. Clayton Yeutter, then Assistant Secretary of Agriculture).

III. Basis for Commission Action Under Section 8a(7) of the Act

In 1974, Congress vested in the Commission the authority to disapprove contract market rules pursuant to Section 5a(12) of the Act and to alter or supplement contract market rules pursuant to Section 8a(7) of the Act.[29] Upon careful consideration of the statements of the CME and CBT presented at the July 10, 1980 Hearing, other written statements and exhibits submitted by the CME and CBT, and the written and oral statements of other interested persons who participated in the July 10, 1980 Hearing, the Commission has determined to alter the rules of the CME and CBT with respect to their procedures for listing new delivery months in the 90-day T-Bill, One-year T-Bill and 20-year T-Bond contracts. The Commission has determined that such alterations are necessary and appropriate to protect persons "producing, handling, processing or consuming" the financial instruments which underlie the futures contracts at issue here as well as to protect the interests of persons trading those contracts and to insure fair dealing in those contracts. These objectives can be assured only through maintenance of the integrity of the rule review process established by Section 5a(12) of the Act.

The opportunity for Commission review of contract market rules will enable the Commission to discharge fully its obligations under, and contemplated by, Section 2(a)(8)(B) of the Act[30] as well as to assure that proposed contract market actions do not become effective unless consistent with the purposes of the Act and the public interests to be protected thereby. As discussed below, the Commission believes that significant concerns have been raised by the Treasury and the FRB that underscore the importance of Commission consultation with those agencies before exchanges are permitted to add new delivery months to futures contracts on government securities. Only through such consultation can the Commission ensure that the actions of the contract markets in listing new months do not pose a threat of substantial risk or harm to the interests to be protected under Section 8a(7) of the Act, particularly the debt financing and management requirements of the United States Government.

A. Regulatory Scheme of Contract Market Rule Review

Section 5a(12) of the Act requires each contract market to "submit to the Commission for its approval all bylaws, rules, regulations, and

[29] Section 8a(7) of the Act empowers the Commission: to alter or supplement the rules of a contract market insofar as necessary or appropriate by rule or regulation or by order, if after making the appropriate request in writing to a contract market that such contract market effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such contract market has not made the changes so required, and that such changes are necessary or appropriate for the protection of persons producing, handling, processing, or consuming any commodity traded for future delivery on such contract market, or the product or byproduct thereof, or for the protection of traders or to insure fair dealing in commodities traded for future delivery on such contract market. Such rules, regulations, or orders may specify changes with respect to such matters as:

(A) terms or conditions in contracts of sale to be executed on or subject to the rules of such contract market;

(B) the form or manner of execution of purchases and sales for future delivery;

(C) other trading requirements, excepting the setting of levels of margin;

(D) safeguards with respect to the financial responsibility of members;

(E) the manner, method, and place of soliciting business, including the content of such solicitations; and

(F) the form and manner of handling, recording, and accounting for customers' orders, transactions, and accounts * * *

[30] Section 2(a)(8)(B) of the Act, Pub. L. 95-405 § 2(13), 92 Stat. 866, provides in relevant part that: (B)(i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies. (ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies shall be included as part of the public record of the Commission's designation proceeding. In designating, or refusing, suspending, or revoking the designation of a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 8a(9) of this Act with respect to such transactions, the Commission shall take into consideration all comments it receives from the Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

resolutions * * * which relates to terms and conditions (in futures contracts) * * * or relate to other trading requirements * * *."[31] The importance which Congress attaches to the rule review process was emphasized in 1978, when Congress amended Section 5a(12) to provide for notice to the public prior to Commission approval of contract market rules of major economic significance.[32] Under that amendment, if the Commission determines that a proposed rule is of "major economic significance" the Commission must publish the contract market's proposal in the **Federal Register** at least 30 days before Commission approval. The sponsor of the amendment, Representative AuCoin, stated that the amendment was necessary because the absence of a provision for public notice regarding proposed rule changes.

> Is disturbing when one considers that the Commission is a public agency charged with insuring that the public interest is adequately served and protected in rules and regulations promulgated by private contract markets.[33]

The Commission has implemented its authority under Section 5a(12) through the adoption of regulation 1.41. Commission regulation 1.41(a) defines "rule" as "any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof." Pursuant to regulation 1.41(b) all proposed "reviewable rules", *i.e.*, those rules which relate to terms and conditions of futures contracts or other trading requirements,[34] must be submitted for Commission review at least thirty days prior to their proposed effective dates. To facilitate Commission review, regulation 1.41(b)(3) requires that each submission of a proposed reviewable rule "[s]et forth an explanation * * * including its anticipated effective date and purpose, * * * how the rule fits into the contract market's scheme of self-regulation, how the rule furthers the purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed reviewable rule * * *."

