10-10-80
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Friday
October 10, 1980

Highlights

Document Drafting Handbook
The Office of the Federal Register has issued a revised edition of the handbook. See the **Reader Aids** section of this issue for details.

67285 **School Breakfast and Lunch Programs** USDA/FNS provides alternatives for schools in which at least 80 percent of children are eligible for free or reduced meals; effective 10-10-80

67355 **Gasoline** DOE/ERA gives notice of public hearings and comment period regarding retailer price rules and fixed cents per gallon markups permitted retailers; comments by 12-9-80; hearings on 11-6 and 11-12-80

67443 **Grant Programs—Treatment Works** EPA announces issuance of a Municipal Pretreatment Program Guidance Package which contains discussion of acceptable work plans which grantees must submit

67317 **Labeling** FTC revises rules of practice to provide procedures for assessment of civil penalties for violations of labeling and advertising of appliances; effective 10-10-80

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

Highlights

67542 **Professional Standards Review Organizations** HHS/HCFA establishes new method for reimbursing cost of hospital review for care provided patients eligible under Medicare and other programs; effective 11–10–80 (Part IV of this issue)

67350 **Government Procurement** GSA amends Federal procurement regulations relating to grants and contracts with State and local governments and price negotiation policies and technologies; effective 11–12–80

67564 **Air Pollution Control** EPA proposes revisions that would establish ambient air monitoring and data reporting requirements for lead; comments by 12–9–80 (Part VII of this issue)

67552 **Public Utilities** DOE/ERA issues 1981 list identifying electric and gas utilities relating to requirements that State regulatory authorities notify agency; comments by 11–10–80 (Part VI of this issue)

67578 **Motor Vehicle Pollution** EPA establishes an oxides of nitrogen research program for 1981 and subsequent model years; effective 11–10–80 (Part VIII of this issue)

67360 **Taxes** Treasury/IRS proposes amendments that would provide tax-exempt organizations with guidance necessary to determine whether they qualify as other than private foundations; comments by 12–9–80

67504 **Minimum Wages** Labor/ESA releases minimum wages for Federal and federally assisted construction workers (Part III of this issue)

67395 **Improving Government Regulations** Treasury/FS publishes semiannual agenda of regulations

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67498 **Sunshine Act Meetings**

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

[Amendment 19]

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule provides alternatives to current free and reduced price meal certification procedures in the National School Lunch Program and School Breakfast Program consistent with Section 9 of Pub. L. 95–166 in an effort to reduce School Nutrition program paperwork. This rule provides alternatives for those School Food Authorities with schools in which at least 80 percent of the enrolled children are eligible for free or reduced price meals, or with schools who are currently, or who will be serving all children free meals.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, (202) 447–9069, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250. A copy of the detailed final impact analysis statement for this final regulation, may be obtained from this contact. This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been described as "not significant."

SUPPLEMENTARY INFORMATION:

Intent of Congress

In an effort to reduce paperwork in school nutrition programs, Section 9 of Pub. L. 95–166 states: "In the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the 'first school year') are eligible for free lunches or reduced-price lunches, special-assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced-price lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced-price lunches served during that year to other children determined for that year to be eligible for such lunches. In the case of any school that (1) elects to serve all children in that school free lunches under the school lunch program during any period of three successive school years and (2) pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period, special-assistance payments shall be paid to the State educational agency with respect to that school during that period on the basis of the number of lunches determined under the succeeding sentence. For purposes of making special-assistance payments in accordance with the preceding sentence, the number of lunches served by a school to children eligible for free lunches and reduced-price lunches during each school year of the three-school-year period shall be deemed to be the number of lunches served by that school to children eligible for free lunches and reduced-price lunches during the first school year of such period, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period."

Intent of the Interim Rule

On May 18, 1979, the Department publicly announced the interim rule (44 FR 29027) known as "Special Assistance". The Special Assistance interim rule provided two provisional alternatives to standard certification and reimbursement procedures:

Interim Rule Provision 1—In schools where at least 80 percent of the children enrolled are eligible for free or reduced price meals, annual certification of children eligible for free or reduced price meals may be reduced to a minimum of once every two years.

Interim Rule Provision 2—In schools where all children are served free meals regardless of eligibility for program benefits, annual certification of children eligible for free or reduced price meals may be reduced to a minimum of once every three years. The number of meals claimed for reimbursement in the first school year will be the same number of meals claimed for reimbursement in the second and third year.

Due to its optional nature and intent of reducing paperwork, the Department believed it to be in the public interest to publish the Special Assistance rule in interim format effective upon publication. Comments were invited for the development of the final rule.

Interim Rule Comment Analysis

Interested persons and groups were allowed eight months in which to submit written comments on the interim rule. A total of five comment letters were received; two from special interest groups, two from State Departments of Education and one from a School Food Authority. The specific issues addressed by the commentors are discussed in the following paragraphs.

Law and Regulatory Language Discrepancies

All five commentors supported the Department's efforts to reduce paperwork but felt the interim rule was unclear and could be subject to a variety of interpretations. For example, Pub. L. 95–166 refers to "lunches" whereas the interim rule refers to "meals". In this final rule the Department has retained the interim interpretation in order to include the School Breakfast Program under these provisions to better permit the reduction of paperwork.

One commentor mentioned that both the interim regulation and the law

inappropriately permit the decision to opt for the "Special Assistance" provisions to be decided at the *school* level. Allowing a school to make that decision independent of the School Food Authority is inconsistent with the traditional roles of the School Food Authority and the State agency who are responsible for program administration. This final rule changes all such references from "school" to "School Food Authority" to reflect these traditional roles of decision-making in the school nutrition programs.

Another commentor stated that the terms "attendance", "enrollment", and "attending children" used in the law and interim regulatory language are subject to varying interpretations and should not be used interchangeably. This final rule specifies and clarifies that the 80 percent eligibility determination for provision 1 will be based on school *enrollment* data. For provision 2, reimbursement claims will be based on *program participation* data.

Commentors also were concerned about using the "number" of meals served in the first school year as a basis for reimbursement claims in the second and third school years under the interim rule provision 2. For further discussion see "reimbursement calculation for provision 2" section.

Accountability

One commentor mentioned the apparent conflict of interests in relaxing accountability for eligible schools under the Special Assistance interim rule but increasing the accountability required for non-eligible schools under the Department's Assessment, Improvement and Monitoring Systems (AIMS) proposal (44 FR 62453). The Department is aware of these differences but notes that the "Special Assistance" provisions are necessary to comply with the legislative intent of Pub. L. 95-166: i.e. to provide alternatives to the traditional recordkeeping responsibilities in order to reduce paperwork for certain eligible School Food Authorities. Since the AIMS proposal is designed to assure compliance with school nutrition program regulations, AIMS reviews and audits will be structured to accommodate the Special Assistance alternative requirements.

Completed Certification Forms

Two commentors identified problems under interim rule provision 2 for the first school year with receiving completed application forms from parents who know that their child will ultimately receive free meals regardless of whether a form is returned. This problem is an on-going one faced by any School Food Authority that elects to serve free or reduced price meals to all children regardless of their eligibility for program benefits, and claims Federal reimbursement for only those children who qualify under the Secretary's Income Poverty Guidelines. The Department believes that School Food Authorities who opt for provision 2 should be prepared for the full responsibility of meeting the regulatory requirements and should be aware of these potential problems in substantiating their claim when serving all children free meals.

Specific Comments Concerning Interim Rule Provision 1

Public Notification

Four of the five commentors were uncertain as to what program areas provision 1 actually affected. In the interim rule, provision 1 reimbursement calculation requirements are the same as standard procedures; the difference is in the frequency of parental and public notification and the application process. Under the interim rule provision 1, schools are not required to notify parents of children receiving reduced price meals in the first school year of their potential eligibility for free meal benefits in the second school year. Two commentors recommended that schools be *required* to notify parents of children receiving reduced price meals of their potential eligibility for free meal benefits in the second school year. Parents of children determined eligible to receive reduced price meals in the first school year could be eligible for free meals in the second school year due to annual adjustment of the family size and income criteria of the program. This final rule provides that parents of children not certified for free meals be publicly notified each school year to ensure that they are aware of their civil rights, application procedures and any changes in eligibility requirements.

Overt Identification

One commentor expressed a concern about the time and cost involved in maintaining records, and the potential for overt identification when distinguishing between the children who do and do not need to be publicly notified and certified on an annual basis. The Department shares this concern and encourages School Food Authorities to review their notification system carefully to ensure that no child is overtly identified by the method it implements, regardless of whether the School Food Authority elects to participate in these special provisions.

Specific Comments Concerning Provision 2

Funds From Other Than Federal Sources

One commentor requested clarification of the phrase "from other than Federal sources," referring to provision 2, concerning the payment of meals served to children not eligible for free or reduced price program benefits. Federal funds may not be used to pay for free or reduced price meals that are served to children who are not eligible for such meals under applicable program regulations, except when specifically authorized by other legislation.

Two commentors stated that unless a school was already doing so, it could not now afford to offer all children free meals. The Department has intended provision 2 for those schools who are either currently serving all children free meals, or who have the financial capacity of doing so in the future.

Reimbursement Calculation for Provision 2

Two commentors were concerned about the potential for reimbursement under- or over-claiming in the second and third school years. They mentioned that if the number of free, reduced price and paid meals served monthly in the first school year is the basis for payment in the second and third school years, there would be no incentive to increase program participation during the second and third school years. Using the actual number of meals served in the first school year as the basis for reimbursement claims in the second and third school years again could result in under- or over-claiming.

In the final rule the Department has made the reimbursement claiming process more equitable and reasonable by replacing the words "numbers of meals" with the words "percentage of meals." Percentages will be calculated for each meal type—free, reduced price and paid—from the total number of meals served each month in the first school year. These percentages are derived by dividing the monthly total number of meals served of one meal type (e.g. free meals) by the total number of meals served in the same month for all meal types (free, reduced price and paid meals). The percentages for the reduced price and paid meal types are calculated exactly as the above example for free meals. These three percentages calculated at the end of each month of the first school year will be multiplied by the corresponding monthly meal count total of all meal types served in the second and third consecutive school years in order to

calculate monthly reimbursement claims. In addition, the final rule clarifies that a School Food Authority having opted for one of the provisions may return to standard notification and application procedures in the following school year if standard procedures better suit its program needs.

Summary of Changes Made to the Interim Rule

A comparison between the Special Assistance Certification and Reimbursement Alternatives final rule (§ 245.9) and the Special Assistance Interim Rule (§ 245.6 (e) and (f)) follows:

(1) The final rule retains the interim rule reference to "meals" to allow both the School Breakfast Program and the National School Lunch Program to be included in these optional provisions.

(2) The final rule replaces interim rule references made to "schools" with "School Food Authorities," to allow the School Food Authority, based on traditional decision-making rules, the ability to offer their eligible schools provision 1 or 2.

(3) The final rule clarifies the interim rule in regard to the School Food Authority and/or State agency allowing a school that has opted for one of the provisions to return to standard notification and application procedures in the following school year if standard procedures better suit the school's program needs. In all cases the School Food Authority or State agency is responsible for amending the Free and Reduced Price Meal Policy Statement to reflect any policy changes.

(4) The final rule clarifies references made to "attending" and "enrolled" children by replacing these terms with more specific guidelines. In provision 1, the 80 percent eligibility determination will be based on enrollment data. In provision 2 the monthly reimbursement calculations will be based on program participation data.

(5) The final rule replaces the interim rule recommendation with a requirement that the School Food Authority, under provision 1, notify parents of children receiving reduced price meals during the first school year, of their potential eligibility for free meals in the second consecutive school year due to annual adjustments of the family size and income criteria of the program.

(6) The final rule has amended provision 2 reimbursement calculation procedures. During the first school year, monthly meal count totals will be converted to monthly percentages for each meal type—free, reduced price and paid—instead of using actual numbers as required by the interim rule. The percentages are derived by dividing the monthly total number of meals served on one meal type (e.g. free meals) by the monthly total number of meals served in the same month for all meal types (free, reduced price and paid meals). The percentages for the reduced price and paid meal types are calculated exactly as the above example for free meals. These three percentages calculated at the end of each month of the first school year will be multiplied by the corresponding monthly meal count total of all meal types served in the second and third school years in order to calculate the monthly reimbursement claim.

Special Considerations

Schools currently operating under the Special Assistance interim rule published May 18, 1979 (44 FR 29027), may complete their second consecutive school year (for provision 1) or second and third consecutive school years (for provision 2) under the interim requirements, after which the provisions of this final rule will be in effect. For all other schools, the final rule will be effective upon publication.

Eligibility Documentation

As currently required by § 245.10, a School Food Authority must annually submit a Free and Reduced Price Meal Policy Statement. As part of this Special Assistance Certification and Reimbursement Alternatives final rule, the Free and Reduced Price Meal Policy Statement must include a list of all schools participating in either provision 1 or provision 2 and their initial year of implementation. This Statement must also include certification that the school meets the eligibility requirements by demonstrating that at least 80 percent of the school's enrollment is eligible for program benefits required for provision 1, or an agreement to serve all children free meals required for provision 2.

In addition, the School Food Authority, upon request, must make enrollment, participation, or other data available for monitoring purposes. For those schools which do not collect enrollment data, comparable data must be submitted in order to determine the minimum of 80 percent eligibility for program benefits required for provision 1.

Puerto Rico and the Virgin Islands

For Puerto Rico and the Virgin Islands, where a statistical survey procedure in § 245.4 is provided in lieu of eligibility determinations on each child, the School Food Authorities may either maintain their standard procedures or opt for the Special Assistance Certification and Reimbursement Alternatives provisions provided the eligibility requirements are met.

Accordingly, Part 245, Determining Eligibility for Free and Reduced Price Meals and Free milk in Schools, is amended as follows:

(1) In the table of sections, § 245.9 [Reserved] is removed and replaced by "Special Assistance Certification and Reimbursement Alternatives."

§ 245.6 [Amended]

(2) In § 245.6, paragraphs (e) and (f) are revoked.

(3) Section 245.2, Definitions, is amended to add paragraph (j) which reads:

§ 245.2 Definitions.

* * * * *

(j) "Special Assistance Certification and Reimbursement Alternatives" means the two optional alternatives for free and reduced price meal application and claiming procedures in the National School Lunch Program and School Breakfast Program which are available to those School Food Authorities with schools in which at least 80 percent of the enrolled children are eligible for free or reduced price meals, or schools which are currently, or who will be, serving all children free meals.

(4) The newly added § 245.9, Special Assistance Certification and Reimbursement Alternatives, provides as follows:

§ 245.9 Special Assistance Certification and Reimbursement Alternatives.

(a) A School Food Authority of a school having at least 80 percent of its enrolled children determined eligible for free or reduced price meals may, at its option, authorize the school to reduce annual certification and public notification for those children eligible for *free meals* to once every two consecutive school years. This alternative shall be known as provision 1 and the following requirements shall apply:

(1) A School Food Authority of a school operating under provision 1 requirements shall publicly notify in accordance with § 245.5, parents of enrolled children who are receiving free meals once every two consecutive school years, and shall publicly notify in accordance with § 245.5, parents of all other enrolled children on an annual basis.

(2) The 80 percent enrollment eligibility for this alternative shall be based on the school's March enrollment

data of the previous school year, or on other comparable data.

(3) A School Food Authority of a school operating under provision 1, shall count the number of free, reduced price and paid meals served to children in that school as the basis for monthly reimbursement claims.

(b) A School Food Authority of a school which serves all enrolled children in that school free meals may publicly notify and certify children in accordance with § 245.5 for free and reduced price meals for up to three consecutive school years; provided that eligibility determinations shall be in accordance with § 245.3, during the first school year. This alternative shall be known as provision 2 and the following requirements shall apply:

(1) Except for assistance properly made available under Parts 210, 220, 230, 240, and 250 and by other legislation, a School Food Authority of a school operating under provision 2 requirements agrees to pay with funds from other than Federal sources for:

(i) Meals served to children not eligible, as determined by § 245.3, for free or reduced price meals, and

(ii) The differential between the per meal cost and Federal reimbursement received for each free or reduced price meal, respectively, served to children eligible to receive such meals under applicable program regulations.

(2) For the purpose of calculating reimbursement claims in the second and third consecutive school years the monthly meal counts of the actual number of meals served by type—free, reduced price, and paid—shall be converted each month to percentages for each meal type. These percentages shall be derived by dividing the monthly total number of meals served of one meal type (e.g. free meals) by the total number of meals served in the same month for all meal types (free, reduced price and paid meals). The percentages for the reduced price meal and paid meal types shall be calculated exactly as the above example for free meals. These three percentages calculated at the end of each month of the first school year, shall be multiplied by the corresponding monthly meal count total of all meal types served in the second and third consecutive school years in order to calculate reimbursement claims for free, reduced price and paid meals each month.

(c) A School Food Authority shall submit a list of all schools participating in either provision 1 or provision 2 and the intitial year of implementation in their Free and Reduced Price Meal Policy Statement. This Statement shall include certification of meeting the eligibility requirements as set forth in paragraphs (a) or (b) of this section.

(d) The School food Authority upon request shall make documentation including enrollment data, participation data or other data available for monitoring purposes.

(e) A School Food Authority may return to standard notification and application procedures in the following school year if standard procedures better suit the school's program needs.

(f) Puerto Rico and the Virgin Islands, where a statistical survey procedure is permitted in lieu of eligibility determinations for each child, may either maintain their standard procedures in accordance with § 245.4, or may opt for these provisions provided the eligibility requirements as set forth in paragraphs (a) and (b) of this section are met.

(g) Schools currently operating under provision 1 or provision 2 of the Special Assistance interim rule published May 18, 1979 (44 FR 29027), may complete their second or third consecutive school year under the interim requirements, after which, § 245.9 shall be in effect. For all other schools, the final rule shall be effective upon publication.

(Sec. 9, Pub. L. 95-166, 91 Stat. 1336 (42 U.S.C. 1759a))

Dated: October 6, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-31502 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 354

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Plant Protection and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine, U.S. Department of Agriculture, Hyattsville, MD 20782 (301-436-8247).

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 determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, January 5, September 28, December 18, 1979, March 21 and July 11, 1980, (44 FR 1364, 55791, 74791, 45 FR 18367, and 46785) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) the information as shown below:

§ 354.2 Adminstrative instructions prescribing commuted traveltime.

* * * * *

Commuted Traveltime Allowances

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Delete:			
* * * *	* *	*	
Illinois:			
O'Hare International Airport, Chicago	Milwaukee, WI		5
* * * *	* *	*	
Maine:			
Portland	Harpswell		2
Portland	Wiscasset		3
* * * *	* *	*	
Add:			
* * * *	* *	*	
Maine:			
Harpswell	Portland		2
Wiscasset	Portland		3
* * * *	* *	*	
Massachusetts:			
Gloucester	Boston		4
* * * *	* *	*	
Pennsylvania:			
Erie	Mercer		4
Greater Pittsburgh International Airport	Mercer		4
* * * *	* *	*	
Wisconsin:			
Milwaukee	O'Hare International Airport, Chicago, IL.		5
* * * *	* *	*	

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, 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 final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

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

William F. Helms,

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

[FR Doc. 80-31761 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 403

Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring peaches effective with the 1981 crop year. This rule is a revision of the previous regulations for insuring peaches to include several changes and to reissue the regulations in a shorter, clearer, and simpler document which will make the program easier to understand and more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The final impact statement describing options considered in developing this final rule and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Monday, June 30, 1980 (45 FR 43771-43776), prescribing procedures for insuring peaches effective with the 1981 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that the Peach Crop Insurance Regulations (7 CFR Part 403) be revised and reissued effective with the 1981 and succeeding crop years.

It has been determined that revising and reissuing 7 CFR 403 into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition to shortening and simplifying the regulations, the revised 7 CFR Part 403 provides (1) for a change in the premium adjustment table to reduce the premium adjustment factor for unfavorable insuring experience, (2) that any premium not paid by the termination date will be increased by a 9 percent charge, with a 9 percent simple interest charge applying to any unpaid balance at the end of each subsequent 12-month period thereafter, (3) that the contract shall terminate if no premium is earned for 5 consecutive years, and (4) that the sales closing date for all States except Arkansas and South Carolina is changed from January 10 to December 31.

In addition, § 403.5, "Good Faith Reliance on Misrepresentation", of the revised Peach Crop Insurance Regulations increases the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation wherein the Manager of the Corporation (FCIC) is authorized to take action to grant relief.

All previous regulations applicable to insuring peaches as found in 7 CFR Part 403 will not be applicable to the 1981 and succeeding peach crops but will remain in effect for Federal Crop Insurance Corporation peach crop insurance policies issued for the crop years prior to 1981.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and opinions on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be effective starting with the 1981 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where peach crop insurance is available in accordance with the provisions of 7 CFR Part 403.1, which states in part that before insurance is offered in any county, there shall be published by appendix to this

part the names of the counties where such insurance shall be offered.

In compliance with the Secretary's Memorandum No. 1955, and "Improving USDA Regulations" (43 FR 50988), the review of these regulations contained in 7 CFR Part 403 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of May 30, 1985.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Peach Crop Insurance Regulations (7 CFR 403) for the 1981 and succeeding crop years. Such regulations as are contained in 7 CFR 403 and published in the **Federal Register** at 43 FR 56205 (Friday, December 1, 1978), and amended by 44 FR 74792 (Tuesday, December 18, 1979), remaining in effect for FCIC peach policies issued prior to 1981. The Peach Crop Insurance Regulations (7 CFR 403) are hereby revised and reissued and shall remain in effect until amended or superseded for the 1981 and succeeding crop years, to read as follows:

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

403.1 Availability of Peach Insurance.
403.2 Premium rates and levels of insurance.
403.3 Public notice of indemnities paid.
403.4 Creditors.
403.5 Good faith reliance on misrepresentation.
403.6 The contract.
403.7 The application and policy.
Appendix A (Additional Terms and Conditions).
Appendix B Counties Designated for Peach Crop Insurance.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1981 and Succeeding Crops Years

§ 403.1 Availability of Peach Insurance.

Insurance shall be offered under the provisions of this subpart on peaches in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published in Appendix B to this part the names of the counties in which peach insurance will be offered.

§ 403.2 Premium rates and levels of insurance.

(a) The Manager shall establish premium rates and levels of insurance for peaches which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a level of insurance from among those levels shown on the actuarial table for the crop year.

§ 403.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 403.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 403.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the peach insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 403.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the peach crop as provided in the policy. The contract shall consist of the application, the policy, the attached Appendix A, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 403.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the peach crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1979 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a peach contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Peach Insurance Policy for the 1981 and succeeding crop years, and the Appendix A to the Peach Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years Peach Crop Insurance Contract

Contract number _____

Identification number _____

Name, address, and (Zip code) _____

County and State _____

Type of entity _____

Applicant is over 18 Yes No

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the peaches grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the level of insurance. THE PREMIUM RATES AND LEVELS OF INSURANCE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Level of insurance election _____

Example: For the 19 crop year only (100% share)

Location farm No.	Expected production (bushels per acre)	Amount of insurance per acre [1]	Premium per $100 [2]	(A)

[1] Your amount of insurance will be on a unit basis (acres x amount of insurance per acre x share) and will be subject to reduction based on section 4(b) of the policy.

[2] Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following peach insurance policy, the attached Appendix A and the provisions of the county actuarial table showing the levels of insurance, premium rates, uninsurable varieties, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Signature _____

Code No./Witness to Signature of applicant

Date 19

Address of office for county: _____

Phone _____

Location of farm headquarters: _____

Phone _____

Peach Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached Appendix A:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from (1) drought, earthquake, flood, freeze, frost, hail, hurricane, lightning, tornado, and wind occurring within the insurance period, and (2) an insufficient number of hours of chilling temperature to effectively break the dormant period, subject to any exceptions, exclusions, or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) disease or insect infestation, (2) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (3) failure to follow recognized good farming practices, (4) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, (5) split pits and misshapen fruit regardless of the cause, or (6) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be a variety of peaches established as adapted to the area and not shown as uninsurable on the actuarial table, which is located on insured acreage, and for which the actuarial table shows a level of insurance and premium rate.

(b) The acreage insured for each crop year shall be that acreage of peaches shown as insurable on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) on which the trees have not reached the 4th growing season after being set out or (2) having a minimum expected production of less than 100 bushels per acre on the date insurance attaches.

3. *Responsibility of Insured to Report Acreage, Share, and Expected Production.* (a) Not later than January 10 each year, the insured shall submit to the Corporation at the office for the county on a form prescribed by the Corporation a report showing the following: (1) All acreage of peaches (including a designation of any acreage to which insurance does not attach) in which the insured has a share, (2) the insured's share therein, and (3) the expected production per acre from such acreage.

4. *Amount of Insurance Per Acre, Coverage Levels, and Prices for Computing Indemnities.* (a) For each crop year of the contract, the levels of insurance per acre shall be those shown on the actuarial table: *Provided,* That the level of insurance for peaches intended for processing, as determined by the Corporation, shall not exceed the Medium level.

(b) The dollar amount of insurance per acre for each crop year shall be determined as shown in the following Amount of Insurance Table. (1) For the purpose of computing premium, the dollar amount of insurance per acre shall be the amount corresponding with the expected production (as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect) and the applicable level of insurance as shown in Columns A and B. (2) For the purpose of determining any indemnity, where the amount of fruit remaining on the trees at the time of harvest is less than the expected production, the dollar amount of insurance shall be the amount shown in Columns C through H opposite the applicable level of insurance shown in Column B.

Amount of Insurance Table

Dollar amount of insurance per acre based upon expected production and dollar level of insurance per acre at the time insurance attaches		Dollar amount of insurance per acre based upon bushels of fruit remaining on the trees at the time of harvest					
Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H
Expected production (bushels)	Levels of insurance	200 or more	150 to 199	100 to 149	50 to 99	10 to 49	0 to 9
300 or more	High $800	$800	$720	$640	$560	$480	$400
	Med. 600	600	540	480	420	360	300
	Low 400	400	360	320	280	240	200
250–299	High 700	700	630	560	490	420	350
	Med. 525	525	475	420	370	315	265
	Low 350	350	315	280	245	210	175
200–249	High 600	600	540	480	420	360	300
	Med. 450	450	405	360	315	270	225
	Low 300	300	270	240	210	190	150

Amount of Insurance Table

Dollar amount of insurance per acre based upon expected production and dollar level of insurance per acre at the time insurance attaches		Dollar amount of insurance per acre based upon bushels of fruit remaining on the trees at the time of harvest					
Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H
150–199	High 500	500	500	440	375	315	250
	Med. 375	375	375	330	280	225	190
	Low 250	250	250	220	190	155	125
100–149	High 400	400	400	400	335	265	200
	Med. 300	300	300	300	250	200	150
◆	Low 200	200	200	200	165	135	100

(c) The price per bushel for computing indemnities shall be determined by the Corporation as follows: (1) The price for fresh fruit shall be based upon the applicable average FOB shipping point price per ¾ bushel carton of U.S. Extra No. 1 two-inch peaches (if not available, the next larger size for which a price is available) as reported by the Market News Service of the Department of Agriculture for the seven consecutive market days commencing with the day harvest starts for the variety as determined by the Corporation: *Provided,* That such price shall never be less than $4.00 per ¾ bushel carton. (2) The price for peaches which are intended for processing, as determined by the Corporation, shall be the price per bushel received by the insured: *Provided,* That such price shall never be less than $2.00 per bushel.

5. *Annual Premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the amount of insurance per acre (based on the expected production when insurance attaches), times the applicable premium rate, times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned subsequent to the 1978 crop year shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the crop years subsequent to the 1973 crop year will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach each crop year on January 10, and shall cease in the same calendar year upon the earliest of (1) harvest, (2) September 15, or (3) total destruction of the insured peach crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after insured damage to the peaches becomes apparent, giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest. If (1) damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately to the office for the county or (2) if harvest will begin after the calendar date for the end of the insurance period, the insured shall give written notice thereof to the Corporation at the office for the county not later than the calendar date for the end of the insurance period. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(c) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(d) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish that any loss has been directly caused by one or more of the causes insured against during the insurance period for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by subtracting the dollar value of production from the dollar amount of insurance and multiplying the remainder by the insured share. The dollar value of production is obtained by multiplying the total production to be counted by the applicable price for computing indemnities provided in subsection 4(c). The dollar amount of insurance is obtained by multiplying the applicable dollar amount per acre determined in accordance with the provisions of subsections 4 (a) and (b) times the determined acres: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and subject to adjustment for wind and hail damage to fruit, shall include all harvested production and any appraisals made by the Corporation for unharvested production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without prior written consent of the Corporation. The production to be counted shall not be less than the expected production per acre at the time insurance attached for any acreage of peaches which is abandoned, put to another use without prior written consent of the Corporation, not inspected by the Corporation prior to the completion of harvest, or damaged solely by an uninsured cause.

(d) The Corporation reserves the right to delay final appraisal of any damage until the extent of damage can be determined.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form. Transferor and transferee shall be jointly and severally liable for payment of the premium.

11. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all peaches produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State, Cancellation Date, and Termination Date for Indebtedness
All states, November 30 and January 10.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 6 of the Appendix A the contract shall continue in force for each succeeding crop year.

Appendix A (Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of peach crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the levels of insurance, premium rates, uninsurable varieties, insurable and uninsurable acreage, and related information regarding peach insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the peach crop is normally grown and shall be designated by the calendar year in which the peach crop is normally harvested.

(d) "Harvest" means the picking of peaches from the tree or from the ground either by hand or machine for the purpose of marketing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county

shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured peach crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the peach crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of peaches in the county on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peach crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county, or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of peaches to any acreage limitations established under any Act of Congress provided the insured is so notified in writing prior to the time insurance attaches.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage, share, and expected production per acre, or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for And Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured peach acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c), as amended: *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The insured thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Levels of Insurance.* (a) If the insured has not elected on the application a level of insurance from among those shown on the actuarial table, the level of insurance per acre which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the level of insurance for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel contract as provided in section 12 of the policy.

Appendix B—Counties Designated for Peach Crop Insurance—7 CFR Part 403

In accordance with the provisions of 7 CFR Part 403.1, the following counties are designated for peach crop insurance:

Alabama

Chilton

Arkansas

Cross
Johnson
Lee
St. Francis

Georgia

Houston
Peach
Upson

South Carolina

Aiken
Allendale
Barnwell
Chesterfield
Edgefield
Greenville
Lexington
Spartanburg
York

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

This action will not have a significant impact specifically on area and community

development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on May 30, 1980.

Doris H. Gips,

Assistant Secretary, Federal Crop Insurance Corporation.

Dated: September 30, 1980.

Approved by:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-31446 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

7 CFR Part 726

[Amdt. 14]

Burley Tobacco Quota Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule (1) defines the phrase "tobacco in the form not normally marketed by producers", (2) expands the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season, (3) strengthens the reporting requirements and expands the inspection requirements for tobacco purchased by dealers and warehousemen from processors or manufacturers, (4) requires dealers to report their gross receipts for each lot of tobacco purchased and resold, (5) requires dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers, (6) provides for producers to report their estimated planted acreage of burley tobacco.

EFFECTIVE DATE: October 9, 1980.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, Agricultural Stabilization and Conservtion Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7935. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". On August 22, 1980, the proposed rule was published in the **Federal Register** (45 FR 56067). The public was given 30 days to comment on the proposal. The Department received from the public six comments. Since dealers, warehousemen, and producers are making preparations for the beginning of the 1980–81 marketing season they need to know now the changes provided in this rule. It is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553, and Executive Order 12044 is impractical and contrary to the public interest.

Discussion of Comments

1. Define the phrase "tobacco in the form not normally marketed by producers". Five commenters supported the proposed definition of tobacco in the form not normally marketed by producers. No specific reason for favoring the proposal was given by the respondents. One commenter opposed the definition on the grounds that the program is working very well under present guidelines.

2. Expand the inspection requirements for dealer carryover tobacco and warehouse tobacco on hand at the end of the marketing season. Five commenters supported the proposed change. No specific reason was given for favoring the proposal. One commenter opposed the change on the grounds that the program is working very well under present guidelines.

3. Strengthen the reporting requirements and expand the inspection requirements for tobacco purchased by dealers and warehousemen from processors and manufacturers. Five commenters supported the proposed change. No specific reason was given by the respondents. One commenter opposed the change on the grounds that the program is working very well under present guidelines.

4. Require dealers to report their gross receipts for each lot of tobacco purchased and resold. Five commenters supported the proposed change. No specific reason was given by the respondents.

One commenter opposed the change on the grounds that the program is working very well under present guidelines.

5. Require dealers, warehousemen, or other persons to maintain a separate accounting on Form MQ–79 for tobacco purchased from processors or manufacturers in the form not normally marketed by producers. Five commenters supported the proposed change. No specific reason was given by the respondents.

One commenter opposed the change on the grounds that the program is working very well under present guidelines.

6. Provide for producers to report their estimated planted acreage of burley tobacco. Five commenters supported the proposed change. No specific reason was given. One commenter opposed the change on the grounds that the program is working very well under present guidelines. The basic purpose of the proposed changes is to prevent dealers and warehousemen from substituting low quality, low price tobacco for good quality "excess" producer tobacco (tobacco produced in excess of 110 percent of a farm's marketing quota) to avoid the payment of marketing quota penalties. Current rules do not provide for adequate inspection by ASCS representatives of warehouse and dealer tobacco on hand at the end of the marketing season. Asking burley tobacco growers to supply an estimate of their planted acreage will provide county ASC committees a needed management tool that will strengthen the administration of the burley tobacco program and insure that a marketing card is issued for eligible farms only.

After giving careful consideration to all comments received the proposed rule is hereby adopted without change.

Final Rule

Accordingly, 7 CFR Part 726 is amended to read as follows:

1. In § 726.51, paragraphs (nn), (oo), and (pp) are redesignated paragraphs (oo), (pp), and (qq) respectively, a new paragraph (nn) is added to read as follows:

§ 726.51 Definitions.

* * * * *

(nn) *Tobacco in form not normally marketed by producers.* Tobacco leaves, stems, strips, scrap or parts thereof that are the result of green tobacco having been redried, green prized, stemmed, tipped, threshed or otherwise processed.

(oo) *Trucker.* A person who trucks or otherwise hauls tobacco for a producer, or any other person.

(pp) *Undermarketings (1) Actual.* The pounds by which the effective farm marketing quota is more than the pounds marketed.

(2) *Effective.* The smaller of actual undermarketings or the sum of the previous year's farm marketing quota plus pounds leased to the farm for the previous year.

(qq) *Warehouseman.* A person who engages in the business of holding sales or tobacco of public auction.

2. In § 726.81, paragraph (a), is amended by revising the first sentence to read as follows:

§ 726.81 Issuance of marketing cards.

(a) *General.* (1) A marketing card (MQ–76) shall be issued for the current marketing year for each farm having tobacco available for marketing. The operator or producer's estimated planted acreage as reported on MQ–38 shall be considered in determining whether or not tobacco is available for marketing. * * *

* * * * *

3. Section 726.93 is amended by adding a new paragraph (g)(17) to read as follows:

§ 726.93 Warehouseman's records and reports.

* * * * *

(g) * * *

(17) Before the next marketing season begins, carryover tobacco reported by the warehouseman as provided in paragraph (g)(16) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouseman shall provide for the reweighing of such tobacco which shall be witnessed by an ASCS representative. The warehouseman shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in paragraph (g)(16) of this section shall be used for the purpose of determining the amount of penalty, if penalty is due. Penalty will be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover.

4. In § 726.94, paragraph (a) is revised; paragraph (c) is amended by adding a new subparagraph (6); paragraphs (e) (1) and (2) are revised; and new paragraphs (e)(3) and (h) are added to read as follows:

§ 726.94 Dealer's records and reports.

* * * * *

(a) *Record of marketing.* Each dealer shall keep such records as will enable the dealer to furnish the State ASCS office for each lot of tobacco purchased by the dealer the following information:

(1)(i) The name of the warehouse through which the tobacco was purchased if the tobacco was purchased by the dealer at a warehouse sale, (ii) the name of the operator of the farm on which the tobacco was produced and the name of the seller if the tobacco was purchased by the dealer at a nonauction sale, including the records and reports for farm scrap tobacco, and (iii) the name of the seller if the tobacco was purchased by the dealer at a nonauction sale from warehousemen or other dealers.

(2) Date of purchase.

(3) Number of pounds purchased.

(4) Gross purchase price.

(5) Amount of any penalty and the amount of any deduction on account of penalty from the price paid the producer, and as to each lot of tobacco sold by the dealer the following information:

(i) Name of the warehouse through which the tobacco was sold if the tobacco was sold at a warehouse sale, and the name of the purchaser if the tobacco was sold at other than an auction warehouse sale.

(ii) Date of sale.

(iii) Number of pounds sold.

(iv) If tobacco bought by the dealer and carried over from a crop which was produced before the current crop is resold, the fact that such tobacco was bought and carried over.

* * * * *

(c) *Record and report of purchases and resales.* * * *

(6) Before the next marketing season begins, carryover tobacco reported by the dealer as provided in paragraph (c)(4) of this section shall be reinspected by a representative of ASCS. When the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the dealer shall provide for the weighing of such tobacco which shall be witnessed by an ASCS representative. The dealer shall furnish to ASCS at the time of weighing a certification as to the actual weight of such tobacco. If ASCS determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided in paragraph (c)(4) of this section shall be used for the purpose of determining penalty, if penalty is due. Penalty shall be assessed, after the initial certification and reconciliation, when the redetermined pounds exceed the amount determined by taking the initial pounds of carryover tobacco plus purchases, minus resales. The redetermined pounds shall be the official pounds to be credited to the account as carryover.

* * * * *

(e) *Damaged tobacco or tobacco purchased from processor or manufacturer.* (1) Damaged tobacco. Any dealer, warehouseman, or other person who plans to purchase tobacco that was damaged by fire, water, or any other cause shall prior to purchase report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of such damaged tobacco, and so that the weighing and removal of such tobacco can be witnessed by an ASCS representative. Any damaged tobacco purchased by the dealer before such plans are reported to the State ASCS office and before such tobacco is inspected by an ASCS representative shall be deemed excess tobacco and penalty at the full rate shall be due.

(2) Purchase from processor or manufacturer. Any dealer, warehouseman, or other person who plans to purchase tobacco from a processor or manufacturer shall prior to purchase, report such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so that an ASCS representative can determine the marketable value of the tobacco, and whether the tobacco is in the form normally marketed by producers. The weighing and removal of the tobacco shall be witnessed by an ASCS representative. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative shall be deemed to be excess tobacco and penalty at the full rate shall be due.

(3) Any dealer, warehouseman, or other person who purchases tobacco from processors or manufacturers which is determined by an ASCS representative to be in the form not normally marketed by producers shall, before such tobacco is disposed of or blended with other tobacco in the form normally marketed by producers, report

such plans to the State ASCS office issuing Form MQ–79, Dealer Record Book. Such report shall be timely made so as to allow an ASCS representative to witness the disposition of or the blending of such tobacco. Any such tobacco purchased by a dealer, warehouseman, or other person and marketed, disposed of by any means, or blended with other tobacco before the State ASCS office has been timely notified, shall be deemed to have been substituted for excess tobacco, and penalty at the full rate shall be due on each pound of tobacco.

* * * * *

(h) *Reporting of tobacco in the form not normally marketed by producers.* Any dealer, warehouseman, or any other person who purchases tobacco from processors or manufacturers under conditions provided in § 726.94(e)(3) shall maintain on a separate Form MQ–79 a record of all such purchases and resales.

5. In § 726.104 paragraph (b) is amended to read as follows:

§ 726.104 Determination of use of DDT, TDE, toxaphene, or endrin.

* * * * *

(b) *Producer's report.* The operator, or any producer, on each farm producing burley tobacco shall file a report on MQ–38 (Burley) showing the estimated acres of tobacco planted and whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested. If the operator refuses to file a report on MQ–38 (Burley) showing whether or not toxaphene, endrin, DDT, or TDE was used on the tobacco in the field or after being harvested, all burley tobacco produced on each farm shall be considered by the county committee to have been treated with such a pesticide.