Regulation 1.41(c) provides an exemption from the prior approval requirement of Section 5a(12) of the Act and regulation 1.41(b) for any proposed reviewable rule which is "operational or administrative" in nature.[35] Under regulation 1.41(d) such rules must be submitted to the Commission at least ten days prior to their proposed effective dates, or within such shorter period of time as the Commission may permit. A proviso in regulation 1.41(c) enables the Commission to review a proposed operational or administrative reviewable rule according to the procedures of Section 5a(12) of the Act and regulation 1.41(b) if the Commission determines "[t]hat the purposes of the Act appear to necessitate Commission review of the proposed [reviewable] rule prior to its being placed into effect by the contract market."

B. Commission's Obligation To Consult Other Agencies

The context in which the contract markets first adopted the rules which are the subject of this proceeding and in which the Commission designated the CME for trading in 13-Week and One-year T-Bills, and the CBT for trading in long term T-Bonds, differed significantly from the regulatory and futures market environment which prevails today. First, each of these contract market designations was, respectively, the initial and sole designation in its underlying financial instrument, and the Commission was not confronted at the time with the prospect of duplicative contracts that might draw on the same deliverable supply in any delivery month. Moreover, Congress had not yet acted to recognize the significant interests of the Treasury and the FRB with respect to the possible impact which futures trading in United States Government-issued securities might have on their functions and obligations as issuer of the underlying financial instruments and manager of the financial markets.

In enacting Section 2(a)(8)(B) of the Act[36] in September, 1978, Congress recognized that government securities (including T-Bills, T-Notes and T-Bonds) increasingly were becoming the subject of futures trading, and that the Treasury and the FRB had significant interests in the development and conduct of such futures trading.[37] Accordingly, Section 2(a)(8)(B) of the Act requires the Commission to maintain communications with both agencies for the purpose of, among other things, "considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in financial instruments under the jurisdiction of such agencies." Further, this provision requires that before designating an exchange as a contract market in any United States Government-issued security, the Commission must provide both agencies with at least 45 days to consider the designation application, include any comments from the agencies as part of the public record of the designation proceeding, and consider such comments.

Since the adoption of Section 2(a)(8)(B) of the Act, the Commission has engaged in extensive discussions with the FRB and the Treasury concerning the expansion of futures trading in financial instruments. The Commission consistently has fulfilled its obligations under Section 2(a)(8)(B) of the Act and has sought the views of both agencies on numerous issues of mutual concern.

The adoption of Section 2(a)(8)(B), as well as the ongoing dialogue between the Commission and the Treasury and FRB which has ensued, has resulted in significant changes in the Commission's consideration of designation applications in financial futures. In particular, the Commission consistently

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[31] In addition, Section 5a(1) of the Act requires each contract market to "promptly furnish the Commission copies of all bylaws, rules, regulations, and resolutions made or issued by it or by the governing board thereof or any committee, and all changes and proposed changes therein."

[32] Pub. L. 95-405 § 12 (Sept. 30, 1978); 92 Stat. 871.

[33] 124 Cong. Rec. H7312 (daily ed., July 26, 1978).

[34] Incorporating the language of Section 5a(12) of the Act, regulation 1.41(b)(2) provides that "[t]he term 'reviewable rule' of a contract market means any rule of a contract market which relates to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin."

[35] Upon adoption of regulation 1.41, the Commission noted its anticipation "that a substantial number of all proposed reviewable rules will fall within the exemptions provided by * * * § 1.41 and that, therefore, many of the burdens imposed on the Commission and the contract markets by the addition of section 5a(12) to the Act in 1974 will be significantly reduced." 41 FR 40091 at 40092 (September 17, 1976).

[36] *See* note 30, *supra*.

[37] For example, the Senate Committee on Agriculture, Nutrition and Forestry in reporting on the bill to reauthorize the Commission reported Treasury's view that:

> In 1974 it was not clear what future contracts based on Government securities would be designated for trading on exchanges or what the consequences of such designations might be. It is now clear that the volume and variety of these futures contracts have become significant.
>
> * * * * *
>
> The expansion of these new markets must be diligently monitored and action taken as necessary to insure the continued proper and efficient functioning of the over-the-counter market and the ability of the Federal Government to finance the national debt. The treasury is not in a position today to take whatever actions might be required to insure such continued proper and efficient functioning.

S. Rep. No. 95-850, 95th Cong., 2d Sess. at 50-51 (1978).

has required that each new futures contract based on a Treasury-issued security contain rules that specifically delineate the months listed for trading. This has been done in recognition of the Commission's need to address problems which might arise from duplicative trading in the same delivery months and to insure that, if a contract market sought to add or change the months listed in these futures, the contract market would submit appropriate amendments to its rules for prior Commission approval, pursuant to Section 5a(12) of the Act.

To illustrate, the CME was designated as a contract market in 4-Year United States Treasury Notes on June 19, 1979. One of the terms and conditions of that contract, Rule 3702(A), specifically provides that the listed delivery months shall be February, May, August and November. Similarly, the Commodity Exchange, Inc. was designated as a contract market in 90-day T-Bills on June 19, 1979. Rule 4 of that contract specifically provides that the listed delivery months shall be February, May, August and November. The CBT was designated as a contract market in 4–6 Year United States Treasury Notes on June 19, 1979 and Rule 2205.01 of that contract specifically provides that the months listed for delivery shall be March, June, September and December. The Amex Commodities Exchange, Inc. was designated as a contract market in 90-Day T-Bills on June 19, 1979 and in 20-Year T-Bonds on September 1, 1979. Rule 1004 of the 90-Day T-Bill contract specifically lists January, April, July and October as the delivery months and Rule 1104 of the 20-year Bond contract specifically provides that the listed months for that contract shall be February, May, August and November. Finally, the New York Futures Exchange, Inc. was designated as a contract market in 90-Day T-Bill and 20-Year T-Bond futures contracts on July 15, 1980. Rule 804 of its T-Bill contract specifications lists October, January, April and July as delivery months and Rule 824 of its T-Bond contract specifications lists February, May, August and November as delivery months.

The Commission's concerns with respect to delivery months has not been limited to new futures contracts. The Commission has also been concerned over the possibility that previously designated contract markets might seek to list additional contract months which would duplicate months traded on other markets. In this connection, on July 11, 1979, the Commission's Executive Director wrote to the CME, stating the concerns of the Commission, the FRB, and the Treasury over the possibility that more than one 90-day T-Bill contract could be dependent upon a single auction of 90-day United States T-Bills. In this regard, the letter requested that the CME effect changes in its 90-day United States T-Bill contract rule that would limit trading to the four delivery months which it historically had traded (the December cycle).[38]

In part this letter was prompted by the FRB and the Treasury's transmittal to the Commission in May, 1979 of a joint study of the markets for futures on securities issued by the Treasury.[39] One of the topics addressed by the Treasury/FRB Study was the "Potential of Contract Proliferation,"[40] including the addition of previously unlisted delivery months to existing contracts. The Treasury/FRB Study observed that "[e]ven under the best of circumstances, the extension of trading in Treasury futures to new maturity sectors and to additional exchanges would require careful, step-by-step implementation and close surveillance of results. In the circumstances that exist, the task appears to be more complicated, since some exchanges have less clearly defined rules than others, and the philosophies with which they implement these rules vary."[41] The primary concern underlying this observation was the adequacy of deliverable supply in these contracts.[42] In this regard, the Treasury/FRB Study noted that although it can be argued that "the combined demands for delivery generated by several overlapping futures contracts will not be significantly greater than those generated where only a single contract is being offered, * * * it seems more likely that a proliferation of contracts would lead, in practice, to enlarged total demands for delivery."[43]

In response to the concerns expressed in the Treasury/FRB Study, the Commission's staff recommended that "90-day T-bill contracts not be permitted to draw on the same bill auctions for deliverable supplies as existing contracts. To accomplish that objective effectively, each contract proposed for designation should specify a unique set of auctions as its primary source of deliverable supply. Furthermore, the specification should be stated explicitly in each such contract so that, for example, any change in delivery months contemplated by an exchange for a 90-day bill would require prior Commission approval."[44] Although this proposal specifically addressed only the 90-day T-Bill contracts, the Staff Response also considered the issue of contract proliferation as it applied to futures trading on other Treasury-issued securities. While the staff took issue with some of the agencies' concerns with respect to proliferation in the other contracts, it commented that "[i]n judging the acceptable degree of overlap of the maturity ranges for note contracts proposed for designation, we would, of course, consider the comments of the Treasury and the Fed." The appropriate mechanism for assuring such consultation before trading commences in duplicative delivery months is through the applicable Commission review procedures under Section 5a(12) of the Act and regulation 1.41 thereunder.

As noted above, both agencies which authored the Treasury/FRB Study appeared at the July 10 Hearing to reassert their previous concerns. In particular, the Treasury urged that the Commission "take whatever action is necessary to assure that trading in an increased number of Treasury bond futures contracts with substantially the same delivery requirements be deferred until any such expansion is fully evaluated."[45]

The concerns which underlie the Commission's endeavors to maintain control over the delivery months in which these financial futures may be traded are significant and raise serious questions as to whether the interests of producers, handlers, processors or consumers of government securities underlying these financial futures and traders in the contracts can be protected. The opportunity for Commission review, consultation with

[38] In a letter to the Commission's Office of the Secretariat dated February 21, 1980, James Kurt Dew, the CME's Senior Financial Economist responded that the CME declined to make the changes requested by the Commission. Mr. Dew noted in his letter that issues related to deliverable supply "need not be decided immediately * * * [as the CME] has no immediate intention of listing futures contracts in 90-day bills other than its current listings." This letter was made part of the record of this proceeding on July 10, 1980.

[39] The "Treasury/Federal Reserve Study of Treasury Futures Markets" (hereinafter the "Treasury/FRB Study") was transmitted to the Commission by letter dated May 14, 1979 from Secretary of the Treasury, W. Michael Blumenthal and Chairman G. William Miller of the FRB. The Study was made part of the record of this proceeding on July 10, 1980.

[40] Treasury/FRB Study at 27–30.

[41] *Id.* at 27–28.

[42] *Id.* at 19–27.

[43] *Id.* at 28.

[44] *See* "CFTC Staff Response to the Treasury/Fed Study: *Treasury Futures Markets,*" (June 12, 1979) at 33–34; (hereinafter the "Staff Response"). The Staff Response was made part of the record of this proceeding on July 10, 1980.