(Secs. 301, 312, 313, 314, 316, 318, 319, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 80 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 85 Stat. 23; (7 U.S.C. 1301, 1312, 1313, 1314, 1314b, 1314d, 1314e, 1363, 1372–1375, 1377, 1378), Pub. L. 92–10, unless otherwise noted).

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

John W. Goodwin,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80–31682 Filed 10–19–80; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 274]

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 October 12–18, 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: October 12, 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 1980–81 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 8, 1980. 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 October 7, 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.

Section 910.574 is added as follows:

§ 910.574 Lemon Regulation 274.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 12, 1980, through October 18, 1980, is established at 200,000 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: October 8, 1980

D. S. Kuryloski,

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

[FR Doc. 80–31996 Filed 10–9–80; 12:22 pm]

BILLING CODE 3410–02–M

7 CFR Part 966

Tomatoes Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container and marking requirements. This will promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: October 12, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter (202) 447–2615.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

This action is consistent with the marketing policy for 1980–81 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 September 5, 1980. A Final Impact Analysis on the marketing policy is available from Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–2615.

During the period October 12 through November 30, 1980, this regulation, designed to provide orderly marketing of Florida tomatoes, imposes a minimum grade of U.S. No. 3, a minimum size of 2 3/32 inches in diameter and requires inspection of fresh shipments. The establishment of such requirements under Marketing Order No. 966 is necessary to keep undesirable tomatoes from being shipped to consumers.

Findings: (1) Pursuant to Order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Flordia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other available information, it is hereby found that the handling regulation, hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) The regulation imposes minimum grade, size, pack, container and marking requirements on the handling of tomatoes. The regulation is based upon an appraisal of the crop and prospective market conditions as required in § 966.50 of the order. This regulation is necessary to prevent the handling of any tomatoes of lower grades or smaller sizes than those specified in the regulation, and to provide the trade and consumers with tomatoes of acceptable quality pursuant to the declared policy of the act.

(3) It is hereby further fund that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the **Federal Register** (5 U.S.C. 553) because shipments of tomatoes from the production area are expected to begin on or about the effective date hereof. The recommendation and supporting information for regulation were submitted to the Department after an open meeting of the Florida Tomato Committee; said meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting; and handlers registered under the order as required in § 966.113 have been informed of the proposal. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the regulation of the handling of such tomatoes, and 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 date of the regulation.

7 CFR Part 966 is amended by adding a new § 966.319 as follows:

§ 966.319 Handling regulation.

During the period October 12, 1980, through November 30, 1980, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) of this section or are exempted by paragraphs (b) or (d) of this section.

(a) *Grade, size, container and inspection requirements.*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more then one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2 3/32 inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in § 2851.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size classification	Inches	
	Minimum diameter	Maximum diameter
7 x 7	2 3/32	2 9/32
6 x 7	2 7/32	2 17/32
6 x 6	2 15/32	2 28/32
5 x 6 and larger	2 26/32	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2 15/32 inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6 x 6 & Lgr. or 5 x 6 & Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in pargraph (b) of this section.

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

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of

any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regards to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) of this section which are resorted, regraded and repacked by a handler who has been designated as a "certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1) of this section, (ii) the size classifications of paragraph (a)(2) of this section except that the tomatoes shall be at least 2$^{6}/_{32}$ inches in diameter and (iii) the container weight requirements of paragrpah (a)(3) of this section.

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855–2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amend, and this part and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and Section 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{6}/_{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

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

Dated October 6, 1980, to become effective October 12, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-31671 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980—Crop Corn Supplement]

1980—Crop Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1980-crop corn. This rule will enable eligible corn producers to obtain loans and purchases on their eligible 1980-crop corn.

EFFECTIVE DATE: October 9, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447–7923. With respect to the availability of an impact analysis, the increases in the basis county loan and purchase rates announced by this final rule were considered under the provisions of the "Notice of Determinations of the 1980 Crop Normal Crop Acreages (NCA), Established 'Target Prices,' Loan and Purchase Rates for Feed Grains, Soybeans, Wheat, and Rice, and Loan Rates for Upland and ELS Cotton" published in the **Federal Register** (45 FR 53501) on August 12, 1980, and specifically considered in the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Bruce R. Weber, Agricultural Program Specialist, Production Adjustment Division, ASCS–USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6688.

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." Also for "Improving USDA Regulations" (43 FR 50988), initiation of review of the regulations contained in 7 CFR 1421.111–.115 for need, accuracy, clarity, and effectiveness will be made within the next five years. The next review will take into consideration problems, issues, etc., which are experienced in program administration during the intervening period.

On July 28, 1980, The President announced that the 1980 loan and purchase rate for corn was being increased to $2.25 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). The announcement of this action by the Secretary had to be made immediately so that farmers could indicate their 1980 program participation. Therefore, it was and remains impractical and contrary to the public interest to comply with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044. Thus, this final rule shall become effective upon filing with the Director, Office of the Federal Register.

This rule announces the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $2.25 per bushel for the 1980 crop of corn, published in the **Federal Register** on August 12, 1980 (45 FR 53501), effective August 7, 1980.

Producers who wish to secure loans can do so by contacting their local ASCS county office or Agricultural Service Center.

The program title and number from the "Catalog of Federal Domestic Assistance" is Commodity Loan and Purchases, 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops and any amendments thereto, and the 1978 and Subsequent Crops Corn Loan and Purchase Regulations and any amendments thereto in this Part 1421 are further supplemented for the 1980 crop of corn. Accordingly, the regulations in 7

CFR 1421.111 through 1421.115 and the title of the subpart are revised to read as provided below effective as to the 1980 crop of corn. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

PART 1421—GRAINS AND OTHER SIMILARLY HANDLED COMMODITIES

Subpart—1980-Crop Corn Loan and Purchase Program

Sec.

1421.111 Purpose.
1421.112 Availability.
1421.113 Maturity of loans.
1421.114 Warehouse charges.
1421.115 Loan and purchase rates and premiums and discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

Subpart—1980-Crop Corn Loan and Purchase Program

§ 1421.111 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crop Corn Loan and Purchase Program regulations and any amendments thereto, apply to loans on and purchases of the 1980 crop of corn.

§ 1421.112 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1980 crop of eligible corn on or before May 31, 1981.

(b) *Purchases.* A producer desiring to offer eligible 1980-crop corn not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1981, a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1980—crop corn not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1981, a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1980-crop corn the producer will sell to CCC.

§ 1421.113 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.114 Warehouse charges.

If storage is not provided for through loan maturity, the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.115 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rates (counties). Basic rates per bushel for loan and settlementpurposes for corn are established for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture are as follows:

1980—Crop Corn Loan and Purchase Rates

County	Rate per bushel
Alabama:	
All counties	$2.41
Arizona:	
All counties	2.46
Arkansas:	
All counties	2.37
California:	
All counties	2.46
Colorado:	
Baca	2.29
Cheyenne	2.28
Kiowa	2.28
Kit Carson	2.28
Lincoln	2.31
Logan	2.30
Phillips	2.28
Prowers	2.28
Sedgwick	2.28
Washington	2.30
Yuma	2.27
All other counties	2.32
Wght. State avg	2.29
Connecticut:	
All counties	2.50
Delaware:	
All counties	2.44
Florida:	
All counties	2.42
Georgia:	
All counties	2.42
Idaho:	
All counties	2.43
Illinois:	
Adams	2.30
Alexander	2.34
Bond	2.32
Boone	2.30
Brown	2.31
Bureau	2.30
Calhoun	2.32
Carroll	2.28
Cass	2.31
Champaign	2.29
Christian	2.31
Clark	2.29
Clay	2.30
Clinton	2.33
Coles	2.29
Cook	2.34
Crawford	2.29
Cumberland	2.29
De Kalb	2.30
De Witt	2.29
Douglas	2.29
DuPage	2.33
Edgar	2.29
Edwards	2.31
Effingham	2.30
Fayette	2.31
Ford	2.30
Franklin	2.32
Fulton	2.31
Gallatin	2.32
Greene	2.32
Grundy	2.31
Hamilton	2.31
Hancock	2.30
Hardin	2.33
Henderson	2.30
Henry	2.30
Iroquois	2.30
Jackson	2.33
Jasper	2.29
Jefferson	2.33

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Jersey	$2.32
Jo Daviess	2.27
Johnson	2.33
Kane	2.32
Kankakee	2.31
Kendall	2.31
Knox	2.31
Lake	2.33
LaSalle	2.30
Lawrence	2.30
Lee	2.30
Livingston	2.30
Logan	2.30
McDonough	2.31
McHenry	2.32
McLean	2.29
Macon	2.30
Macoupin	2.32
Madison	2.34
Marion	2.31
Marshall	2.30
Mason	2.31
Massac	2.34
Menard	2.30
Mercer	2.29
Monroe	2.35
Montgomery	2.31
Morgan	2.31
Moultrie	2.29
Ogle	2.29
Peoria	2.31
Perry	2.34
Piatt	2.29
Pike	2.31
Pope	2.33
Pulaski	2.34
Putnam	2.30
Randolph	2.34
Richland	2.30
Rock Island	2.29
St. Clair	2.35
Saline	2.32
Sangamon	2.30
Schuyler	2.31
Scott	2.31
Shelby	2.30
Stark	2.31
Stephenson	2.27
Tazewell	2.30
Union	2.33
Vermilion	2.29
Wabash	2.31
Warren	2.31
Washington	2.35
Wayne	2.31
White	2.31
Whiteside	2.29
Will	2.33
Williamson	2.32
Winnebago	2.28
Woodford	2.30
Wght. State avg	2.30
Indiana:	
Adams	2.28
Allen	2.28
Bartholomew	2.29
Benton	2.30
Blackford	2.27
Boone	2.25
Brown	2.29
Carroll	2.28
Cass	2.30
Clark	2.32
Clay	2.27
Clinton	2.26
Crawford	2.32
Daviess	2.31
Dearborn	2.32
Decatur	2.29
De Kalb	2.28
Delaware	2.26
Dubois	2.31
Elkhart	2.30
Fayette	2.28
Floyd	2.32
Fountain	2.27
Franklin	2.31
Fulton	2.30
Gibson	2.32
Grant	2.27
Greene	2.29

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Hamilton	$2.25
Hancock	2.26
Harrison	2.32
Hendricks	2.26
Henry	2.26
Howard	2.28
Huntington	2.27
Jackson	2.31
Jasper	2.31
Jay	2.28
Jefferson	2.32
Jennings	2.31
Johnson	2.27
Knox	2.31
Kosciusko	2.30
Lagrange	2.28
Lake	2.33
La Porte	2.33
Lawrence	2.31
Madison	2.25
Marion	2.26
Marshall	2.31
Martin	2.31
Miami	2.28
Monroe	2.29
Montgomery	2.27
Morgan	2.27
Newton	2.31
Noble	2.28
Ohio	2.32
Orange	2.31
Owen	2.27
Parke	2.27
Perry	2.32
Pike	2.31
Porter	2.33
Posey	2.32
Pulaski	2.31
Putnam	2.26
Randolph	2.27
Ripley	2.31
Rush	2.27
St. Joseph	2.31
Scott	2.32
Shelby	2.27
Spencer	2.32
Starke	2.31
Steuben	2.28
Sullivan	2.29
Switzerland	2.32
Tippecanoe	2.28
Tipton	2.26
Union	2.29
Vanderburgh	2.32
Vermillion	2.28
Vigo	2.28
Wabash	2.28
Warren	2.28
Warrick	2.32
Washington	2.32
Wayne	2.27
Wells	2.27
White	2.30
Whitley	2.28
Wght. State avg	2.29
Iowa:	
Adair	2.23
Adams	2.26
Allamakee	2.21
Appanoose	2.26
Audubon	2.23
Benton	2.24
Black Hawk	2.24
Boone	2.22
Bremer	2.23
Buchanan	2.24
Buena Vista	2.19
Butler	2.22
Calhoun	2.20
Carroll	2.23
Cass	2.24
Cedar	2.27
Cerro Gordo	2.21
Cherokee	2.19
Chickasaw	2.22
Clarke	2.25
Clay	2.17
Clayton	2.23
Clinton	2.27
Crawford	2.24
Dallas	2.22
Davis	$2.27
Decatur	2.27
Delaware	2.24
Des Moines	2.27
Dickinson	2.15
Dubuque	2.25
Emmet	2.15
Fayette	2.23
Floyd	2.22
Franklin	2.21
Fremont	2.27
Greene	2.21
Grundy	2.23
Guthrie	2.22
Hamilton	2.21
Hancock	2.20
Hardin	2.23
Harrison	2.25
Henry	2.27
Howard	2.20
Humboldt	2.18
Ida	2.21
Iowa	2.25
Jackson	2.26
Jasper	2.24
Jefferson	2.26
Johnson	2.26
Jones	2.25
Keokuk	2.26
Kossuth	2.17
Lee	2.27
Linn	2.24
Louisa	2.27
Lucas	2.25
Lyon	2.16
Madison	2.23
Mahaska	2.25
Marion	2.24
Marshall	2.24
Mills	2.26
Mitchell	2.20
Monona	2.24
Monroe	2.25
Montgomery	2.26
Muscatine	2.27
O'Brien	2.18
Osceola	2.16
Page	2.28
Palo Alto	2.16
Plymouth	2.20
Pocahontas	2.19
Polk	2.23
Pottawattamie	2.26
Poweshiek	2.24
Ringgold	2.28
Sac	2.21
Scott	2.27
Shelby	2.25
Sioux	2.18
Story	2.24
Tama	2.24
Taylor	2.28
Union	2.26
Van Buren	2.27
Wapello	2.26
Warren	2.24
Washington	2.26
Wayne	2.26
Webster	2.20
Winnebago	2.19
Winneshiek	2.21
Woodbury	2.22
Worth	2.20
Wright	2.20
Wght. State avg	2.22
Kansas:	
Allen	2.32
Anderson	2.33
Atchison	2.34
Barber	2.26
Barton	2.24
Bourbon	2.34
Brown	2.32
Butler	2.28
Chase	2.28
Chautauqua	2.28
Cherokee	2.34
Cheyenne	2.22
Clark	2.26
Clay	2.26
Cloud	2.26
Coffey	$2.31
Comanche	2.26
Cowley	2.27
Crawford	2.34
Decatur	2.24
Dickinson	2.26
Doniphan	2.32
Douglas	2.34
Edwards	2.25
Elk	2.28
Ellis	2.24
Ellsworth	2.25
Finney	2.25
Ford	2.26
Franklin	2.33
Geary	2.28
Gove	2.23
Graham	2.23
Grant	2.26
Gray	2.26
Greeley	2.24
Greenwood	2.29
Hamilton	2.25
Harper	2.26
Harvey	2.26
Haskell	2.26
Hodgeman	2.25
Jackson	2.32
Jefferson	2.34
Jewell	2.25
Johnson	2.35
Kearny	2.25
Kingman	2.26
Kiowa	2.25
Labette	2.30
Lane	2.24
Leavenworth	2.35
Lincoln	2.25
Linn	2.34
Logan	2.23
Lyon	2.30
McPherson	2.26
Marion	2.26
Marshall	2.30
Meade	2.27
Miami	2.34
Mitchell	2.25
Montgomery	2.29
Morris	2.28
Morton	2.27
Nemaha	2.31
Neosho	2.32
Ness	2.24
Norton	2.25
Osage	2.31
Osborne	2.24
Ottawa	2.26
Pawnee	2.25
Phillips	2.25
Pottawatomie	2.31
Pratt	2.25
Rawlins	2.23
Reno	2.25
Republic	2.27
Rice	2.25
Riley	2.30
Rooks	2.24
Rush	2.24
Russell	2.24
Saline	2.26
Scott	2.24
Sedgwick	2.27
Seward	2.27
Shawnee	2.32
Sheridan	2.23
Sherman	2.23
Smith	2.25
Stafford	2.25
Stanton	2.26
Stevens	2.27
Sumner	2.27
Thomas	2.23
Trego	2.23
Wabaunsee	2.30
Wallace	2.23
Washington	2.29
Wichita	2.24
Wilson	2.30
Woodson	2.31
Wyandotte	2.35
Wght. State avg	2.26

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Kentucky:	
Ballard	$2.35
Boone	2.34
Bracken	2.36
Breckinridge	2.35
Bullitt	2.36
Campbell	2.34
Carroll	2.35
Crittenden	2.35
Daviess	2.35
Gallatin	2.35
Hancock	2.35
Henderson	2.35
Jefferson	2.35
Kenton	2.34
Lewis	2.36
Livingston	2.35
McCracken	2.35
Mason	2.36
Meade	2.35
Oldham	2.35
Trimble	2.35
Union	2.35
All other counties	2.37
Wght. State avg	2.36
Louisiana:	
All counties	2.40
Maine:	
All counties	2.50
Maryland:	
All counties	2.44
Massachusetts:	
All counties	2.50
Michigan:	
Alcona	2.26
Alger	2.24
Allegan	2.26
Alpena	2.26
Antrim	2.26
Arenac	2.25
Baraga	2.24
Barry	2.25
Bay	2.24
Benzie	2.26
Berrien	2.31
Branch	2.28
Calhoun	2.26
Cass	2.29
Charlevoix	2.26
Cheboygan	2.26
Chippewa	2.24
Clare	2.24
Clinton	2.25
Crawford	2.26
Delta	2.24
Dickinson	2.24
Eaton	2.26
Emmet	2.26
Genesee	2.26
Gladwin	2.24
Gogebic	2.24
Grand Traverse	2.26
Gratiot	2.23
Hillsdale	2.29
Houghton	2.24
Huron	2.24
Ingham	2.26
Ionia	2.25
Iosco	2.25
Iron	2.24
Isabella	2.23
Jackson	2.27
Kalamazoo	2.27
Kalkaska	2.26
Kent	2.24
Keweenaw	2.24
Lake	2.25
Lapeer	2.26
Leelanau	2.26
Lenawee	2.30
Livingston	2.27
Luce	2.24
Mackinac	2.24
Macomb	2.27
Manistee	2.25
Marquette	2.24
Mason	2.25
Mecosta	2.23
Menominee	2.24
Midland	2.23
Missaukee	2.25
Monroe	$2.31
Montcalm	2.23
Montmorency	2.26
Muskegon	2.25
Newaygo	2.24
Oakland	2.27
Oceana	2.25
Ogemaw	2.25
Ontonagon	2.24
Osceola	2.24
Oscoda	2.26
Otsego	2.26
Ottawa	2.25
Presque Isle	2.26
Roscommon	2.25
Saginaw	2.23
St. Clair	2.26
St. Joseph	2.28
Sanilac	2.24
Schoolcraft	2.24
Shiawassee	2.25
Tuscola	2.23
Van Buren	2.27
Washtenaw	2.28
Wayne	2.29
Wexford	2.25
Wght. State avg	2.26
Minnesota:	
Aitkin	2.17
Anoka	2.17
Becker	2.15
Beltrami	2.15
Benton	2.17
Big Stone	2.12
Blue Earth	2.16
Brown	2.15
Carlton	2.17
Carver	2.17
Cass	2.15
Chippewa	2.15
Chisago	2.17
Clay	2.15
Clearwater	2.15
Cook	2.17
Cottonwood	2.13
Crow Wing	2.16
Dakota	2.17
Dodge	2.17
Douglas	2.16
Faribault	2.15
Fillmore	2.19
Freeborn	2.16
Goodhue	2.17
Grant	2.15
Hennepin	2.17
Houston	2.19
Hubbard	2.15
Isanti	2.17
Itasca	2.17
Jackson	2.14
Kanabec	2.17
Kandiyohi	2.16
Kittson	2.15
Koochiching	2.17
Lac Qui Parle	2.12
Lake	2.17
Lake of the Woods	2.15
Le Sueur	2.17
Lincoln	2.11
Lyon	2.12
McLeod	2.17
Mahnomen	2.15
Marshall	2.15
Martin	2.14
Meeker	2.17
Mille Lacs	2.17
Morrison	2.16
Mower	2.18
Murray	2.13
Nicollet	2.16
Nobles	2.14
Norman	2.15
Olmsted	2.18
Otter Tail	2.15
Pennington	2.15
Pine	2.17
Pipestone	2.13
Polk	2.15
Pope	2.15
Ramsey	2.17
Red Lake	2.15
Redwood	$2.14
Renville	2.16
Rice	2.17
Rock	2.14
Roseau	2.15
St. Louis	2.17
Scott	2.17
Sherburne	2.17
Sibley	2.17
Stearns	2.16
Steele	2.16
Stevens	2.14
Swift	2.14
Todd	2.16
Traverse	2.12
Wabasha	2.17
Wadena	2.16
Waseca	2.16
Washington	2.17
Watonwan	2.14
Wilkin	2.14
Winona	2.18
Wright	2.17
Yellow Medicine	2.13
Wght. State avg	2.16
Mississippi:	
All counties	2.40
Missouri:	
Adair	2.29
Andrew	2.33
Atchison	2.30
Audrain	2.31
Barry	2.36
Barton	2.32
Bates	2.33
Benton	2.31
Bollinger	2.33
Boone	2.30
Buchanan	2.34
Butler	2.34
Caldwell	2.34
Callaway	2.31
Camden	2.32
Cape Girardeau	2.33
Carroll	2.33
Carter	2.34
Cass	2.34
Cedar	2.33
Chariton	2.32
Christian	2.36
Clark	2.28
Clay	2.34
Clinton	2.34
Cole	2.31
Cooper	2.29
Crawford	2.33
Dade	2.33
Dallas	2.34
Daviess	2.32
De Kalb	2.32
Dent	2.34
Douglas	2.36
Dunklin	2.34
Franklin	2.33
Gasconade	2.31
Gentry	2.30
Greene	2.34
Grundy	2.31
Harrison	2.30
Henry	2.32
Hickory	2.32
Holt	2.31
Howard	2.30
Howell	2.36
Iron	2.33
Jackson	2.34
Jasper	2.33
Jefferson	2.34
Johnson	2.34
Knox	2.29
Laclede	2.34
Lafayette	2.34
Lawrence	2.34
Lewis	2.29
Lincoln	2.32
Linn	2.31
Livingston	2.33
McDonald	2.35
Macon	2.30
Madison	2.33
Maries	2.32

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Marion	$2.29
Mercer	2.29
Miller	2.32
Mississippi	2.34
Moniteau	2.31
Monroe	2.30
Montgomery	2.31
Morgan	2.31
New Madrid	2.34
Newton	2.34
Nodaway	2.31
Oregon	2.36
Osage	2.31
Ozark	2.38
Pemiscot	2.34
Perry	2.33
Pettis	2.30
Phelps	2.34
Pike	2.31
Platte	2.34
Polk	2.34
Pulaski	2.34
Putnam	2.28
Ralls	2.30
Randolph	2.30
Ray	2.34
Reynolds	2.34
Ripley	2.34
St. Charles	2.32
St. Clair	2.32
St. Francois	2.33
Ste. Genevieve	2.33
St. Louis	2.34
Saline	2.32
Schuyler	2.29
Scotland	2.28
Scott	2.34
Shannon	2.36
Shelby	2.29
Stoddard	2.34
Stone	2.36
Sullivan	2.30
Taney	2.38
Texas	2.36
Vernon	2.32
Warren	2.32
Washington	2.33
Wayne	2.34
Webster	2.36
Worth	2.30
Wright	2.36
Wght. State avg	2.32
Montana:	
All counties	2.34
Nebraska:	
Adams	2.22
Antelope	2.22
Arthur	2.22
Banner	2.27
Blaine	2.18
Boone	2.22
Box Butte	2.25
Boyd	2.19
Brown	2.18
Buffalo	2.19
Burt	2.26
Butler	2.25
Cass	2.26
Cedar	2.20
Chase	2.21
Cherry	2.20
Cheyenne	2.25
Clay	2.24
Colfax	2.25
Cuming	2.24
Custer	2.18
Dakota	2.20
Dawes	2.25
Dawson	2.18
Deuel	2.25
Dixon	2.20
Dodge	2.25
Douglas	2.27
Dundy	2.20
Fillmore	2.25
Franklin	2.22
Frontier	2.20
Furnas	2.21
Gage	2.26
Garden	2.23
Garfield	2.19
Gosper	$2.20
Grant	2.22
Greeley	2.21
Hall	2.21
Hamilton	2.21
Harlan	2.22
Hayes	2.20
Hitchcock	2.20
Holt	2.19
Hooker	2.20
Howard	2.21
Jefferson	2.27
Johnson	2.28
Kearney	2.21
Keith	2.23
Keya Paha	2.18
Kimball	2.27
Knox	2.20
Lancaster	2.26
Lincoln	2.20
Logan	2.19
Loup	2.18
McPherson	2.20
Madison	2.22
Merrick	2.21
Morrill	2.27
Nance	2.22
Nemaha	2.28
Nuckolls	2.24
Otoe	2.27
Pawnee	2.29
Perkins	2.22
Phelps	2.21
Pierce	2.22
Platte	2.23
Polk	2.23
Red Willow	2.20
Richardson	2.30
Rock	2.18
Saline	2.26
Sarpy	2.25
Saunders	2.25
Scotts Bluff	2.27
Seward	2.25
Sheridan	2.23
Sherman	2.19
Sioux	2.27
Stanton	2.24
Thayer	2.25
Thomas	2.19
Thurston	2.24
Valley	2.19
Washington	2.27
Wayne	2.22
Webster	2.22
Wheeler	2.21
York	2.23
Wght. State avg	2.22
Nevada:	
All counties	2.47
New Hampshire:	
All counties	2.50
New Jersey:	
All counties	2.46
New Mexico:	
Curry	2.36
Harding	2.36
Lea	2.36
Quay	2.36
Roosevelt	2.36
Union	2.36
All Other Counties	2.43
Wght. State avg	2.38
New York:	
All counties	2.45
North Carolina:	
All counties	2.43
North Dakota:	
All counties	2.18
Ohio:	
Adams	2.33
Allen	2.30
Ashland	2.33
Ashtabula	2.40
Athens	2.36
Auglaize	2.29
Belmont	2.38
Brown	2.33
Butler	2.30
Carroll	2.37
Champaign	2.29
Clark	$2.29
Clermont	2.32
Clinton	2.31
Columbiana	2.40
Coshocton	2.34
Crawford	2.31
Cuyahoga	2.36
Darke	2.28
Defiance	2.29
Delaware	2.30
Erie	2.32
Fairfield	2.32
Fayette	2.30
Franklin	2.29
Fulton	2.31
Gallia	2.34
Geauga	2.38
Greene	2.29
Guernsey	2.36
Hamilton	2.31
Hancock	2.31
Hardin	2.30
Harrison	2.38
Henry	2.31
Highland	2.31
Hocking	2.33
Holmes	2.34
Huron	2.32
Jackson	2.33
Jefferson	2.39
Knox	2.31
Lake	2.38
Lawrence	2.34
Licking	2.31
Logan	2.30
Lorain	2.33
Lucas	2.33
Madison	2.29
Mahoning	2.40
Marion	2.31
Medina	2.35
Meigs	2.35
Mercer	2.28
Miami	2.29
Monroe	2.39
Montgomery	2.29
Morgan	2.36
Morrow	2.31
Muskingum	2.34
Noble	2.37
Ottawa	2.33
Paulding	2.29
Perry	2.34
Pickaway	2.30
Pike	2.32
Portage	2.38
Preble	2.29
Putnam	2.30
Richland	2.31
Ross	2.31
Sandusky	2.31
Scioto	2.33
Seneca	2.31
Shelby	2.29
Stark	2.37
Summit	2.36
Trumbull	2.40
Tuscarawas	2.36
Union	2.30
Van Wert	2.29
Vinton	2.33
Warren	2.31
Washington	2.38
Wayne	2.35
Williams	2.30
Wood	2.31
Wyandot	2.31
Wght. State avg	2.31
Oklahoma:	
Beaver	2.31
Beckham	2.35
Cimarron	2.30
Ellis	2.33
Harmon	2.35
Harper	2.31
Roger Mills	2.35
Texas	2.30
All other counties	2.37
Wght. State avg	2.32
Oregon:	
All counties	2.43

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Pennsylvania:	
All counties	$2.45
Rhode Island:	
All counties	2.50
South Carolina:	
All counties	2.43
South Dakota:	
Aurora	2.11
Beadle	2.11
Bennett	2.18
Bon Homme	2.15
Brookings	2.11
Brown	2.11
Brule	2.11
Buffalo	2.11
Butte	2.17
Campbell	2.13
Charles Mix	2.13
Clark	2.11
Clay	2.18
Codington	2.11
Corson	2.15
Custer	2.21
Davison	2.12
Day	2.11
Deuel	2.11
Dewey	2.15
Douglas	2.12
Edmunds	2.12
Fall River	2.24
Faulk	2.12
Grant	2.11
Gregory	2.13
Haakon	2.15
Hamlin	2.11
Hand	2.11
Hanson	2.12
Harding	2.17
Hughes	2.13
Hutchinson	2.14
Hyde	2.12
Jackson	2.16
Jerauld	2.11
Jones	2.15
Kingsbury	2.11
Lake	2.13
Lawrence	2.17
Lincoln	2.16
Lyman	2.13
McCook	2.13
McPherson	2.12
Marshall	2.11
Meade	2.16
Mellette	2.15
Miner	2.12
Minnehaha	2.14
Moody	2.13
Pennington	2.18
Perkins	2.15
Potter	2.14
Roberts	2.11
Sanborn	2.12
Shannon	2.21
Spink	2.11
Stanley	2.15
Sully	2.13
Todd	2.16
Tripp	2.14
Turner	2.15
Union	2.18
Walworth	2.14
Yankton	2.16
Ziebach	2.16
Wght. State avg	2.14
Tennessee:	
All counties	2.39
Texas:	
Armstrong	2.34
Bailey	2.34
Briscoe	2.34
Carson	2.34
Castro	2.34
Childress	2.35
Cochran	2.36
Collingsworth	2.35
Cottle	2.36
Crosby	2.36
Dallam	2.34
Deaf Smith	2.34
Dickens	2.36
Donley	2.35

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Floyd	$2.34
Gray	2.34
Hale	2.34
Hall	2.35
Hansford	2.34
Hartley	2.34
Hemphill	2.34
Hockley	2.36
Hutchinson	2.34
King	2.36
Lamb	2.34
Lipscomb	2.34
Lubbock	2.36
Moore	2.34
Motley	2.36
Ochiltree	2.34
Oldham	2.34
Parmer	2.34
Potter	2.34
Randall	2.34
Roberts	2.34
Sherman	2.34
Swisher	2.34
Wheeler	2.35
All Other Counties	2.35
Wght. State avg	2.41
Utah:	
All counties	2.46
Vermont:	
All counties	2.50
Virginia:	
All counties	2.44
Washington:	
All counties	2.41
West Virginia:	
All counties	2.43
Wisconsin:	
Adams	2.22
Ashland	2.22
Barron	2.20
Bayfield	2.19
Brown	2.24
Buffalo	2.19
Burnett	2.18
Calumet	2.24
Chippewa	2.20
Clark	2.22
Columbia	2.26
Crawford	2.22
Dane	2.28
Dodge	2.28
Door	2.25
Douglas	2.17
Dunn	2.20
Eau Claire	2.20
Florance	2.24
Fond du Lac	2.26
Forest	2.24
Grant	2.24
Green	2.28
Green Lake	2.26
Iowa	2.28
Iron	2.23
Jackson	2.20
Jefferson	2.29
Juneau	2.22
Kenosha	2.31
Kewaunee	2.25
La Crosse	2.19
Lafayette	2.27
Langlade	2.24
Lincoln	2.23
Manitowoc	2.25
Marathon	2.23
Marinette	2.24
Marquette	2.24
Menominee	2.24
Milwaukee	2.29
Monroe	2.20
Oconto	2.24
Oneida	2.24
Outagamie	2.23
Ozaukee	2.27
Pepin	2.19
Pierce	2.19
Polk	2.18
Portage	2.23
Price	2.22
Racine	2.31
Richland	2.25
Rock	2.29

1980—Crop Corn Loan and Purchase Rates—Continued

County	Rate per bushel
Rusk	$2.21
St. Croix	2.19
Sauk	2.25
Sawyer	2.21
Shawano	2.24
Sheboygan	2.25
Taylor	2.22
Trempealeau	2.19
Vernon	2.20
Vilas	2.24
Walworth	2.30
Washburn	2.20
Washington	2.28
Waukesha	2.29
Waupaca	2.24
Waushara	2.24
Winnebago	2.24
Wood	2.22
Wght. State avg	2.25
Wyoming:	
All counties	2.34

(b) *Schedule of premiums and discounts.*

	Cents per bushel
(1) Premiums:	
(i) Moisture (percent):	
14.6 through 15.0	+2
14.1 through 14.5	+3
14.0 or less	+4
(ii) Broken corn and foreign material (percent):	
2.0 or less	+2
Premiums do not apply to sample grade corn.	
(2) Discounts:	
(i) Class—mixed corn	−2
(ii) Test weight per bushel, lbs.:	
53.0 through 53.9	−1
52.0 through 52.9	−2
51.0 through 51.9	−4
50.0 through 50.9	−6
49.0 through 49.9	−9
(iii) Total damage (percent):	
5.1 through 6.0	−1
6.1 through 7.0	−2
(iv) Heat damage (percent):	
.21 through .50	−1
(v) Broken corn and foreign material (percent):	
3.1 through 4.0	−2
(vi) Weed control laws (discount where required by § 1421.15)	−10

(3) *Other.* Corn with quality factors exceeding limits shown in foregoing schedule or corn that (i) contains in excess of 15.5 percent moisture, (ii) is weevily, (iii) is musty, or (iv) is sour, shall not be eligible for loan. In the event quantities of corn exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of corn to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedule of such factors and discounts at county ASCS

offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C. on September 29, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-31135 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration.

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins, Power Requirements Study

AGENCY: Rural Electrification Administration

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for the issuance of a File With to REA Bulletin 120–1, "Development, Approval, and Use of Power Requirements Studies." The revision provides for a relaxation of the requirement for REA borrowers to review, update, and submit to REA for approval, a Power Requirements Study at least every 3 years. In the future, a Power Requirements Study will require REA approval only (1) when used in engineering, environmental, and other studies relating to major generation financing, or (2) at REA's discretion.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gerald O. Stephens, Chief, Energy Forecasting Branch, Rural Electrification Administration, Washington, DC. 20250, (202) 447–6108.The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This revision will relax the existing requirement for borrowers to submit a Power Requirements Study to REA for approval at least once every 3 years. In the future, borrowers will be required to submit a Power Requirements Study to REA for approval only when it will be used in engineering, environmental, and other studies relating to major generation financing or when requested by REA. The change will emphasize the need for an annual review by the borrower of its power requirements and the need for power-type organizations to keep REA informed of the results of this review. This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified as "not significant."

Joseph S. Zoller, Assistant Administrator—Electric, pursuant to the administrative procedure provisions in 5 U.S.C. 553, has determined that notice and other public procedure with respect to this final action are impracticable and contrary to the public interest, and good cause is found for making this final action effective less than 30 days after publication of this document in the Federal Register.

Until such time as further changes are made, the supplement to REA Bulletin 120–1 shall remain in effect, thus permitting the public business to proceed more expeditiously.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: October 1, 1980.

Robert W. Feragen,

Administrator.

[FR Doc. 80-31363 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Washington County and portions of Multnomah County in Oregon because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Washington County on September 11, 1980, and portions of Multnomah County on September 10, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected areas.

EFFECTIVE DATE: October 7, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Washington County and portions of Multnomah County in Oregon because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(17) relating to the State of Oregon, new subdivisions (ii) relating to Washington County, (iii) relating to Multnomah County, and (iv) relating to Multnomah County are added to read:

§ 82.3 Areas quarantined.

(a) * * *

(17) *Oregon.* * * *

(ii) The premises of Pet Kingdom, 1075 S.E. Baseline Road, Hillsboro, Washington County.

(iii) The premises of Safari Pets and Supplies, Inc., 1420 Lloyd Center, Portland, Multnomah County.

(iv) The premises of Safari Pets and Supplies, Inc., 60 S.W. 5th Avenue, Portland, Multnomah County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 [21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f]; 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, 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 final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting

Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 7th day of October 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-31681 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Los Angeles County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: October 7, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Los Angeles County from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

§ 82.3 [Amended]

In § 82.3(a)(2) relating to the State of California, paragraph (i) relating to the premises of David Mohilef, 4105 Jefferson Boulevard, Los Angeles, Los Angeles County, is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prege a10oc0.102vent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, 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 final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 7th day of October 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-31680 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 91

Inspection and Handling of Livestock for Exportation; Addition to Lists of Ports of Embarkation for Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds Stockton, California to the list of airports designated as ports of embarkation, and adds San Francisco, California and Seattle, Washington to the list of airports and ocean ports designated as ports of embarkation for animals.

The intended effect of this action is to update the list of ports of embarkation through which animals may be exported.

DATES: Effective date: October 7, 1980. Comments must be received on or before December 9, 1980.

ADDRESS: Send comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Maryland 20782, 301–436–8383.

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.

Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action since the export inspection facilities at the ports being added to the list of designated ports of embarkation have met the standards for export inspection facilities set forth in § 91.3(c) of the regulations; and the addition of these ports with approved export inspection facilities must be made promptly in order to inform exporters of the current situation so that they can make appropriate plans to export their animals and avoid unnecessary restrictions on the exportation of animals.

Therefore, 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 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 can be published in the **Federal Register** as soon as possible.

Therefore, the ports of Seattle, Washington, and Stockton and San Francisco, California, are added to the list of airports designated as ports of embarkation appearing in § 91.3(a)(1)(i), and Seattle, Washington and San Francisco, California, are added to the list of ocean ports designated as ports of embarkation appearing in § 91.3(a)(2)(i).

Accordingly, Part 91, Title 9, Code of Federal Regulations is amended in the following respects:

1. Section 91.3(a)(1)(i) is amended to read:

§ 91.3 Ports of embarkation and export inspection facilities. [Amended]

(a) * * *

(1) *Airports.* (i) Chicago, Illinois; Harrisburg, Pennsylvania; Richmond, Virginia; Miami and Tampa, Florida; New Iberia, Louisiana; Brownsville and Houston, Texas; Los Angeles, Stockton and San Francisco, California; Moses Lake and Seattle, Washington; and Newburgh, New York.

* * * * *

2. Section 91.3(a)(2)(i) is amended to read:

(a) * * *

(2) *Ocean ports.* (i) Richmond, Virginia; Miami and Tampa, Florida; Brownsville and Houston, Texas; Los Angeles and San Francisco, California, and Seattle, Washington.

* * * * *

(Sec. 10, 26 Stat. 417; secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477, 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 7th day of October 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-31670 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Part 790

Geothermal Energy Research, Development, Demonstration and Production

Federal Guarantees on Loans

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: The Department of Energy hereby amends 10 CFR Part 790.4(e) to implement the Internal Revenue Service Public Revenue Ruling 80–161 of June 16, 1980, covering the tax treatment of interest on guaranteed geothermal loans.

This action is required to enable the Department of Energy to enter into guaranty transactions with otherwise tax-exempt municipal obligors.

DATE: Effective October 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Lachlan W. Seward, Department of Energy (Office of Resource Applications), Room 7112, Mail Stop 3344, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

Lawrence R. Oliver, Department of Energy (Office of General Counsel), Room 5E–074, Forrestal, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–1202.

SUPPLEMENTARY INFORMATION: .

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the responsibility of the Energy Research and Development Administration (ERDA) for the Geothermal Loan Guaranty Program pursuant to Section 301 of the Department of Energy Organization Act (Pub. L. 95–91). The Geothermal Loan Guaranty Program was implemented by ERDA (10 CFR Part 790) on May 26, 1976, in accordance with authority contained in Title II of the Geothermal Energy Research Development, and Demonstration Act of 1974 (Pub. L. 93–410).