[45] Letter dated July 9, 1980 from Robert Carswell to Chairman Stone re CBT at 2. *See also* Letter dated July 9, 1980 from Paul A. Volcker, Chairman of the FRB, to Chairman Stone at 2.

the FRB and Treasury and, where appropriate, public comment, appear to be minimal procedural safeguards necessary to the Commission in assuring that unnecessary risks to the marketplace not occur.

In view of the concerns expressed by the Treasury, the sole issuer *(i.e.,* producer) of the instruments underlying these contracts, and by the FRB, the largest consumer of these instruments, as well as the Congressional mandate in 1978 that the Commission consider those concerns as directed by Section 2(a)(8)(B) of the Act, the Commission believes it is imperative that the CME and CBT submit their determinations to schedule new or additional months for trading in these contracts in accordance with the requirements of Section 5a(12) of the Act and Commission regulations thereunder. Therefore, the Commission has determined that it cannot permit these contract markets to retain rules which they have interpreted as granting them authority to schedule new or additional contract months for delivery without submitting those determinations for review by the Commission.

IV. Alteration of Contract Market Rules

Congress has charged the Commission with broad oversight responsibility concerning contract market rules affecting futures trading and with particular obligations to ensure orderly futures trading in securities issued by the United States, such as the 90-day and One-year T-Bills and 20-year T-Bonds that have been the subject of this proceeding. As detailed above, the Commission has actively carried out its responsibilities under Section 2(a)(8)(B) of the Act in order to elicit and consider the views of the Treasury and the FRB in designating contract markets to trade futures contracts in government securities and, prior to designation, to refine the terms of those contracts, particularly insofar as they relate to deliverable supply. The recent actions of the CME and the CBT regarding the listing and trading of futures contracts with new delivery months for 90-day T-Bills and 20-year T-Bonds are inconsistent with these responsibilities.

The statements and submissions of the CME during this proceeding make clear the CME's position that, under its rules, it is free to list and trade futures contracts calling for the delivery of 90-day T-Bills in any month without notification to, or approval by, the Commission. The CBT also has taken this position regarding its 20-year T-Bond futures contracts. Each of these contract markets has implemented its position by listing and trading additional months in their contracts for these financial instruments. This position and practice are incompatible with the statutory scheme envisioned for futures trading in government securities and cannot be permitted to continue.

Certainly, as the views expressed by the Treasury and the FRB in this proceeding indicate, contract terms relating to the delivery months to be scheduled and traded under each of these designated contracts are economically significant. Indeed, under Section 2(a)(8)(B) of the Act, the FRB and the Treasury have statutorily recognized interests in these delivery terms—the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for governmental securities. In addition, the persons trading these contracts must be assured that the entire governmental process of permitting futures contracts to be traded in these instruments will be observed as Congress intended. It is the Commission's responsibility to ensure that these interests are protected and that fair dealing in the marketplace be assured.

In order to protect these interests, and since neither the CME nor the CBT has made the changes in its rules which the Commission requested by its letters of July 3, 1980, the Commission has determined that it is both necessary and appropriate to alter the rules of those contract markets expressly to require that the CME and CBT not schedule any month for trading in any futures contract calling for the delivery of a government-issued security without submission of the contract market rule, regulation, or resolution which would implement that determination in accordance with the requirements of Section 5a(12) and applicable Commission regulations thereunder.

In altering these contract markets' rules, the Commission has not found it necessary to reach, and expressly does not reach, the question of whether the CME's or the CBT's rules, resolutions, interpretations and practices in listing and trading the January cycle of delivery months in the 90-day T-Bill contract or the August cycle of delivery months in the 20-year T-Bond contract, respectively, constitute violations of any provision of the Act or Commission regulations.[46] Nor do the rules adopted by the Commission affect trading that has taken place on the CME and CBT in these cycles prior to the effective date of these rule alterations or any trading that may take place in these cycles after that effective date. The effect of these rule alterations is to make explicit that on and after the effective date of these rule alterations, contract market action to add new or additional delivery months under CME rules 3202A or 3602A, or under CBT rule 1805.01 must be submitted to the Commission in accordance with the requirements of Section 5a(12) of the Act and regulation 1.41 thereunder. The Commission's alteration of the contract market rules as adopted herein differ in some respects from those requested in its letters to the CME and CBT on July 3, 1980. The changes, however, are only technical in nature and do not alter the substantive obligations of the rules as requested. And, as indicated above, the Commission has determined not to alter the rules or resolutions of the contract markets insofar as they affect current trading in the Janaury cycle of the 90-day T-Bill contract on the CME or in the August cycle of the 20-year T-Bond contract on the CBT.

Accordingly, pursuant to the authority contained in sections 5a(12) and 8a(7) of the Commodity Exchange Act, 7 U.S.C. 7a(12) and 12a(7) (1976), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations, by adding a new Part 7 to read as follows:

PART 7—CONTRACT MARKET RULES ALTERED OR SUPPLEMENTED BY THE COMMISSION

Subpart A—General Provisions

Sec.
7.1 Scope of rules.
7.2 through 7.99 [Reserved].

Subpart B—Chicago Mercantile Exchange Rules

7.100 Rule 3202(A).
7.101 Rule 3602(A).
7.102 through 7.199 [Reserved].

Subpart C—Board of Trade of the City of Chicago Rules

7.200 Rule 1805.01.

Authority: Sections 5a(12) and 8a(7) of the Commodity Exchange Act, 7 U.S.C. 7a(12) and 12a(7) (1976).

Subpart A—General Provisions

§ 7.1 Scope of rules.

This part sets forth contract market rules altered or supplemented by the Commission pursuant to Section 8a(7) of the Act.

§§ 7.2 through 7.99 [Reserved]

[46] In instituting the civil actions referred to in n. 1 *supra*, however, the commission has stated its position that the actions of the CME and CBT in placing these rules, resolutions, interpretations and practices into effect without prior Commission approval or review constitute violations of Section 5a(12) of the Act and regulation 1.41 thereunder.

Subpart B—Chicago Mercantile Exchange Rules

§ 7.100 Rule 3202(A).

Rule 3202(A) of the Chicago Mercantile Exchange governing trading months and hours in the contract market's 13-Week United States Treasury Bill futures contract is altered and shall hereby provide as follows:

Futures contracts shall be scheduled for trading during such hours and delivery in such months as may be determined by the Board of Governors, subject to the requirement that all such determinations and other actions implementing such determinations be submitted to the Commodity Futures Trading Commission in accordance with the provisions of Section 5a(12) of the Commodity Exchange Act and all Commission regulations adopted thereunder.

§ 7.101 Rule 3602(A).

Rule 3602(A) of the Chicago Mercantile Exchange governing trading months and hours in the One-Year United States Treasury Bill futures contract is altered and shall provide as follows:

Futures contracts shall be scheduled for trading during such hours and delivery in such months as may be determined by the Board of Governors, subject to the requirement that all such determinations and other actions implementing such determinations be submitted to the Commodity Futures Trading Commission in accordance with the provisions of Section 5a(12) of the Commodity Exchange Act and all Commission regulations adopted thereunder.

§§ 7.102 through 7.199 [Reserved]

Subpart C—Board of Trade of the City of Chicago Rules

§ 7.200 Rule 1805.01.

Rule 1805.01 of the Board of Trade of the City of Chicago governing months traded in the Long-Term (20-year) United States Treasury Bond futures contract is altered and shall provide as follows:

Trading in long-term U.S. Treasury bonds may be scheduled for trading in such months as determined by the Financial Instruments Committee or the Board, subject to the requirement that all such determinations and other actions implementing such determinations be submitted to the Commodity Futures Trading Commission in accordance with the provisions of Section 5a(12) of the Commodity Exchange Act and all Commission regulations adopted thereunder.

The Commission hereby approves under Section 5a(12) of the Act these contract market rules as altered and set forth above.

The foregoing alterations to the CME and CBT rules are effective immediately upon service of this document on the CME and CBT, respectively, July 24, 1980. The contract markets have stated their belief that they need not submit rules permitting trading in additional delivery months for Commission review. In these circumstances and given the Commission's responsibilities to ensure orderly trading of futures contracts in government securities discussed above, the Commission is satisfied that it would be contrary to the public interest to delay the effectiveness of these rules for any period of time. The Commission believes that only immediate alteration, approval and implementation of these rules will ensure that the provisions and policies of the Act will be observed as Congress intended.

Issued by the Commission on July 24, 1980 at Washington, D.C.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 80-23108 Filed 7-31-80; 8:45 am]

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federal register

Friday
August 1, 1980

Part XII

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Defferals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two revisions to previously transmitted deferrals increasing the amount deferred by $137 thousand. These items affect programs in the Department of Defense and the International Communication Agency.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
July 30, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Defense-Military	
D80-9B	Military construction, all services.....	57,391
	Other Independent Agencies	
	International Communication Agency	
D80-35A	Special foreign currency program.....	1,737
	Total, deferrals	59,128

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message:		
Change to amounts previously submitted....	---	137
Effect of eleventh special message.....	---	137
Previous special messages.....	1,618,061	10,507,109
Total amount proposed in special messages....	1,618,061	10,507,246a

a. This amount represents budget authority except for $21,085 thousand involving the deferral of outlays only (D80-23A, D80-51A, D80-52A, and D80-53A).

D80-9B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-9A transmitted to the Congress on January 28, 1980, and printed as House Document No. 96-259.

The amount deferred for the Department of Defense-Military construction funds is $57,391,015. This amount is net of increases, decreases, and adjustments that have been made since the beginning of fiscal year 1980. This report is being tranmsitted to include a $17,960,000 athletic facility at West Point, New York within the scope of the deferral.