On February 25, 1978, the Department of Energy Act of 1978—Civilian Applications was enacted (Pub. L. 95–238). Title V of Pub. L. 95–238 contains amendments to Pub. L. 93–410. One amendment contained in Section 509 of Pub. L. 95–238 authorizes the payment of interest differential assistance to States, political subdivisions and Indian Tribes which would otherwise issue tax-exempt obligations. Section 790.4(e) of 10 CFR Part 790 published as a final rule on December 18, 1979, implements this statutory amendment and requires that a loan not be guaranteed if the income from that loan is not included in the Holder's income for the purposes of Chapter 1 of the Internal Revenue Code of 1954, as amended. However, Section 790.4(e) was not finalized pending a public revenue ruling on the matter by the Internal Revenue Service (IRS). As of June 16, 1980, such ruling (80–161) has now been received.

DOE has received and approved a guaranty application involving a loan to a municipal borrower for $45,000,000 and the payment of interest differential assistance. Such approval is subject to finalizing Section 790.4(e) prior to the execution of the guaranty and related documents. Therefore, in order to permit the guaranty closing to proceed, this final rule is being issued.

B. Discussion

When DOE published 10 CFR Part 790 on December 18, 1979, Section 790.4(e) was not adopted as a final rule pending the outcome of a request for public ruling from DOE to the IRS dated August 6, 1979. The issue to be resolved by the IRS became: does the interest from obligations issued by an otherwise tax-exempt obligor become taxable by virtue of the award of a geothermal loan guaranty on those obligations?

On June 16, 1980, the IRS issued a ruling to the effect that the interest received by holders in such transactions is not excludable from the gross income of the holder under Section 103(a)(1) of the Internal Revenue Code of 1954, as amended, if the issuer receives the benefit of the guaranty. Therefore, Section 790.4(e) can now be published as a final rule in order that DOE may implement this ruling and act on those geothermal loan guaranty applications involving otherwise tax-exempt issuers.

DOE is presently preparing other revisions to 10 CFR Part 790 to implement certain amendments to Pub. L. 93–410 that are contained in Title VI of Pub. L. 96–294. DOE's amendments to 10 CFR Part 790 will be published in the **Federal Register** no later than December 31, 1980.

In consideration of the foregoing, 10 CFR Part 790 is amended as set forth below.

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

Ruth M. Davis,

Assistant Secretary, Resource Applications.

1. Section 790.4 paragraph (e) is hereby amended by deleting this paragraph and substituting the following:

§ 790.4 Loan guaranty criteria.

* * * * *

(e) A guaranty issued by, or in behalf

of, any state, political subdivision or Indian Tribe (which would be an otherwise tax-exempt obligor), pursuant to this regulation requires that the interest paid on such guaranteed obligations be included in the gross income of the Holder for the purposes of Chapter 1 of the Internal Revenue Code of 1954, as amended, in accordance with Internal Revenue Service Revenue Ruling 80–161 of June 16, 1980. For such transactions, the Secretary shall pay to the issuer of the debt or other appropriate party that portion of the interest which is found to be appropriate after consultation with the Secretary of the Treasury, regarding current market yield on other obligations which have similar terms and conditions. Payment under this subsection shall be made to the issuer or the appropriate party in accordance with the guaranty agreement.

[FR Doc. 80-31760 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Docket No. R-0259; Regulation K]

International Banking Operations; Interstate Banking Restrictions for Foreign Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors of the Federal Reserve System has issued a final interpretation of the term "agency" as defined in Subpart B, § 211.22(a)(1) of its amendments to the Board's Regulation k (12 CFR Part 211). The Board has adopted this interpretation in order to deal with the status of those California Offices that were designated as branches, but that prior to the passage of the International Banking Act of 1978, could not accept domestic deposits

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Jr., Senior Counsel (202/452–3269), or James S. Keller, Senior Attorney (202/452–3582), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq* .) ("IBA") provides that, with the exception of grandfathered offices, no foreign bank may directly or indirectly establish and operate either a Federal or a State branch outside its "home State" unless the foreign bank enters into an agreement or undertaking with the Board to accept only such deposits at the out-of-home-State branch as would be permissible for an Edge Corporation. Under the Edge Act (12 U.S.C. 611 *et seq.*), Edge Corporations may only receive deposits in the U.S. as may be "incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States."

In addition to the requirement of an agreement to restrict deposit-taking, a *Federal* branch or agency may be established or operated outside a foreign bank's home State only if the operation of such an office is expressly permitted by the receiving State; a *State* branch, agency, or commercial lending company may be established outside a foreign bank's home State only if it is approved by the bank regulatory authority of the receiving State. A foreign bank is also prohibited from acquiring directly or indirectly an interest in a bank located outside of the foreign bank's home State if the acquisition would be prohibited under section 3(d) of the Bank Holding Company Act ("BHCA") if the foreign bank were a bank holding company whose State of principal banking operations was the foreign bank's home State.

Section 5(b) of the IBA grandfathers, for purposes of the interstate banking restrictions, any branch, agency, subsidiary bank, or commercial lending company subsidiary that commenced operation or for which an application to commence business had been filed on or before July 27, 1978. Section 5(c) provides that the home State of a foreign bank that has any combination of branches, agencies, subsidiary lending companies, or subsidiary banks, in more than one State, is whichever State is chosen by the foreign bank (or by the Board in the event the foreign bank does not make a choice).

California offices. Section 1(b) of the IBA defines "agency" as an office that maintains credit balances but at which "deposits may not be accepted from citizens or residents of the United States," while it defines "branch" as any office "at which deposits are received." Offices of foreign banks in California have generally been prohibited from accepting deposits by a requirement of State law that such offices obtain Federal deposit insurance; an office of a foreign bank could not obtain such insurance before the passage of the IBA. California law, however, permits offices of foreign banks, with the approval of the Banking Department, to accept deposits from any person that resides, is domiciled, and maintains its principal place of business in a foreign country. Therefore, according to a literal reading of the IBA, a California office of a foreign bank that accepts deposits from certain foreign sources (e.g., a U.S. citizen residing abroad) is a branch rather than an agency.

If the Board were to determine that such an office, established or applied for prior to July 27, 1978, was a branch rather than an agency, then that office would be grandfathered as a branch. Accordingly, a foreign bank that has a branch outside California and an office in California that accepts foreign source deposits could elect a State other than California as its home State, obtain deposit insurance for the California office, and convert that office to a full domestic deposit-taking facility. If, however, the Board were to determine that such an office was an "agency," then it would be grandfathered as an agency and could not expand its deposit-taking capabilities (unless the foreign bank selected California as its home State).

The Board proposed that, for purposes of section 5 of the IBA, the Board will regard offices of foreign banks that accept foreign source deposits, but not domestic deposits, as agencies rather than branches. The Board has adopted this proposal. The Board has determined that both the legislative history and the purposes of section 5 of the IBA support such an interpretation. Furthermore, funds that may be received by these California offices are the type that Edge Corporations and, therefore, branches established and operated outside of a foreign bank's home State may receive. Treating these offices as agencies appears to be consistent with their method of operation and with the purposes of section 5 of the IBA.

Under the Board's interpretation, a foreign bank may continue to accept these foreign source deposits at its California office without selecting California as its home State and upgrading such an office to a branch.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*), the Board has issued the following interpretation of the term "agency" as defined in Subpart B, § 211.22(a)(1) of its Regulation K:

§ 211.601 Status of certain offices for purposes of the International Banking Act restrictions on interstate banking operations.

The Board has considered the question of whether a foreign bank's California office that may accept deposits from certain foreign sources

(e.g., a United States citizen residing abroad) is a branch or an agency for the purposes of the grandfather provisions of section 5 of the International Banking Act of 1978 (12 U.S.C. 3103(b)). The question has arisen as a result of the definitions in the International Banking Act of "branch" and "agency," and the limited deposit-taking capabilities of certain California offices of foreign banks.

The International Banking Act defines "agency" as "any office * * * at which deposits may not be accepted from citizens or residents of the United States," and defines "branch" as "any office * * * of a foreign bank * * * at which deposits are received" (12 U.S.C. 3101(1) and (3)). Offices of foreign banks in California prior to the International Banking Act were generally prohibited from accepting deposits by the requirement of State law that such offices obtain Federal deposit insurance (Cal. Fin. Code 1756); until the passage of the International Banking Act an office of a foreign bank could not obtain such insurance. California law, however, permits offices of foreign banks, with the approval of the Banking Department, to accept deposits from any person that resides, is domiciled, and maintains its principal place of business in a foreign country (Cal. Fin. Code 1756.2). Thus, under a literal reading of the definitions of "branch" and "agency" contained in the International Banking Act, a foreign bank's California office that accepts deposits from certain foreign sources (e.g., a U.S. citizen residing abroad), is a branch rather than an agency.

Section 5 of the International Banking Act establishes certain limitations on the expansion of the domestic deposit-taking capabilities of a foreign bank outside its home State. It also grandfathers offices established or applied for prior to July 27, 1978, and permits a foreign bank to select its home State from among the States in which it operated branches and agencies on the grandfather date. If a foreign bank's office that was established or applied for prior to June 27, 1978, is a "branch" as defined in the International Banking Act, then it is grandfathered as a branch. Accordingly, a foreign bank could designate a State other than California as its home State and subsequently convert its California office to a full domestic deposit-taking facility by obtaining Federal deposit insurance. If, however, the office is determined to be an "agency," then it is grandfathered as such and the foreign bank may may not expand its deposit-taking capabilities in California without declaring California its home State.

In the Board's view, it would be inconsistent with the purposes and the legislative history of the International Banking Act to enable a foreign bank to expand its domestic interstate deposit-taking capabilities by grandfathering these California offices as branches because of their ability to receive certain foreign source deposits. The Board also notes that such deposits are of the same general type that may be received by an Edge Corporation and, hence in accordance with section 5(a) of the International Banking Act, by branches established and operated outside a foreign bank's home State. It would be inconsistent with the structure of the interstate banking provisions of the International Banking Act to grandfather as full deposit-taking offices those facilities whose activities have been determined by Congress to be appropriate for a foreign bank's out-of-home State branches.

Accordingly, the Board, in administering the interstate banking provisions of the IBA, regards as agencies those offices of foreign banks that do not accept domestic deposits but that may accept deposits from any person that resides, is domiciled, and maintains its principal place of business in a foreign country.

By order of the Board of Governors, October 2, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-31796 Filed 10-9-80; 8:45 am]

BILLING CODE 6201-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Assessments Paid by Insured Banks for Deposit Insurance

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: As part of its regulatory reform program for improving the quality of its regulations, FDIC has revised Part 327 of its regulations. Part 327 pertains to the assessments that are paid by insured banks to FDIC for deposit insurance. The revision is intended to simplify the regulation by restructuring it for easier reading and by eliminating unnecessary and outdated provisions. In addition, minor technical amendments have been made to the part to conform it to the requirements of the International Banking Act of 1978.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, (202) 389-4237.

SUPPLEMENTARY INFORMATION: On March 3, 1980, FDIC published for public comment a proposed revision of Part 327. The comment period ended on May 2, 1980. No comments were received on the proposal. In the revision to Part 327, the following changes have been made:

1. A new "Purpose and scope" section has been added at the beginning of the regulation. It specifically states that the part applies to insured branches of foreign banks.

2. The provisions explaining the methods for reporting assessment base additions for unposted credits and deductions for unposted debits have been simplified to eliminate outdated and redundant provisions. Also, the definitions for the terms "unposted credit" and "unposted debit" have been expanded for clarification purposes.

3. The "Classification of deposits" section has been substantially reduced by using references to definitions in other sections of FDIC's regulations rather than restating the full definition in Part 327.

4. An explanation has been added to the "Time of payment" section to indicate what constitutes the timely payment of the assessment that is required to be paid to FDIC.

The changes will have no adverse impact on insured banks. In particular, they will not affect the competitive status or the recordkeeping and reporting requirements of insured banks. Therefore, no cost/benefit analysis was prepared. Further, it was concluded that the purposes of the regulation could not be accomplished through the use of a flexible regulatory approach that would distinguish between banks on the basis of size.

Accordingly, the FDIC Board of Directors does hereby revise Part 327 of Title 12 of the Code of Federal Regulations as set forth below.

PART 327—ASSESSMENTS

Sec.

327.01 Purpose and scope.
327.02 Reporting of assessment base additions for unposted credits and deductions for unposted debits.
327.03 Classification of deposits.
327.04 Payment of assessments by banks whose insured status has terminated.
327.05 Time of payment.

Authority: Secs. 7-9, Pub. L. 797, 64 Stat. 876-882 as amended by secs. 2, 3, Pub. L. 86-671, 74 Stat. 547-551 and sec. 304, Pub. L. 95-630, 92 Stat. 3676 (12 U.S.C. 1817-1819).

§ 327.01 Purpose and scope.

This part sets forth the rules for: (a) Reporting unposted credits and unposted debits; (b) the classification of deposits; (c) the payment of assessments by banks whose insured status has terminated; and (d) the time for payment of the semiannual assessment required by Section 7 of the Federal Deposit Insurance Act. The part applies to any insured bank or insured branch of a foreign bank. Deductions from the assessment base of an insured branch of a foreign bank are stated in Part 346.

§ 327.02 Reporting of assessment base additions for unposted credits and deductions for unposted debits.

(a) *Definitions.* (1) The term "unposted credit" as used in this section means any deposit received in any office of the bank for deposit in any other office of the bank located in any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Islands, or the Virgin Islands, *except* those which have been: (i) Included in the total deposits in the report of condition; or (ii) offset in the report of condition by an equal amount of cash items in the bank's possession drawn on itself (on the same type of deposits as those offset) and not charged against deposit liabilities at the close of business on the date of the report of condition.

(2) The term "unposted debit" as used in this section means a cash item in the reporting bank's possession that is drawn on the bank and immediately chargeable, but not yet charged, against the bank's deposit liabilities at the close of business on the date of the report of condition. The following items are excluded: (i) Cash items drawn on other banks, (ii) overdrafts and nonsufficient fund (NSF) items, (iii) cash items returned unpaid to the last endorser for any reason and (iv) drafts and warrants that are "payable at" or "payable through" the reporting bank for which there is no written authorization on file at the bank or State statute allowing the bank at its discretion to charge the items against the deposit accounts of the drawees.

(3) The above terms "unposted credit" and "unposted debit" do not include items which have been reflected in deposit accounts on the general ledger and in the report of condition, even though they have not been credited or debited to individual deposit accounts.

(b) *Methods of reporting unposted credits and unposted debits.* (1) Each insured bank shall report unposted credits in reports of condition for addition to the assessment base in the following manner:

(i) If the bank records show the total actual amount of unposted credits segregated into demand deposits and time and savings deposits, the bank must report the segregated amounts for addition to demand deposits and time and savings deposits, respectively.

(ii) If the bank records show the total actual amount of unposted credits but do not segregate the amount as stated in paragraph (b)(1)(i) of this section and if the bank does not elect to segregate the credits on the basis of the experience factors, the bank must report the total actual amount of the unposted credits for addition to time and savings deposits.

(iii) If the bank records show the total actual amount of the unposted credits, but do not segregate the amount as stated in paragraph (b)(1)(i) of this section and if the bank elects to segregate the credits on the basis of the experience factors, the bank must report the segregated amounts for addition to demand deposits and time and savings deposits.

(iv) If the bank records do not show the total actual amount of unposted credits (either in total or in segregated amounts), the amount of the unposted credits must be determined by experience factor or factors and reported in a total unsegregated amount for addition to time and savings deposits or in segregated amounts for addition to demand deposits and time and savings deposits.

(2) Unposted debits may be reported in the same manner as stated in paragraph (b)(1) of this section for deduction from the assessment base, except that unsegregated amounts may be reported for deduction only from demand deposits.

(c) *Bank reporting on basis of experience factor.* Upon written approval by the Fiscal Agent of the Corporation, an insured bank using experience factors may use either (1) separate factors for computing the additions or deductions to demand deposits and time and savings deposits; or (2) a single factor for computing additions to be made in total amount to time and savings deposits or for computing deductions to be made in total amount from demand deposits. When a single factor is used, the additions or deductions are required to be made to or from the type of deposit giving the lesser advantage to the bank in taking the 16⅔ percent deduction from demand deposits and the 1 percent deduction from time and savings deposits.

(d) *Procedure for obtaining approval to use experience factors.* Each insured bank which intends to use an experience factor in computing the amounts of unposted credits or unposted debits shall state its intention in writing to the Corporation. Any bank becoming an insured bank whose records do not show amounts of unposted credits and unposted debits and which proposes to report such items for assessment purposes by means of experience factors, shall so inform the Corporation within thirty (30) days after it becomes an insured bank. Upon receipt of the notice, the Corporation will furnish the bank a form for submitting to the Corporation the computations used in determining the experience factors. If the experience factors are approved by the Corporation, the bank shall use the factors in reporting unposted credits or debits until new experience factors are established under paragraph (h) or (i) of this section or until the bank's accounting methods are changed to show actual amounts from day to day.

(e) *Computing and using experience factors.* (1) The reporting bank may use either of the following initial experience factors in reporting unposted credits for addition to the assessment base for two years:

(i) *Separate experience factors for additions to demand deposits and to time and savings deposits.* The factor for each semiannual period for:

(A) Demand deposits shall be the percentage obtained by dividing the amount of unposted credits on the first business day of February or August which are creditable to demand deposits by the amount of total demand deposits shown on the books of the bank at the close of business on the same day; and

(B) Time and savings deposits shall be the percentage obtained by dividing the amount of unposted credits on the first business day of February or August which are creditable to time and savings deposits by the amount of total time and savings deposits shown on the books of the bank at the close of business on the same day.

Until two years' experience has been obtained, the bank shall determine on the first business day of February or August of each year the total actual amount of unposted credits segregated into demand deposits and time and savings deposits. For assessment purposes, there shall be separately stated in each report of condition for addition to demand deposits the amount obtained by multiplying the amount of total demand deposits shown in the report of condition by the factor for demand deposits for such semiannual period, and for addition to time and savings deposits the amount obtained by multiplying the amount of total time

and savings deposits shown in each report of condition by the factor for time and savings deposits for such semiannual period.

(ii) *A single experience factor.* The factor for each semiannual period shall be the percentage obtained by dividing the amount of total unposted credits on the first business day of February or August by the total deposits shown on the books of the bank at the close of business on the same day. Until two years' experience has been obtained, the bank shall determine on the first business day of February or August of each year the total actual amount of all unposted credits. For assessment purposes, there shall be separately stated in each report of condition for addition to time and savings deposits for assessment purposes the amount obtained by multiplying the amount of total deposits shown in the report of condition by the factor for such semiannual period. When two years' experience has been obtained with respect to an experience factor developed under paragraph (e)(1) of this section, a permanent experience factor shall be computed and used for the ninth and subsequent reports of condition. This factor shall be the percentage obtained by dividing the aggregate amount of the unposted credits by the aggregate amount of the deposits which were used in establishing each factor for the four preceding semiannual periods.

(2) The reporting bank may use the same procedure outlined in paragraph (e)(1) of this section for establishing experience factors in reporting unposted debits for deduction from the assessment base, except (i) the terms "deduction", "chargeable", and "debit" would be substituted for the terms "addition", "creditable", and "credit"; and (ii) in developing the single experience factor, if the amount of the deductions computed exceeds the amount of the demand deposits, the excess may be deducted from time and savings deposits.

(3) When it is impracticable to segregate the amounts of unposted credits or debits outstanding in a "branch clearings" account or similar account or to segregate the unposted credits or debits into demand deposits and time and savings deposits in computing a factor or factors under this paragraph, the bank may apply to the Corporation for permission to compute the amounts by other methods.

(f) *Experience factors for newly insured banks.* A newly insured bank may determine and use its experience factors as provided in paragraph (e) of this section, except that in preparing its first report of condition for assessment purposes it shall determine the total actual amounts of unposted credits, debits, and deposits on a day designated by the Corporation, instead of on the first business day of February or August.

(g) *Mergers, consolidations, deposit assumptions, and conversions.* In a merger, consolidation or deposit assumption transaction involving one or more banks which used an experience factor, the continuing or resulting bank shall use new experience factors based on the combined experience of the participating banks for the two-year period prior to such transaction or may establish a new factor or factors in accordance with paragraph (e) of this section. A bank resulting from the conversion of a bank shall continue to use the experience factors of the converted bank.

(h) *Bank establishing new experience factors.* A bank may apply to the Corporation for permission to establish new permanent factors in the manner provided in paragraphs (e)(1) and (2) of this section. Until the new permanent factors have been determined and approved in writing by the Corporation, the bank shall continue to use its existing factors.

(i) *Corporation requiring new experience factors.* The Corporation at any time may require a bank to establish new factors, and for this purpose may designate a day or days and a period or periods, other than those specified, for the determination of deposits and the total actual amounts of unposted credits or unposted debits, or both. After the new factors have been computed by the bank or the Corporation and have been approved in writing by the Corporation, the bank shall use the new factors for all subsequent reports of condition.

(j) *Notice to Corporation of changes in accounting methods.* If a bank changes its accounting procedures from those used when its experience factors were established and *this causes an increase or decrease in the amount of unposted credits or unposted debits, it shall promptly give written notice to the Corporation of the change.*

§ 327.03 Classification of deposits.

(a) The deposits that are required to be reported in the reports of condition under Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) shall be segregated into demand deposits and time and savings deposits.

(b) For the purpose of the reports of condition and for the computation of assessments as provided in subsection (b) of Section 7 of the Act (12 U.S.C. 1817i), the terms "time deposits", "savings deposits", and "demand deposits" shall have the same meaning as those provided in § 329.1, except that deposits accumulated for the payment of personal loans, which represent actual loan payments received by the bank from borrowers and accumulated by the bank in hypothecated deposit accounts for payment of the loans at maturity, shall not be reported as deposits on the report of condition. The deposit amounts covered by the exception are to be deducted from the loan amounts for which these deposits have been accumulated and assigned or pledged to effectuate payment. *Time and savings deposits that are pledged as collateral to secure loans are not deposits accumulated for the payment of personal loans and are to be reported in the same manner as if they were not securing a loan.*

§ 327.04 Payment of assessments by banks whose insured status has terminated.

(a) *Liability for assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank, the assumed deposits, for assessment purposes, shall be deposit liabilities of the assuming bank and shall cease to be deposit liabilities of the bank whose deposits are assumed.

(b) *Payment of assessments by bank whose deposits are assumed.* When the deposit liabilities of an insured bank are assumed by another insured bank, the insured bank whose deposits are assumed shall file a final certified statement as provided in § 304.3(u) and shall pay to the Corporation the normal assessment on the deposits. If the deposits of the terminating bank are assumed by a newly insured bank, the terminating bank is not required to file certified statements or pay any assessment upon the deposits assumed after the semiannual period in which the assumption occurs.

(c) *Payment of assessments by assuming bank on assumed deposits.* When the deposit liabilities of an insured bank are assumed by another insured bank and the assuming bank agrees to file the certified statement which the terminating bank is required to file, the filing of the certified statement and the payment of the assessment on the deposits by the assuming bank shall satisfy the terminating bank's obligations in this regard if (1) the requisite notice of assumption, as provided in Part 307 of this chapter, is given to the depositors of the terminating bank, and (2) the certified statement is filed separately from that required to be filed by the assuming bank.

(d) *Resumption of insured status before insurance of deposits ceases.* If a bank whose insured status has been terminated under Section 8(a) of the Federal Deposit Insurance Act is permitted by the Corporation to continue or resume its status as an insured bank before the insurance of its deposits has ceased, the bank will be deemed, for assessment purposes, to continue as an insured bank and must thereafter furnish certified statements and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.7 of this chapter.

(e) *Payment of assessments by bank whose deposits are not assumed.* (1) When the deposit liabilities of an insured bank are not assumed by another insured bank, the terminating bank shall continue to file certified statements and pay assessments for the period its deposits are insured as provided by the Federal Deposit Insurance Act. It shall not be required to file further certified statements or to pay further assessments after the bank has paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the semiannual period in which its deposit liabilities are paid in full, and after it, under applicable law, has ceased to have authority to transact a banking business and to have existence, except for the purpose of, and to the extent permitted by law for, winding up its affairs.

(2) When the deposit liabilities of the bank have been paid in full, the bank shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment. When the bank has unclaimed deposits, the certification shall further state the amount of the unclaimed deposits and the disposition made of the funds to be held to meet the claims. For assessment purposes, the following will be considered as payment of the unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay the unclaimed and unpaid deposits to the public official authorized by law to receive the same; or

(ii) If no law provides for the transfer of funds to a public official, the transfer of cash funds or compensatory assets to an insured bank in an amount sufficient to pay the unclaimed and unpaid deposits in consideration for the assumption of the deposit obligations by the insured bank.

The terminating bank shall give sufficient advance notice of the intended transfer to the owners of the unclaimed deposits to enable the depositors to obtain their deposits prior to the transfer. The notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise the depositors of the liquidation of the bank, request them to call for and accept payment of their deposits, and state the disposition to be made of their deposits if they fail to promptly claim the deposits. If the unclaimed and unpaid deposits are disposed of as provided in paragraph (e)(2)(i) of this section, a certified copy of the public official's receipt issued for the funds shall be furnished to the Corporation. If the unclaimed and unpaid depostis are disposed of as provided in paragraph (e)(2)(ii) of this section, an affidavit of the publication and of the mailing of the notice to the depositors, together with a copy of the notice, and a certified copy of the contract of assumption shall be furnished to the Corporation.

(3) The terminating bank shall advise the Corporation of the date on which the authority or right of the bank to do a banking business has terminated and the method whereby the termination has been effected (*i.e.*, whether the termination has been effected by the surrender of the charter, the cancellation of its authority or license to do a banking business by the supervisory authority, or otherwise).

§ 327.05 Time of payment.

Each insured bank shall pay to the Corporation the amount of the semiannual assessment due to the Corporation, as shown on its certified statement, at the time the statement is required to be filed under Section 7(c) of the Federal Deposit Insurance Act. Certified statements shall be considered to have been filed in a timely manner if they are postmarked on or before the last day of the first month of the semiannual period for which the certified statements are being filed. Accordingly, certified statements that are based on the deposits in the September 30 and December 31 reports of condition must be postmarked no later than January 31 and certified statements based on the deposits in the March 31 and June 30 reports of condition must be postmarked no later than July 31.

By order of the Board of Directors, October 6, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-31538 Filed 10-9-80; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

[No. 80-615]

Operations; Marketable Certificates of Deposit; Brokered Funds

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These changes modify or delete certain requirements applicable to (1) the issuance of marketable certificates of deposit, and (2) the acceptance of savings accounts opened or increased through the services of brokers, by institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation. The changes are intended to enhance the ability of such institutions to attract deposit funds.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: David J. Bristol, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C., 20552, (202) 377-6461.

SUPPLEMENTARY INFORMATION: On December 5, 1979, the Federal Home Loan Bank Board, by Resolution No. 79-616 (44 FR 72602, published December 14, 1979), proposed amendments to its regulations pertaining to marketable certificates of deposit and brokered savings accounts. The public comment period ended February 14, 1980, with receipt of ten comment letters from Federal savings and loan associations, trade groups, and a law firm. The proposal to make many of the Board's Eurodollar deposit exceptions applicable to "domestic" marketable certificates of deposit was generally supported by the commenters, including six of those favoring adoption of the proposal with certain changes. After reviewing the comments and other pertinent information, the Board has determined to adopt the proposed amendments with modifications as described below.

General Background

Since 1974, insured institutions have been authorized under Board regulations to issue marketable certificates of deposit ("CDs"). Marketable CDs are "jumbo" certificates which require a

minimum deposit of $100,000. The major differences between marketable CDs and other CDs are that marketable CDs may not be withdrawn prior to maturity and are transferable. Other CDs may be withdrawn prior to maturity subject to a penalty and are not, except in limited circumstances, transferable. Like other CDs, marketable CDs are savings accounts which are insured up to $100,000, as provided in Part 564 of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation.

Marketable Certificates of Deposit

The Board proposed that marketable certificates of deposit could be issued subject to redemption if redemption were financed by issuance of other certificates bearing a lower rate of return. Commenters generally favored this proposal as a desirable modification of the Board's existing prohibition on redemption of marketable certificates of deposit. A few commenters expressed the view that the regulation should be clarified to allow redemption financed by the issuance of any type of certificate, and other commenters further recommended that redemption should be allowed regardless of whether it is financed by the issuance of new CDs. One commenter objected to the proposed provision on the grounds that cautious investors would not be receptive to certificates of deposit which contain redemption clauses.

The Board believes that the foregoing objection to the proposal to allow redemption of marketable certificates is unwarranted. The enormous market for debt instruments has already demonstrated the investment community's ability to absorb obligations containing "call" provisions, and while some investors may shy away from such certificates, the Board believes that such instruments will have a place in the market. Until greater experience is gained in the marketplace, however, it is the Board's view that the redemption provision for "domestic" marketable certificates should parallel the Board's redemption provision for Eurodollar CDs; any further liberalization, e.g. to remove the requirement that redemptions be financed by the issuance of new certificates, should be carefully considered in the light of market experience. The Board has therefore determined to adopt the substance of the proposal provision, with a clarification to indicate that the redemption of one type of marketable certificate, whether "domestic" or Eurodollar, may be financed by the issuance of any other marketable CD.

The Board proposed to allow associations to include in their marketable certificate contracts a provision for acceleration in the event of non-payment of principal or interest. Few comments addressed this provision, and none expressed opposition. Therefore, since the Board believes that the proposed acceleration provision will help to make the certificates more attractive to investors without increasing an association's overall risk, the amendment has been adopted as proposed.

The proposal provided that associations be allowed to continue accrual and crediting of interest after the expiration of the certificate's fixed term if the association fails to meet its obligation to pay the principal due under the certificate. Commenters agreed with the Board's view that the ability to include such a provision would enhance the ability of associations to market such instruments. One commenter remarked that inclusion of such a provision in marketable certificates should be optional for the association. The Board notes that inclusion of the provision for continued accrual of interest is optional, and has clarified the proposal to reflect the intended meaning.

The Board proposed to lift its requirement that marketable certificates be in negotiable instrument form as established under the Uniform Commercial Code. The Board stated its belief that an association's board of directors should have the latitude to develop a marketable certificate form which would satisfy the needs of the association and its depositors. The proposal required that if the certificate were offered or described as a negotiable instrument, it would have to comply with the law of the state or other applicable jurisdiction regarding negotiable instruments. Two commenters specifically supported this proposal, and no commenters expressed opposition to it.

The Board notes that the proposal would eliminate the reference to Section 8–102 of the Uniform Commercial Code now contained in § 545.1–4(f). Since marketable certificates of deposit may be issued in registered form and therefore are subject to Article Eight of the Uniform Commercial Code, it is the Board's view that the proposed language should be amended to clarify that certificates issued in registered form must satisfy the requirements of local law. Accordingly, the Board has adopted the proposal with the changes noted above.

Brokered Savings Accounts

The Board's proposal contained an amendment to its brokered funds regulation, § 563.25, to exempt certificates with a maturity of 5 years or more from the present 5% limitation on acceptance brokered funds.

Nine commenters specifically cited the proposed relaxation of the brokered-funds limitation as a beneficial change. Commenters believed that brokers may be useful in acquiring long-term funds, and six of them favored further liberalization of the regulation. Several commenters noted that the Board's limitation on brokered funds was adopted at a time when California associations were able to pay slightly higher rates than other institutions on passbook accounts, which were then the only savings instrument issued by savings and loan associations. At that time, the Board was concerned that brokers were siphoning funds from other parts of the country into California, thus adversely affecting the stability of institutions losing deposits. This differential no longer exists.

After considering the public comments and other material information, the Board has determined that since the major concern that the 5 percent limitation in § 563.25 was designed to address no longer exists, there is an insufficient basis to continue the present 5 percent limitation and that it may safely relieve the present 5 percent limitation on the acceptance of brokered funds with respect to all accounts. The Board notes that the present 2 percent ceiling on commission payments in connection with such brokerage transactions remains in effect. A review of this liberalization at a later date may be necessary if abuses occur; however, since the Board believes that the use of brokers will enhance the ability of institutions to attract deposits, it has amended the proposal by completely eliminating the 5 percent limitation on brokered funds.

Discounts

After reviewing the comments received in response to its proposed amendments to the marketable certificates of deposit regulations, the Board has determined that it would be beneficial to allow associations to issue large denomination (over $100,000, $50,000 in Puerto Rico) fixed-rate, fixed-term certificates of deposit at an original issue discount. The Board believes that the ability to issue such certificates at a discount may facilitate the ability of associations to attract large deposits from institutional investors. Accordingly, the Board is amending its

regulations regarding fixed-rate, fixed-term deposits for Federal and state-chartered associations to allow the issuance of such accounts (in denominations exempt from the maximum rate of return provisions of Part 526 because the institution has received at least $100,000 ($50,000 in Puerto Rico)) at an original issue discount.

Accordingly, the Federal Home Loan Bank Board hereby amends the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) and Part 563 of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation (12 CFR Part 563), to read as set forth below.

Rules and Regulations for the Federal Savings and Loan System

PART 545—OPERATIONS

1. Amend paragraph (b) of § 545.1–3 by adding a sentence at the end thereto, to read as follows:

§ 545.1–3 Fixed-term savings deposits.

* * * * *

(b) *Payment of interest.* * * *

The return on such accounts may be in the form of discount only in the case of certificates exempt from the maximum rates of Part 526 because the association has received at least $100,000 ($50,000 in Puerto Rico).

2. Amend subparagraphs (d)(2) (v) and (vi) and (e)(4) and revise paragraph (f) of § 545.1–4, to read as follows:

§ 545.1–4 Marketable certificates of deposit.

* * * * *

(d) *Limitations.* * * *

(2) The certificate shall not, by its terms or otherwise, * * *

(v) Be subject to redemption unless such certificate provides for a redemption financed by the issuance of another certificate pursuant to this section or § 545.24–4 of this Part at a rate of interest lower than the interest then due on the outstanding deposit; or (vi) Be subject to acceleration, except that it may provide for acceleration in the event of nonpayment of principal and interest on the certificate.

* * * * *

(e) *Required provisions.* The certificate shall include in its provisions the following: * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires, except that a certificate may provide that interest shall accrue on or be credited to the certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term; and

* * * * *

(f) *Form.* (1) The board of directors shall determine the form of the certificate.

(2) The certificate shall not be incorporated in a passbook.

(3) If the certificate is offered or described as a negotiable instrument or registered form, it must so qualify under the law of the state or other jurisdiction in which the home office of the association is located.

(4) Notwithstanding any other provision of this section, the certificate may be interchangeable as between denominations or any form permitted by this paragraph (f); it may refer to such interchangeability and include anything that this Part or other applicable regulation or statute expressly permits or requires to be included.

* * * * *

Rules and Regulations for the Federal Savings and Loan Insurance Corporations

PART 563—OPERATIONS

Note.—The following numbering reflects the Board's recent amendment of § 563.3–1 (45 FR 47117; published 7/14/80).

3. Amend paragraph (b) of § 563.3–1 by removing the word "or" at the end of subparagraph (b)(5) and placing it at the end of subparagraph (b)(6), and adding a new subparagraph (7), to read as follows:

§ 563.3–1 Fixed-rate, fixed-term accounts.

* * * * *

(b) *Limitations.* In issuing certificates evidencing fixed-rate, fixed-term accounts pursuant to the approval contained in paragraph (a) of this section, no insured institution shall:

* * *

(7) Pay a return in the form of a discount, except in the case of certificates exempt from the maximum rates of return of Part 526 of this chapter because the institution has received at least $100,000 ($50,000 in Puerto Rico).

* * * * *

4. Amend subparagraphs (d)(2) and (e)(4) and revise paragraph (f) of § 563.3–3, to read as follows:

563.3–3 Marketable fixed-rate, fixed-term accounts.

* * * * *

(d) *Limitations.* In acting under the approval granted by this section, an insured institution shall not issue any certificate: * * *

(2) Which by its terms or otherwise is subject to (i) repurchase; (ii) redemption unless such certificate provides for a redemption financed by the issuance of another certificate pursuant to this section at a rate of interest lower than the interest then due on the outstanding deposit; or (iii) acceleration, except that it may provide for acceleration in the event of nonpayment of principal and interest on the certificate.

* * * * *

(e) *Required provisions.* The certificate shall include in its provisions the following: * * *

(4) A statement that no interest shall accrue on or be credited to the certificate for any time after the fixed term expires, except that a certificate may provide that interest shall accrue on or be credited to the certificate after expiration of the fixed term if the issuing association defaults in its obligation to pay the principal amount of such certificate at the expiration of its term; and

* * * * *

(f) *Form.* (1) The board of directors shall determine the form of the certificate.

(2) The certificate shall not be incorporated in a passbook.

(3) If the certificate is offered or described as a negotiable instrument or in registered form, it must so qualify under applicable local law.

(4) Notwithstanding any other provision of this section, the certificate may be interchangeable as between denominations or any form permitted by this paragraph (f); it may refer to such interchangeability and include anything that this Part or other applicable regulation or statute expressly permits or requires to be included.

* * * * *

5. Amend subparagraph (c)(1) of § 563.25 to read as follows:

§ 563.25 Sales commissions.

* * * * *

(c) *Use of brokers.* (1) *General provisions.* The provisions of this section shall not prohibit the payment by an insured institution, within the limitations of this paragraph (c), of sales commissions to brokers. * * *

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 7981, 3 CFR, 1943–48 Comp., p. 1071)

Dated: September 30, 1980.

By the Federal Home Loan Bank Board,

Robert D. Linder,

Acting Secretary.

[FR Doc. 80–31758 Filed 10–9–80; 8:45 am]

BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt 16]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is delegating full authority for the delivery of all line programs to the Financial/Management Assistance Officer in the Minneapolis, Minnesota District Office that are currently attributable to the following positions: Chief Financing Division, Chief Portfolio Management Division, Assistant District Director/Management Assistance and Assistant District Director/Minority Small Business and Capital Ownership Development. This authority will enable the Minneapolis District Office to use the team concept in program goal accomplishments.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street N.W., Washington, D.C. 20416, telephone (202) 653–6703.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, 13 CFR 101.3–2 is amended as follows:

§ 101.3–2 [Amended]

1. *Part I—Financing Program.*

(a) In Section A, paragraph 1a is amended by renumbering existing paragraphs (6) through (10) as (7) through (11) and in paragraph 1a adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	350,000	350,000

and in paragraph 1b by renumbering existing paras (6) through (12) as (7) through (13) and adding a new paragraph (6) or follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	500,000	500,000

(b) In Section A, paragraph 2 is amended by relettering existing paragraphs f through h as g through i and adding a new paragraph f as follows:

f. Financial/Management Assistance Officer—Minneapolis, MN D.O.

(c) In Section A, paragraphs 3a and 3b are amended by renumbering existing paragraphs (6) through (9) as (7) through (10) and in paragraph 3a adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	500,000

and in paragraph 3b adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	1,000,000

(d) In Section A, paragraphs 4a and 4b are amended by renumbering existing paragraphs (6) through (9) as (7) through (10) and in paragraph 4a adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	500,000

and in paragraph 4b adding as new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O	1,000,000

(e) In Section A, paragraph 5 is amended by relettering existing paragraphs (f) through (h) as (g) through (i) and adding a new paragraph (f) as follows:

(f) Financial/Management Assistance Officer—Minneapolis, MN D.O	100,000

(f) In Section B, paragraph 1 is amended by relettering existing paragraphs f and g as g and h and adding a new paragraph f as follows:

f. Financial/Management Assistance Officer—Minneapolis, MN D.O.

(g) In Section B, paragraphs 2a and 2b are amended by renumbering existing paragraphs (6) through (8) as (7) through (9) and in paragraph 2a adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O.

and in paragraph 2b adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O. (on fully undisbursed loans)

(h) In Section B, paragraph 3a is amended by renumbering existing paragraphs (6) and (7) as (7) and (8) and adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O. (on fully undisbursed loans)

(i) In Section B, paragraph 4 is amended by relettering existing paragraphs (f) through (h) as (g) through (i) and adding a new paragraph (f) as follows:

(f) Financial/Management Assistance Officer—Minneapolis, MN D.O. (on fully undisbursed loans)

2. *Part II—Disaster Program.*

(a) In Section A, paragraph 7a is amended by renumbering existing paragraphs (6) through (8) as (7) through (9) and adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O.