Deferral No: D80-9B

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense-Military	New budget authority (P.L. 96-130): $2,271,455,000*
Bureau:	Other budgetary resources: 1,496,707,810*
Appropriation title & symbol: See coverage section below	Total budgetary resources: 3,768,162,810*
	Amount to be deferred: Part of year: $57,391,015*
	Entire year:
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act* 1/
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual; [X] Multiple-year Sept. 30, 1983 / Sept. 30, 1984 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage 2/ *

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	210/42050	21-2050-0-1-051	$ 17,960,000
Military construction, Army	219/32050	21-2050-0-1-051	0
Military construction, Navy	170/41205	17-1205-0-1-051	0
Military construction, Navy	179/31205	17-1205-0-1-051	0
Military construction, Air Force	570/43300	57-3300-0-1-051	8,234,015
Military construction Air Force	579/33300	57-3300-0-1-051	0
Military construction, Defense Agencies	9700500 3/	97-0500-0-1-051	5,000,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	1,218,000
Military construction, Army National Guard	210/42085	21-2085-0-1-051	4,108,000
Military construction, Army National Guard	219/32085	21-2085-0-1-051	0
Military construction, Air National Guard	570/43830	57-3830-0-1-051	9,325,000
Military construction, Air National Guard	579/33830	57-3830-0-1-051	0
Military construction, Army Reserve	210/42086	21-2086-0-1-051	8,782,000
Military construction, Army Reserve	219/32086	21-2086-0-1-051	1,364,000
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	1,400,000
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	0
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	0
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	0
			$ 57,391,015

1/ Except for $17,960,000 for Military Construction, Army deferred under section 1013 of P.L. 93-344.

2/ These accounts were the subject of a similar deferral during fiscal year 1979.

3/ The 1980 Supplemental Appropriations and Rescission Act, (P.L. 96-304) enacted July 8, 1980, extends the availability of this appropriation until September 30, 1984.

D80-9B

Justification:* Except as noted below, the amounts listed are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies. These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

The amount deferred for Military construction, Army involves the construction of an athletic facility at West Point, New York. Funds totalling $17,960,000 for this project are deferred under the Impoundment Control Act of 1974 pending resolution of programmatic considerations, including the priority of this project in relation to others funded through this account.

Estimated Effects:* The amounts deferred under the authority of the Antideficiency Act have no programmatic or budgetary effect because the funds would not be obligated if they were made available. The construction of an athletic facility at West Point will be delayed pending a determination of the relative priority of this project.

Outlay Effects: These deferrals have no effect on outlays.

* Revised from previous report.

D80-35A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D80-35 transmitted to the Congress on November 15, 1979 and printed as House Document No. 96-228.

This revision increases the deferral for the International Communication Agency's salaries and expenses (Special Foreign Currency Program) account by $137,000. The increase reflects salary savings which will result from the hiring limitations imposed by the President in March.

Deferral No: D80-35A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency	New budget authority (P.L. 96-68) $ 13,012,000
Bureau	Other budgetary resources 1,996,599*
Appropriation title & symbol Salaries and Expenses (Special Foreign Currency Program) 67X0205	Total budgetary resources 15,008,599*
	Amount to be deferred: Part of year $ ____ Entire year 1,737,000*
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:* The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural and educational exchange programs.

The International Communication Agency Authorization Act, Fiscal Year 1980-81 (Public Law 96-60, enacted on August 15, 1979) authorized for fiscal year 1980, $416,277,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)" for ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (Public Law 96-68, enacted on September 24, 1979) appropriated $13,012,000, to remain available until expended, for the "Salaries and expenses (special foreign currency program)" account. The account is used for payment of ICA local program expenses in U.S. -owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirements of the U.S. Government. In fiscal year 1980, the "excess currency" countries are: Burma, Guinea, India, Pakistan, and Egypt.

The unobligated balances from prior years carried over in this account, plus anticipated recoveries and reimbursements from other agencies, total $1,996,599, which is significantly more than the sum estimated in the 1980 Budget.

* Revised from previous report

D80-35A

The carryover balances developed primarily as a result of delays in the planned cultural center relocation project in Pakistan, savings in anticipated wage and price increases and other reduced program requirements, primarily in India. The funds deferred, $1,737,000, will be applied to program needs in succeeding years.

These funds are being deferred in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: There is no outlay effect of this deferral, because the funds would not be obligated if made available.

[FR Doc. 80-23367 Filed 7-31-80; 10:37 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 45, No. 150

Friday, August 1, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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 41 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	HHS/FDA		DOT/SLSDC	HHS/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

TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
August 1	August 18	September 2	September 15	September 30	October 30
August 4	August 19	September 3	September 18	October 3	November 3
August 5	August 20	September 4	September 19	October 6	November 3
August 6	August 21	September 5	September 22	October 6	November 4
August 7	August 22	September 8	September 22	October 6	November 5
August 8	August 25	September 8	September 22	October 7	November 6
August 11	August 26	September 10	September 25	October 10	November 10
August 12	August 27	September 11	September 26	October 14	November 10
August 13	August 28	September 12	September 29	October 14	November 12
August 14	August 29	September 15	September 29	October 14	November 12
August 15	September 2	September 15	September 29	October 14	November 13
August 18	September 2	September 17	October 2	October 17	November 17
August 19	September 3	September 18	October 3	October 20	November 17
August 20	September 4	September 19	October 6	October 20	November 18
August 21	September 5	September 22	October 6	October 20	November 19
August 22	September 8	September 22	October 6	October 21	November 20
August 25	September 9	September 24	October 9	October 24	November 24
August 26	September 10	September 25	October 10	October 27	November 24
August 27	September 11	September 26	October 14	October 27	November 25
August 28	September 12	September 29	October 14	October 27	November 26
August 29	September 15	September 29	October 14	October 28	November 28