(b) In Section A, paragraph 7b is amended by renumbering existing paragraphs (6) through (10) as (7) through (11) and adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O. (on fully undisbursed loans)

(c) In Section A, paragraph 8 is amended by renumbering existing paragraphs (6) through (8) as (7) through (9) and adding a new paragraph (6) as follows:

(6) Financial/Management Assistance Officer—Minneapolis, MN D.O. (on fully undisbursed loans)

3. *Part III—Other Financial and Guarantee Programs.*

(a) In Section A, paragraph 1 is amended by adding paragraph g as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O	750,000

(b) In Section A, paragraph 2c is amended by adding paragraph (3) as follows:

(3) Financial/Management Assistance Officer—Minneapolis, MN D.O	500,000

(c) In Section B, paragraph 1 is amended by adding paragraph g. as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O.

(d) In Section B, paragraphs 2a and 2b are amended by adding in paragraph 2a a new paragraph (7) as follows:

(7) Financial/Management Assistance Officer—Minneapolis, MN D.O.

and in paragraph 2b adding a new paragraph (7) as follows:

(7) Financial/Management Assistance Officer—Minneapolis, MN D.O. (before initial disbursement)

(e) In Section B, paragraph 3 is amended by adding paragraph g. as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O. (on wholly undisbursed loans)

4. *Part IV—Portfolio Management (PM) Program.*

In Section A, paragraph 1d is amended by renumbering existing paragraphs (7) through (10) as (8) through (11) and adding a new paragraph (7) as follows:

(7) Financial/Management Assistance Officer—Minneapolis, MN D.O.

5. *Part V—Claims Review Committee.*

In Section A, paragraph 1 is amended by adding to the existing list of persons constituting the District Claims Review Committee the following:

Financial/Management Assistance Officer—Minneapolis, MN D.O.

6. *Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD).*

Section A, paragraph 1 is amended by adding paragraph g as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O.

Dated: October 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-31750 Filed 10-09-80; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 101

[Rev. 2, Amdt. 15]

Delegations of Authority To Conduct Program Activities in the Field

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is delegating authority to the Senior Contract Specialist for the negotiation, administration and completion of contract and subcontract awards in the Region X 8a program. Other changes include a monetary limitations change in contracting authority (only) for all District Contract Specialists, formerly identified as Region X Contract Specialists.

These changes allow the Senior Contract Specialist to operate most effectively as a representative of the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development in Region X.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416, Telephone (202) 653–6703.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

§ 101.3–2 [Amended]

Accordingly, 13 CFR 101.3–2 is amended as follows:

Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD)

1. In Section B, paragraph 1 is amended by deleting existing subparagraph k. and adding a new subparagraph k. and adding a new subparagraph n. as follows:

k. All District Contract Specialists, Region X only—$250,000

n. Senior Contract Specialist, Region X only—$1,000,000

2. In Section B, paragraph 2 is amended by deleting existing subparagraph k. and adding a new subparagraph k. and adding a new subparagraph n. as follows:

k. All District Contract Specialists, Region X only—$250,000

n. Senior Contract Specialist, Region X only—$1,000,000

3. In Section B, paragraph 3 is amended by deleting existing subparagraph l. and adding a new subparagraph l. and adding a new subparagraph o. as follows:

l. All District Contract Specialists, Region X only—$250,000

o. Senior Contract Specialist, Region X only—$1,000,000

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

Dated: October 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-31749 Filed 10-9-80; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 1 and 3

Penalties for Violation of Appliance Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Federal Trade Commission, pursuant to 42 U.S.C. 6303, 15 U.S.C. 46(g), and 5 U.S.C. 553, revises its Rules of Practice to provide procedures for the assessment of civil penalties for violations of the provisions of the Energy Policy and Conservation Act ("EPCA") pertaining to labeling and advertising of consumer appliances and the Commission's rules promulgated thereunder.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan W. Cuneo, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3970.

SUPPLEMENTARY INFORMATION: On September 12, 1979, the Commission published proposed rules for administrative assessment of civil penalties under section 333 of EPCA, 42 U.S.C. 6303, as amended on November 9, 1978, by the National Energy Conservation Policy Act, Pub. L. 95–619. 44 FR 53088 (1979).[1] During the sixty-day comment period, the Commission received four comments. The Commission has considered the comments and has made appropriate modifications in the proposed rules.

The Commission's purpose in promulgating these rules is to provide fair and clear procedural rules for use in assessment of civil penalties, while retaining flexibility with respect to the procedures that it will employ in a section 1.94 determination. Thus, in proposing the general rules, the Commission provided that its rules governing adjudicative proceedings, 16 CFR 3.1 *et seq.*, would govern assessment of civil penalties in Commission adjudicative proceedings unless otherwise directed, and signaled its intent to publish in the **Federal Register** any significant alterations in the rules. One commentator urged that the Commission require itself to use the procedures in 16 CFR 3.1 *et seq.* In light of the flexibility that the Commission wishes to retain, the Commission declines to adopt this suggestion at this time. The Commission does recognize, however, a potential respondent's need to know, at the time of election under § 1.93(b), what procedures the Commission would employ if the potential respondent were to choose to have its case adjudicated under § 1.94. Accordingly, the Commission has modified the notice provisions of § 1.93(a) to require that the Commission specify its procedures at the time of the notice of proposed penalty, if the Commission will use procedures other than those of Part 3.

[1] The Commission published in final form substantive rules to which these procedural rules relate on November 19, 1979. 44 FR 66465 (1979).

In addition, one commentator urged that the Commission modify § 1.93(a) to require the Commission to accompany a notice of proposed penalty with a proposed complaint, and another commentator urged that the Commission always include either a complaint or a statement of material facts. As one commentator correctly asserted, "[W]ithout this kind of information, no intelligent election of procedures can be made." Accordingly, the Commission alters its proposed Rule 1.93 to require either a statement of material facts or a proposed complaint. The Commission does not require a proposed complaint in every case because a statement of the material facts would adequately protect a potential respondent's interest in receiving adequate notice. To require a proposed complaint would be unduly formalistic. The essence of the respondent's interest and the Commission's requirement is the information itself, not the form that the information may take.

One commentator, the Administrative Conference of the United States ("ACUS"), proposed that the Commission adopt specific criteria to assess the amount of civil penalties, and suggested that the Commission attempt to establish particular formulas for assessing violations. The Commission recognizes that there is a need to make determinations on penalty amounts by reference to standard criteria. Further, the criteria that ACUS has suggested would largely appear appropriate in a Commission assessment of civil penalties. Therefore, the Commission has modified § 1.97 to include most of the factors suggested by ACUS. On the other hand, because the Commission is lacking in experience in enforcing EPCA, it would be premature for the Commission to allocate precise numerical weights to the factors or establish fixed formulas for penalty assessment at this time.

Finally, a number of the commentators asked that the Commission establish an enforcement moratorium and adopt a two-year statute of limitations. With respect to the enforcement moratorium, the Commission has previously considered and granted in part two applications; 45 FR 43162 (June 26, 1980); 45 FR 40974 (June 17, 1980). The Commission believes that no further relief is warranted in connection with the promulgation of the procedural rules.

Similarly, the Commission believes that adoption of a two-year statute of limitations would not be appropriate because many violations may go undetected for a substantial period of time. One factor that the Commission will take into account in assessing the amount of penalties is the age of the violations. See Rule 1.97. In light of this protection, the Commission will not establish an absolute fixed statute of limitations at this time.

Accordingly, the Commission amends its rules of practice as follows:

PART I—GENERAL PROCEDURES

1. By adding a new Subpart K to read as follows:

Subpart K—Penalties for Violation of Appliance Labeling Rules

Sec.
1.92 Scope.
1.93 Notice of proposed penalty.
1.94 Commission proceeding to assess civil penalty.
1.95 Procedures upon election.
1.96 Compromise of penalty.
1.97 Amount of penalty.

Subpart K—Penalties for Violation of Appliance Labeling Rules

§ 1.92 Scope.

The rules in this subpart apply to and govern proceedings for the assessment of civil penalties for the violation of section 332 of the Energy Policy and Conservation Act, 42 U.S.C. 6302, and the Commission's Rules on Labeling and Advertising of Consumer Appliances, 16 CFR 305, promulgated under sections 324 and 326 of the Energy Policy and Conservation Act, 42 U.S.C. 6294 and 6296.

§ 1.93 Notice of proposed penalty.

(a) *Notice.* Before issuing an order assessing a civil penalty under this subpart against any person, the Commission shall provide to such person notice of the proposed penalty. This notice shall

(1) Inform such person of the opportunity to elect in writing within 30 days of receipt of the notice of proposed penalty to have procedures of § 1.95 (in lieu of those of § 1.94) apply with respect to such assessment; and

(2) Include a copy of a proposed complaint conforming to the provision of §§ 3.11(b)(1) and (2) of the Commission's Rules of Practice, or a statement of the material facts constituting the alleged violation and the legal basis for the proposed penalty; and

(3) Include the amount of the proposed penalty; and

(4) Include a statement of the procedural rules that the Commission will follow if respondent elects to proceed under § 1.94 unless the Commission chooses to follow subparts B, C, D, E and F of Part 3 of this chapter.

(b) *Election.* Within 30 days of receipt of the notice of proposed penalty, the respondent shall, if it wishes to elect to have the procedures of § 1.95 apply, notify the Commission of the election in writing. The notification, to be filed in accordance with § 4.2 of this chapter, may include any factual or legal reasons for which the proposed assessment order should not issue, should be reduced in amount, or should otherwise be modified.

§ 1.94 Commission proceeding to assess civil penalty.

If the respondent fails to elect to have the procedures of § 1.95 apply, the Commission shall determine whether to issue a complaint and thereby commence an adjudicative proceeding in conformance with section 333(d)(2)(A) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(d)(2)(A). If the Commission votes to issue a complaint, the proceeding shall be conducted in accordance with Subparts B, C, D, E and F of Part 3 of this chapter, unless otherwise ordered in the notice of proposed penalty. In assessing a penalty, the Commission shall take into account the factors listed in § 1.97.

§ 1.95 Procedures upon election.

(a) After receipt of the notification of election to apply the procedures of this section pursuant to § 1.93, the Commission shall promptly assess such penalty as it deems appropriate, in accordance with § 1.97.

(b) If the civil penalty has not been paid within 60 calendar days after the assessment order has been issued under paragraph (a) of this section, the General Counsel, unless otherwise directed, shall institute an action in the appropriate district court of the United States for an order enforcing the assessment of the civil penalty.

(c) Any election to have this section apply may not be revoked except with the consent of the Commission.

§ 1.96 Compromise of penalty.

The Commission may compromise any penalty or proposed penalty at any time, with leave of court when necessary, taking into account the nature and degree of violation and the impact of a penalty upon a particular respondent.

§ 1.97 Amount of penalty.

All penalties assessed under this subchapter shall be in the amount of $100 for each violation as described in section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a), unless the Commission shall otherwise direct. In considering the amount of penalty, the Commission shall take into account: (a) respondent's size and

ability to pay; (b) respondent's good faith; (c) any history of previous violations; (d) the deterrent effect of the penalty action; (e) the length of time involved before the Commission was made aware of the violation; (f) the gravity of the violation, including the amount of harm to consumers and the public caused by the violation; and (g) such other matters as justice may require.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

2. By revising § 3.2 to read as follows:

§ 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term includes hearings upon objections to orders relating to the promulgation, amendment, or repeal of rules under sections 4, 5 and 6 of the Fair Packaging and Labeling Act and proceedings for the assessment of civil penalties pursuant to § 1.94 of this chapter. It does not include other proceedings such as negotiations for the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; requests for extensions of time to comply with final orders or other proceedings involving compliance with final orders; proceedings for the promulgation of industry guides or trade regulation rules; proceedings for fixing quantity limits under section 2(a) of the Clayton Act; investigations under section 5 of the Export Trade Act; rulemaking proceedings under the Fair Packaging and Labeling Act up to the time when the Commission determines under § 1.26(g) of this chapter that objections sufficient to warrant the holding of a public hearing have been filed; or the promulgation of substantive rules and regulations, determinations of classes of products exempted from statutory requirements, the establishment of name guides, or inspections and industry counseling, under sections 4(d) and 6(a) of the Wool Products Labeling Act of 1939, sections 7, 8(b), and 8(c) of the Fur Products Labeling Act, and sections 7(c), 7(d), and 12(b) of the Textile Fiber Products Identification Act.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-31769 Filed 10-9-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3041]

Tingley Rubber Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a South Plainfield, N.J. manufacturer of molded rubber footwear to cease withholding cooperative advertising credits or allowances, or in any way limiting or restricting dealers from participating in any cooperative advertising program because of the resale price at which the dealer has advertised or sold a product; or because the dealer has used price comparisons in the advertising and sale of a product.

DATES: Complaint and order issued September 12, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603 (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Tuesday, July 1, 1980, there was published in the **Federal Register**, 45 FR 44322, a proposed consent agreement with analysis In the Matter of Tingley Rubber Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45)).

Carol M. Thomas,

Secretary.

[FR Doc. 80-31668 Filed 10-9-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 77N-0404]

Food Labeling; Protein Products; Warning Labeling; Withdrawal of Final Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing withdrawal of the final rule establishing protein products label warning requirements. This action is taken as a result of a court remand. The final rule was due to become effective on August 4, 1980, and would have established label warning requirements for products prepared in whole or in part from protein, protein hydrolysates, amino acid mixtures, or combinations of these, and that may be used to reduce weight. The agency considers the regulations published on April 4, 1980, to be without force or effect.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 4, 1980 (45 FR 22904), FDA published a final rule requiring that the label and labeling of any food product that derives more than 50 percent to its total caloric value from either whole protein, protein hydrolysates (degradation products of the chemical or enzymatic treatment of protein), amino acid mixtures, or a combination of these and is promoted for use to reduce weight bear the following warning:

Warning—Very low calorie protein diets (below 800 calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Use with particular care if you are taking medication. Not for use by infants, children, or pregnant or nursing women.

(This warning is hereafter referred to as the "first warning.")

The final rule also provided that protein products subject to the first warning are exempt from that labeling requirement if they are promoted as part of a nutritionally balanced diet plan providing 800 or more calories per day, if their label and labeling bear the following warning:

Warning—Use only as directed in the diet plan herewith . . . Do not use as the sole or primary source of calories for weight reduction.

(This warning is hereafter referred to as the "second warning.")

In addition, the final rule provided that the label and labeling of protein products, as defined in § 101.17(a)(1) (21 CFR 101.17(a)(1)), promoted or intended for food supplementation and promoted specifically for purposes other than weight reduction bear the following warning:

Warning—Use this product as a food supplement only. Do not use for weight reduction.

(This warning is hereafter referred to as the "third warning.")

Finally, the regulation required that all of the warning statements should appear prominently and conspicuously on the principal display panel of the product's package label and on any other labeling in letters of not less than one-sixteenth of an inch.

On May 5, 1980, the Council for Responsible Nutrition, a trade association whose membership includes manufacturers of dry, whole protein products, filed suit in the district court for the District of Columbia seeking declaratory and injunctive relief to invalidate the protein products warning label regulation. On August 1, 1980, Judge Joyce Hens Green remanded the entire regulation to the agency for further study and for the identification and delineation of that evidence which would support the rule as presently drafted or to enable the agency to promulgate a new rule. (A copy of Judge Green's Memorandum Opinion has been placed on file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.)

Although the Court only invalidated a portion of the final rule's first warning, the court remanded the entire regulation to the agency, noting that, in view of the need for FDA to further study part of the regulation, it would be inequitable and unwise to place the second and third warnings into effect. Until the matter is reevaluated and a new regulation is issued, FDA will not, indeed cannot, enforce the protein products label warning regulation.

Accordingly, that regulation amending Part 101, which published in the **Federal Register** of April 4, 1980 (45 FR 22904), is withdrawn.

The agency has decided not to seek appeal of Judge Green's order, which will be more fully discussed in the preamble to the new rule. However, FDA notes that it disagrees with Judge Green's decision and recent D.C. Circuit cases which hold that a rule subject to review under the "arbitrary and capricious" standard should be reviewed as if it were subject to the "substantial evidence" standard. FDA believes that the latter standard of review is a different and more rigorous one and therefore should not be applied to regulations reviewable under the "arbitrary and capricious" standard.

Because FDA continues to believe that the protein products covered by the challenged rule should contain some label notice informing consumers about the problems associated with the use of these products in very low calorie diets, the agency plans to issue a new rule to revise the regulation according to the remand as soon as possible.

Dated: October 6, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–31534 Filed 10–7–80; 11:56 am]

BILLING CODE 4110–03–M

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21 CFR Parts 175, 177, and 178

[Docket No. 79F–0415]

Food Additives; Emulsifiers and/or Surface Active Agents

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of *n*-alkylbenzenesulfonic acid and its ammonium, calcium, magnesium, potassium, and sodium salts as emulsifiers and/or surface active agents in the manufacture of articles or components of articles intended to contact food. This action responds to a food additive petition filed by the Goodyear Tire & Rubber Co.

DATES: Effective October 10, 1980, objections by November 10, 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: Vir D. Anand, 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 December 14, 1979 (44 FR 72652) announced that a food additive petition (FAP 9B3451) had been filed by the Goodyear Tire & Rubber Co., Akron, OH 44316, proposing that § 178.3400 *Emulsifiers and/or surface active agents* (21)CFR 178.3400) be amended to provide for the use of *n*-alkylbenzene-sulfonic acid and its ammonium, calcium, magnesium, potassium, and sodium salts as emulsifiers and/or surface active agents in the manufacture of articles or components of articles intended for food contact applications.

Having evaluated data in the petition and other relevant material, FDA concludes that § 178.3400 should be amended as set forth below. The agency further concludes that the food additive regulations should be amended by deleting for editorial purposes the item "sodium dodecylbenzenesulfonate" where it is presently listed under § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300), § 177.1010 *Acrylic and modified acrylic plastics, semirigid and rigid* (21 CFR 177.1010), and § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600), and the item "sodium decylbenzenesulfonate" where it is presently listed under § 177.2600, because the amendment to § 178.3400 would provide for such uses of the additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 175, 177, and 178 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

§ 175.300 [Amended]

1. Part 175 is amended in § 175.300 *Resinous and polymeric coatings* by deleting the item "Sodium dodecyl benzenesulfonate" from the list of substances in paragraph (b)(3)(xxix).

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1010 [Amended]

2. Part 177 is amended in § 177.1010 *Acrylic and modified acrylic plastics,*

semirigid and rigid by deleting paragraph (a)(7) which provides for the use of sodium dodecylbenzenesulfonate and redesignating paragraph (a)(8) as (a)(7).

§ 177.2600 [Amended]

3. Part 177 is amended in § 177.2600 *Rubber articles intended for repeated use* by deleting the items "Sodium decylbenzenesulfonate" and "Sodium dodecylbenzenesulfonate" from the list of emulsifiers in paragraph (c)(4)(viii).

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

4. Part 178 is amended in § 178.3400(c) by revising the item "Sodium *n*-alkylbenzenesulfonate (alkyl group predominantly C_{12} and C_{13} and not less than 95 percent C_{10} to C_{16})" to read as follows:

§ 178.3400 Emulsifiers and/or surface active agents.

* * * * *

(c) * * *

List of substances	Limitations
* * *	* * * *
n-Alkylbenzenesulfonic acid (alkyl group consisting of not less than 95 percent C_{10} to C_{16} and its ammonium, calcium, magnesium, potassium, and sodium salts.	For use only as emulsifiers and/or surface active agents as components of nonfood articles complying with §§ 175.300, 175.320, 175.365, 175.380, 176.170, 176.180, 177.1010, 177.1200, 177.1210, 177.1630, 177.2600, and 177.2800 of this chapter and § 178.3120.
* * *	* * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 10, 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 particularity 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 the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 10, 1980.

(Secs. 201(s) and 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348))

Dated: October 3, 1980.

William F. Randolph,

Acting Associate Commission for Regulatory Affairs.

[FR Doc. 80-31480 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 808

[Docket No. 76P–0344]

Medical Devices; California Application for Exemption From Federal Preemption of State Medical Device Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule responding to the State of California's application for exemption from Federal preemption of its State medical device requirements. This rule grants exemption from preemption for certain medical device requirements and denies exemption for others.

EFFECTIVE DATE: December 9, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK–70), Food and Drug Administration, Department of Health and Human Services, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 15, 1977 (42 FR 9186), FDA proposed a rule responding to the California Department of Health's application for exemption from Federal preemption for certain California State medical device requirements. A public hearing on the proposal was announced in the **Federal Register** of May 20, 1977 (42 FR 25919) and was held on July 19, 1977 in Rockville, MD. In the **Federal Register** of August 16, 1977 (42 FR 41301), FDA extended the time for comments on matters raised at the hearing to August 31, 1977.

Several comments objected that the proposal did not distinguish between those requirements of California law that were not preempted and those which, although preempted, the agency proposed to exempt from preemption. The comments argued that, because of the uncertainty surrounding the provisions, it was not possible for interested persons to submit meaningful comments. The agency agreed with the comments and issued a reproposal of the rule in the **Federal Register** of April 3, 1979 (44 FR 19438). Comments on the reproposal were accepted until June 4, 1979. A public hearing on the reproposal was announced in the **Federal Register** of July 31, 1979 (44 FR 44890) and was held on October 3, 1979 in Sacramento, CA. Written comments on matters raised at the hearing were accepted until November 2, 1979. Following is a summary of the comments received and the agency's response to them.

General

1. Several comments objected that the FDA proposal and its preamble are inconsistent with the congressional intent in enacting section 521 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360k). The comments stated that Congress intended that there be uniform regulation of medical devices and, therefore, that all State and local medical device requirements were preempted as of May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (Pub. L. 94–295) (the Amendments). The comments argued that FDA's interpretation of section 521 of the act and its response to the California application would result in a substantial number of differing State requirements applicable to a medical device, creating an undue burden on interstate commerce.

The agency has responded to comments objecting to its interpretation of section 521 of the act in the final regulations governing the procedures for applying to the FDA for an exemption from the Federal preemption provisions of section 521 of the act (**Federal Register** of May 2, 1978, 43 FR 18661). Briefly, from a plain reading of section 521 of the act it is clear that the scope of preemption is limited to instances where there are specific FDA requirements applicable to a particular device or class of devices. FDA's interpretation of section 521, as expressed in the

regulation, is more consistent with the congressional intent than the interpretation urged by the comments. The entire thrust of the Amendments is to provide FDA with new and additional authority to ensure that only safe and effective medical devices are permitted on the market. Yet, the interpretation urged by the comments would provide less public protection from unsafe and ineffective medical devices because State and local regulation of medical devices would be reduced or eliminated before comparable FDA regulations could be effective. The agency has received no information in this proceeding to dissuade it from its previous position. The FDA position will not cause an undue burden on interstate commerce because it merely allows State and local requirements to continue in effect until FDA establishes a national policy on the regulation of specific devices. Thus, because there is no duplication of FDA and State programs there is no greater burden on interstate commerce than if the Amendments had not been enacted. In fact, Congress specifically cited the California Sherman Food, Drug, and Cosmetic Law (Sherman Law) as the type of requirements that should be permitted to continue in effect. (Report by the Committee on Interstate and Foreign Commerce, No. 94–853 at p. 46.)

2. Several comments objected to the agency's conclusion that State and local requirements that are substantially identical to FDA requirements are not preempted by section 521 of the act. These comments stated that FDA's interpretation is not supported by the language of section 521 of the act. Many comments stated that, even where the language of the State requirement is exactly identical to that of the FDA requirement, the State may interpret or apply the requirement in a different manner. These comments cited the good manufacturing practice (GMP) regulations as an example, reasoning that because FDA inspectors interpret the FDA regulations differently it is unlikely that State inspectors will interpret them consistently.

In the preamble to the final procedural regulations of May 2, 1978, FDA responded to comments challenging its position on the preemptive status of State requirements that are substantially identical to FDA requirements. The agency stated that, while a State or local requirement may differ in some nonessential way from an FDA requirement, if it is substantially identical to an FDA requirement it is not "different from" the FDA requirement within the meaning of section 521 of the act and, therefore, it is not preempted. In section 26209 of the Sherman Law, California adopts the FDA GMP regulations as its own. Therefore, the California GMP regulations are not different from or in addition to the FDA requirements and, consequently, are not preempted. However, if California interprets or applies the GMP regulations in such a way as to make them different from or in addition to the Federal regulations, then the California requirements will be preempted to that extent. FDA is willing to assist California or any other State that adopts the Federal GMP regulations in enforcing the requirements of the Federal regulations to assure uniform application.

3. One comment questioned the preemptive status of several provisions of Division 21 of the Sherman Law that FDA did not address in the April 3, 1979 reproposal.

Chapter 1. This chapter contains definitions of terms used in Division 21 and general statements of policy.

These provisions are not requirements with respect to a device within the meaning of section 521 of the act and, therefore, are not preempted.

Section 26204. This section sets forth a statement of policy with regard to the type of information required in petitions regarding deleterious substances, food additives, pesticide chemicals, or color additives. This section does not establish any requirements with respect to a device and, therefore, is not preempted by section 521 of the act.

Chapter 2, Article 3. This article sets forth the authority of State agents to inspect device establishments. These are general enforcement requirements, which are not requirements with respect to a device and, therefore, are not preempted by section 521 of the act. (See 21 CFR 808.1(d)(6)(i).)

Chapter 2, Article 4. This article grants the California Department of Health the authority to disseminate information for the protection of the health and safety of the consumer. The provisions of this article do not establish any requirements with respect to a device and, therfore, are not preempted.

Chapter 3. This chapter provides for guarantees from a manufacturer to a dealer regarding compliance with the law. The provisions of this chapter do not establish any requirements with respect to a device and, therefore, are not preempted.

Chapter 4, Articles 1 and 2. These articles set forth requirements for packaging and labeling of drugs and devices. These provisions were implemented by the regulations in section 10380, 10385, and 10390 of Article 2, Title 17 of the California Administrative Code. In the preamble to the reproposal of April 3, 1979, FDA concluded that these sections are substantially identical to the requirements of Subparts A and C of 21 CFR Part 801, and therefore are not preempted. Considered in light of these implementing regulations, Articles 1 and 2 are also substantially identical to the FDA requirements and, therefore, are not preempted.

Chapter 4, Article 3. This article sets forth requirements governing the advertising of drugs and devices. The provisions of this section are general requirements not applicable to specific devices and, therefore, are not preempted unless they are applied to a specific device in such a way as to establish requirements that are different from or in addition to advertising requirements established by FDA for the device. Therefore, section 26463(m) is preempted to the extent that it applies to hearing aids. The status of the application for exemption from preemption for this section is the subject of another final rule published elsewhere in this issue of the **Federal Register.**

Chapter 6, Article 6. This article establishes rules governing the licensing of device manufacturers. Licensing requirements are not requirements with respect to a device within the meaning of section 521 of the act and, therefore, are not preempted.

Chapter 8. This chapter establishes penalties and remedies for violations of Division 21. These are general enforcement requirements, which are not preempted because they are not requirements with respect to a device. (See 21 CFR 808.1(d)(6)(i).)

Because none of the provisions discussed above are preempted, no changes in § 808.55 are necessary in response to this comment.

4. Two comments questioned the preemptive status of Article 3 of Chapter 8 relating to seizure and embargo. These comments noted that the authority of California agents to embargo devices is much broader than the authority of FDA agents to detain devices under section 304(g) of the act (21 U.S.C. 334(g)).

The provisions of Article 3 are not preempted by section 521 of the act because they do not establish requirements for specific devices. When they are applied to specific devices, they will be preempted to the extent that they establish requirements for the device that are different from or in addition to Federal requirements applicable to the device.

5. One comment objected to FDA's application of section 521 of the act to

California's premarket approval requirements in Article 5 of Chapter 6 of the Sherman Law. The comment stated that FDA should make it clear that any California premarket approval requirement for a class I or class II device is preempted. The comment also suggested that any premarket approval requirement for a device either recommended for classification into class I or class II by a classification panel or proposed for classification into class I or class II by FDA should be preempted.

As stated in the preamble to the April 3, 1979 reproposal, FDA has determined that Article 5 is not preempted because it does not establish requirements for a specific device. If a premarket approval requirement for a device is established under this article, it will be preempted to the extent that it is different from or in addition to a counterpart requirement established under the Federal act for the device. For a device classified into class I or II, the FDA requirement—in this instance, a determination that the product is not subject to premarket approval—is established on the date of final classification of the device. Thus, a California requirement for premarket approval for such a device is preempted as of the date of final classification. For a device classified into class III under section 513(d) of the act, the counterpart FDA requirement is established on the date the device cannot lawfully be marketed without approval of an application for premarket approval under section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)). Once these FDA requirements are established, any California requirement established for a device under Article 5 is preempted to the extent that it is different from or in addition to the Federal requirements applicable to the device. The agency disagrees with the comments' suggestion that the Federal law should preempt a California requirement or premarket approval for a device recommended or proposed for classification into class I or class II. The counterpart FDA requirement for such a device is not established until the date of final classification, and as explained above, the scope of Federal preemption is limited to instances where there are specific FDA requirements applicable to a particular device or class of devices. No change in the final regulation to necessary to reflect this position.

6. One comment suggested that FDA, should deny exemption from preemption for all of California's requirements governing the investigational use of intraocular lenses because FDA thoroughly regulates this area.

In section 26678, California provides that the investigation of a device meets the California requirements if it is conducted in accordance with the requirements of the Federal law. Therefore, the California requirements are identical to the FDA requirements and are not preempted. California officials stated at the hearing in Sacramento that they are deferring to FDA's regulation of the investigational use of intraocular lenses.

7. Several comments disagreed with FDA's conclusion that section 2541.3 of the California Business and Professions Code is preempted by section 521 of the act to the extent that it requires adoption of American National Standards Institute, Inc. (ANSI) standards Z–80.1 and Z–80.2. Section 2541.3 grants certain California agencies the authority to establish standards for prescription ophthalmic devices and requires them to adopt the current ANSI standards for these devices, which are ANSI Z–80.1 and Z–80.2. These comments pointed out that § 801.410 (21 CFR 801.410) of FDA's regulations governs only the use of impact-resistant lenses in prescription eyeglasses, while ANSI Z–80.1 and Z–80.2 govern all aspects of the manufacture of prescription lenses. These comments reasoned that, because FDA does not have requirements covering the areas regulated by California, the California requirements are not preempted.

In the proposed regulation, FDA concluded that section 2541.3 is preempted only to the extent that it requires the adoption of the Z–80.1 and Z–80.2 standards. Section 2541.3 does not otherwise establish any requirements with respect to a device. FDA disagrees with the comments' reasoning. Section 521 of the act preempts not only State and local requirements that are "different from" FDA requirements, but also those that are "in addition to" FDA requirements. Section 2541.3 is a requirement governing prescription lenses that is in addition to the FDA regulations governing the impact-resistance of prescription lenses and, therefore, is preempted by section 521 of the act.

8. Unlike the arguments raised by the comments discussed in paragraph 7, many comments agreed with FDA's conclusion that section 2541.3 is preempted, but objected to the agency's proposal to deny exemption from preemption for this section for the following reasons:

a. Compliance with the ANSI standards is necessary to ensure that prescription opthalmic devices are safe and effective. In the absence of the ANSI standards, lenses are being manufactured shoddily and not in accordance with the prescription. This results in severe health hazards and may result in accidents due to faulty vision.

b. Compliance with the ANSI standards does not add to the cost of lenses and does not create a burden on interstate commerce. Manufacturers who distribute their lenses nationwide charge a uniform price.

c. Compliance with the ANSI standards is possible within the present state of the art.

d. There are no Federal standards for prescription lenses other than the impact-resistance requirements. Therefore, if the California requirement is preempted, there will not be any protection for the people of California.

In contrast to the comments discussed above, several comments supported FDA's proposal to deny exemption from preemption for section 2541.3. These comments raised the following points:

(a) There should be a uniform national standard for prescription lenses.

(b) Strict compliance with the ANSI standards is not necessary to ensure that prescription lenses are safe and effective lenses. The requirements that the lenses meet the Federal impact-resistance requirements is sufficient. Also, the dispensing optician, optometrist, or ophthalmologist can examine the lenses to ensure that they conform to the prescription.

(c) Compliance with the ANSI standards is not possible within the present state-of-the-art.

(d) Compliance with the ANSI standards would increase the cost of prescription lenses by requiring lenses to be remade to comply with the standards. Compliance with the standards would result in an undue burden on interstate commerce because manufacturers of lenses would have to make lenses separately for distribution in California.

FDA is denying exemption from preemption for section 2541.3 primarily because there is insufficient information to conclude that it is appropriate for California alone to adopt the ANSI Z–80.1 and Z–80.2 standards at this time. FDA has not been furnished evidence of the medical need for the use of Z–80.1 and Z–80.2 standards, i.e., that safety and effectiveness are improved as a result of applying those standards. Moreover, the preliminary recommendations of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel have identified only impact resistance and frame flammability as the only hazards associated with these devices. The former is already required

by § 801.410, and the latter is not treated in Z–80.1 or Z–80.2. In the forward, scope, and title of ANSI Z–80.1 itself the standard developers have made it clear that ANSI Z–80.1 is intended to be a guideline or recommendation rather than a set of regulatory requirements. Impact resistance is the only exception because this requirement repeats the current FDA regulation.

FDA has no data showing complaints on problems with the quality of existing prescription ophthalmic devices which leads FDA to conclude that the quality of prescription lenses is generally acceptable in the hands of professional dispensers, and no further regulation beyond impact resistance is necessary at this time. The comments favoring exemption from preemption for this section have not shown that lenses sold outside of California and not subject to the ANSI standards are of such inferior quality compared with those sold in California to justify any increased cost of burden on interstate commerce of manufacturers' having to meet one set of requirements for California and another for the rest of the country.

The comments favoring exemption from preemption for the requirement were unable to counter effectively the statement contained in the ANSI standard that it is not intended to be a regulatory standard because of the difficulty of complying with all of its parameters simultaneously. ANSI estimated that 25 percent of the lenses currently marketed would have to be remade in order to comply with the standards. Proponents of exemption from preemption for section 2541.3 claimed that only 10 percent of the lenses fail to meet the standards. FDA has not received any solid statistics regarding compliance with the standards. The standard has not been legally enforceable because it has been preempted. Because California disagrees with FDA's conclusion that section 2541.3 is preempted, however, the State continued to enforce the section. Moreover, it is unclear how thoroughly or effectively California has been enforcing the section, especially with regard to out-of-State manufacturers.

FDA has not been furnished data showing the effect that compliance with the ANSI standards would have on the cost of prescription lenses or on interstate commerce. Some comments stated that firms distributing nationwide charge the same price in California that they charge in other States not requiring compliance with the ANSI standards. As discussed above, however, it is difficult to judge the significance of that fact because it is unclear whether California has been thoroughly and effectively enforcing the standards.

FDA's denial of an exemption from preemption for section 2541.3 does not leave prescription lenses unregulated. In addition to the impact-resistance requirements in 21 CFR 801.410, prescription lenses are subject to the good manufacturing practice regulations (21 CFR Part 820) and California's adoption in section 26209 of the Federal good manufacturing practice regulations.

Therefore, as proposed, FDA is denying exemption from preemption for section 2541.3. FDA will, moreover, reexamine this decision if valid information or data are provided to counter these conclusions.

9. Several comments stated that FDA's proposed regulation was inconsistent because it denied exemption from preemption from section 2541.3, in which California requires that all prescription lenses be manufactured in accordance with ANSI Z–80.1 and Z–80.2 while permitting California to enforce section 2541.6, which provides that State funds may not be used to purchase prescription lenses that do not meet those standards. The comments noted that, under this policy, Medi-Cal recipients would be protected by the ANSI standards while the general public would not be protected.

FDA believes that these two decisions are not inconsistent. The difference in treatment results from the fact that section 2541.3 is preempted by section 521 of the act while section 2541.6 is not. Specifications of contracts entered into by States for procurement of devices, or criteria for payment of funds under Medicaid or similar State or local health care programs are not requirements with respect to a device within the meaning of section 521 of the act. Consequently, such State provisions are not preempted. While California may establish its own criteria for the payment of its funds, medical devices sold in the State must meet all applicable Federal requirements.

10. Several comments objected to § 808.55(a), in which FDA proposed to exempt from preemption several provisions of the Sherman Law regarding color additives and packaging and labeling of devices. These comments argued that California did not satisfy § 808.20(c)(7) of the procedural regulations (21 CFR 808.20(c)(7)), which requires that the application for exemption from preemption include information on how the public health may benefit and how interstate commerce may be affected if an exemption is granted. The comments argued that California did not include any such information in its application. The comments also argued that provisions such as California's color additives requirements may burden interstate commerce because they are much broader than the FDA requirements and, therefore, may result in California's prohibiting the interstate shipment of devices that meet all applicable FDA requirements.

FDA proposed to exempt these requirements from preemption because they are more stringent than the FDA requirements and would provide additional protection to the public health without creating any apparent undue burden on interstate commerce. However, FDA agrees with the comments and, therefore, in the final rule in denying exemption from preemption for these requirements. Section 808.55 has been revised accordingly.

11. Section 808.55 has also been revised to reflect a final regulation regarding exemption from Federal preemption of State and local hearing aid requirements including those established by California published elsewhere in this issue of the **Federal Register.**

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 808 is amended by revising § 808.55, to read as follows:

§ 808.55 California.

(a) The following California medical device requirements are enforceable notwithstanding section 521 of the act because the Food and Drug Administration exempted them from preemption under section 521(b) of the act: Business and Professions Code sections 3365 and 3365.6.

(b) The following California medical device requirements are preempted by section 521 of the act, and FDA has denied them an exemption from preemption:

(1) Sherman Food, Drug, and Cosmetic Law (Division 21 of the California Health and Safety Code), sections 26207, 26607, 26614, 26615, 26618, 26631, 26640, and 26641, to the extent that they apply to devices.

(2) Sherman Food, Drug, and Cosmetic Law, section 26463(m) to the extent that it applies to hearing aids.

(3) Business and Professions Code section 2541.3, to the extent that it requires adoption of American National Standards Institute standards Z–80.1 and Z–80.2.

Effective date: December 9, 1980.

(Secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371))

Dated: October 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-31478 Filed 10-9-80; 8:45 am]

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21 CFR Part 808

[Docket No. 78P-0222]

Medical Devices; Applications for Exemption From Federal Preemption of State and Local Hearing Aid Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Massachusets and Rhode Island have applied to the Food and Drug Administration for exemptions from Federal preemption of their State hearing aid requirements. In this rule the agency is responding to these applications.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK–70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 13, 1979 (44 FR 22119), FDA published a proposed regulation responding to applications from Massachusetts and Rhode Island for exemption from Federal preemption for certain hearing aid device requirements. Interested persons were given until June 12, 1979 to submit written comments on the proposal. A public hearing on the proposal was held on October 16, 1979, and interested persons were given until November 15, 1979, to submit written comments on matters raised at the hearing.

Elsewhere in this issue of the Federal Register the agency is publishing a final rule responding to applications from 18 other States and the District of Columbia for exemption from preemption for their hearing aid requirements. Some of the issues raised in that proceeding are similar to the issues raised in the comments received on this rule. Because the issues are discussed in greater detail in that regulation, the agency refers interested persons to the preamble to that final rule.

1. One comment objected that the hearing held on the proposed regulation did not comply with the requirements for "informal hearing" specified in section 201(y) of the act (21 U.S.C. 321(y)), especially section 201(y)(1) which requires that the presiding officer be someone who has not participated in any action which is the subject of the hearing and who is not directly responsible to anyone who has participated in any such action. The comment further objected that the hearing officer did not conduct the hearing in an impartial manner.

Section 201(y) of the act, which sets forth the definition of "informal hearing," does not apply to a hearing conducted under section 521 of the act (21 U.S.C. 360k). An "informal hearing" is required only where that term is specifically used in the act. Section 521 of the act provides for the opportunity for an "oral hearing", rather than an "informal hearing." The agency believes that the record shows that the hearing was conducted fairly and that all parties had an adequate opportunity to present their views.

2. Several comments objected to FDA's proposal to deny exemption from preemption for the Massachusetts provision permitting waiver of the requirement of medical evaluation only if the purchaser's religious beliefs preclude consultation with a physician. Comments also objected to the agency's proposal to deny exemption from preemption for the Rhode Island law, which does not permit a waiver of the requirement of medical evaluation under any circumstances. The FDA regulation (21 CFR 801.420) allows an informed adult 18 years of age or older to waive medical evaluation. Some of the comments argued that medical evaluation is absolutely necessary and, therefore, that no waiver should be permitted. Other comments suggested that only persons with religious objections should be permitted to waive the medical evaluation. Opposing comments agreed with FDA that informed adults should have the freedom to waive medical evaluation. Others suggested that waiver is appropriate in at least certain situations, such as where a purchaser objects to the evaluation for religious reasons or when purchasing replacement hearing aids.

The agency believes that examination by a physician is necessary to ensure that the organic causes of hearing loss are diagnosed and treated properly. The agency, also believes, however, that any informed adult who objects to medical evaluation for religious or personal reasons should be permitted to waive the requirement.

3. Other comments opposing FDA's proposal to deny exemption from preemption for these waiver provisions argued that hearing aid dealers are abusing the FDA waiver provision. Some of these comments suggested that prospective hearing aid purchasers waive the medical evaluation requirement in 80 to 85 percent of the sales of hearing aids. The Massachusetts Hearing Aid Society surveyed its members and found that 58 percent of the sales of those responding were made to persons who had obtained a prior medical evaluation. The Rhode Island Hearing Aid Society also surveyed its members and found that 62 percent of the sales of those responding were made to persons who had obtained a prior medical evaluation.

FDA has not been presented with any convincing evidence that the waiver provision is being widely abused by hearing aid dealers. The agency conducted a survey of State officials to determine whether they were experiencing any problems with compliance with the FDA hearing aid regulation. Of the 39 States that responded to the survey, only Massachusetts stated that it had encountered major problems with regard to compliance. However, Massachusetts did not document its assertion. Therefore, FDA is denying exemption from preemption for the Massachusetts and Rhode Island waiver provisions.

4. Several comments objected to FDA's proposal to deny exemption from preemption for the Massachusetts provision requiring a hearing test evaluation before the sale of a hearing aid. The Massachusetts law requires that the hearing test be conducted by an otolaryngologist, a physician, or an audiologist. Some comments argued that hearing aid dealers are not qualified to perform the necessary testing and that evaluation by a physician or an audiologist is necessary. Opposing comments argued that hearing aid dealers are qualified to perform the necessary testing. One comment noted that the requirement of medical evaluation is sufficient to ensure that audiometric testing is done as part of the diagnostic process.

There is no evidence that only physicians or audiologists are competent to measure hearing loss. Therefore, the agency does not believe that it is appropriate to require a hearing test evaluation by a physician or an audiologist before every sale of a hearing aid. Problems regarding the competency of hearing aid dealers to measure hearing loss will be adequately addressed by strong State and local licensing provisions.

5. Several comments objecting to FDA's proposal to deny exemption from preemption for the Massachusetts provision requiring that a hearing test evaluation be conducted by an audiologist or a physician argued that

hearing aid dealers are primarily interested in selling hearing aids and, therefore, cannot be expected to perform unbiased testing. Opposing comments disputed the implication that many hearing aid dealers sell hearing aids when the testing shows that an aid is not required. Several comments also noted that some physicians and audiologists now sell hearing aids and, if Massachusetts were permitted to require hearing test evaluation, probably more would sell them.

Although the agency is aware that there are some abuses in the hearing aid industry, it has not been shown that these abuses are so widespread as to justify requiring a hearing test evaluation by a physician or an audiologist before every sale of a hearing aid. The agency believes that the Federal requirements along with stringent State and local licensing laws will adequately address abuses in the hearing aid industry.

6. One comment suggested that FDA should grant Massachusetts an exemption from preemption for its hearing test evaluation requirement as it applies to children under the age of 18. This comment said that granting such an exemption would be consistent with the agency's decisions concerning similar provisions of other State statutes.

FDA agrees with this comment. In the final rule responding to applications from 18 other States and the District of Columbia, published elsewhere in this issue of the **Federal Register**, the agency is exempting from preemption requirements of audiological evaluation for children under the age of 18. Audiologists are specially qualified to assist in the language development and social and educational growth of a child with a hearing loss. Consequently, mandatory audiological evaluation of a minor will serve an important public health purpose. Therefore, the final regulation has been revised to exempt from preemption the Massachusetts hearing test evaluation provision to the extent that it applies to children under the age of 18.

7. FDA is granting an exemption from preemption for Chapter 93, Section 74 of the Massachusetts General Laws, which requires the disclosure of certain information to hearing aid purchasers, on the condition that in enforcing this provision, Massachusetts apply the definition of "used hearing aid" contained in the FDA regulation. There were no comments on this provision.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 808 is amended in Subpart C by adding new §§ 808.71 and 808.89 to read as follows:

§ 808.71 Massachusetts.

(a) The following Massachusetts medical device requirements are enforceable notwithstanding section 521 of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act:

(1) Massachusetts General Laws, Chapter 93, Section 72, to the extent that it requires a hearing test evaluation for a child under the age of 18.

(2) Massachusetts General Laws, Chapter 93, Section 74, except as provided in paragraph (6) of the Section, on the condition that, in enforcing this requirement, Massachusetts apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(b) The following Massachusetts medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them exemptions from preemption under section 521(b) of the act.

(1) Massachusetts General Laws, Chapter 93, Section 72, except as provided in paragraph (a) of this section.

(2) Massachusetts General Laws, Chapter 93, Section 74, to the extent that it requires that the sales receipt contain a statement that State law requires a medical examination and a hearing test evaluation before the sale of a hearing aid.

§ 808.89 Rhode Island.

The following Rhode Island medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them an exemption from preemption under section 521(b) of the act: Rhode Island General Laws, Section 5–49–2.1, and Section 2.2, to the extent that Section 2.2 requires hearing aid dispensers to keep copies of the certificates of need.

Effective date. This regulation is effective November 10, 1980.

(Secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360, 371))

Dated: October 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80–31479 Filed 10–9–80; 8:45 am]

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21 CFR Part 808

[Docket No. 77N–0333]

Exemption From Preemption of State and Local Hearing Aid Requirements; Applications for Exemption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Various States have applied to the Food and Drug Administration for exemptions from Federal preemption of their State hearing aid requirements. In this rule the agency grants exemptions for some State hearing aid requirements and denies exemptions for others.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Bureau of Medical Devices (HFK–70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: The proposal upon which this final regulation is based was published in the **Federal Register** of July 28, 1978 (43 FR 33180). Interested persons were initially given until September 26, 1978 to comment on the proposal. In the **Federal Register** of October 20, 1978 (43 FR 49015), the comment period was extended to December 19, 1978. In the **Federal Register** of October 20, 1978 (43 FR 49014), the agency also published a proposed regulation addressing a New Jersey requirement that it had not addressed in the July 28 proposal. Interested persons were given until December 19, 1978 to comment on this proposal. FDA held a public hearing on these proposed regulations on October 31 and November 1, 1978.

A proposed regulation responding to applications from Massachusetts and Rhode Island for exemption from preemption for their State hearing aid requirements was published in the **Federal Register** of April 13, 1979 (44 FR 22119). Interested persons were given until June 12, 1979 to comment on the proposed regulation. This final rule does not include the agency's response to the applications from these two States which is set forth in a final rule published elsewhere in this issue of the **Federal Register.**

Although FDA is denying exemption from preemption for many State requirements, it encourages the States to remain active in regulating the hearing aid industry. FDA particularly encourages the States to adopt strict licensing laws to establish and maintain minimum competency requirements for persons who test for hearing loss and select and fit hearing aids. FDA also encourages State and local governments

to educate consumers about the value of medical evaluation prior to the purchase of a hearing aid and to furnish them with the information they need for proper hearing health care. States may assist in enforcing the FDA hearing aid regulations by adopting requirements identical to the FDA requirements.

In addition to the testimony at the public hearing, the agency received more than 300 comments on the proposed regulation. Most of these comments addressed the issue of mandatory audiological evaluation. Many comments also addressed waiver of medical evaluation, disclosure requirements, and the California provision restricting the advertising of hearing aids. The following is a summary of the comments and the agency's response to them.

The FTC Rule

1. The Federal Trade Commission (FTC) also has been studying the hearing aid health care delivery system to determine what steps should be taken to protect consumers from unfair or deceptive acts or practices in the sale of hearing aids. In the **Federal Register** of June 24, 1975 (40 FR 26646), the FTC published an "initial notice" of a proposed trade regulation rule for the hearing aid industry. Public hearings on the proposed rule were held in various cities from April to August of 1976. The presiding officer at these hearings reported his findings and conclusions on August 1, 1977. The staff then analyzed the record and made its report and recommendation to the FTC on September 25, 1978. Interested persons were given 60 days to comment on the staff report. The rule is now awaiting final action by the FTC.

The most important provision of the proposed rule is a requirement that the purchaser of a hearing aid be given the right to cancel the purchase for any reason at any time within 30 days of delivery, and receive a refund of most of the purchase price (in effect, a mandatory trial rental period). Other important features of the rule are that it would prohibit certain misleading claims and sales practices with respect to hearing aids and would require the hearing aid dealer to obtain prior express written consent to a sales visit in the buyer's home or office.

One comment on the FDA proposal said the FTC record is replete with evidence that hearing aid dealers receive little training and so are often incompetent to test hearing and to select and fit hearing aids. The comment also said the FTC record shows that hearing aid dealers do not counsel hearing-impaired persons adequately in adapting to a hearing aid and that they do not repair hearing aids well. Finally, the comment said the FTC record shows that hearing aid dealers abuse home visits. The comment recommended that independent audiological evaluation should be required to remedy these abuses.

The FTC record does indeed contain evidence of many abuses in the hearing aid industry. It should be noted, however, that most of the evidence in the FTC record was gathered before the FDA regulation became effective on August 25, 1977. FDA believes that its regulation has already reduced some abuses in the industry and that adoption of the FTC rule would reduce these abuses even further. FDA also believes that stringent State and local licensing laws will ensure that hearing aid dealers are competent to test hearing and to select and fit hearing aids. The agency believes that the Federal requirements, along with strong State and local licensing laws, will adequately address the abuses in the hearing aid industry described in the FTC staff report.

The Legality and Constitutionality of the Proposed Rule

2. One person combined comments on the proposal with a petition to amend the FDA hearing aid regulation.

FDA will respond to the petition separately in a letter to the petitioner and will place a copy of the response on file with the Hearing Clerk, Food and Drug Administration.

3. One comment argued that the regulation is illegal and unconstitutional in several respects. First, the comment argued that the FDA regulation does not preempt State requirements for audiological evaluation because the constitutional requirements for preemption set forth in *Hines* v. *Davidowitz* (312 U.S. 52 (1941)) are not satisifed—specifically, that a State requirement is preempted only if it obstructs the "accomplishment and execution of the full purposes and objectives of an act of Congress." The comment reasoned that the requirement of audiological evaluation before the sale of a hearing aid does not relate to the safety or effectiveness of hearing aids and, consequently, does not interfere with the Federal regulation.

In section 521 of the act (21 U.S.C. 360k) Congress expressed its purposes and objectives with respect to the preemption of State and local medical device requirements. That section reflects Congress' intent that the Food, Drug, and Cosmetic Act preempt any State or local requirement applicable to a medical device that is different from or in addition to a requirement for the device under the act. The State requirement of audiological evaluation relates to the safety or effectiveness of hearing aids because it is intended to ensure that the purchaser is fitted properly with a hearing aid that will benefit his or her hearing ability. This requirement is in addition to the Federal requirements applicable to hearing aids and would interefere with the execution and accomplishment of the objectives of FDA's hearing aid regulation. Therfore, the State requirement of audiological evaluation is preempted in accordance with both *Hines* v. *Davidowitz* and section 521 of the act.

4. The comment further argued that the Tenth amendment, which reserves to the States those powers not specifically granted to the Federal governent, limits the power of Congress to regulate interstate commerce in areas traditionally regulated by the States, such as occupational licensing and consumer protection. The comment stated that audiological evaluation does not involve interstate commerce. The comment also objected that FDA is requiring the States to enforce the Federal regulatory scheme by changing their State laws to prohibit audiological evaluations, contrary to the holdings in *Brown* v. *Environmental Protection Agency*, 521 F.2d. 827 (9th Cir. 1975) and *District of Columbia* v. *Train*, 521 F.2d. 97 (D.C. Cir. 1975).

Congress enacted the Medical Device Amendments of 1976 (Pub. L. 94–295) pursuant to its authority to regulate interstate commerce under Article 1, Section 8 of the United States Constitution. The purpose of the amendments is to ensure that medical devices are safe and effective. When Congress determines that it is necessary to regulate a particular area of interstate commerce, it may also regulate any incidental aspects of that area that it believes may affect interstate commerce. *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241 (1964); *Katzenbach* v. *McClung*, 379 U.S. 294 (1976); *United States* v. *Darky*, 312 U.S. 100 (1941). In enacting section 520(e) of the act, Congress determined that the safety and effectiveness of certain medical devices may be ensured only by restricting their sale, distribution, or use. Section 520(e) of the act, therefore, is a valid exercise of congressional authority under the commerce clause. In restricting the sale of hearing aids, FDA acted in accordance with the authority granted it under section 520(e). Therefore, Neither FDA's restrictions on the labeling and conditions for sale of hearing aids nor its decision to deny exemptions from preemption for State

requirements of amendatory audiological evaluation is in violation of the Tenth amendment.

FDA's action is not contrary to the holdings in *Brown* v. *EPA* and *District of Columbia* v. *Train*. FDA is not requiring the States to enforce a Federal regulatory scheme, nor is it requiring them to prohibit audiological evaluation. The effect of FDA's denying an exemption from preemption for the requirement of audiological evaluation is to make such evaluations optional for the patient. By denying exemption for this requirement, the agency is recognizing Congress' intent that FDA regulations applicable to devices, such as hearing aids, preempt State and local requirements that are different from or in addition to the FDA requirements.

5. The comment also noted that under section 520(e) of the act, FDA may restrict the use of a device to persons with specific training, skill, education, or experience only if it determines that such a restriction is necessary to ensure the safe and effective use of the device. The comment argued that FDA has made no such finding with respect to the use of hearing aids by audiologists.

FDA is not excluding audiologists from the use of hearing aids. Because the FDA hearing aid regulation preempts State laws requiring audiological evaluation, the States may not require, as a condition to the purchase of a hearing aid, that the prospective purchaser receive an audiological evaluation. However, audiologists may continue to conduct hearing tests.

6. The comment also argued that, even if Congress did intend to preempt State laws requiring audiological evaluation, the procedures in Part 808 (21 CFR Part 808), pursuant to which FDA has considered the applications that are the subject of this rule, are unconstitutional and unlawful because the criteria for determining whether to grant an exemption are not in accord with the constitutional standard for preemption. The comment stated that the correct standard for the agency to apply is first to determine whether there is a congressional intent to occupy the field, and then to determine whether the State policy obstructs the full purpose and objectives of the act or whether Federal and State policies seek the same objectives and can coexist. The comment also stated that in denying an exemption FDA must show that a conflict between Federal and State regulation would necessarily result if the exemption were granted. Finally, the comment stated that FDA has no authority to consider factors such as cost and availability of services in determining whether to grant an exemption from preemption.

The comment misconceives the law regarding Federal preemption. There are two types of Federal preemption: Express and implied. The standard described in the comment is the test of implied Federal preemption, the test applicable where Congress has not exercised its power under the Commerce clause to expressly declare Federal law paramount to State law. See *Jones* v. *Rath Packing Co.*, 430 U.S. 519 (1977); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Hines* v. *Davidowitz*, 312 U.S. 52, 56 (1940). In section 521(a) of the act, however, Congress has expressly declared that the Federal Food, Drug, and Cosmetic Act preempts any State or local requirement with respect to the safety or effectiveness of a medical device that is different from or in addition to a requirement under the act applicable to the device. The test of implied Federal preemption, therefore, does not apply. Adoption of the standard advanced in the comment would render section 521 of the act meaningless because as argued in the comment the Federal law would preempt only State requirements that directly conflict with the Federal law. Yet, in section 521 of the act Congress established a specific standard of preemption. Under Section 521(a) of the act, preemption is not restricted to State requirements that directly conflict with Federal law, but rather extends to requirements that are different from, or in addition to, any requirement applicable to the device under the act.

The comment's contention that, in denying an exemption, FDA must show that a conflict between Federal and State regulation would necessarily result if an exemption were granted confuses the test of preemption with the standard FDA must apply in deciding whether to exempt State and local requirements from preemption. As stated above, section 521(a) of the act specifies the type of State or local requirement that is preempted. In section 521(b) of the act, Congress authorized FDA to exempt a State or local requirement from Federal preemption if it is more stringent than the Federal requirement or if it is required by compelling local conditions and compliance with the requirement would not cause the device to be in violation of the act. Thus, FDA is not required to show that a conflict between Federal and State law would necessarily result if a State requirement were exempted from preemption.

The authority granted FDA in section 521(b) of the act to exempt State or local requirements from preemption is discretionary. Congress did not specify the criteria that FDA must employ in exercising that discretion. In light of the purpose of the act and the Medical Device Amendments, however, FDA believes that in deciding whether to exempt a State requirement from preemption it is appropriate to consider the effect that granting the exemption would have on the public health. The cost of medical devices and the availability of medical services are relevant factors in assessing the effect that an exemption would have on the public health. Therefore, FDA will consider these factors in determining whether to exempt a particular State requirement from preemption.

7. The comment also stated that proposed § 808.1(d)(5) (21 CFR 808.1(d)(5)), which provides that section 521(a) of the act does not preempt criteria for payment of State or local obligations under Medicaid and similar health care programs, is unlawful because section 521(a) of the act preempts all State or local requirements relating to medical devices.

Under section 521(a) of the act, the Food, Drug, and Cosmetic Act preempts only State or local requirements that relate to the safety or effectiveness of medical devices. In order for a State provision to be a requirement with respect to a device within the meaning of section 521 of the act—and thereby a candidate for preemption—it must relate to the device itself. Rules or requirements established by Federal, State, or local agencies to control the expenditure of public funds for purchasing hearing aids and hearing health care services for the hearing impaired, i.e., third-party payment programs, typically establish standards for the screening and diagnosis of individuals who will receive hearing aids through publicly funded programs. These requirements are designed to ensure the proper use of public funds. Rules and requirements for the expenditure of public funds for hearing aids are payment criteria established by the payer or purchaser and are not "requirements with respect to a device" within the meaning of section 521(a) of the act. Consequently, these requirements are not preempted under section 521(a). It should be noted, however, that regardless of the criteria for payment, the hearing aid dispenser is required to comply with the FDA regulation.

8. The same comment also argued that the proposal to exempt from preemption State laws requiring that a hearing aid purchaser be examined by an

otolaryngologist violated section 520(e) of the act. Section 520(e)(1) of the act provides that no restriction placed on a device under section 520(e)(1)(B) may exclude a person from using a device solely because the person does not have the training or experience to be eligible for certification by a certifying board recognized by the American Board of Medical Specialities or has not been certified by such a board.

Section 520(e) of the act limits the restrictions that FDA may place on the sale, distribution, or use of a device. That section does not limit FDA's authority to exempt State or local requirements from preemption, nor does it provide that FDA may exempt from preemption only requirements that it has the authority to impose. In any event, although FDA believes that it has the authority to exempt from preemption the requirement of examination by an otolaryngologist, it is denying exemption for this requirement because it may be a barrier to the receipt of a hearing aid in areas where otolaryngologists are not readily available.

9. Finally, the same comment objected that the hearing held on the proposed regulation did not comply with the requirements of an "informal hearing" specified in section 201(y) of the act (21 U.S.C. 321(y)), especially section 201(y)(5), which requires that the presiding officer prepare a written report of the hearing to which he or she shall attach all written material presented at the hearing.

An "informal hearing," as defined in section 201(y) of the act, is required only where the term "informal hearing" is specifically used in the act. For example, an "informal hearing" is required under sections 304(g), 515, and 516. An informal hearing is often referred to as a regulatory hearing and is governed by Part 16 of the agency's administrative regulations (21 CFR Part 16). Section 521 of the act provides for the opportunity for an oral hearing, rather than an "informal hearing," on a proposed regulation on an application for exemption from preemption. The public hearing required by section 521 of the act is sometimes referred to as a legislative hearing and is governed by Part 15 (21 CFR Part 15) of the agency's administrative regulations. Indeed, 21 CFR 15.1(b) expressly states that Part 15 governs any hearing relating to exemptions from preemption of requirements for device.

Audiological Evaluation

Almost all the comments on the proposed regulation addressed FDA's proposal to deny exemption from preemption for State laws requiring audiological evaluation before the sale of a hearing aid to an adult. The comments focused on the value, cost, and availability of audiological evaluation.

10. Many comments in favor of exempting from preemption State laws requiring mandatory audiological evaluation objected to FDA's conclusion that audiological evaluation would not provide conclusive assurance that the patient would benefit from amplification. Some argued that FDA should not require that such conclusive assurance be shown. Many comments stated that there is widespread misevaluation of hearing loss by hearing aid dealers. The comments also argued that audiologists are better qualified than are hearing aid dealers to test hearing and that, because audiologists do not sell hearing aids, their evaluations are unbiased and, hence, more reliable.

Comments supporting FDA's proposal to deny exemption to these requirements stated that mandatory audiological evaluation would be superfluous because only physicians can perform the necessary medical tests and hearing aid dealers can perform the audiometric tests. These comments also disputed the contention that there is widespread misevaluation of hearing loss by hearing aid dealers. Several comments pointed out that not all audiologists are unbiased testers because some audiologists sell hearing aids and, if audiological evaluation were mandatory, probably more audiologists would begin selling them.

After reviewing the conflicting information in the public record regarding the predictive value of audiological testing in determining whether a patient would benefit from a hearing aid, FDA has concluded that audiological evaluation is not necessary to provide reasonable assurance of the safety or effectiveness of hearing aids. There is no evidence that audiological evaluation reduces or eliminates any risk to health presented by a hearing aid. The primary risk to health presented by hearing aids is the possibility that an unnecessary or only partially effective hearing aid will be substituted for necessary medical or surgical treatment, thus depriving the hearing-impared patient of the benefit of appropriate diagnosis and care and resulting in a detriment to health. Medical evaluation by a licensed physician will ensure that all medically treatable conditions are accurately identified and properly treated before a hearing aid is bought. Potential problems involving misevaluation of hearing loss or misfitting of hearing aids will be adequately addressed by strong State and local licensing laws for hearing aid dispensers and by the trial rental period required by the draft final FTC regulation. Moreover, there is no evidence that only audiologists are competent to measure hearing loss and to fit hearing aids. Finally, FDA did not require that conclusive evidence be shown that the patient would benefit from amplification. Rather, the agency concluded that the requirement of mandatory audiological evaluation would increase the cost of obtaining a hearing aid without providing any conclusive assurance that the patient would benefit from amplification.

11. Many comments challenged FDA's conclusion that mandatory audiological evaluation would increase the cost of a hearing aid. These comments reasoned that if an audiological evaluation were done, the hearing aid dealer would not have to perform further testing. Other comments noted the low cost of hearing aids in certain public dispensing programs that require audiological evaluation, such as the Veteran's Administration. Many comments argued that mandatory audiological evaluation would result in a net savings to the consumer because the better testing provided by audiologists would result in fewer misevaluations and, therefore, fewer sales of hearing aids to persons who could not benefit from them.

Many comments supported FDA's proposal to deny exemption from preemption for State laws requiring mandatory audiological evaluation. Many hearing aid dealers stated that they do not reduce the cost of a hearing aid by the cost of an audiological evaluation if such an evaluation has already been made because they cannot rely on testing done by an audiologist with whom they are not familiar. Consequently, hearing aid dealers frequently perform hearing tests even after an audiological evaluation has been made. Many comments also disagreed with the contention that mandatory audiological evaluation would result in fewer misevaluations of hearing loss and therefore a net savings to the consumer.

The evidence whether mandatory audiological evaluation would increase the cost of a hearing aid is conflicting and inconclusive. Some hearing aid dealers said they would reduce the cost of a hearing aid if the prospective purchaser had an audiological evaluation; others said they would not. Many of the comments that purported to show that audiological evaluation would reduce the cost of a hearing aid actually

described governmental or clinical programs where any savings were attributable to the fact that the program was nonprofit and not to the fact that an audiological evaluation had been made. Thus, it appears that mandatory audiological evaluation would result in an increase in cost in some cases and a decrease (or at least no increase) in cost in other cases. It is not clear what the predominant effect of such a requirement would be. FDA believes that the amount of unnecessary costs that may be incurred as a result of misevaluation of misfitting would be reduced more efficiently by stricter State licensing laws and a trial rental period as required in the draft final FTC regulation than by mandatory audiological evaluation.

12. Many comments agreed with FDA's conclusion that audiologists are not readily available in certain areas of the country. Many comments noted that while audiologists may be available in urban areas they are scarce in rural areas. Some comments pointed out that few audiologists are engaged in private practice and, therefore, few are available to conduct hearing tests for the general public.

Many comments disputed FDA's conclusion that audiologists are scarce in certain areas of the country. Comments from various States said that audiologists are widely available in their jurisdictions. Many of these comments cited statistics or supported their claims in other ways.

There is conflicting evidence with respect to the availability of audiologists. Although audiologists may be readily available in and around large cities, it appears from the comments that they are scarce in most rural areas. Many elderly people could not easily travel 25 or 50 miles to visit an audiologist. Mandatory audiological evaluation, therefore, would sometimes prohibit a patient who could be helped by a hearing aid from obtaining one.

After considering all the factors discussed above, FDA has decided to deny exemption from preemption for State and local laws requiring audiological evaluation before the sale of a hearing aid to an adult. It has not been shown that audiological evaluation is necessary to provide reasonable assurance of the safety or effectiveness of hearing aids. Furthermore, mandatory audiological evaluation may increase the cost of a hearing aid and create an additional barrier to the receipt of a hearing aid in those areas of the country where audiological services are scarce.

The agency would like to set aside a few apparent misconceptions. Neither the FDA regulation on hearing aids nor the agency's decision in this regulation to deny exemption from preemption for state laws requiring mandatory audiological evaluation. Audiologists may continue to test hearing before the sale of a hearing aid. FDA does not question the competency of audiologists. Indeed, FDA recognizes that the audiologist is an important member of the hearing health care team qualified to provide basic audiometric evaluation, hearing aid orientation, auditory training, speech reading, speech conservation, language development, and counseling and guidance services. FDA expects physicians to refer patients to an audiologist when necessary. Likewise, FDA's decision to deny exemption from preemption for these requirements does not constitute a determination that a hearing test is unnecessary before the sale of hearing aid. FDA has determined only that it is not necessary to require that this testing be done by an audiologist to provide reasonable assurance of the safety and effectiveness of hearing aids.

13. Comments from physicians, audiologists, and hearing aid dealers supported FDA's proposal to exempt from preemption State requirements of audiological evaluation for children.

FDA agrees with these comments and, therefore, is granting exemption from preemption to State laws requiring audiological evaulation before the sale of a hearing aid to a minor. Audiologists are specially qualified to assist in the language development and educational and social growth of a child with hearing loss. Consequently, mandatory audiological evaulation of a minor will serve an important public health purpose.

Waiver

14. Many comments addressed the issue of waiver of medical evaluation. The FDA regulation permits any informed adult 18 years or older to waive the medical evaluation requirement. Some State laws do not permit a waiver of the medical evaluation requirement under any circumstances. Others permit a waiver only if the prospective purchaser objects to medical evaluation for religious reasons. FDA proposed to deny exemptions from preemption for those State and local requirements that either do not permit a waiver of a medical evaluation requirement or permit a waiver for religious reasons only.

Some comments favoring exemption from preemption for State laws limiting or prohibiting waiver of medical evaluation argued that medical evaluation is absolutely necessary and, therefore, that a waiver should not be permitted. Other comments suggested that only persons with religious objections should be permitted to waive the medical examination. Several comments stated that it is easy for hearing aid dealers, eager to make a sale, to induce the purchaser to waive medical evaluation without violating the FDA regulation by actively encouraging the waiver. Other comments said that hearing aid dealers are widely abusing the waiver provision. For instance, the Attorney General of Massachusetts asserted that prospective hearing aid purchasers waive the medical evaluation requirement in 85 percent of the sales of hearing aids in Massachusetts.

The comments supporting FDA's proposal to deny exemption from preemption for State requirements limiting or prohibiting waiver of medical evaluation generally agreed with FDA that informed adults should have the freedom to waive medical evaluation. One religious group argued that failure to allow waiver of medical evaluation would violate the rights of its members. Many comments disputed the contention that the waiver provision is being widely abused. One comment pointed out that most of the waivers identified in a recent New York study were exercised by persons who already owned a hearing aid, and that only 6 percent of the persons purchasing a hearing aid for the first time waive medical evaluation. This was confirmed by a limited survey in Massachusetts, which showed that only 8 percent of first-time users of a hearing aid waived the requirement for medical evaluation.

FDA believes that, before purchasing a hearing aid, all prospective hearing aid users should obtain a medical evaluation of hearing loss to determine whether any conditions exist that could be corrected by medical treatment or surgery. FDA recognizes, however, that the risk to health posed by hearing aids arises from the failure to obtain beneficial medical treatment rather than from wearing a hearing aid. FDA believes that any informed adult who objects to medical evaluation for religious or personal reasons should be permitted to waive the medical evaluation requirement.

FDA has not been presented with any convincing evidence that the waiver provision is being widely abused by hearing aid dealers. The Attorney General of Massachusetts provided no evidence to support its claim that the waiver privilege is being exercised in 85 percent of the sales of hearing aids in that Commonwealth. FDA undertook a survey of Attorneys General and

hearing aid dealer licensing boards to determine whether they were experiencing any problems with compliance with the FDA regulation. Of the 39 States that responded to this survey, only 19 provided FDA with information pertaining to dealer compliance with the regulation. Twenty-five of these 31 States indicated that they had not received complaints or other information regarding dealer compliance with the regulation, although a few of these 25 States related unsubstantiated rumors of noncompliance. Six of the 31 States responding to the survey indicated that they had encountered problems involving compliance with FDA regulation but, of these six, only Massachusetts stated that compliance problems were more common than isolated incidents. Therefore, FDA Is denying exemption from preemption for State laws limiting or prohibiting waiver of medical evaluation. Exempting these requirements will also permit the purchase of a hearing aid in the rare circumstance where an individual would have great difficulty obtaining a medical evaluation because of the lack of a physician in the area.

15. In the proposed regulation, FDA proposed to grant exemptions from preemption for requirements that prohibit a waiver when certain medical conditions are found to exist in the prospective purchaser. Comments have persuaded FDA to deny exemption from preemption for these State requirements. FDA believes that an informed adult should be permitted to waive a medical evaluation even if one of these conditions is present. The existence of such a condition does not necessarily mean that the individual could not safely benefit from using a hearing aid. Moreover, the FDA hearing aid regulation requires that the User Instructional Brochure contain a statement warning hearing aid dispensers to advise a prospective purchaser to consult promptly with a licensed physician (preferable a physician who specializes in diseases of the ear) if the dispenser learns of the existence of any of eight specified medical conditions. FDA expects that hearing aid dispensers will be conscientious in impressing the importance of a medical examination upon prospective users exhibiting any of these symptoms.

16. Many States, while not requiring that the purchaser be examined by a physician, require hearing aid dispensers to advise in writing a propsective purchaser who has one or more of certain listed medical conditions to consult with a physician. Some States also require that the hearing aid dispenser furnish the prospective purchaser with the names and addresses of physicians or otolaryngologists in the area. FDA has proposed to deny exemption from preemptions for these requirements.

These requirements are more stringent than the FDA regulation because they require the dispenser to advise the prospective purchaser in writing. This requirement places only a slight additional burden on the dispenser and does not conflict with the FDA requirement. Therefore, the agency is exempting these requirements from preemption. FDA's requirements with respect to medical evaluation and waiver still apply in these States.

Disclosure Requirements

17. Many State regulations require that the hearing aid dispenser provide the purchaser with certain information at the time of sale. Most States require that this information be included in a sales receipt, while some States require that the information be included on the package. Much of the required information relates to the terms of sale and not to the safety or effectiveness of hearing aids. To this extent, these provisions are not preempted and, consequently, are not candidates for exemption. Many of these provisions, however, do relate to the safety or effectiveness of hearing aids and, therefore, are preempted. These preempted provisions generally require that the receipt state whether the hearing aid is new, used, or reconditioned. Many States also require that the receipt or packaging include a statement that a hearing aid will not prevent or improve organic causes of hearing loss.

Several comments objected to FDA's proposal to grant exemptions to the preempted State requirements described above. The comments argued that the User Instructional Brochure required by the FDA regulation contains all of the information the consumer needs and, consequently, that it is unnecessary to require that the information be included on the sales receipt and on the packaging as well. Manufacturers of hearing aids also objected that permitting certain States to require that specific statements be placed on the packaging of a hearing aid would create an unreasonable burden because they do not always know the ultimate destination of every hearing aid package.

These requirements are more stringent than the Federal requirements. FDA believes that the additional information required by these State provisions may be useful to the consumer and will not impose a significant burden on the hearing aid dispenser or manufacturer. Although some of the information required to be included on the receipt is also contained in the User Instructional Brochure, FDA believes that inclusion of the information in both places will increase the likelihood that it is brought to the attention of the consumer. Moreover, the additional information required to be included on the packaging can be added at the time of sale. Therefore, FDA is granting exemption from preemption for these requirements. To ensure uniformity, the agency is requiring that the States apply the Federal definition of "used hearing aid" (21 CFR 801.420(a)(6)) in enforcing their disclosure requirements.

Arizona

18. As proposed, FDA is denying exemption from preemption for Arizona Revised Statutes (A.R.S.), Chapter 17, Section 36–1901.7(s) and its implementing regulation, Arizona Code of Revised Regulations (A.C.R.R.), Title 9, Article 3, R–9–16–303. These provisions are less stringent than the FDA regulation because they allow the dispensing of a hearing aid to a child 14 years of age or under by permitting the parent or guardian of the child to waive the medical evaluation requirement.

Several comments opposed FDA's proposal to grant exemption from preemption for A.R.S. Chapter 17, Section 36–1901.7(t) and its implementing regulation, A.C.R.R. Title 9, Article 3, R–9–16–304. These provisions require that a prospective hearing aid user with a significant air bone gap or apparent unilateral sensorineural hearing loss receive an audiological evaluation, although they permit a waiver of this requirement. The comments argued that this State requirement places audiological evaluation on a par with medical evaluation and that this is inconsistent with the position of FDA that audiological evaluation is not necessary to provide reasonable assurance of the safety or effectiveness of hearing aids. One comment argued that this requirement may mislead people into believing that audiological evaluation is as important as medical evaluation.

FDA agrees with these comments and, therefore, is denying exemption from preemption for these provisions.

California

19. Section 26463(m) of the California Health and Safety Code provides that it is unlawful to advertise any drug or device represented to have an effect on

diseases or disorders of the ear, including hearing loss and deafness. A group of persons with imparied hearing brought an action under this section to enjoin certain advertising by Dahlberg Electronics, Inc., a dispensor of hearing aids. The California Superior Court granted the injunction, and its decision was upheld by the Court of Appeals of California (144 Cal. Rptr. 585 (1978)). The California Supreme Court denied a hearing on the case, and the United States Supreme Court denied an appeal (—U.S.—, 1979).

The Court of Appeals held that section 26463(m) prohibits persons from advertising that hearing aids have any effect on hearing loss or deafness, including representations that the aids have a compensatory effect. The court held that the injunction does not prohibit Dahlberg from advertising its places of business, the fact that Dahlberg hearing aids are sold there, the prices of the instruments, or other information of a similar nature. The Court of Appeals also held that section 26463(m) is not preempted by section 521 of the Federal Food, Drug, and Cosmetic Act because (1) section 26463(m) is a prohibition and therefore not a requirement within the meaning of section 521; and (2) FDA has not declared hearing aids to be restricted devices under section 520(e) of the act and, therefore, that FDA does not regulate the advertising of hearing aids.

The agency proposed to exempt section 26463(m) from preemption because it is more stringent than the Federal requirements. The agency specifically requested comments on whether section 26463(m) relates to the safety or effectiveness of hearing aids.

Some comments argued that section 26463(m) is not preempted because it is not inconsistent with any FDA requirement. Other comments argued that, if section 26463(m) is preempted, it should be exempted from preemption. These comments reasoned that, because advertising may be used to induce people to buy a hearing aid without a medical evaluation, the California requirement is more stringent than the FDA regulation in that it permits the State to exercise greater control in enforcing the requirement of medical evaluation.

Some comments argued that section 26463(m) is preempted and that it should not be exempted from preemption. These comments interpreted the section to prohibit truthful advertising and to require hearing aid manufacturers to prepare different advertising for California than for the rest of the country. Several comments suggested that section 26463(m) would even prohibit the User Instructional Brochure from containing some statements required by the Federal regulation. However, the California Department of Health argued that the User Instructional Brochure is not subject to section 26463(m) because it is not advertising.

FDA believes that section 26463(m) is preempted by section 521 of the act. Section 521 preempts any State or local requirement that is different from or in addition to any requirement applicable to the device under the act which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under the act. FDA has declared hearing aids to be restricted devices under section 520(e) of the act (42 FR 9291; February 15, 1977). Section 502(q) of the act (21 U.S.C. 352(q)) provides that a device declared to be restricted under section 520(e) of the act is misbranded if its advertising is false or misleading in any particular. Section 26463(m) is different from section 502(q) as applied to hearing aids because it prohibits not only false and misleading advertising but also truthful representations that hearing aids have an effect on hearing loss. FDA does not accept the argument that section 26463(m) is not preempted because it is a "prohibition" and therefore not a "requirement" within the meaning of section 521 of the act. Clearly, Congress intended to include prohibitions within the meaning of "requirements" in section 521 of the act. Indeed, many of the "requirements" in the act are prohibitions. Prohibitions can conflict with Federal policy as easily as any other type of requirement.

The comments have persuaded FDA to deny exemption from preemption for section 26463(m) because it would prohibit not only false and misleading advertising but also truthful advertising. Although the California law provides a procedure by which manufacturers may receive prior approval of advertising that would otherwise be prohibited by section 26463(m), FDA does not believe that manufacturers should be required to follow this procedure. Section 26463(m) creates a burden on interstate commerce because the nationwide manufacturer is forced to either tailor all its advertising to comply with the California requirements or not advertise in California at all. Therefore, FDA is denying exemption from preemption for section 26463(m) to the extent that it applies to hearing aids.

20. California also sought exemption from preemption for sections 3365 and 3365.6 of its Business and Professions Code.

The agency is granting exemption from preemption for section 3365, which requires hearing aid dispensers to provide the purchaser with a receipt containing certain information. Comments on this type of provision are discussed in paragraph 17 above, under the heading "Disclosure Requirements."

FDA is also granting exemption from preemption for § 3365.6, which provides that no hearing aid may be sold to a person 16 years of age or younger unless the person has been examined by an otolaryngologist and an audiologist. Comments on this type of provision are discussed in paragraph 13 above.

21. The agency advises that a proposal responding to another California application for exemption published in the **Federal Register** of February 15, 1977 (42 FR 9186) was editorially revised for clarity in a reproposal published in the **Federal Register** of April 3, 1979 (44 FR 19438). One effect of this reproposal was to eliminate proposed paragraphs (a)(1) through (a)(12) in § 808.55. The organization of § 808.55 in this final regulation has been revised to reflect this change. To further the agency's goals of writing clear and understandable regulations, all sections of Part 808 included in this final rule have been editorially revised in a manner similar to that in the April 3, 1979 reproposal.