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

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CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
2 [Reserved]	
4	6.50
5	8.00
6	3.75
7 Parts:	
0-52	8.50
53-209	7.00
210-299	7.00
300-399	5.50
400-699	6.50
700-899	7.00
900-944	7.00
945-980	5.50
981-999	5.50
1000-1059	7.00
1060-1119	7.00
1120-1199	6.00
1200-1499	7.00
1500-1899	6.50
1900-2799	8.50
2852	8.50
2853-end	6.00
8	5.50
9 Parts:	
1-199	7.00
200-end	6.50
10 Parts:	
0-199	7.50
200-499	8.50
500-end	7.50
11 (Rev. 4/1/80)	4.75
12 Parts:	
1-199	6.00
200-299	9.00
300-end	11.00
13	7.00
14 Parts:	
1-59	8.50
60-199	8.50
200-1199	8.00
1200-end	6.00
15	9.00
16 Parts:	
0-149	7.00
150-999	6.00
1000-end	6.50
CFR Index	8.50

CFR Unit (Rev. as of Apr. 1, 1980):

17 Parts:	
0-239	7.50
240-end	7.50
20 Parts:	
01-399	5.50
400-499	7.50
500-end	7.50
21 Parts:	
01-99	6.00
100-169	7.00
170-199	6.00
200-299	4.50
300-499	8.00
500-599	7.50
600-799	5.00
800-1299	5.50
1300-end	4.50
22	8.00
23	7.00
24 Parts:	
0-499	11.00
1700-end	6.00
26 Parts:	
1 (§§ 1.851-1.1200	8.00
40-299	7.50
27 Parts:	
1-199	6.50

CFR Unit (Rev. as of July 1, 1979):

28	6.50
29 Parts:	
0-499	8.00
500-1899	9.00
1900-1919	11.00
1920-end	7.50
30	13.00
31	8.50
32 Parts:	
1-39 (Vol. I)	8.50
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800-999	7.50
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200-end	7.00
34/35 (Rev. 12/31/79)	6.00
36	7.00
37	5.50
38	9.00
39	6.00
40 Parts:	
0-49	6.50
50-59	12.00
60-80	6.50
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100-399	8.00
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1-2	9.00
3-6	7.50
7	4.00
8	4.00
9	7.00
10-17	6.50
18 (Pts. 1-52 SUPP.)	3.00
19-100	6.00
101-end	12.00

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1-399	8.00
400-end	8.00
43 Parts:	
1-999	5.50
1000-end	9.00
44	5.50
45 Parts:	
1-99	6.50
100-149	7.00
150-199	7.00
200-499	5.00
500-1199	7.00
1200-end	6.50
46 Parts:	
1-29	4.25
30-40	4.50
41-69	6.50
70-89	4.75
90-109	4.75
110-139	4.25
140-155	5.50
156-165	5.50
166-199	5.25
200-end	8.50
47 Parts:	
0-19	6.50
20-69	8.00
70-79	7.00
80-end	8.00
48 [Reserved]	
49 Parts:	
1-99	4.75
100-177	7.00
178-199	7.00
200-399	7.00
400-999	7.00
1000-1199	7.00
1200-1299	9.00
1300-end	6.00
50	8.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department

NIE National Institute of Education

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS—Health and Human Services Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration

OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID—Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

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

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

46782 7–11–80 / Cotton Standards regulations; Updates and amendments withdrawal of proposed revocations

40565 6–16–80 / Grapes grown in a designated area of Southeastern California; order regulating handling

24441 4–10–80 / Hopse of domestic production; final salable quantity and allotment percentage for 1980–81 marketing year

Federal Grain Inspection Service—

46332 7–9–80 / Suspension of provision of U.S. Standards for milled rice

Food and Nutrition Service—

27426 4–22–80 / Supplemental Security Income and food stamp joint application processing

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

44942 7–2–80 / Fisherman's Contingency Fund; adjudication of claims associated with Outer Continental Shelf

FEDERAL COMMUNICATIONS COMMISSION

6106 1–25–80 / Amatuer Radio Service; telegraphy examination credit

47149 7–14–80 / Clear channel broadcasting in AM broadcast band; correction

[*See also* 45 FR 43172, 6–26–80]

43172 6–26–80 / Radio broadcast services; clear channel broadcasting in the AM broadcast band

HOUSING AND URBAN DEVELOPMENT

Community Planning and Development—Office of Assistant Secretary—

42604 6–25–80 / Community Development Block Grants; Secretarial Review of Receipients Performance; clarifying amendments

INTERIOR DEPARTMENT

Fish and Wildlife Service—

44939 7–2–80 / Listing of Palos Verdes Blue Butterfly as an endangered species with critical habitat