Connecticut

22. FDA is granting exemption from preemption for Connecticut General Statutes section 20–403, which requires hearing aid dispensers to advise prospective purchasers in writing to consult with a physician if any of eight specified medical conditions are found to exist. This type of provision is discussed in paragraph 16 above.

FDA is also exempting from preemption section 20–404, which requires that a person under the age of 18 be examined by an otolaryngologist and an audiologist before the sale of a hearing aid. This type of provision is discussed in paragraph 13 above.

Florida

23. FDA proposed to exempt from preemption Florida Statutes section 468.135(5) and Florida Administrative Code section 10D–48.25(26). These sections prohibit a waiver of medical evaluation when certain medical conditions are observed in the prospective purchaser. As discussed in paragraph 15 above, comments have persuaded FDA to deny exemption from preemption for such provisions. Thus, in this final rule, § 809.59 denies exemption from preemption for Florida Statutes

section 468.135(5) and Florida Administrative Code section 10D–48.25(26).

Kentucky

24. Section 334.200(1) of Kentucky Revised Statutes prohibits the sale of a hearing aid unless, within the preceding 90 days, the purchaser has been examined by a licensed physician and has received an audiological evaluation. The section permits adults to waive these requirements. Several comments supported FDA's proposal to exempt section 334.200(1) from preemption, agreeing that it is more stringent than the FDA regulation and that, because it permits a waiver, it does not create problems with respect to the cost or availability of audiological evaluation.

Comments opposing FDA's proposal argued that this section should not be exempted from preemption because, although it permits a waiver by requiring audiological evaluation it may mislead people into believing that evaluation by an audiologist is necessary.

FDA agrees with the comments opposing the exemption from preemption of this section. Audiological evaluation should not be required, even if a waiver is permitted, because it has not been shown that evaluation by an audiologist is necessary to ensure the safety or effectiveness of hearing aids. Also, the Kentucky requirement may erect an unnecessary barrier to the purchase of a hearing aid by leading people to believe that audiological evaluation is as important as medical evaluation. Therefore, in final § 808.67, the agency denies exemption from preemption for section 334.200(1).

Maine

25. FDA is granting exemption from preemption for Maine Revised Statutes Annotated (M.R.S.A.) section 1658–C, which requires a hearing aid dispenser to give a notice containing certain information to the purchaser at the time of sale. This type of provision is discussed in paragraph 17 of this preamble. As a condition to exemption, the agency is requiring that Maine apply the FDA definition of "used hearing aid" to ensure uniformity.

26. FDA is denying exemption from preemption for M.R.S.A. section 1658–D, which requires that any person 18 years of age or younger and any adult with certain medical conditions must be examined by an otolaryngologist or an audiologist before purchasing a hearing aid. This section is less stringent than the FDA regulation because it permits the sale of a hearing aid on the recommendation of an audiologist without a medical evaluation by a licensed physician. The State of Maine submitted a comment agreeing that section 1658–D is less stringent than the FDA regulation and, therefore, may not be exempted from preemption. FDA is also denying exemption from preemption for the last sentence of section 1658–E, which states that the requirements of section 1658–D do not apply to a person who objects to them for religious reasons. The other portions of section 1658–E are not preempted.

Minnesota

27. Minnesota Statutes section 145.43 provides that no hearing aid may be sold except upon the written recommendation of an audiologist, otolaryngologist, otologist, or licensed medical doctor. Section 145.44 provides that an adult under 60 years of age may waive the requirements of section 145.43 unless the hearing aid dispenser determines through observation or questioning that the prospective purchaser has any of six listed medical conditions.

Several comments argued that the Minnesota requirements are more stringent than the FDA requirements because, under the Minnesota law, anyone over the age of 60 and anyone with one of the listed medical conditions is required to be examined by an audiologist or a physician while, under the FDA regulation, such a person may waive medical evaluation and thus not be examined by either a physician or an audiologist.

To compare the Minnesota and FDA requirements properly, it is necessary to compare them as they apply to three categories of persons:

a. Persons under the age of 18. The Minnesota statute requires that persons under the age of 18 be examined by a physician or an audiologist and does not permit a waiver of this requirement. The FDA regulation requires that a prospective hearing aid purchaser under the age of 18 be examined by a physician and does not permit a waiver of this requirement. Because it permits examination by either a physician or an audiologist, the Minnesota requirement is less stringent than the FDA requirement.

b. Adults, age 18 to 59, who do not have any of the listed medical conditions. The Minnesota law requires these persons to be examined by a physician or an audiologist and allows a waiver of this requirement. The FDA regulation requires examination by a physician and allows a waiver of this requirement. Again, because it permits examination by either a physician or an audiologist, the Minnesota requirement is less stringent than the FDA requirement.

c. Adults over the age of 60 or a person with any of the listed medical conditions. The Minnesota statute requires these persons to be examined by a physician or an audiologist and does not allow a waiver of this requirement. The FDA regulation requires examination by a physician but allows a waiver of this requirement. As applied to these persons, it can be argued that the Minnesota requirement is both more and less stringent than the FDA requirement.

FDA is denying exemption from preemption for sections 145.43 and 145.44. The requirement is less stringent than the FDA regulation because it allows examination by an audiologist as an alternative to examination by a physician. The agency believes that examination by an audiologist, rather than a licensed physician, will not ensure proper diagnosis of the organic causes of hearing loss. FDA is also denying exemption from preemption for this requirement because it does not permit certain adults to waive the requirement of audiological or medical examination and, therefore, would conflict with the religious and personal convictions of some people. Thus, the agency rejects the comments and in § 808.73 denies exemption from preemption for both Minnesota Statutes, sections 145.43 and 145.44.

Mississippi

28. Mississippi Code section 73–14–3(g)(9) permits the sale of a hearing aid to a child under the age of 10 upon the recommendation of an audiologist alone. One comment opposed FDA's proposal to deny exemption from preemption for this section, arguing that this requirement is necessary to protect the children of Mississippi.

FDA is denying exemption from preemption for this section because it is less stringent than the FDA requirements in that it would permit audiological evaluation as an alternative to medical evaluation for a child under the age of 10. Therefore, the agency is issuing § 808.73 as proposed.

Nebraska

29. FDA proposed to exempt from preemption Nebraska Revised Statutes 71–4712(2)(c), paragraphs (vi) and (vii). Paragraph (vi) prohibits the sale of a hearing aid to a child under the age of 16 who has not been cleared for hearing aid use by an otolaryngologist within a 6-month period. Paragraph (vii) prohibits the sale of a hearing aid to any person who has a significant air-bone gap or a unilateral sensorineural hearing loss

unless the person has been examined by an otolaryngologist within a 6-month period or has signed a statement waiving this examination.

Comments supporting the proposed exemptions stated that physicians other than otolaryngologists are not sufficiently knowledgeable about the causes of hearing loss to be able to conduct an adequate examination. Opposing comments stated that all physicians are capable of making at least an initial determination as to the cause of hearing loss and can be expected to refer the patient to an otolaryngologist when necessary. Some of these comments also pointed out that otolaryngologists are not readily available in all areas and, consequently, that this requirement could create an unnecessary burden on prospective hearing aid users.

FDA believes that examination by an otolaryngologist is not necessary in all the cases for which it is required by the Nebraska statute. Also, this requirement could create an unnecessary burden on persons wishing to use a hearing aid. FDA does not believe that examination by an otolaryngologist will provide any special benefit to an adult with a significant air-bone gap or a unilateral sensorineural hearing loss. FDA does believe, however, that hearing loss in children can be treated medically or surgically more often than it can be in adults and that otolaryngologists are more knowledgeable about such treatment than are other physicians. FDA believes, therefore, that the possible benefit to children from such a requirement outweighs the possible burden of locating an otolaryngologist. As a result, FDA is granting an exemption from preemption for paragraph (vi) but is denying exemption from preemption for paragraph (vii).

New Jersey

30. FDA is granting an exemption from preemption for New Jersey Statutes Annotated (N.J.S.A.) section 45:9A–24, which requires hearing aid dispensers to advise in writing a prospective purchaser who has any of six listed medical conditions to consult a physician. The section also requires the hearing aid dispenser to provide the prospective purchaser with the names and addresses of at least three local physicians specializing in diseases of the ear. Comments on these types of provisions are discussed in paragraph 16 above. FDA is also exempting from preemption section 45:9A–25, which prohibits the sale of a hearing aid to a person under 18 years of age unless a recommendation for a hearing aid has been made by either an otolaryngologist or an audiologist following examination and diagnosis by an otolaryngologist. Comments on these types of requirements are discussed in paragraph 13 above.

31. In the October 20, 1978 notice, FDA proposed to deny exemption from preemption for Chapter 3, Section 5 of the rules and regulations adopted pursuant to N.J.S.A. 45:9A–1 et seq. Chapter 3, Section 5 provides that no hearing aid may be sold without a hearing examination including, at a minimum, pure tone air conduction and bone conduction thresholds. The section requires that this examination be conducted in an environment that meets or exceeds the American National Standards Criteria for Background Noise in Audiometer Rooms (A.N.S.I. S3.1–1971).

Comments supporting FDA's proposal to deny exemption from preemption for this provision agreed that the provision is unnecessarily restrictive because few existing test rooms meet the A.N.S.I. standard and it has not been shown that it is necessary to use a room complying with the standard to ensure proper testing. Comments opposing the proposed denial of exemption from preemption stated that testing before the sale of a hearing aid is absolutely essential and a soundproof environment is necessary for proper testing.

Although FDA agrees that testing is necessary before the sale of a hearing aid, it does not believe that testing requirements should be unnecessarily restrictive. FDA believes it is reasonable to require that a hearing examination include air conduction and bone conduction thresholds. The requirement that the testing be conducted in an environment that meets the A.N.S.I. standard, however, is unnecessarily restrictive because it has not been shown that such an envinronment is necessary for proper testing. Therefore, FDA is exempting this section from preemption except for the portion requiring that the testing environment meet the A.N.S.I. standard.

New Mexico

32. FDA is granting an exemption from preemption for New Mexico Statutes Annotated, section 67–36–16(F), which prohibits the sale or fitting of a hearing aid for a person under 16 years of age who has not been examined by both an otolaryngologist and an audiologist. This provision is more stringent than the FDA requirement and will provide additional protection for the hearing health of children. Comments on this type of provision are discussed in paragraph 13 above. Thus, § 808.81, exempting this provision, is issued as proposed.

New York

33. FDA is granting exemption from preemption for section 784(3) of the General Business Law of New York and its implementing regulations, sections 191.10 and 191.11(a). These provisions require the hearing aid dispenser to give the purchaser an itemized receipt containing certain information and require that the packaging of the hearing aid contain certain information. Comments on these types of provisions are discussed in paragraph 17 above.

In the preamble to the proposed regulation, FDA stated that section 784(4) (incorrectly identified there as section 785–a(4)), which requires the dispenser to give the purchaser a 30-day money-back written guarantee, was not preempted because it is a consumer protection provision beyond the scope of § 801.421 of the FDA regulations. The State of New York has pointed out, however, that a New York court has declared this section to be preempted by the FDA regulations and, consequently, New York cannot enforce section 784(4) unless FDA grants it an exemption.

FDA still believes that consumer protection provisions of this type are not preempted by section 521 of the act because they do not relate to the safety or effectiveness of hearing aids. However, because the State of New York cannot enforce this requirement without an exemption, the agency is granting section 784(4) an exemption from preemption. FDA believes that return privileges will encourage reluctant hearing-impaired persons to try a hearing aid and will reduce problems associated with misevaluation of hearing loss. The agency is also granting exemption from preemption for the implementing regulations, sections 191.11(b) through (e).

34. Several comments disagreed with FDA's proposal to deny exemption from preemption for section 784.1 and its implementing regulations, sections 191.6, 191.7, 191.8, and 191.9. Section 784.1 permits the sale of a hearing aid on the recommendation of either an otorhinolaryngologist or a licensed audiologist. The State of New York objected that FDA failed to consider its request that FDA exempt the following requirements of section 784.1 and its implementing regulations: (1) The requirement that the purchaser obtain a written statement from a medical ear specialist recommending the use of a hearing aid; (2) the requirement that the written statement from the medical ear specialist include the results of a pure tone and special audiometric tests and that the hearing aid be dispensed in accordance with the results of these tests; (3) the provision that the written statement from the medical ear specialist may include directions as to the type and characteristics of the appropriate hearing aid and the requirement that, where included, these directions must be followed by the dealer in dispensing the aid; (4) the provision permitting the dealer to accept a written statement from a medical doctor other than a medical ear specialist only if such a specialist is unavailable; and (5) the provision permitting a prospective purchaser to

waive the required written statement only because of religious objections.

FDA is denying exemption from preemption for all the provisions of section 784.1 because the section would allow hearing aids to be sold on the basis of an audiologist's recommendation without an examination by a physician. As stated in paragraph 10 of this preamble, the agency does not believe that examination by an audiologist is sufficient to ensure proper diagnosis of possible organic causes of hearing loss. FDA is also denying exemption from preemption for each of the provisions of section 784.1 because they permit waiver of the requirement of a medical examination only if the prospective purchaser objects to the evaluation for religious reasons. Comments on this type of provision are discussed in paragraph 14 above.

Ohio

35. FDA is granting exemption from preemption for Ohio Revised Code section 4747.09 to the extent that it requires the hearing aid dealer or fitter to give the purchaser a receipt containing certain information. Comments on these types of provisions are discussed in paragraph 17 above. The agency is denying exemption from preemption for this section, however, to the extent that it permits the parent or guardian of a child 16 years of age or under to waive the requirement that the child be examined by an otolaryngologist. This is consistent with the discussion in the preamble to the proposed regulation. In the codified portion of the proposal, however, some lines were accidentally deleted in the printing of § 808.85. The final regulation corrects this error.

Oregon

36. As proposed, FDA is denying exemption from preemption for Oregon Revised Statutes (O.R.S.) section 694.136(6) and (7) because these provisions would permit the parent or guardian of a child to waive the requirement that the child obtain a medical evaluation.

FDA is granting an exemption from preemption for the provisions of O.R.S. 694.036. This section requires the dispenser to give the purchaser a receipt containing certain information. FDA is exempting this section from preemption on the condition that, when enforcing this provision, Oregon use the definition of "used hearing aid" contained in the FDA regulation. This condition is applied to similar provisions of other States, but was not included in proposed § 808.87. The final § 808.87 has been revised to include this condition. Comments on this type of provision are discussed in paragraph 17 above.

Pennsylvania

37. FDA is denying exemption from preemption for 35 Purdons Statutes 6700, section 402, because it does not permit a waiver of medical evaluation when certain medical conditions are found to exist. Comments on this type of provision are discussed in paragraph 15 above.

38. In the preamble to the proposal, FDA concluded that section 403 of the Pennsylvania law is not preempted. That section requires prospective hearing aid users to obtain medical clearance within 6 months before the sale of a hearing aid and permits an informed adult to waive this requirement. One comment disagreed with the agency's conclusion, arguing that the waive statement in section 403 is not identical to that required by § 801.421(a)(2)(iii) (21 CFR 801.421(a)(2)(iii)) and that hearing aid dispensers cannot comply with both requirements. One comment noted that FDA failed to include section 403 in the list of exempted provisions in proposed § 808.88.

Although the waiver statement required by section 403 is not identical to that required by the FDA regulation, it is substantially identical to the Federal requirement and, therefore, compliance with the Pennsylvania requirement would constitute compliance with the FDA requirement. The agency notes, however, that while section 403 does not apply to the sale of a replacement for a worn-out or damaged hearing aid, the FDA requirement of medical evaluation does apply to such sales. Because section 403 is not preempted, it is not necessary to include it in § 808.88, which lists the Pennsylvania requirements that are preempted and states whether they are granted or denied an exemption from preemption. Thus, the final rule has not been changed to include a reference to section 403.

39. FDA is exempting from preemption section 506, which prohibits the sale of a hearing aid to a person 18 years of age or younger unless a recommendation has been made by an otolaryngologist or otologist. Comments on this type of provision are discussed in paragraph 13 above.

FDA is also granting exemption from preemption for section 507(2), which requires that the physician's written recommendation and any signed waiver statements be kept on file for 7 years. FDA proposed to exempt this section from preemption because it is more stringent than the FDA requirement and will assist Pennsylvania in enforcing its statute. FDA received no adverse comments on its proposal to exempt this section from preemption.

Texas

40. FDA is denying exemption from preemption for Vernon's Civil Statutes, Article 4566, section 14(d), which requires only that the hearing aid dispenser recommend that a child 10 years of age or under be examined by an otolaryngologist but does not require that the child receive a medical examination. This type of provision is addressed in paragraph 28 above.

FDA is granting exemption from preemption for section 14(b) of Article 4566, which requires the dispenser to give the purchaser a bill of sale containing certain information. FDA is exempting this section from preemption on the condition that, when enforcing these provisions, Texas apply the definition of "used hearing aid" contained in the FDA regulation. This type of provision is addressed in paragraph 17 above.

Washington

41. FDA is granting exemption from preemption for Revised Code of Washington (R.C.W.) section 18.35.110(2)(e)(i), which requires the hearing aid dispenser to advise a prospective purchaser in writing to consult with a licensed physician if any of certain listed medical conditions are found to exist. Comments on this type of provision are discussed in paragraph 16 above.

42. The agency is also granting exemption from preemption for R.C.W. section 18.35.110(2)(e)(iii), which requires the hearing aid dispenser to advise a parent or guardian of a person under 18 years of age to consult a clinical audiologist. The agency is denying exemption from preemption, however, for R.C.W. section 18.35.110(2)(e)(ii), which permits the parent or guardian of a person under 18 years of age to waive the medical evaluation requirement for the child.

West Virginia

43. FDA is denying exemption from preemption for West Virginia Code section 30–26–14(a), which requires that the prospective purchaser of a hearing aid be examined by a physician and does not permit a waiver of this requirement. Comments on this type of provision are discussed in paragraph 14 above.

The agency is granting exemption from preemption for section 30–26–14(b), which requires the hearing aid dispenser to advise a prospective purchaser in writing to consult a physician if any of six listed medical conditions are found upon examination of the person. Comments on this type of provision are discussed in paragraph 16 above.

The agency is also exempting from preemption section 30–26–14(c), which requires hearing aid dispensers to maintain certain records for 7 years. FDA is exempting this section from preemption beause it is more stringent than the FDA requirement and will assist West Virginia in enforcing its statute.

In the preamble to the proposed regulation, FDA indicated its intent to exempt paragraphs (b) and (c) from preemption. However, proposed § 808.98 did not refer to these sections. The final regulation has been revised to exempt from preemption paragraphs (b) and (c).

District of Columbia

44. In proposed § 808.101, FDA proposed to grant exemption from preemption for section 5 of Act 2–79 of the District of Columbia to the extent that it requires medical clearance by an otolaryngologist within 3 months before the sale of a hearing aid and to the extent that it requires a hearing test evaluation for children under the age of 18. FDA proposed to deny exemption from preemption for this section to the extent that it permits a waiver of the medical clearance requirement for religious reasons only and to the extent that it requires a hearing test evaluation for persons 18 years of age or older.

Several comments supported granting exemption from preemption to all the provisions of section 5. Some comments noted that section 5 is the most stringent State or local law applicable to hearing aids. Other comments pointed out that there is no shortage of audiologists in this urbanized area, and, therefore, there is less reason to deny exemption from preemption for this provision. Some comments opposing the proposed exemption of certain provisions of section 5 stated that the requirements that the medical clearance be obtained from an otolaryngologist and that it be obtained within 3 months before the sale of a hearing aid are unnecessarily restrictive because any licensed physician is qualified to give medical clearance and 3 months is an unreasonably short time. Other general comments discussed above under the headings "Audiological Evaluation" and "Waiver" are applicable to section 5 and are responded to there.

FDA agrees that section 5 is unnecessarily restrictive in requiring medical clearance by an otolaryngologist within 3 months before the sale of a hearing aid. Any licensed physician is qualified to give medical clearance for a hearing aid purchase or to refer the patient to a specialist if necessary. FDA believes that it is unnecessary to require that medical clearance be obtained 3 months before the sale. Therefore, the agency is denying exemption from preemption for these portions of section 5 as well as the requirement of audiological evaluation for adults and the waiver provision. As a result, the agency is denying exemption from preemption for all of section 5 except the requirement of audiological evaluation for children under the age of 18.

As proposed, the agency is also granting a conditional exemption for section 6 of Act 2–79, a disclosure requirement for the purchasers of hearing aids. Comments on this type of provision are discussed in paragraph 17 above.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 808 is amended as follows:

1. In § 808.1 by adding new paragraph (f), to read as follows:

§ 808.1 Scope.

* * * * *

(f) The Federal requirement with respect to a device applies whether or not a corresponding State or local requirement is preempted or exempted from preemption. As a result, if a State or local requirement that the Food and Drug Administration has exempted from preemption is not as broad in its application as the Federal requirement, the Federal requirement applies to all circumstances not covered by the State or local requirement.

2. By adding new §§ 808.53, 808.55, 808.57, 808.59, 808.67, 808.69, 808.73, 808.74, 808.77, 808.80, 808.81, 808.82, 808.85, 808.87, 808.88, 808.93, 808.97, 808.98, and 808.101, to read as follows:

§ 808.53 Arizona.

The following Arizona medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them exemptions from preemption under section 521(b) of the act:

(a) Arizona Revised Statutes, Chapter 17, sections 36–1901.7(s) and 36–1901.7(t).

(b) Arizona Code of Revised Regulations, Title 9, Article 3, sections R9–16–303 and R9–16–304.

§ 808.55 California.

(a) The following California medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: Business and Professions Code, sections 3365 and 3365.6.

(b) The following California medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Health and Safety Code, section 26463(m), as applied to hearing aids.

§ 808.57 Connecticut.

The following Connecticut medical device requirements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act: Connecticut General Statutes, sections 20–403 and 20–404.

§ 808.59 Florida.

The following Florida medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them an exemption from preemption under section 521(b) of the act:

(a) Florida Statutes, section 468.135(5).

(b) Florida Administrative Code, section 10D–48.25(26).

§ 808.67 Kentucky.

The following Kentucky medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Kentucky Revised Statutes, section 334.200(1).

§ 808.69 Maine.

(a) The following Maine medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: Maine Revised Statutes Annotated, Title 32, section 1658–C, on the condition that, in enforcing this requirement, Maine apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(b) The following Maine medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Maine Revised Statutes Annotated, Title 32, section 1658–D and the last sentence of section 1658–E.

§ 808.73 Minnesota.

The following Minnesota medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them an exemption from preemption under section 521(b) of the act: Minnesota Statutes, sections 145.43 and 145.44.

§ 808.74 Mississippi.

The following Mississippi medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Mississippi Code, section 73–14–3(g)(9).

§ 808.77 Nebraska.

(a) The following Nebraska medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the

act: Nebraska Revised Statutes, section 71–4712(2)(c)(vi).

(b) The following Nebraska medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Nebraska Revised Statutes, section 71–4712(2)(c)(vii).

§ 808.80 New Jersey.

(a) The following New Jersey medical device requirements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act:

(1) New Jersey Statutes Annotated, section 45:9A–23 on the condition that, in enforcing this requirement, New Jersey apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter;

(2) New Jersey Statutes Annotated, sections 45:9A–24 and 45:9A–25;

(3) Chapter 3, Section 5 of the Rules and Regulations adopted pursuant to New Jersey Statutes Annotated 45:9A–1 et seq. except as provided in paragraph (b) of this section.

(b) The following New Jersey medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Chapter 3, Section 5 of the Rules and Regulations adopted pursuant to New Jersey Statutes Annotated 45:9A–1 et seq. to the extent that it requires testing to be conducted in an environment which meets or exceeds the American National Standards Institute S3.1 Standard.

§ 808.81 New Mexico.

The following New Mexico medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: New Mexico Statutes Annotated, section 67–36–16(F).

§ 808.82 New York.

(a) The following New York medical device requirements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act:

(1) General Business Law, Article 37, sections 784(3) and (4).

(2) Official Compilation of Codes, Rules and Regulations of the State of New York, Chapter V, Title 19, Subchapter G, section 191.10 and section 191.11(a) on the condition that, in enforcing these requirements, New York apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter and section 191.11(b), (c), (d), and (e).

(b) The following New York medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them an exemptions from preemption under section 521(b) of the act:

(1) General Business Law, Article 37, section 784.1.

(2) Official Compilation of Codes, Rules and Regulations of the State of New York, Chapter V, Title 19, Subchapter G, sections 191.6, 191.7, 191.8, and 191.9.

§ 808.85 Ohio.

(a) The following Ohio medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: Ohio Revised Code, section 4747.09, the first two sentences with respect to disclosure of information to purchasers on the condition that, in enforcing these requirements, Ohio apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(b) The following Ohio medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Ohio Revised Code, section 4747.09, the last two sentences with respect to medical examination of children.

§ 808.87 Oregon.

(a) The following Oregon medical device requriements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act: Oregon Revised Statutes, section 694.036 on the condition that, in enforcing this requirement, Oregon apply the definition of "used hearing aid" in § 801.420(a)(b) of this chapter.

(b) The following Oregon medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them exemptions from preemption under section 521(b) of the act: Oregon Revised Statutes, sections 694.136(6) and (7).

§ 808.88 Pennsylvania.

(a) The following Pennsylvania medical device requirements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act: 35 Purdon's Statutes 6700, section 504(4) on the condition that, in enforcing this requirement, Pennsylvania apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter; section 506; and, section 507(2).

(b) The following Pennsylvania medical device requirement is preempted by section 521(a) of the act and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: 35 Purdon's Statutes 6700, section 402.

§ 808.93 Texas.

(a) The following Texas medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: Vernon's Civil Statutes, Article 4566, section 14(b) on the condition that, in enforcing this requirement, Texas apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(b) The following Texas medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Vernon's Civil Statutes, Article 4566, section 14(d).

§ 808.97 Washington.

(a) The following Washington medical device requirement is enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted it from preemption under section 521(b) of the act: Revised Code of Washington 18.35.110(2)(e) (i) and (iii) on the condition that it is enforced in addition to the applicable requirements of this chapter.

(b) The following Washington medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them an exemption from preemption under section 521(b) of the act: Revised Code of Washington 18.35.110(2)(e)(ii).

§ 808.98 West Virginia.

(a) The following West Virginia medical device requirements are enforceable notwithstanding section 521(a) of the act because the Food and Drug Administration has exempted them from preemption: West Virginia Code, section 30–26–14 (b) and (c).

(b) The following West Virginia medical device requirement is preempted by section 521(a) of the act, and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: West Virginia Code, section 30–26–14(a).

§ 808.101 District of Columbia.

(a) The following District of Columbia medical device requirement is enforceable notwithstanding section 521 of the act because the Food and Drug

Administration has exempted it from preemption under section 521(b) of the act: Act 2–79, section 6, on the condition that, in enforcing section 6(a)(5), the District of Columbia apply the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(b) The following District of Columbia medical device requirement is preempted by section 521(a) of the act and the Food and Drug Administration has denied it an exemption from preemption under section 521(b) of the act: Act 2–79, section 5.

Effective: November 10, 1980.

(Secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371))

Dated: October 5, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-31535 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 812

[Docket No. 76N-0324]

Medical Devices; Investigational Device Exemptions; OMB Approval and Effective Dates; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 80–26969 appearing at page 58841 in the Federal Register of Friday, September 5, 1980, the following correction is made: Docket number "76N–0327" in the heading of the document should read "76N–0324".

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

Dated: October 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-31449 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-03-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Adoption of Regulations Regarding "Application for Life Estate Leases"

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: The Commission is issuing a final rule governing the application for Life Estate Leases by members of the Navajo and Hopi Tribes who are subject to relocation. These regulations set forth application procedures as required by the Navajo and Hopi Indian Relocation Amendments Act of 1980, 25 U.S.C. 640–d, 94 Stat. 929, Pub. L. 96–305, Sec. 30(b) (hereinafter, "the Amendments Act".)

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002, Telephone No.: (602) 779–3311, ext. 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION: On September 8, 1980, there was published in the **Federal Register** (45 FR No. 175, p. 59175), a notice of proposed standards and procedures to govern the awarding of Life Estate Leases to members of the Navajo and Hopi Tribes who are subject to relocation under Pub. L. 93–531, (25 U.S.C. 640–d). The proposed rules set forth procedures concerning the filing of applications for Life Estate Leases, definition of the term "disability", determinations of disability, and the grouping and awarding of Life Estate Leases.

The Commission has determined that because of the time limits imposed by the Amendments Act and because it has received a significant amount of comment indicating the need for further input and discussion, it would be appropriate to await adoption of rules concerning the definition of the term "disability", rating of disability, and the grouping and awarding of Life Estate Leases. Proposed rules concerning these issues and other issues such as Fencing of Life Estates, Access to Life Estates by Visitors and Family, Appeal Procedures, the Issuance of Life Estate Leases, Residency on Life Estates, Physical Examinations, and Approval Physicians, will be addressed in proposed rules to be published in November, 1980.

The Commission will therefore promulgate in this notice, only final rules concerning the application for Life Estate Leases and will limit discussion of that comment received which is relevant to this issue.

Discussion of Comments

Comment was received in two forms: Formal, written comment and via a public hearing held in Tuba City, Navajo Nation, Arizona. Seventeen (17) persons gave comment at the public hearing which was attended by approximately thirty (30) persons. Again, only that comment relevant to application for Life Estate Leases will be discussed.

1. The Hopi Tribe commented as follows: (a) That the regulations promulgated should define the procedure to be followed by applicants who desire a time extension for filing of an Application for Life Estate Lease, that such requests for extension should be written and filed before April 1, 1981, and that both tribes should be advised of such requests and the supporting reasons given. (b) That the application should require sufficient information to establish the applicant's lawful marriage, if any, on or before July 8, 1980, and should contain the names, birthdates, marriage dates for applicant's spouse and all children. Also, other spouses, past or present, should be listed. (c) That the application should require the applicant and spouse to indicate other residences within and outside the Former Joint Use Area and whether any other family member has applied for relocation benefits. (d) That the application should require additional information such as auto titles, tax returns, bank records, etc., to demonstrate that the applicant is the "head of household". (e) That to the application should be attached a medical information release to facilitate obtaining medical records. (f) That the application should require the submission of sufficient information to demonstrate that the applicant has maintained a separate place of abode and has remained domiciled on partitioned lands continuously since December 22, 1974. (g) That the application form and procedure should clearly advise the applicant of all relocation rights and benefits he is waiving if he accepts a life estate.

Comment (a), suggesting definition of procedure to be followed by applicants who desire a time extension for filing of an Application for Life Estate Lease, was adopted and incorporated into the final rule. That portion of comment (a) suggesting that requests for extension should be received before April 1, 1981, and that both Tribes be advised of such requests, etc., was considered but not adopted.

Comment (b) was considered but not incorporated into the final rule.

Comment (c), as it suggests the listing of other residences outside the Former Joint Use Area, was adopted and incorporated into the final rule. The other portions of comment (c) were considered but not adopted.

Comment (d) was considered but not adopted. The Commission has already defined the concept of "head of household" in its Operations and Relocation Procedures, § 700.5(q).

Comment (e) was considered but not adopted. The Commission has determined that a medical information release is not necessary on the application itself. Such medical information release may be required as part of the investigative process in determining eligibility for Life Estate Leases.

Comment (f) was considered but not adopted. Whether or not the applicant has maintained a separate place of abode and has remained domiciled on partitioned lands continuously since December 22, 1974, will be considered during the investigative process of determining eligibility for Life Estate Leases.

Comment (g) was considered but not adopted because there is no waiver of relocation rights by mere filing of an Application for Life Estate Lease.

2. Comment was received from the Navajo-Hopi Land Dispute Commission as follows: (a) That the portion of the proposed rules concerning extensions of time for filing applications for Life Estate Leases is unclear. It was suggested that the "general time period could be extended" or the Commission could accept "late" applications on a case-by-case basis. (b) That the application should contain language that Commission staff shall assist applicants in completing the application. It was also suggested that the Commission should undertake an outreach program designed to notify eligible persons of the Life Estate program. (c) That § 700.17(a)(4) should contain an introductory phrase such as: "A person making application for a Life Estate based upon disability shall set forth the * * *" (d) That § 700.17(a)(5) could be split into to (2) subsections. (e) That the phrase "term of care" set forth in § 700.17(a)(b) is problematic and that "expected term of care" might be better.

Comment (a), suggesting that the Commission could accept "late" applications on a case-by-case basis, was considered and adopted. The portion of comment (a) suggesting a general filing time period extension was considered but not adopted.

Comment (b) suggesting that the application form should contain language that the Commission staff shall assist applicants in completing the application was considered and adopted. That portion of comment (b) suggesting that the Commission undertake an "outreach program" was considered but not incorporated into the final rule.

The Commission will, however, institute an "outreach program" as part of its general operational procedures in administering the Life Estate Program.

Comment (c) was considered and incorporated into the final rule.

Comment (d) and (e) were considered but not incorporated into the final rule because the sections of the proposed rule to which they relate were deleted in the final rule.

Sections 700.17(a) (5) and (6) were deleted from the final rule because it was determined that such information is not necessary as part of the application.

The principal author is William G. Lavell, Field Solicitor, Valley National Bank Center, Suite 2080, 201 North Central, Phoenix, Arizona 85073.

Accordingly, 25 CFR 700.17 is adopted in its final form to read as follows:

§ 700.17 Application for life estate leases.

The following standards and procedures shall govern the application for Life Estate Leases:

(a) *Filing of application.* Applications for Life Estate Leases shall be filed at the Commisison's office in Flagstaff, AZ, not later than April 1, 1981, unless extended for good cause. Application should be made on an approved Commission form known as "Application for Life Estate Lease" and should contain the following information:

(1) Name, address, birthdate, social security number, census number, if applicable, of the head of household and his/her spouse, and date of marriage, if married. The head of household who applies for a Life Estate Lease shall be known as the "applicant".

(2) Applicant's Quad Map location of the Former Joint Use Area.

(3) Information listing any other places of Applicant's residence since December 22, 1974.

(4) Name, birthdate, census number, and social security number, if any, of the applicant's minor, dependent children.

(5) A statement by the applicant setting forth the nature of the applicant's disability, if any.

(6) Applications should be accompanied, wherever possible, with documentation such as Birth Certificates, Baptismal Records, Tribal Records, Family Census Cards, Marriage Certificates, Tax Returns, and such other documentation required by the Commission.

(b) *Extensions of Time for Filing of Application for Life Estate Leases.* Extensions of time for filing of applications for Life Estate Leases shall be governed by the following procedures:

(1) The Commission shall, on a case-by-case basis, determine whether good cause exists to warrant a time extension for the receipt of applications.

(2) Initial Commission determinations concerning the time extension for receipt of applications shall be made by the Certification Officer. Any extensions granted shall be in writing and shall state the length of the extensions and the reasons therefore.

(3) In no event shall an extension be granted for more than one-hundred and eighty (180) days after April 1, 1981.

(4) In the event an extension of time is denied or an application is refused for filing, the Certification Officer shall state the reasons therefore and such determination shall be communicated to the applicant by certified letter or in person by Commission staff.

(5) All persons aggrieved by initial Commission determination may have a hearing to present evidence and argument concerning the determination. Such hearing shall be requested and governed by the Commission's Hearings and Administrative Review procedure contained in § 700.8 of the Commission's Operations and Relocation Procedures.

(6) For purpose of this subsection, "good cause" shall be defined as follows:

(i) Lack of actual notice.

(ii) Lack of transportation or physical incapacity preventing timely filing.

(iii) Acts of God.

(iv) Such other facts or reasons deemed sufficient in the discretion of the Commission.

(Pub. L. 96-305, 94 Stat. 929, 25 U.S.C. 640-d)

Sandra L. Massetto,

Chairperson, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 80-31667 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-HB-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Amendment of non-mandatory appendix.

SUMMARY: This notice amends non-mandatory Appendix A of the OSHA standard on occupational exposure to cotton dust, § 1910.1043. It advises employers that where they will be monitoring employee exposures in Class III hazardous locations, they must make certain that their monitoring equipment is approved for use in such locations, as required by Subpart S of Part 1910 and the 1971 National Electrical Code. This notice is issued in response to information received by OSHA which indicates that certain monitoring equipment currently available and in use has not been approved for Class III locations.

DATES: This amendment is effective October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John Martonik, OSHA, Directorate of Federal Compliance and State Programs, Telephone: (202) 523–8031.

SUPPLEMENTARY INFORMATION: Paragraph (d) of § 1910.1043, the OSHA standard on occupational exposure to cotton dust, requires that monitoring of employee exposures be performed with either a vertical elutriator cotton dust sampler or a method of equivalent accuracy and precision. Appendix A of § 1910.1043 is a non-mandatory appendix which gives guidance on monitoring equipment and methods of complying with the requirements of paragraph (d) of the standard.

Certain areas in cotton and fiber mills in which cotton dust is to be measured under the cotton dust standard would be classified, for the purposes of the 1971 National Electrical Code (NEC) and Subpart S of Part 1910, as Class III Hazardous Locations. Article 503 of the 1971 NEC, which is currently incorporated by reference in Subpart S of Part 1910, specifies the design of electrical wiring and equipment for use in Class III locations. OSHA has learned that certain monitoring equipment currently in use does not meet the specifications of Article 503 and may pose a fire hazard if used in Class III locations in the presence of easily-ignitable cotton fibers.

OSHA is currently reviewing its own monitoring equipment to assure that it complies with Subpart S for Class III locations, and urges employers to also review their equipment and make any modifications in equipment or procedures for its use which are found to be necessary.

In the interim period, OSHA will take this problem into consideration in its evaluation of compliance with the monitoring provisions of the standard in Class III locations.

To assure that employers with Class III locations are aware of the need to check this monitoring equipment for Class III approval, OSHA is inserting a sentence to that effect into the discussion of monitoring equipment and methods set forth in Appendix A to § 1910.1043. This does not establish a new requirement, but merely informs the employer of a requirement already imposed by the OSHA electrical standards in Subpart S.

I find that the reasons stated above constitute good cause for making this change effective immediately. This amendment to the non-mandatory Appendix A of § 1910.1043, therefore, is effective October 10, 1980.

This notice was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, Frances Perkins Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to sections 6 and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, 29 CFR Part 1910 is amended as set forth below.

Signed at Washington, D.C. this 7th day of October 1980.

Eula Bingham,

Assistant Secretary of Labor.

§ 1910.1043 Appendix A [Amended]

Appendix A of § 1910.1043 of 29 CFR is hereby amended by adding a new paragraph II.(e) to read as follows:

II. Sampling Equipment

* * * * *

(e) Monitoring equipment for use in Class III hazardous locations must be approved for use in such locations, in accordance with the requirements of the OSHA electrical standards in Subpart S of Part 1910.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911)

[FR Doc. 80–31756 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Approval of the Permanent Regulatory Program Submission From the State of Louisiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule; approval of Louisiana's proposed permanent regulatory program.

SUMMARY: The State of Louisiana resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), following an initial approval in part and disapproval in part. The notice announcing the initial decision was published in the **Federal Register**, September 4, 1980 (45 FR 58576–58594). The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and conducting a thorough review of the program submission, the Secretary of the Interior has determined that the Louisiana program meets all requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved the Louisiana program.

A new Part 918 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This approval is effective October 10, 1980.

ADDRESSES: Copies of the Louisiana program and the administrative record on the Louisiana program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–3900

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4728

Office of Conservation, 625 N. 4th Street, Baton Rouge, Louisiana 70804, Telephone: (504) 342–5510

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION: The general background on the permanent program, the general background on state program approval process, and the background on the Louisiana program submission were discussed in the **Federal Register**, September 4, 1980 (45 FR 58577–58579).

Also, in that notice the Secretary announced his partial approval and partial disapproval of the Louisiana program. The disapproved rules and legislative provisions were disapproved because they were not fully enacted before the 104th day after program submissions as required by 30 CFR 732.11, although they were enacted at the time of the Secretary's decision. Under 30 CFR 732.13(f), Louisiana had 60 days from the date of partial disapproval to resubmit a revised program.