JUSTICE DEPARTMENT

Parole Commission—

44924 7–2–80 / Aggregated sentences; parole eligibility date regulations

44924 7–2–80 / Youth corrections; parole consideration to prisoners serving six months or less

Prisons Bureau—

44220 6–30–80 / Control, custody, care, treatment, and instruction of inmates

TRANSPORTATION DEPARTMENT

Coast Guard—

2028 1–10–80 / Display of capacity information on recreational boats

73047 12–17–79 / Exception to boat ventilation requirements

73025 12–17–79 / Ventilation Safety Standards for recreational boats

Rules Going Into Effect Saturday, August 2, 1980

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

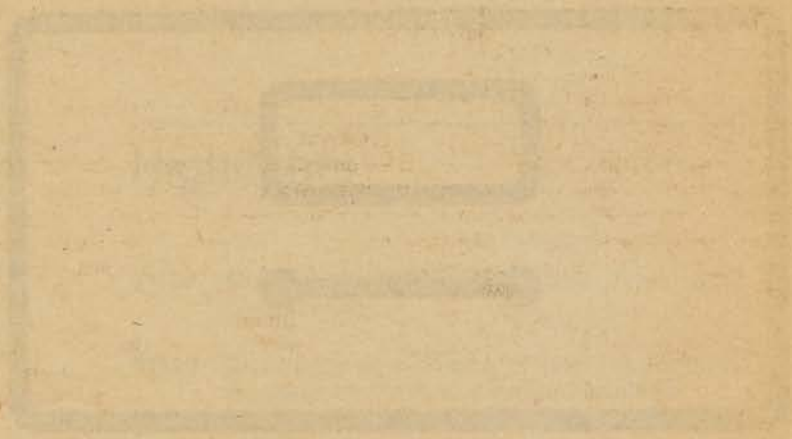
Federal Housing Commissioner—Office of Assistant Secretary for Housing—

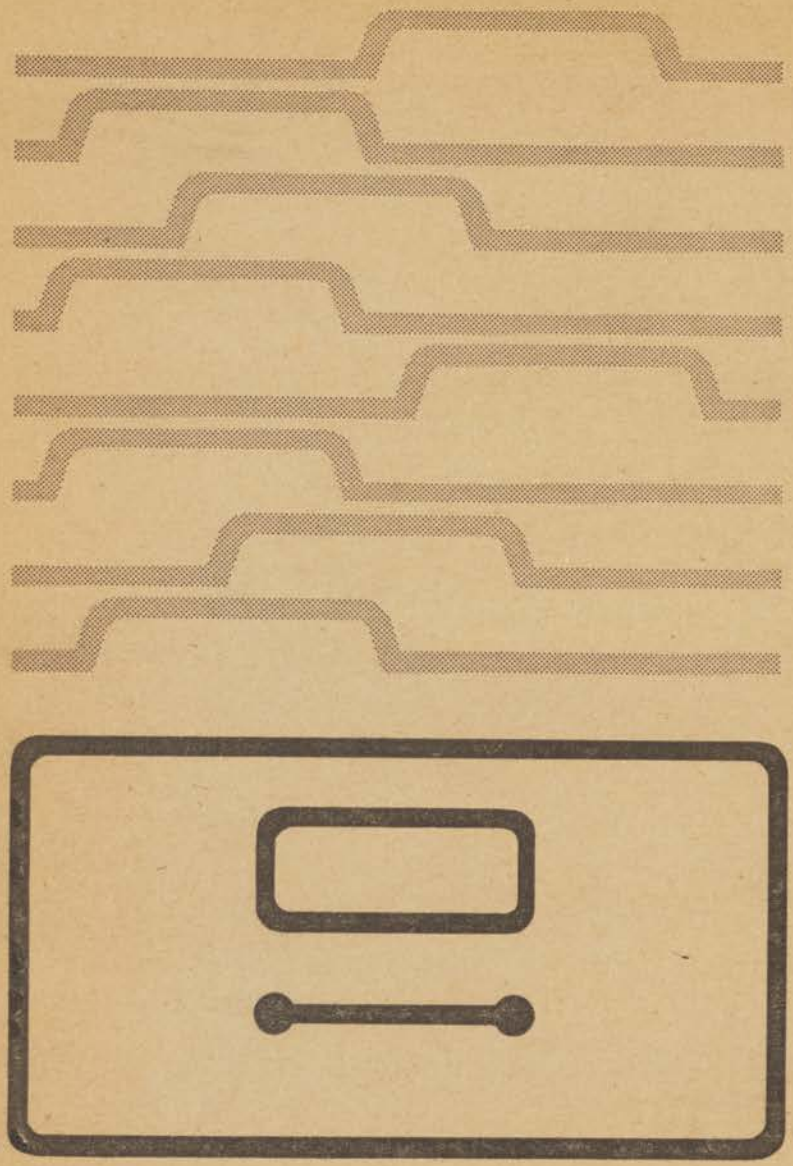
42604 6–25–80 / Multifamily housing mortgage insurance; amendments to regulations on eligibility for mobile home parks

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing July 30, 1980





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