By telegram dated August 26, 1980, Louisiana requested that, if the Secretary initially disapproved its

permanent program submission, all amendments and revisions to its rules which have been enacted following the 104th day after program submission should be immediately considered as resubmitted upon the Secretary's initial decision. Announcement of Louisiana's resubmission was made in three newspapers of general circulation within the State of Louisiana and published in the **Federal Register** on September 4, 1980 (45 FR 58576–58594).

A public hearing on the resubmission was announced in the September 4, 1980, **Federal Register**, and was held in Baton Rouge, Louisiana on September 16, 1980. The Louisiana program was resubmitted pursuant to 30 CFR 732.13(f). The post-resubmission public comment period ended September 17, 1980. Public disclosure of comments by Federal agencies was made on September 30, 1980 (45 FR 64605).

On September 25, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Louisiana program.

The Regional Director completed his program review on September 19, 1980, and forwarded the public hearing transcripts, written presentations, and copies of all comments to the Director together with a recommendation that the program be approved.

On September 25, 1980, the Director recommended that the Louisiana program be approved.

Throughout the remainder of this notice, the term "Louisiana program" or "Louisiana submission" is used to mean the resubmission together with those parts of the original submission partially approved on August 26, 1980.

When the Secretary announced his initial decision on the Louisiana program, he included with his analysis of the Louisiana program his tentative findings on the regulatory provisions enacted after the 104th day following the program submission, and his disposition of comments in the September 4, 1980, **Federal Register** notice (45 FR 58576–58594). The Secretary has determined that his tentative conclusions were correct in each instance. The contents of the September 4, 1980, notice also constitute his basis for the following findings and for this decision.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Louisiana has the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Louisiana Surface Mining and Reclamation Act (LSMRA) and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Louisiana in accordance with SMCRA.

(b) The LSMRA provides sanctions for violations of Louisiana law, regulations, or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cease-and-desist orders by the Louisiana Office of Conservation or its inspectors;

(c) The Louisiana Office of Conservation has sufficient administrative and technical personnel and sufficient funds to enable Louisiana to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Louisiana law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana;

(e) the LSMRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Louisiana has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Louisiana has fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below in these findings.

2. As required by section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Louisiana program (45 FR 41981, June 23, 1980).

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Louisiana program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended (33 U.S.C. 1151–1175), and the Clean Air Act as amended (42 U.S.C. 7401 *et seq.*). The Administrator's concurrence was given in a letter dated September 25, 1980 (LA Administrative Record No. 202), and;

(c) Held a public review meeting in Shreveport, Louisiana, on February 14, 1980, to discuss the completeness of the Louisiana program submission and subsequently held a public hearing in Baton Rouge, Louisiana, on May 28, 1980, on the substance of the program submission, and subsequently held a public hearing September 16, 1980, in Baton Rouge, on the resubmitted program.

3. In accordance with section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Louisiana has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Louisiana program submission, including the section-by-section comparison of the Louisiana law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public meeting and hearing and other relevant information that:

(a) The Louisiana program provides for Louisiana to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII within its borders and that Louisiana has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13;

(b) In accordance with 30 CFR 732.15(b)(1), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana law and regulations, to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. The Louisiana law and regulations on performance standards are consistent with SMCRA and those sections of 30 CFR Chapter VII, Subchapter K, that have not been suspended by the Secretary or remanded by the District Court of the District of Columbia. The provisions are incorporated in Subchapter K, parts 210–243 of the Louisiana regulations.

(c) In accordance with 30 CFR 732.15(b)(2), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana law and regulations, and the Louisiana program includes provisions to implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority consistent with those sections of 30 CFR Chapter VII, Subchapter G, that are not

affected by the distict court decision. These provisions are incorporated in Sections 906 to 916 of the LSMRA and Subchapter 6, Parts 170 to 188.

(d) In accordance with 30 CFR 732.15(b)(3), the Secretary finds that Section 905 of the LSMRA and Sections 176 and 215 of the Louisiana regulations provide Louisiana with the authority to regulate coal exploration comparable to 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815.

(e) In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and regulations, and the Louisiana program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. These provisions are incorporated in Subchapter A, Part 107 of the Louisiana regulations.

(f) In accordance with 30 CFR 732.15(b)(5), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 917 of the LSMRA and the Louisiana program includes in Part 242 of the regulations, provisions for entry, inspection and monitoring of all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana consistent with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII.

(g) The Louisiana Office of Conservation has the authority under Louisiana law and the Louisiana program includes provisions for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. These provisions are incorporated in Subchapter J, Parts 200–208 of the Louisiana regulations.

(h) In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 918 of the LSMRA, and Part 245 of the Louisiana regulations provides for civil and criminal sanctions for violations of Louisiana law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, including the same or similar procedural requirements.

(i) In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 921 of the LSMRA and Parts 242 through 245 of the Louisiana regulations contain provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements.

(j) In accordance with 30 CFR 732.15(b)(9) the Secretary finds that the Louisiana Office of Conservation has authority under Section 922 of the LSMRA and Subchapter F of the Louisiana regulations, and the Louisiana program contains provisions for the designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F.

(k) In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the Louisiana Office of Conservation has authority under the Louisiana Administrative Procedures Act, LSMRA, and the Louisiana program to provide for public participation in the development, revision and enforcement of Louisiana regulations and program, consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. The Secretary further finds that the public has had a meaningful opportunity to participate in the development of the State program submitted to OSM based on the information in the administrative record, the public hearings Louisiana held on the adoption of regulations pursuant to the LSMRA in Shreveport, Louisiana, on October 12, 1977 and November 14, 1979, and in Baton Rouge, Louisiana, May 7, 1980, and the public comment periods provided pursuant to the Louisiana Administrative Procedures Act.

(l) In accordance with 30 CFR 732.15(b)(11), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana law and the Louisiana program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Louisiana Office of Conservation consistent with 30 CFR Part 705. These provisions are incorporated in Subchapter A, Part 105 of the Louisiana regulations.

(m) In accordance with 30 CFR 732.15(b)(12), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 915B(15)(d) of the LSMRA to require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Louisiana has no regulations on the training, examination and certification of persons engaged in blasting because 30 CFR 732.15(b)(12) does not require a State to implement regulations governing such training, examination and certification until six months after Federal regulations for these provisions have been promulgated. These Federal regulations have not been promulgated at this time.

(n) In accordance with 30 CFR 732.15(b)(13), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 907C of the LSMRA and Part 195 of the regulations to provide for a small operator assistance program (SOAP).

(o) In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana law and the Louisiana program contains provisions to provide for protection of employees of the Louisiana Office of Conservation in accordance with the protection afforded Federal employees under Section 704 of SMCRA. Section 921 of the LSMRA contains the provisions for protection of employees of the Louisiana Office of Conservation.

(p) In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Louisiana Office of Conservation has the authority under Sections 925 and 926 of the LSMRA and Parts 240–245 of the Louisiana regulations to provide for administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) In accordance with 30 CFR 732.15(b)(16), the Secretrary finds that the Louisiana Office of Conservation has authority under Louisiana law and regulations, and the Louisiana program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the LSMRA and regulations adopted thereunder and the other laws and regulations of Louisiana do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII.

(s) In accordance with 30 CFR 732.15(d), the Secretary finds that the Louisiana Office of Conservation and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funding to implement, administer and enforce the provisions of the program, the requirements of 30 CFR

732.15(b), and other applicable State and Federal laws.

Disposition of Comments

There were no comments from the public on Louisiana's resubmission. Of those Federal agencies contacted, comments were received only from the Heritage Conservation and Recreation Service (HCRS).

HCRS commented that the role of the State Historic Preservation Officer (SHPO) in the compliance process should be recognized in the "Supporting Agreement Between the Office of Conservation and the Department of Culture, Recreation and Tourism." The Louisiana Office of Conservation (O.C.) does have a supporting agreement with the Department of Culture, Recreation and Tourism, where the SHPO is located, that requires involvement during the permitting process. Accordingly, it is not necessary to specifically mention the SHPO.

The HCRS commented that the SHPO should be afforded an opportunity to comment on the present adequacy of surveys in the areas to be affected and to evaluate cultural resources in these areas for local significance as well as for significance under the National Register criteria. The Louisiana Department of Culture, Recreation and Tourism, which includes the SHPO, does have an opportunity to review permits as spelled out in the supporting agreement with the O.C. In addition, the Secretary notes that the Director of OSM has proposed to enter into a Programmatic Memorandum of Agreement with the Advisory Council on Historic Preservation (*See* 45 FR 41988, June 23, 1980) which, when signed and implemented, may allow the SHPO to have an integral part in insuring identification of cultural resources for each permit application.

The HCRS commented that the SHPO should be afforded the opportunity to review and comment on any proposed mitigative measures for their adequacy. The Louisiana O.C. provides such an opportunity in its supporting agreement with the Louisiana Department of Culture, Recreation and Tourism, which includes the SHPO. Therefore no change is required.

Approval

The Louisiana program is in compliance with and has fulfilled all the requirements of SMCRA and in all other respects meets the criteria for approval. Accordingly, the Secretary is approving the Louisiana program.

As stated above, in its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a state program which incorporates a suspended or remanded regulation. In 30 CFR 918.10(b), being adopted today, there is a list of provisions contained in the Louisiana submission which are based on suspended or remanded Federal regulations. The list indicates the extent to which an affected regulation is disapproved if other than in its entirety. The Secretary is today affirmatively disapproving these regulations and provisions to the extent indicated or, if no limitation is indicated, in their entirety.

This approval is effective upon publication. Beginning on this date, the Louisiana Office of Conservation shall be deemed the regulatory authority in Louisiana and all Louisiana surface coal mining and reclamation operations on non-Federal and non-Indian Lands and all coal exploration on non-Federal and non-Indian lands in Louisiana shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Louisiana the permanent regulatory program consists of the State program approved by the Secretary.

The Secretary's approval of the Louisiana program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mined lands reclamation program. In accordance with 30 CFR Part 884, Louisiana may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement need be prepared on this approval. The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval.

Dated: October 3, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

A new part 30 CFR Part 918, is adopted to read as follows:

PART 918—LOUISIANA

Sec.
918.1—Scope
918.10—State regulatory program approval.

Authority: Pub. L. 95–87, Sec. 102, 201, and 503, 30 U.S.C. 1202, 1211, and 1253.

918.1 Scope.

This part contains all rules applicable only within Louisiana which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

918.10 State regulatory program approval.

(a) The Louisiana permanent regulatory program, as submitted on January 3, 1980, and resubmitted on September 4, 1980, is approved effective October 10, 1980. Copies of the approved program are available at:

(1) Louisiana Office of Conservation, Department of Natural Resources, 625 N. 4th Street, Baton Rouge, Louisiana 70804, Telephone: (504) 342–5510
(2) Louisiana Office of Conservation, Monroe District, Room 214, 122 St. John St., Monroe, Louisiana 71201, Telephone: (318) 362–3111
(3) Louisiana Office of Conservation, Shreveport District, 960 Jorden St., Shreveport, Louisiana 71103, Telephone: (318) 226–7585
(4) Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Bldg., 818 Grand Ave., Kansas City, Missouri 64106, Telephone: (816) 374–3920
(5) Office of Surface Mining Reclamation and Enforcement, Room 135, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240, Telephone: (202) 343–4728

(b) In its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a state program which incorporates a suspended or remanded federal regulation. A list follows of provisions contained in the Louisiana submission which are based on suspended or remanded Federal regulations. These regulations are affirmatively disapproved to the extent indicated or, if no limitation is indicated, in their entirety.

(1) Section 100.5(146), the definition of "valid existing rights," to the extent it does not allow recognition of such rights an operator may claim by having made a good faith effort to obtain all permits before 8/31/77 as stipulated by the court's decision.

(2) Section 100.5(60), the definition of "mine plan area," and the use of the term in Parts 179 and 180 to the extent of the court's decision regarding requirements of information outside the permit area.

(3) Sections 179.20 and 180.16 requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

(4) Section 179.21 to the extent it requires a soil survey for lands other

than those which a reconnaissance inspection suggests may be prime farmland.

(5) Section 208.14(b) to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

(6) Section 216.115 to the extent it requires an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

(7) Sections 223.11(c), 223.15(b), and 223.15(c) to the extent they require an operator on prime farmland to actually return the land to crop production.

(8) Section 216.116(b) to the extent that it states that an operator's responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

(9) Section 216.133(c) to the extent it requires an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

(10) Sections 185.17(a)(3) and 223.14(c), concerning excessive soil compaction.

(11) Sections 216.42 (a)(1) and (a)(7) to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

(12) Section 216.42(b), relating to effluent standard exemptions during major storm periods.

(13) Section 216.46(b), concerning sediment storage volume in sediment ponds.

(14) Section 216.46(c) concerning detention time for water in sediment ponds.

(15) Section 216.46(d) to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

(16) Section 216.46(h), concerning sediment removal from sediment ponds.

(17) Section 216.65(f) requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities and which restricts blasting at distances greater than 300 feet.

(18) Section 216.83, concerning coal processing waste banks, to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

(19) Section 216.95, concerning air resources protection, to the extent it applies to air pollution not caused by erosion.

(20) Sections 216.150–176, concerning performance standards for three classes of roads.

(21) Section 101.5(93), the definition of "roads" that is used in Sections 216.150–176.

(22) Section 185.17(a)(8) to the extent that it requires prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrrounding area.

(23) Section 101.11(c)(1) (i) and (ii) relating to exemptions for existing structures, to the extent that the exemptions are not mandatory after the appropriate findings are made.

(24) Sections 176.5(b)(3) and 176.11(a)(3) concerning the requirements for maps of the proposed exploration area.

(25) Sections 176.5(b)(5) and 176.11(a)(5), concerning the requirement that operators explain their basis for entering the development area when the surface is owned by a person other than the operator.

(26) Section 216.133(b)(1) to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

(27) Section 206.12(e)(6)(iii) to the extent it requires cessation of operations upon the insolvency of a surety.

(28) Section 216.103(a)(1) to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

(29) Sections 245.13 and 245.14 to the extent they impose a civil penalty point system.

(30) Section 100.11(b), concerning the two-acre exemption, insofar as it applies to any operation by the person who affects or intends to affect more than two acres at physically unrelated sites within one year when the area affected at each site does not exceed two acres.

(31) Section 100.5(85), the definition of "public road."

[FR Doc. 80-31764 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1632-2]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of submittal to satisfy conditions of plan approval.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan in 1979. On April 9, 1980, EPA conditionally approved certain elements of Missouri's plan (45 FR 24140). On September 5, 1980, the State submitted documentation that one of these conditions has been fulfilled. This condition involves a requirement that one of the Missouri regulations governing the emission of volatile organic compounds (VOC) be changed to agree with EPA's guidelines.

The purpose of this notice is to advise the public that the State of Missouri has made a submission involving this condition. EPA is reviewing the material submitted and intends to issue a notice of final rulemaking after the review is completed. Until final action is published in the **Federal Register**, the conditional approval of the SIP is being continued.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations: EPA, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106; EPA Public Information Reference Unit, Room 2922, 401 M Street S.W., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri, 65101.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at 816–374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of the action can be found in the **Federal Register** notice published on that date (45 FR 24140).

EPA conditionally approved Missouri Rule 10 CSR 10–2.260, Control of Petroleum Liquid Storage, Loading and Transfer, as part of the Part D plan revision for the Kansas City ozone nonattainment area. The State is required to submit a revision to this regulation which contains limits that agree with the recommendations of EPA's Control Technique Guideline (CTG) or the state must submit enforceable compliance orders which assure that the CTG recommended limits are met. This submission is required by February 1, 1981.

On September 5, 1980, the State submitted revisions to Rule 10 CSR 10–2.260 for the purpose of meeting the

condition promulgated in EPA's final rulemaking on April 9, 1980. The purpose of this notice is to inform the public that the state has made a submission by the required deadline. EPA is reviewing the submission to determine if it complies with the requirements of the Clean Air Act and the condition promulgated by EPA. A preliminary review indicates that the condition has been met and therefore, EPA intends to issue a notice of final rulemaking. EPA's conditional approval of the Missouri SIP is being continued until final action on the submittal is published in the Federal Register.

Dated: October 1, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-31746 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Parts 52, 81

[A9-FRL 1607-5]

Arizona Plan Revision: Redesignation of Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA takes final action to approve the redesignation of the Air Quality Control Regions (AQCR's) in Arizona, as requested by the Governor. The intended effect of this redesignation is "to improve the coordination and management of ongoing air, water, and transportation planning programs by the state and six Arizona Councils of Government."

EFFECTIVE DATE: November 10, 1980.

ADDRESS: A copy of the redesignation request is located at: The Office of the Federal Register, 1100 "L" Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Director, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

Under section 107 of the Clean Air Act, four AQCR's located partly or entirely in Arizona were designated by the Administrator. Those AQCR's were described in the following sections of Title 40 of the CFR, and included the Arizona counties listed in parentheses:

Sect.
81.36 Phoenix-Tucson Intrastate AQCR. (Gila, Maricopa, Pima, Pinal, Santa Cruz)
81.80 Clark-Mohave Interstate AQCR. (Mohave, Yuma)
81.99 Arizona-New Mexico Southern Border Interstate AQCR. (Cochise, Graham, Greenlee)
81.121 Four Corners Interstate AQCR. (Apache, Coconino, Navajo, Yavapai)

Altogether, the AQCR's listed above included the entire State of Arizona, plus portions of four adjoining States.

On July 8, 1970, the Governor's Executive Order 70-2 established six Arizona Planning Districts, which comprise the entire State, as follows:

District 1—Maricopa County
District 2—Pima County
District 3—Apache, Coconino, Navajo, and Yavapai Counties
District 4—Mohave and Yuma Counties
District 5—Gila and Pinal Counties
District 6—Cochise, Graham, Greenlee, and Santa Cruz Counties

On February 4, 1980 (45 FR 7544) the EPA, at the request of the Governor of Nevada, redesignated the Nevada portion (Clark County) of the Clark-Mohave Interstate AQCR as the Las Vegas Intrastate AQCR and the Arizona portion (Mohave and Yuma Counties) as the Mohave-Yuma Intrastate AQCR.

The Redesignation

In a January 26, 1979 letter to the Administrator, the Governor of Arizona requested that the AQCR's in Arizona be redesignated to conform to the boundaries of the six Arizona Planning Districts. As a result of this redesignation, Arizona will no longer share AQCR's with the neighboring States of Colorado, New Mexico, and Utah.

Section 107(e)(2) of the Clean Air Act, as amended, requires the consent of the Governors of those neighboring States for the redesignation to take effect. The Governors of Colorado, New Mexico, and Utah have consented to the redesignation.

Effects of Redesignation

The redesignation of AQCR's in Arizona should result in improved coordination and management of air, water, and transportation planning throughout the State, since the same District organizations now involved in wastewater management and transportation planning will also be responsible for air quality planning.

In addition, numerous administrative changes are being made to Title 40, Part 52 of the CFR as a result of the redesignation. These changes are necessitated by revisions being made in 40 CFR Part 81 (Designation of areas for air quality planning purposes), where all of the Arizona AQCR descriptions are being revised.

In Part 81, the names and descriptions of the AQCR's in §§ 81.36, 81.99, and 81.121 are being revised, and new AQCR's are being added.

On February 8, 1980 (45 FR 8670) the EPA published a Notice of Proposed Rulemaking, proposing to approve the redesignation and inviting public comments on the proposal. One letter, from the Arizona Department of Health Services, was received. The Department supports the redesignation and states that all six Arizona Councils of Government also support the proposal.

The EPA is approving this redesignation because it meets the requirements of section 107(e) of the Clean Air Act, as amended, which requires, in effect, that the redesignation be for purposes of improved air quality management, and that it have the consent of the Governors of all affected states.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 107, 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7407, 7410, 7601(a)))

Dated: October 2, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1980.

Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D—Arizona

1. Section 52.120, paragraph (c)(30) is added as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(30) Redesignation of AQCR's in Arizona, submitted on January 26, 1979, by the Governor.

* * * * *

2. Section 52.121 is revised to read as follows:

§ 52.121 Classification of regions.

The Arizona plan is evaluated on the basis of the following classifications:

AQCR (constituent counties)	Classifications				
	PM	SO_x	NO_2	CO	O_3
Maricopa Intrastate (Maricopa)	I	III	III	I	I
Pima Intrastate (Pima)	I	II	III	III	I
Northern Arizona Intrastate (Apache, Coconino, Navajo, Yavapai)	I	III	III	III	III
Mohave-Yuma Intrastate (Mohave, Yuma)	I	III	III	III	III
Central Arizona Intrastate (Gila, Pinal)	I	IA	III	III	III
Southeast Arizona Intrastate (Cochise, Graham, Greenlee, Santa Cruz)	I	IA	III	III	III

* * * * * * *

3. In § 52.125, the first and third sentences of paragraph (a), and paragraphs (b), (c), (c)(1), (d), (d)(1)(i), (d)(2)(i), and (g)(1) are revised to read as follows:

§ 52.125 Control strategy and regulations: Sulfur oxides.

(a) The requirements of §§ 51.13 and 51.22 of this chapter are not met since the plan does not impose specific emission limitations on copper smelters in the Pima, Central Arizona, and Southeast Arizona Intrastate Regions. In addition, the plan does not require permanent control of emissions from copper smelters necessary to achieve all national standards for sulfur oxides. Therefore, Regulation 7–1–4.1 (copper smelters) of the Arizona Rules and Regulations for Air Pollution Control, as it pertains to existing copper smelters, is disapproved for the Pima, Central Arizona, and Southeast Arizona Intrastate Regions.

(b) The requirements of §§ 51.13 and 51.22 of this chapter are not met since the plan does not provide the degree of control necessary to attain and maintain the national standards for sulfur oxides in the Northern Arizona Intrastate Region. Therefore, Regulation 7–1–4.2(C) (fuel burning installations) of the Arizona Rules and Regulations for Air Pollution Control, as it pertains to existing sources, is disapproved in the Northern Arizona Intrastate Region for steam power generating installations having a total rated capacity equal to or greater than 6,500 million B.t.u. per hour.

(c) *Replacement regulation for Regulation 7–1–4.2(C) (Fossil fuel-fired steam generators in the Northern Arizona Intrastate Region).* (1) This paragraph is applicable to the fossil fuel-fired steam generating equipment designated as Units 1, 2, and 3 at the Navajo Power Plant in the Northern Arizona Intrastate Region (§ 81.270 of this chapter).

* * * * *

(d) *Regulation for control of sulfur dioxide emissions (Pima, Central Arizona, and Southeast Arizona Intrastate Regions).* (1)(i) The owner or operator of any copper smelter located in the Pima Intrastate Region or in the Central Arizona Intrastate Region and identified in this paragraph shall comply with all the requirements of this paragraph.

* * * * *

(2)(i) The owner or operator of any copper smelter located in the Southeast Arizona Intrastate Region and identified in this paragraph shall comply with all the requirements of this paragraph.

* * * * *

(g)(1) The requirements of § 51.13 of this chapter are not met since the plan does not demonstrate that the emission limitations applicable to existing fuel burning equipment producing electrical energy will provide for the attainment and maintenance of the national standards in the Pima Intrastate Region (§ 81.269 of this chapter).

* * * * *

4. In § 52.126, paragraphs (a), (b), (b)(1), and (b)(3), and the first sentence of paragraph (c) are revised to read as follows:

§ 52.126 Control strategy and regulations: Particulate matter.

(a) The requirements of §§ 51.13 and 51.22 of this chapter are not met since the plan does not provide the degree of control necessary to attain and maintain the national standards for particulate matter in Gila, Maricopa, Pima, Pinal, and Santa Cruz Counties. Therefore, Regulation 7–1–3.6 (process industries) of the Arizona Rules and Regulations for Air Pollution Control is disapproved for Gila, Maricopa, Pima, Pinal, and Santa Cruz Counties.

(b) *Replacement regulation for Regulation 7–1–3.6 of the Arizona Rules and Regulations for Air Pollution Control (Gila, Maricopa, Pima, Pinal, and Santa Cruz Counties).* (1) No owner or operator of any stationary process source in Gila, Maricopa, Pima, Pinal, or Santa Cruz County shall discharge or cause the discharge of particulate matter into the atmosphere in excess of the hourly rate shown in the following table for the process weight rate identified for such source:

[In pounds per hour]

Process weight rate	Emission rate	Process weight rate	Emission rate
50	0.36	60,000	29.60
100	0.55	80,000	31.19
500	1.53	120,000	33.28
1,000	2.25	160,000	34.85
5,000	6.34	200,000	36.11
10,000	9.73	400,000	40.35
20,000	14.99	1,000,000	46.72

* * * * *

(3) No owner or operator of a Portland cement plant in Gila, Maricopa, Pima, Pinal, or Santa Cruz County with a process weight rate in excess of 250,000 lb/hr shall discharge or cause the discharge of particulate matter into the atmosphere in excess of the amount specified in § 60.62 of this chapter.

* * * * *

(c) The requirements of § 51.22 of this chapter are not met since the plan does not contain regulations for Mohave and Yuma Counties in the Mohave-Yuma Intrastate Region or Pinal-Gila Counties in the Central Arizona Intrastate Region which provide enforceable and reproducible test procedures for the determination of compliance with the emission standards. * * *

* * * * *

5. In § 52.129, paragraphs (b) and (c)(1) are revised to read as follows:

§ 52.129 Review of new sources and modifications.

(a) [Reserved]

(b) *National standards not met.* The requirements of § 51.18(c) of this chapter are not met in the Pima Intrastate Region since the Rules and Regulations of the Pima County Air Pollution Control District are not adequate to prevent construction or modification of a source which would interfere with the attainment or maintenance of the national standards.

(c) * * * (1) The requirements of this paragraph are applicable to any stationary source in the Pima Intrastate Region (§ 81.269 of this chapter), the construction or modification of which is commenced after the effective date of this regulation.

* * * * *

6. In § 52.130, paragraphs (a) and (c)(1) and the first sentence of paragraph (e) are revised to read as follows:

§ 52.130 Source surveillance.

(a) The requirements of § 51.19(a) of this chapter are not met since the plan does not contain legally enforceable procedures for requiring sources in the Northern Arizona, Mohave-Yuma, Central Arizona, and Southeast Arizona Intrastate Regions to maintain records

of and periodically report on the nature and amounts of emissions.

* * * * *

(c) * * * (1) The owner or operator of any stationary source in the Northern Arizona, Mohave-Yuma, Central Arizona, or Southeast Arizona Intrastate Region (§§ 81.270, 81.268, 81.271, and 81.272 of this chapter) shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

* * * * *

(e) The requirements of § 51.19(e) of this chapter are not met since the plan does not provide sufficient regulations to meet the minimum specifications of Appendix P in the Maricopa Intrastate Region. * * *

* * * * *

Subpart DD—Nevada

7. Section 52.1484 is revised to read as follows:

§ 52.1484 Control strategy: Carbon monoxide

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standards for carbon monoxide in the Las Vegas Intrastate Region (§ 81.80 of this chapter).

* * * * *

8. Section 52.1486 is revised to read as follows:

§ 52.1486 Control strategy: Hydrocarbons and ozone.

(a) The requirements of § 51.14 of this chapter are not met since the plan does not provide for the attainment and maintenance of the national standard for ozone in the Las Vegas Intrastate Region (§ 81.80 of this chapter).

* * * * *

Subpart GG—New Mexico

§ 52.1621 [Amended]

9. In § 52.1621, the table is revised by changing the name of the "Arizona-New Mexico Southern Border Interstate" AQCR to the "New Mexico Southern Border Intrastate" AQCR.

10. In § 52.1624, paragraphs (a)(1) and (b) are revised to read as follows:

§ 52.1624 Control strategy and regulations: Sulfur oxides.

(a) * * *

(1) The plan does not provide for attainment and maintenance of the secondary standards for sulfur oxides in the New Mexico Southern Border Intrastate Region.

(b) The following emission limitations in New Mexico's "Air Quality Control Regulations" are disapproved for the indicated reasons:

(1) Regulation 652.A (emission limitation for sulfur from existing nonferrous smelters) adopted by the State of New Mexico on January 10, 1972, is disapproved since it does not provide for the degree of control necessary to attain and maintain the secondary standards for sulfur oxides in the New Mexico Southern Border Intrastate Region. Regulation 652.A is approved for attainment and maintenance of the primary standards.

§ 52.1630 [Amended]

11. In § 52.1630, the table is revised by changing the "Arizona-New Mexico-Southern Border Interstate" AQCR to the "New Mexico Southern Border Intrastate" AQCR.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart B—Designation of Air Quality Control Regions

12. Section 81.36 is revised to read as follows:

§ 81.36 Maricopa Intrastate Air Quality Control Region.

The Phoenix-Tucson Intrastate Air Quality Control Region has been renamed the Maricopa Intrastate Air Quality Control Region (Arizona) and has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Maricopa County.

13. Section 81.99 is revised to read as follows:

§ 81.99 New Mexico Southern Border Intrastate Air Quality Control Region.

The Arizona-New Mexico Southern Border Interstate Air Quality Control Region has been renamed the New Mexico Southern Border Intrastate Air Quality Control Region and has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico: Grant County, Hidalgo County, Luna County.

14. Section 81.121 is revised to read as follows:

§ 81.121 Four Corners Interstate Air Quality Control Region.

The Four Corners Interstate Air Quality Control Region (Colorado-New Mexico-Utah) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado: Archuleta County, Dolores County, La Plata County, Montezuma County, San Juan County.

In the State of New Mexico: San Juan County (in its entirely); Rio Arriba County (that portion lying west (Pacific slope) of the Continental Divide, and all portions of the Jicarilla Apache Indian Reservation lying east (Atlantic slope) of the Continental Divide); Sandoval County (that portion lying west (Pacific slope) of the Continental Divide, and all portions of the Jicarilla Apache Indian Reservation lying east (Atlantic slope) of the Continental Divide); McKinley County (that portion lying west (Pacific slope) of the Continental Divide); Valencia County (that portion lying within the Zuni and Ramah Navajo Indian Reservations).

In the State of Utah: Emery County, Garfield County, Grand County, Iron County, Kane County, San Juan County, Washington County, Wayne County.

15. Section 81.269 is added as follows:

§ 81.269 Pima Intrastate Air Quality Control Region.

The Pima Intrastate Air Quality Control Region (Arizona) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Pima County.

16. Section 81.270 is added as follows:

§ 81.270 Northern Arizona Intrastate Air Quality Control Region.

The Northern Arizona Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as

defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Apache County, Coconino County, Navajo County, Yavapai County.

17. Section 81.271 is added as follows:

§ 81.271 Central Arizona Intrastate Air Quality Control Region.

The Central Arizona Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Gila County, Pinal County.

18. Section 81.272 is added as follows:

§ 81.272 Southeast Arizona Intrastate Air Quality Control Region.

The Southeast Arizona Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona: Cochise County, Graham County, Greenlee County, Santa Cruz County.

[FR Doc. 80-31319 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 81

[A5-FRL 1628-1]

Designation of Areas for Air Quality Planning Purposes Attainment Status Designations: Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: This rulemaking changes the attainment status for portions of Milwaukee and Green Bay, Wisconsin, from attainment and unclassifiable, respectively, to nonattainment of the primary National Ambient Air Quality Standards (NAAQS) for sulfur dioxide. This change is required by recorded violations of the SO_2 NAAQS in both Milwaukee and Green Bay.

DATE: This designation is effective as of November 10, 1980.

ADDRESSES: Copies of the Wisconsin request to redesignate, the technical support material, and the public comments are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, 230 S. Dearborn St., Chicago, Illinois 60604

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

Bureau of Air Management, Department of Natural Resources, 4610 University Avenue, Box 7921, Madison, Wisconsin 53707

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, U.S. Environmental Protection Agency, 230 S. Dearborn St., Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: This notice of final rulemaking is issued under the authority of section 107 of the Clean Air Act, as amended. Section 107(d)(1) of the Clean Air Act required states to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that had not attained the National Ambient Air Quality Standards (NAAQS). The Act further required that the Administrator promulgate this list, with such modifications as he deemed necessary. On March 3, 1978, the Administrator promulgated nonattainment designations for Wisconsin for total suspended particulates (TSP), sulfur dioxide (SO2), carbon monoxide (CO), photochemical oxidants and nitrogen dioxide (NO2) (43 FR 8962, 40 CFR 81.350). Section 107(d)(5) of the Act provides that a state, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation. The criteria and policy guidelines governing these revisions and the Administrator's review of them are identical to those used in the original designations and are summarized in the **Federal Register** on March 3, 1978 (43 FR 8962), September 11, 1978 (43 FR 40412) and October 5, 1978 (43 FR 45993).

On May 3, 1979, the Secretary of the Wisconsin Department of Natural Resources (DNR), acting for the Natural Resources Board, recommended redesignating portions of Green Bay and Milwaukee. This redesignation request included a technical support document which recommends that portions of Milwaukee and Green Bay be changed from attainment and unclassifiable designations respectively, to nonattainment for SO2. The technical document was based on observed monitoring violations of the primary standard in Green Bay and Milwaukee. This document was the subject of public hearings on February 12 and 13, 1979, in Green Bay and Milwaukee; and the Board approved it in March 1979. On September 14, 1979, the EPA proposed for public comment rulemaking approving Wisconsin's redesignation request [44 FR 53547].

Only one corporation responded to this proposal with comments. These comments and EPA's response to them follow:

Comment: The Wisconsin DNR and the EPA should use block averages rather than continuous running averages for ascertaining SO2 concentrations. Further, the EPA should delay redesignation until the U.S. Court of Appeals for the District of Columbia Circuit has reviewed the averaging issue in "PPG Industries vs. Costle" (File No. 79-1708).

EPA Response: It is the EPA's policy to report *continuous* air quality monitoring data as running average concentrations. Running averages are specified in the "Guidelines for Interpretation of Air Quality Standards" (February 1977). Continuous running averages represent actual air quality better than discrete block averages because people breathe in SO_2 from the ambient air on a continuous basis rather than in midnight "blocks". If EPA used block averages, it would evaluate for fewer 24-hour periods and would risk overlooking violations of the NAAQS.

Under either averaging procedure, however, the annual 1978 SO2 monitoring data indicate that there are 2 or more exceedances of the 24 hour SO2 NAAQS. The SO2 NAAQS is violated if there is more than 1 exceedance annually. Therefore, on a technical basis the averaging issue is moot in this redesignation.

In regard to delaying redesignation pending the Court's review of the averaging issue, it is EPA policy to assume its procedures are valid until they are overturned by a court. Once the court has rendered a decision in any such case, appropriate steps can be taken regarding the SIP.

Comment: The commentor claims that most of the measured exceedances of the SO2 NAAQS upon which the Wisconsin DNR based its nonattainment redesignation request for Milwaukee are invalid because of quality assurance problems.

EPA Response: The monitored SO2 air quality data was measured at sites on the University of Wisconsin at Milwaukee North Campus (UWM) and Jones Island. The EPA has determined that these sites meet (or satisfy) the

applicable standards which are contained in the "Guidance for Air Quality Monitoring Network Design and Instrument Siting" (OAQPS 1.2–012R2, September 1975). Wisconsin, in a memorandum from the State submitted by the commentor, determined that the data are valid.

Comment: The commentor alleges that statements and data contained in the Wisconsin DNR's Milwaukee technical support document, which provides the basis for the redesignation request, are not the actual values recorded at the site. The commenter provided what it believes are the correct monitored SO_2 concentrations for the UWM and Jones Island sites.

EPA Response: As discussed above, the EPA has determined that the measured SO_2 concentrations provided by the State for the UWM and Jones Island sites are valid for evaluating air quality status. Further, monitored SO_2 concentrations submitted by the commentor are greater than the NAAQS.

Comment: The commentor recommends that "marginal" exceedances (within 10%) of the SO_2 NAAQS should not be counted because of the known imprecision of the monitoring techniques.

EPA Response: EPA policy is to assume that monitored values obtained with proper quality control are accurate. Therefore, all concentrations greater than the appropriate NAAQS must be accounted for in addressing the attainment/nonattainment status for an area. This is because the NAAQS were set recognizing the imprecision of the methodology. Obviously, the monitored ambient SO_2 levels could equally well be above the measured value as below, and the 10% criterion could also be utilized to argue that levels 10% below (329 $\mu g/m^3$) the NAAQS should constitute a violation. EPA's position is that statistically the monitored value is the most probable value of being correct and, therefore, must be used.

Comment: No monitored violation of the SO_2 NAAQS were recorded in Milwaukee in 1979. The EPA should use these most recent data and maintain the area's attainment designation.

EPA Response: As discussed above, data before the EPA demonstrate that there were two or more exceedances of the SO_2 standard in 1978. EPA generally requires that designations be based on eight continuous quarters of monitored data. Thus, EPA must consider the exceedances recorded in 1978. EPA can base a designation on four quarters of data showing no violation only if these data reflect real legally enforceable emission reductions. Although no violations were recorded in 1978, the commentor did not provide documentation that the reductions were the result of a legally enforceable SO_2 emissions control program. Therefore, there is nothing to prevent the violations as recorded in 1978 from reoccurring, and the EPA finds that the nonattainment designation is appropriate.

Comment: The State did not conduct field investigations after each exceedance.

EPA Response: No field investigation is required under the Clean Air Act and, concomitantly, under the EPA's guidance and policy.

After examining the submitted comments, the EPA has determined that the original proposed designations of nonattainment are appropriate. Under the Part D requirements of the Clean Air Act Amendments of 1977, Wisconsin has 12 months from the effective date of these designations to develop an enforceable plan to attain the SO_2 NAAQS. Although the designations were developed from analyses of ambient air data, the State has committed itself to utilizing computer dispersion modeling in addition to ambient data in the development of its attainment strategies. If the State determines that a source significantly contributes to nonattainment, the State has committed itself to requiring a SO_2 emission limitation on the source sufficient to attain and maintain the SO_2 NAAQS, irrespective of whether such source is located within the designated nonattainment area.

Under Executive Order 12044, USEPA 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. USEPA 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.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this redesignation 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 today. 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 civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 107(d), 171(2), 301(a), Clean Air Act, as amended (42 U.S.C. 7407(d), 7502, 7601(a)))

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40 of the Code of Federal Regulations, Chapter I, Part 81 is amended as follows:

Section 81.305 is amended by revising AQCR 237 and 239 for SO_2 to read as follows:

§ 81.350 Wisconsin.

* * * * * * *

Wisconsin—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standard
* * * *	*	*	*	*
AQCR 237:				
Brown County (city of Green Bay):				
Subcity area defined as follows: *North:* Green Bay. *West:* W. Mason St. and Ashland Ave., along Ashland north to Matter St., west to Crocker St., north on Crocker St. to Bylsby St., then to Green Bay. *South:* W. Mason St. and Ashland Ave., east along Mason to Irwin Ave. *East:* W. Mason St., and Irwin Ave., along Irwin Ave. north to Green Bay.	X	.....	.....	
Remainder of Corporate Limits of Green Bay	.....	.....	X	
Remainder of Brown County	.....	.....	.....	X
* * * *	*	*	*	*
AQCR 239: * * *				
Milwaukee County (city of Milwaukee):				
Subcity area defined as follows: *North:* Milwaukee River and Capitol Drive up to Lake Michigan. *West:* South along Milwaukee River to St. Paul, west along St. Paul to 16th St., south on 16th St., to Pierce, then east along Pierce to 6th St., again south on 6th St. to Becher St.	X	.....	.....	

Wisconsin—SO_2—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standard
South: 6th and Becher to the Lake. *East:* Lake Michigan. Remainder of Milwaukee County				X
* * * * * * *				

Dated: October 2, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-31705 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 180

[PH-FRL 1630-6; PP 7E1965/R271]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities, Methoxychlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide methoxychlor in or on the raw agricultural commodity horseradish at 1 part per million (ppm). This regulation was requested by the Interregional Research Project No 4 (IR-4). This regulation will establish the maximum permissible level for residues of the insecticide on horseradish.

EFFECTIVE DATE: Effective on October 10, 1980.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3700 (A-110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Rm. E-124, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202-755-2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of July 23, 1980 (45 FR 49117) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had filed a pesticide petition (pp 7E1965) with the EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Illinois. The petition proposed the establishment of a tolerance of 1 ppm for methoxychlor in or on the raw agricultural commodity horseradish.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The metabolism of methoxychlor is adequately understood and an adequate analytical method (gas chromatography using a microcoulometric detector (MCGC)) is available for enforcement purposes. There is no expectation of residues in meat, milk, poultry, and eggs, since horseradish is not an animal feed item. There are presently no actions pending against the continued registration of this chemical. Tolerances have previously been established for a variety of commodities at levels ranging from 1 ppm to 100 ppm.

Any person adversely affected by this regulation on or before November 10, 1980, 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 to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Effective date: October 10, 1980.

(Sec. 408(e), 68 Stat. (21 U.S.C. 346(e)))

Dated: October 1, 1980.

Edwin L. Johnson

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting "horseradish" at 1.0 ppm under § 180.120 to read as follows:

§ 180.120 Methoxychlor; tolerances for residues.

* * * * *

1 part per million in or on horseradish

* * * * *

[FR Doc. 80-31686 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-3 and 1-15

[FPR Amendment 208]

Cost Principles and Price Negotiation Policy

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The Federal Procurement Regulations are amended to update Subpart 1-15.7—Grants and Contracts with State and local Governments, and Subpart 1-3.8—Price Negotiation Policies and Techniques. The bases for the revisions are (1) an April 11, 1980, Office of Management and Budget (OMB) revision to Federal Management Circular 74-4, (2) a transfer of functions from the General Services Administration (GSA) to OMB, and (3) Office of Federal Procurement Policy (OFPP) direction regarding administratively imposed blanket fee limitations. The intended effect is to implement OMB and OFPP policy.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

SUPPLEMENTARY INFORMATION: The significant changes introduced in this amendment are as follows:

(1) The Financial Management Branch of OMB is substituted for GSA as the agency responsible for certain approval and advisory functions pertaining to the negotiation and approval of indirect cost proposals for State and local governments. This revision reflects the transfer of functions and responsibilities in this area from GSA to OMB. In addition, regulatory references to the Department of Health, Education, and

Welfare were revised to refer to the Department of Health and Human Services in line with a recent reorganization.

(2) The standards for selected items of cost in Subpart 1–15.7—Grants and Contracts With State and Local Governments, are revised in the areas of travel, rental cost of building space and related facilities, and interest and other financial costs. Changes made implement revisions made by OMB to Federal Management Circular 74–4.

(3) Language requiring compliance with agency procedures limiting fee on cost reimbursement contracts in Section 1–3.805–2 is deleted. This change supplements previous FPR revisions and further clarifies the FPR with respect to elimination of the recognition of administratively imposed blanket fee limitations pertaining to cost-plus-fixed-fee contracts.

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.8—Price Negotiation Policies and Techniques

Section 1–3.805–2 is revised to read as follows:

§ 1–3.805–2 Cost-reimbursement type contracts.

In selecting the contractor for a cost-reimbursement type contract, estimated costs of contract performance and proposed fees should not be considered as controlling, since in this type of contract advance estimates of cost may not provide valid indicators of final actual costs. There is no requirement that cost-reimbursement type contracts be awarded on the basis of either (a) the lowest proposed cost, (b) the lowest proposed fee, or (c) the lowest total estimated cost plus proposed fee. The award of cost-reimbursement type contracts primarily on the basis of estimated costs may encourage the submission of unrealistically low estimates and increase the likelihood of cost overruns. The cost estimate is important to determine the prospective contractor's understanding of the project and ability to organize and perform the contract. The agreed fee must be within the limits prescribed by law and appropriate to the work to be performed (see § 1–3.808). Beyond this, however, the primary consideration in determining to whom the award shall be made is which contractor can perform the contract in a manner most advantageous to the Government.

PART 1–15—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1–15.7—Grants and Contracts With State and Local Governments

1. Section 1–15.709–3 is revised to read as follows:

§ 1–15.709–3 Instructions for preparation of cost allocation plans.

The Department of Health and Human Services, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocations plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

2. Section 1–15.709–4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1–15.709–4 Negotiation and approval of indirect cost proposals for States.

(a) The Department of Health and Human Services, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval, and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

(b) At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in paragraph (a) of this § 1–15.709–4 for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health and Human Services in collaboration with the other interested agencies and submitted to the Financial Management Branch, Office of Management and Budget, for final approval. A current list of agency assignments will be maintained by the Department of Health and Human Services.

* * * * *

3. Section 1–15.709–5 is amended by revising paragraph (b) to read as follows:

§ 1–15.709–5 Negotiation and approval of indirect cost proposals for local governments.

* * * * *

(b) A list of cognizant Federal agencies assigned responsibility for negotiation, approval, and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health and Human Services in collaboration with the other interested agencies, and submitted to the Financial Management Branch, Office of Management and Budget, for final approval. A current list of agency assignments will be maintained by the Department of Health and Human Services.

* * * * *

4. Section 1–15.709–6 is revised to read as follows:

§ 1–15.709–6 Resolution of problems.

To the extent that problems are encountered among the Federal agencies in connection with §§ 1–15.709–4 and 1–15.709–5, the Financial Management Branch, Office of Management and Budget, will lend assistance as required.

5. Section 1–15.711–28 is revised to read as follows:

§ 1–15.711–28 Travel.

Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two; provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available. Notwithstanding the provisions of §§ 1–15.713–6 and 1–15.713–8, travel costs of officials covered by those sections, when specifically related to grant programs, are allowable with the prior approval of a grantor agency.

6. Section 1–15.712–2 is amended by revising paragraph (a) to read as follows:

§ 1–15.712–2 Building space and related facilities.

* * * * *

(a) *Rental cost.* The rental cost of space in a privately owned building is allowable. Similar costs for publicly owned buildings newly occupied on or after October 1, 1980, are allowable where "rental rate" systems, or equivalent systems that adequately reflect actual costs, are employed. Such

charges must be determined on the basis of actual cost (including depreciation based on the useful life of the building, interest paid or accrued, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction that were originally financed by the Federal Government.

* * * * *

7. Section 1–15.713–7 is revised to read as follows:

§ 1–15.713–7 Interest and other financial costs.

Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation and except as provided for in paragraph (a) of § 1–15.712–2.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: September 26, 1980.

R. G. Freeman, III,

Administrator of General Services.

[FR Doc. 80–31694 Filed 10–9–80; 8:45 am]

BILLING CODE 6820–61–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 78–149]

Connection of Terminal Equipment to the Telephone Network; Compilation of a List of "Grandfathered" PBX and Key Telephone Systems

AGENCY: Federal Communications Commission.

ACTION: Adoption of order terminating CC Docket No. 78–149.

SUMMARY: This Order terminates the Commission's proceeding that developed a list of "grandfathered" PBX and key telephone systems. The proceeding was initiated by the Commission in the Third Report and Order in Docket No. 19528, 43 Fed. Reg. 16480 (1978), 67 FCC 2d 1255 (1978), to implement the inclusion of PBX and key telephone systems under Part 68 of the Rules, 47 CFR Part 68. The Commission delegated authority to the Chief, Common Carrier Bureau to conduct the proceeding.

DATES: Non-Applicable.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James M. Talens, Attorney, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554.

Order

Adopted: October 6, 1980.

Released: October 7, 1980.

In the Matter of Compilation of a list of "grandfathered" PBX and Key Telephone Systems to Implement the Commission's Third Report and Order in Docket No. 19528, and Part 68 of the Commission's Rules and Regulations.

By the Chief, Common Carrier Bureau:

1. In an order released May 11, 1978, CC–681, the Chief, Common Carrier Bureau, directed AT&T and the larger independent telephone companies to submit lists of all PBX and key telephone systems. The lists were to include all such systems directly connected to the nationwide telephone network in the companies' respective service areas which were eligible for "grandfathered" treatment under Part 68 of the FCC's Rules, 47 CFR Part 68. In a subsequent order released June 16, 1978 (Mimeo 1869), the Chief published an initial compilation of those lists. By Public Notice dated January 18, 1979 (Number 11653) the Commission announced the availability of the final grandfather lists for all telephone terminal equipment, including PBX systems.[1]

2. Accordingly, pursuant to paragraph 163 of the Third Report and Order in Docket No. 19528, 67 FCC 2d 1255 (1978), It is ordered that this proceeding is terminated.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80–31754 Filed 10–9–80; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–70; RM–3490; RM–3644]

TV Broadcast Stations In Danville and Campbellsville, Ky.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns UHF television Channel 56 to Danville, Kentucky, and UHF television Channel 34 to Campbellsville, Kentucky, in response to a petition filed by James Arvil Jones, and a counterproposal filed by Billy Speer, respectively. The assignments can provide both Danville and Campbellsville with a first commercial television broadcast service.

DATE: Effective November 13, 1980.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: September 29, 1980.

Released: October 7, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Danville and Campbellsville,[1] Kentucky), BC Docket No. 80–70, RM–3490, RM–3644.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* 45 FR 13149, published February 28, 1980, which proposed the assignment of UHF television Channel 49 to Danville, Kentucky, in response to a petition filed by James Arvil Jones (petitioner). Petitioner filed comments in which he reaffirmed his intent to apply for the channel, if assigned. An opposition and counterproposal, the assignment of UHF Channel 34 to Campbellsville, Kentucky, and UHF Channel 56 to Danville, Kentucky, was filed by Billy Speer. No oppositions to the counterproposal were filed.

2. Danville (pop. 11,542),[2] seat of Boyle County (pop. 21,861), is located in central Kentucky, approximately 50 kilometers (30 miles) south of Lexington. It has no local television service. Petitioner states that Boyle County and the surrounding area is experiencing a rapid population growth.

3. Billy Speer in opposing comments argues that the assignment of Channel 49 to Danville, Kentucky would limit the Commission's flexibility in making future assignments and specifically would preclude the assignment of Channel 34 to Campbellsville, Kentucky, for which it is interested in applying. Therefore, he proposes the assignment of Channel 56 to Danville, Kentucky, and Channel 34 to Campbellsville, Kentucky, as a first local television service. This proposal would allow at least one additional UHF channel to remain available for a future assignment in each community.

[1] Private line equipment was covered in a separate proceeding. See CC Docket No. 79–143.

[1] This community has been added to the caption.

[2] Population figures are taken from the 1970 U.S. Census.

4. Campbellsville (pop. 7,598), seat of Taylor County (pop. 17,138), is located near the center of Kentucky, approximately 60 kilometers (40 miles) southwest of Danville. Speer claims that the channel assignment to Campbellsville would serve a six county area, and indicates that he intends to apply for use of the channel if it is assigned.

5. Although the *Notice* proposed Channel 49 to Danville, the counterproposal could satisfy the interest of both communities. A staff study reveals that the counterproposal offers an advantage over the original proposal, with respect to the total number of television channels which could be assigned to these two communities.

6. The Commission believes that the public interest would be served by the counterproposal of assigning Channel 34 to Campbellsville, and Channel 56 to Danville, since it would provide both communities with an opportunity for its first local television service. The assignments can be made in compliance with the minimum distance separation requirements and other technical criteria.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective November 13, 1980, the Television Table of Assignments (§ 73.606(b) of the rules) is amended with respect to the communities listed below:

City	Channel No.
Campbellsville, Kentucky	34
Danville, Kentucky	56

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 5, 303, 48 Stat. as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303)).

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-31748 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-118; RM-3391]

FM Broadcast Stations in SACO and Scarborough, Maine; Changes Made in Table of Assignments; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns FM Channel 240A to Saco, Maine, and reassigns Channel 292A from Saco to Scarborough, Maine, to reflect its actual use in that community, in response to a petition filed by Harry B. Bailey, Jr., and Remi S. Rioux. The assigned channel could provide Saco with its first local aural broadcast service.

EFFECTIVE DATE: November 13, 1980.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 29, 1980.

Released: October 7, 1980.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a *Notice of Proposed Rule Making*, 45 Fed. Reg. 23479, published April 7, 1980, proposing the assignment of FM Channel 240A to Saco, Maine, as its first FM assignment and the reassignment of FM Channel 292A from Saco to Scarborough, Maine, to reflect its actual use there.[1] The *Notice* was issued in response to a petition filed by Harry B. Bailey, Jr., and Remi S. Rioux ("petitioners"). Supporting comments were filed by the petitioners in which they reaffirmed their intent to file for the channel, if assigned.

2. Saco (pop. 22,678), in eastern York County (pop. 132, 300),[2] is located 26 kilometers (16 miles) southwest of Portland, Maine. It has no local aural broadcast service.

3. Petitioners state that Saco has the second largest growth rate in the State of Maine. The proposed assignment would serve the needs, interests and problems of this growing community, of which 28 percent is French speaking. Petitioners have submitted sufficient demographic information to warrant the requested assignment.

4. The Commission believes that the public interest would be served by assigning Channel 240A to Saco, Maine, since it would provide the community with an opportunity for a first local aural broadcast service. We shall also reassign Channel 292A from Saco, Maine, to Scarborough, Maine, to reflect its current use in that community.

5. Canadian concurrence in the assignment of Channel 240A has been obtained.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective November 13, 1980, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the communities listed below:

City	Channel No.
Saco, Maine	240A
Scarborough, Maine	292A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 5, 303, 48 Stat., as amended 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-31751 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Channel 292A allocated to Saco, Maine, is being used by WJBQ–FM, licensed to Scarborough, Maine.

[2] Population figures are taken from the U.S. Census.

47 CFR Part 73

[BC Docket No. 80-23; RM-3486]

FM Broadcast Stations in Blue Earth and St. James, Minn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Memorandum Opinion and Order).

SUMMARY: This action assigns Channel 285A to St. James, Minnesota, as its first FM channel assignment in response to a request from Richard Rogers. This action reverses a previous decision which denied the assignment. The Commission's action here is taken on its own motion since it failed to consider a late filed statement of interest by Mr. Rogers in applying for Channel 285A.

DATE: Effective November 13, 1980.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 29, 1980.

Released: October 6, 1980.

1. The Commission, on its own motion, pursuant to §§ 1.108 and 0.281(b) of the Commission's Rules, has reopened this proceeding in order to reconsider its decision denying the assignment of an FM channel to St. James, Minnesota. In the *Report and Order, 45* FR *63304* published *September 24, 1980,* the request of Richard Rogers to reassign Channel 265A from Blue Earth, Minnesota (where it has been applied for) [1] to St. James, Minnesota, was denied because another channel (Channel 285A) was available for assignment to St. James, that did not require the elimination of Blue Earth's only FM channel. From the record before us, there was no party stating an interest in applying for Channel 285A.

2. It has come to our attention that petitioner, Richard Rogers, submitted a late filed pleading, with a request to accept the pleading, in which he stated he would apply for Channel 285A if assigned to St. James. This statement constituted a position which differed from previous comments on that proposal as indicated by his reply comments. The request for acceptance states that good cause is shown by virtue of the fact that consideration of the comments will aid in resolving the proceeding.

3. It is our opinion that the petitioner's late pleading should be accepted and would have been accepted if the Commission was aware of the pleading. We must assume that the failure to include the pleading in the record lies with the Commission since we are unaware of any irregularity in the manner of its submission. The alternative to its non-acceptance would be to commence a new proceeding looking to assign Channel 285A to St. James, or to reconsider by requiring a petition from Richard Rogers. Those options are, in our opinion, unnecessary because the opportunity for public comment was given by the *Notice of Proposed Rule Making* looking to assign an FM channel to St. James. Therefore the present course of action, reconsideration on our own motion, appears to us to be the most expeditious device which, at the same time, takes into account the previous opportunity for comments.

4. As for the merits of the proposal to assign Channel 285A to St. James (population 4,027), a first local broadcast service would be provided. A site restriction of 4 miles to comply with the Commission's mileage separation requirements appeared to be the reason that the petitioner was unwilling in his earlier comments to acquiesce in this proposal. However, since he now states that the site restriction would not pose an obstacle to his submitting an application to operate a station on Channel 285A, we are in a position to assign that channel to St. James, as requested.

5. Accordingly, IT IS ORDERED, That effective November 13, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with regard to the community listed below to read as follows:

City	Channel No.
St. James, Minnesota	285A

6. Authority for the action taken herein is found in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–31752 Filed 10–9–80; 8:45 am]

BILLING CODE 6712–01–M

[1] Applications have been received from Logos Communications, Inc. and Minn-Iowa Christian Broadcasting, Inc.

Proposed Rules

Federal Register
Vol. 45, No. 199
Friday, October 10, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-35]

Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of additional public hearings and inquiry.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a public hearing and comment period to allow interested parties an opportunity to comment on (1) their experience with the simplified rules for gasoline retailers that were adopted on July 15, 1979, and (2) whether certain costs, specifically those for service station rents and vapor recovery equipment, should be allowed to be passed through separately from a fixed cents per gallon markup.

The purpose of this proceeding is to determine whether a notice of proposed rulemaking should be issued regarding the fixed cents per gallon markups permitted retailers. Of particular interest is information regarding increases in rents charged to retailers.

DATES: Requests to speak at Washington hearing by 4:30 p.m., November 5, 1980 and at San Francisco hearing by 4:30 p.m., October 31, 1980. Written comments due by 4:30 p.m., 60 days from the date this Notice appears in the **Federal Register**.

Hearing dates: Washington, November 12, 1980; San Francisco, California, November 6, 1980.

ADDRESSES: All comments and requests to speak at the Washington, D.C. hearing should be submitted to the Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-80-*35*, Department of Energy, Room 2313, 2000 "M" Street, Washington, D.C. 20461, (202) 653-3751.

Request to speak at San Francisco hearing to Terry Osborn, 333 Market Street, Region IX, San Francisco, California 94105 (415) 764-7027.

Hearing locations: Washington, D.C. hearing: Room 2105, 2000 "M" Street, NW., Washington, D.C.; San Francisco Hearing: Jack Tar Hotel, Golden Gate Room, Mezzanine level, Van Ness and Geary, San Francisco, California.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 654-4055

Karene Walker (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street, N.W., Washington, D.C 20461, (202) 653-3757

Roger Miller (Office of Regulatory Policy), Economic Regulatory Administration, Room 7121, 2000 M Street, N.W., Washington, D.C. 20461, (202) 654-3245

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

SUPPLEMENTARY INFORMATION:

I. History and Background
II. Specific Requests for Comments
a. Refiners
b. Retailers
III. Comment Procedures

I. History and Background

On July 15, 1979, DOE issued final rules regarding the retailer price regulations for motor gasoline (44 FR 42541, July 19, 1979).[1] In effect, the new rules require that retailers' maximum lawful selling prices for each grade or type of gasoline not exceed the most recent acquisition cost, plus a fixed cents per gallon markup, plus applicable taxes.[2] The fixed cents per gallon markup has been adjusted twice to reflect inflation and is currently 16.8 cents per gallon. Retailers' current and prospective "banks" were eliminated. Accordingly, with respect to sales of gasoline by retailers, the DOE adopted a totally different and much simplified method of computing the maximum lawful selling price.[3]

DOE held two public hearings attended by approximately 100 witnesses concerning the final rules before they were adopted. (San Francisco, California, July 10 and 11, 1979; and Washington, D.C., July 12 and 13, 1979.) In addition, DOE accepted written comments on the rules until November 16, 1979, and over 400 written comments were received. On May 19, 1980, DOE repromulgated most of the rules and published a response to the comments received during the rulemaking proceeding. (45 FR 36049, May 29, 1980)

The primary purposes of the additional hearings and Notice of Inquiry announced today are (1) to give interested persons an opportunity to comment on the rules in light of experience during the past year, and (2) to provide an opportunity for the submission of information regarding service station rents and vapor recovery systems costs.

The comments DOE has received concerning the retailer price rule range from specific issues such as the inadequacy of the fixed cents per gallon markup to compensate retailers for rent increases and for vapor recovery equipment costs, to general issues such as the inability of retailers to charge the maximum allowable per gallon markup because of competition in the local marketplace. Some other specific issues raised by service station operators are: (1) a percentage of acquisition costs markup should be adopted rather than a fixed markup adjusted to reflect the GNP deflator; (2) the six month time lag in adjustments results in markups based on historical and not current increases in the GNP deflator; (3) the retail markup for marina sales is inappropriate; (4) a higher markup is needed for full-service sales than for self-service sales; and (5) permitting separate charges for ancillary services is not practicable.

ERA has receive numerous complaints from independent retailers regarding higher rents that they have been assessed by their landlords, many of which are refiners. New rents are alleged to be 300% to 400% over current rents and it is contended that the high

[1] *See*, 44 FR 27316, June 26, 1979, Notice of Proposed Rulemaking.

[2] The rules in effect prior to the July 15, 1979 amendments permitted retailers to pass through the total amount of vapor recovery equipment cost and rent increases.

[3] Similar rules were adopted for resellers and reseller-retailers on May 1, 1980. (45 FR 29546, May 2, 1980)

rents threaten many retailers' financial viability. DOE solicits data on the amounts of such increases and their effect on retailers' financial viability.

With respect to the costs of vapor recovery equipment, we are inquiring whether adoption of the standard markup and deletion of the regulatory provisions that provided for separate pass-through of these costs has proved to be unduly burdensome for retailers. Some retailers have indicated that the current markup is inadequate to permit them to earn a sufficient profit margin as well as recoup all their increased costs, including the cost of vapor recovery equipment.

This notice is not intended to reexamine the issue of controls on service station rents.[4] We seek information on whether the 16.8 cents per gallon markup is adequate to cover retailers' existing operating expenses. In other words, we seek information regarding whether a Notice of Proposed Rulemaking proposing changes to the current standard markup provisions is necessary and timely. Given the difficulty service station operators currently are having in charging the maximum permitted markup because of competitive market factors, comments should address mechanisms that would permit recovery of these particular increased costs under current market conditions.

II. Specific Requests for Comments

We request specific comments on the following questions from refiners, retailers, and industry associations. Commenters providing aggregate data should indicate the number, nature, and type of firm responding to each question. Also, we are interested in receiving duplicate copies of relevant service station lease agreements.

a. *Refiners.* 1. We have been advised that the May 1973 service station rents generally reflected an assessment of a fair and reasonable rental in view of individual property values, property ownership costs, retail market conditions and competitive retail activity. Please comment on the correctness of this statement, with specific examples and their justification.

2. We have been advised that changes in service station rental agreements since May 1973 purport to reflect changes in the above factors necessitated by legitimate business considerations. Please comment on the correctness of this statement with specific examples of changes and their justification.

3. We have been advised that certain refiners have a standardized rental policy that is common to all dealer-leased stations. Please comment on the correctness of this statement with an explanation of circumstances that lead to a departure from that policy.

4. We have been advised that service station leases offered by certain refiners do not differentiate rents based on the services available at the outlet. For example, the same terms are offered service stations with or without car washes, convenience stores, stations with service bays, and other types of outlets. Please comment on the correctness of this statement and advise whether and how, if at all, calculation of the rent recognizes operation of car washes, convenience stores, service bays, or other services. How is each valued if such factors are assessed?

5. Provide data on rents charged and rental increases for each type of outlet for the following time periods and the justification for those increases. May 1973; May 1973–July 1979; August 1979–June 1980.

6. We have been advised that most refiners do not relate rental charges to sales of tires, batteries and accessories. Please comment on the correctness of this statement and if rental charges are contingent on the sale of such items, please explain.

7. If your current policy of providing maintenance service to a retail outlet is not contained in your standard lease agreement, please describe and provide a copy of your current policy. To the extent there have been changes in maintenance services provided since May 1973, please explain the reason for the changes.

8. We have been advised that rental payment terms for service station lessees have changed in certain respects since May 1973, primarily as to frequency of payment and the use of credit card sales credits for payment. Please comment on the correctness of this statement and provide examples as well as an explanation of changes since May 1973 in the method of payment of rents.

9. Indicate your current policy with regard to vapor recovery equipment provided to service station lessees and state the average cost or value of the equipment provided, the method of leasing or sale, and the monthly amount of the lease or purchase agreement.

b. *Retailers.* 1. If a markup increase were proposed for retailers, indicate the amount of additional cents per gallon that could be passed through under current market conditions.

2. What was your monthly rent payment in May 1973 and in September 1980? How many gallons of gasoline were sold in each month?

3. What percent of your gross and net income from the station was obtained from gasoline marketing operations in May 1973 and in September 1980?

4. What type of retail outlet do you operate? If it is solely self-service, do you offer automobile maintenance services? Do you sell tires, batteries and accessories, diesel fuel, gasohol, propane, or operate a convenience store? Is your current operation the same as it was in May 1973? If not, how does it differ?

5. Please indicate how the current price rule could be amended to reflect rent expenses, which are currently included in the fixed cents per gallon markup, incurred by service station operators in the absence of a reference to a May 1973 base period. If a cents per gallon amount is suggested, please provide current actual rental expenses and current monthly volumes of gasoline sales.

6. Please indicate your current monthly cost for vapor recovery equipment if leased, rented or if under purchase contract, the monthly cost and the length of the contract. If you have purchased your vapor recovery equipment under a purchase agreement, please indicate the cost of the system (State I, II or both), and its estimated years of useful life. If significant, also indicate the expenses incurred in the maintenance of this equipment.

7. Please indicate whether the maximum markup in cents per gallon should vary between full serve and self-service gasoline sales. Indicate the difference that you believe is warranted and why.

8. Indicate whether the retail markup should be different for sales of gasoline by different types of outlets. For example, should a marina receive a higher markup than a self-service outlet?

III. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to all of the issues set forth in this Notice of Public Hearing and Inquiry. All comments should be submitted by 4:30 p.m., 60 days from the date this notice appears in the **Federal Register** to the Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–80–*35*, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Comments should be identified on the outside of

[4] See, *Shell Oil Company* v. *Federal Energy Administration*, 527 F. 2d 1243, (Em. App. 1975) affirming 400 F. Supp. 964, S.D. Texas 1975.

the envelope and documents submitted with the designation, "Retailer Price Rule for Motor Gasoline—Notice of Inquiry," Docket No. ERA–R–80–*35*. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the ERA Office of Public Information, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Any information or data you consider to be confidential must be identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing Procedure

Procedure for Request to Make Oral Presentaton. If you have any interest in the matters discussed in this notice, or represent a group or class of person that has an interest, you may request an opportunity to make an oral presentation by 4:30 p.m., October 31, 1980 for the San Francisco hearing and November 5, 1980 for the Washington, D.C. hearing. You should also provide a telephone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be notified before 4:30 November 5, 1980 for the San Francisco hearing and November 10, 1980 for the Washington, D.C. hearing, and will be requested to submit one hundred copies of your statement to the hearing location by 8:30 on the morning of the hearing.

Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The DOE or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the DOE Freedom of Information Officer, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

In the event that it becomes necessary for us to cancel the hearing, we will make every effort to publish advance notice in the **Federal Register** of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of a cancellation or changes to persons not identified to us as participants. Accordingly, persons desiring to attend the hearing are advised to contact the DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

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

In consideration of the foregoing, DOE announces a Public Hearing and Notice of Inquiry on Part 212 of Chapter II, Title 10 of the Code of Federal Regulations.

Issued in Washington, D.C., October 3, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80–31762 Filed 10–9–80; 8:45 am]

BILLING CODE 6450–01–M

CIVIL AERONAUTICS BOARD

14 CFR Parts 398 and 399

[PSDR–68; Policy Statements Docket 38807; Dated October 6, 1980]

Guidelines for Increasing Service to Small Communities

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes a new policy whereby it may order a certificated airline to increase its service at a small community to the level that the CAB has determined to be essential for that community. This action is taken at the CAB's own initiative as part of its program to ensure that small communities receive essential air service.

DATES: Comments by: December 9, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: October 20, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 38807, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5408; or David Schaffer, Office of General Counsel, (202) 673–5442.

SUPPLEMENTARY INFORMATION:

The Problem

Under section 419 of the Federal Aviation Act of 1958, as amended, the Civil Aeronautics Board set essential air service levels for more than 550 communities. We are now proposing action to ensure that the level of air service that we decided was essential at each point is in fact provided. Generally this is not a problem, as most communities are now receiving service at a level well above what we determined to be essential.

At some communities, however, essential air service is not being provided. In most of these cases we are soliciting proposals from carriers to provide the essential service, with subsidy if necessary. At others, the level of service being provided by a local service or trunk carrier is only slightly less than the essential level. It would seem to make sense in many of these latter cases to have the incumbent carrier increase its service to the essential level, rather than to seek another carrier to provide the small

amount of additional service needed. To bring in a new carrier may result in many cases in needless Federal subsidy, as the new entrant would be at a competitive disadvantage against the better known incumbent.

Moreover, the incumbent carrier in these cases is often a local service carrier receiving subsidy from the Board under section 406 of the Act. Not only do these carriers receive a subsidy to assist their operation to become self-sufficient, but many are now receiving a service incentive payment (SIP) specifically designed to ensure that they continue air service at small communities at least at 1977 levels. (Board Order 79–7–207 contains a complete explanation of the SIP system.) These payments amount to about 16 million dollars per year. We find it troubling that a carrier may receive this Federal money for serving a small community, when the community is not as a result receiving essential air service.

The Proposed Solution

The Board is of the opinion that section 404(a) of the Act provides authority to deal with this problem. That section states that "It shall be the duty of every air carrier to provide . . . adequate service." In conjunction with sections 406 and 419, section 404 can be the basis for requiring a carrier to increase its service at a point.

Section 404 does not contain a definition of the standard of service that a carrier can be required to provide. This has in the past necessitated holding a time-consuming adequacy-of-service investigation in each case to determine the required level of service. In light of the Board's new authority under section 419, however, such proceedings are no longer necessary.

The Board's most complete statement on the relation between section 404(a) and the essential air service program appears in the *Norfolk-Virginia Beach-Portsmouth-Chesapeake-Suffolk Parties Case*, Order 79–1–99. In that case, the civic parties filed an adequacy-of-service petition for an investigation into the service reductions proposed by United in the Norfolk-Washington market. In Order 79–1–99, the Board read section 404 together with section 419, and held that section 404(a) required no more of a carrier than that it provide essential air transportation at the points it serves. The implication of this order, however, was that the converse is also true, that is that section 404(a) requires that a carrier provide at least essential service at the points it serves.

It is consistent with the Act and Board policy to equate "adequate service" under section 404 with "essential air transportation" under section 419. This interpretation was contemplated by the Board in the *Norfolk* case. The Board and the courts have consistently read the provisions of the Act in harmony with each other, to effectuate the Board's policy objectives. At those points where the essential air service level has been determined, there would be no need to conduct an adequacy-of-service investigation, since the essential air service determination may serve as the standard for section 404 purposes, and there would be no material issues of fact requiring a resolution.

It is important to realize that no carrier would be required to provide more than essential air service at an eligible point under this interpretation of section 404. In dismissing the petition in the *Norfolk* case, the Board stated that—

> a new comprehensive program has been created, in section 419, to guarantee that essential air services are provided to smaller communities, where necessary with direct subsidy. In this more competitive climate carriers have the freedom to reduce or eliminate service at points or in markets except where "essential air transportation" would be impaired. Under these circumstances, the adequacy-of-service provision can no longer be said to fix a carrier's frequencies above the "essential" level.

In other words we decided that section 404 should be relied on to require only the provision of essential services, not air service above that level.

By this notice we propose to formalize in a policy statement our interpretation of section 404 as authorizing us to require a certificated carrier to provide essential air service at an eligible point. This policy would not apply to commuter carriers or other air taxis. The statutory criterion that is the basis of the policy for certificated carriers does not apply to them. Under this proposal, failure to provide the essential service, as set by the Board, at an eligible point would be considered a violation of the "adequate service" provision of section 404(a). In deciding whether a carrier is in violation of section 404(a) under this policy, the Board would take all the air service being provided at the point into account. A carrier would not be held in violation of section 404(a) if the aggregate of the air service being provided by all the carriers at the point at least equaled the essential level, even if that carrier alone was not providing the essential service.

Based on our experience, it appears that this policy would typically apply at communities served by subsidized local service carriers. We are not precluded, however, from invoking it when an unsubsidized certificated carrier is providing less than essential service at an eligible point. All eligible points are entitled to essential air service under the Act. This right does not depend on whether a community is served by a subsidized or unsubsidized carrier. As a legal matter, therefore, we see no reason to distinguish between subsidized and unsubsidized carriers in the application of this policy.

Section 404(a) would be invoked mainly in two situations. If an incumbent certificated carrier were the only one serving a community and were providing less than essential service there, the Board might order it to increase its service to the essential level. Failure to comply with this order would place the carrier in violation of section 404(a) and could lead to a civil penalty and/or the revocation of the carrier's operating authority at the point under section 401(g) of the Act. If the carrier were receiving section 406 subsidy for serving that point, a revocation of authority would cause it to lose some of its regular subsidy and, under our subsidy system, twice the proportional amount of its service incentive payment (SIP).

Section 404(a) might also be used if both a certificated carrier and a commuter carrier were serving a point and the commuter sought to terminate its service there. Even if the commuter's termination would reduce service below the essential level for that point, the Board could permit the termination and order the certificated carrier to increase its service. In many cases this might be preferable to requiring the commuter to continue serving and having to compensate both carriers. If a local service carrier failed to provide the service as ordered it would be in violation of section 404(a), and it could lose its operating authority at that point with the consequent loss of subsidy and SIP as described above.

Rather than proceeding against the incumbent carrier in order to force it to increase its service, the Board may seek another carrier to make up the shortfall in the community's air service. In deciding whether to take this approach the Board would consider the effect on air service and subsidy at the community as well as the relative burdens on the affected carriers.

Potential Drawbacks

It may be questioned whether threatening to remove a carrier from an eligible point furthers the goals of the act's small community air service program. A carrier could react to a Board order to increase its service by

giving notice of its intention to terminate all service at the point involved. Nothing in this proposal would limit a carrier's right to file a termination notice under section 401(j) of the Act. Furthermore, if the Board actually had to revoke a carrier's certificate under section 401(g), the affected community would appear to be left in a worse position, not a better one.

In practice, however, we do not expect that a policy of ordering incumbent carriers to provide adequate (i.e. essential) service at eligible points they serve will often lead to terminations by those carriers, or revocations of their operating authority by the Board. This policy will generally only be invoked at communities served by a subsidized local service carrier that is providing slightly less than the level of service determined to be essential. Because the required increase in service would be small, it would be unlikely that the carrier would terminate service or not comply with the Board order and thereby risk the loss of both its regular subsidy and its service incentive payments. If the carrier did give notice of its intention to terminate service, the Board would still have the authority under section 419 to prevent the termination until a replacement was found to provide the essential service.

Effect on Subsidy

The effect of this policy on an incumbent carrier's subsidy rate will depend on whether the policy is being invoked to require that carrier to increase its service above its 1977 service level. Section 406(b) of the Act sets 1977 as the base period for determining the subsidy of local service carriers. If a mandated increase in service resulted in the carrier providing no more service at the point than it provided there during the base period, it subsidy rate and subsidy ceiling would not be affected, although it might receive a small increase in its actual payments.

If a carrier's service at a point had to be increased above its base period service level, the carrier would be entitled to an adjustment in its rate. In such cases, we would make an *ad hoc* adjustment to the carrier's Class Rate IX subsidy formula as provided for in section VI of Order 79–7–207 but would not reopen that formula and reconsider all aspects of its subsidy rate. We hereby propose to add new section 399.40 to Part 399 to that effect. Local service carriers that object to this approach should make their views, or any problems they foresee, known in this proceeding.

The Proposed Policy Statements

The Civil Aeronautics Board proposes to amend Chapter II of 14 CFR, as follows:

PART 398—GUIDELINES FOR INDIVIDUAL DETERMINATIONS OF ESSENTIAL AIR TRANSPORTATION

1. In Part 398, *Guidelines for Individual Determinations of Essential Air Transportation* a new § 398.9 would be added to the Table of Contents, to read:

Sec.

* * * * *

398.9 Obligation to provide essential air transportation at eligible points.

2. Also in Part 398 a new § 398.9 would be added, to read:

§ 398.9 Obligation to provide essential air transportation at eligible points.

(a) The obligation in section 404(a) of the Act to provide adequate air service requires that the service provided by a certificated air carrier at an eligible point, considered together with service provided by other carriers at that point, constitute at least essential air transportation as established by the Board for that point under the guidelines of this part.

(b) As a general policy, when the Board finds a certificated carrier to be providing less than adequate service as described in paragraph (a) of this section, it will order that carrier to increase its service at the eligible point involved. In some cases, however, the Board may solicit proposals from other carriers willing to make up the shortfall in air service if it might results in better service at the eligible point, a smaller increase in subsidy for service there, or less burden on the carriers affected, or would otherwise be in the public interest.

PART 399—STATEMENTS OF GENERAL POLICY

3. In Part 399, *Statements of General Policy*, a new § 399.40 would be added to subpart C of the Table of Contents to read:

Sec.

* * * * *

399.40 Adjustments to subsidy under section 406.

* * * * *

4. Also in Part 399, a new § 399.40 would be added to read:

§ 399.40 Adjustments to subsidy under section 406.

A carrier increasing its level of service at a point pursuant to an order under § 398.9 of this chapter shall not be entitled to a reopening of its subsidy rate, but will receive an *ad hoc* adjustment in its Class Rate IX formula.

(Secs. 204, 404, 406, and 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 763, 92 Stat. 1732, 49 U.S.C. 1324, 1374, 1376, 1389)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-31767 Filed 10-9-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 1

Oral Presentations Before the Commission and Communications With Commissioners and Their Staffs in Trade Regulation Rulemaking Proceedings

AGENCY: Federal Trade Commission.

ACTION: Proposed rule; extension of period for public comment.

SUMMARY: The Commission extends the period for public comment on the proposed amendments to its procedures governing oral presentations before the Commission and communications with Commissioners and their staffs in trade regulation rulemaking proceedings.

DATES: Written comments must be received on or before October 20, 1980.

ADDRESS: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Jerome Tintle (202–523–3487) or Ana Colon (202–523–3849), Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On July 31, 1980 (at 45 FR 50814), the Commission published for comment proposed amendments of Commission Rules §§ 1.13(i) and 1.18(a)(b) and (c) implementing the provisions of Section 18 of the FTC Act as amended by Section 12 of the FTC Improvements Act of 1980, Pub. L. No. 96–252. Interested persons were given until September 29, 1980 to submit written comments. The Administrative Law Section and the Antitrust Law Section of the American Bar Association have requested an extension of the comment period, citing internal delays necessitated by the Association's review procedures. Accordingly, the Commission has determined to grant a 10-day extension beginning from the date of publication of this Notice in the **Federal Register.** Since Section 12 of the FTC Improvements Act

requires the Commission to publish final rules governing *Ex parte* communications in rulemaking by November 24, 1980, no further extensions of time will be granted.

By direction of the Commission

Carol M. Thomas,

Secretary.

[FR Doc. 80-31870 Filed 10-9-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 801 0046]

Murata Manufacturing Co., Ltd.; Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 80-30730, appearing at page 65252, in the issue of Thursday, October 2, 1980, make the following correction:

On page 65253, first column, the eleventh and twelfth lines of the paragraph numbered "4." should have read:

"agreement and so notify Murata, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding. ".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE 45-78]

Income Tax; Definition of a Private Foundation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to the definition of a private foundation. Changes to the applicable tax law were made by Pub. L. 94-81, enacted August 9, 1975. The amended regulations affect certain tax-exempt organizations seeking to qualify as other than private foundations which acquire unrelated trades or businesses after June 30, 1975. The amended regulations provide such organizations with guidance necessary to determine whether they qualify as other than private foundations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 9, 1980. The amendments are proposed to be effective for taxable years ending after June 30, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-45—78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Thomas L. Sumter of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, (202-566-6212, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507 and 509 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 3 of the Act of August 9, 1975 (Pub. L. 94-81, 89 Stat. 418) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Definition of a Private Foundation

Prior to the amendment of section 509(a)(2)(B) of the Internal Revenue Code of 1954, an organization which normally received not more than one-third of its annual support from gross investment income could, if it satisfied the other support requirements of section 509(a)(2), qualify as other than a private foundation. Gross investment income includes, generally, interest, rents, dividends and royalties. The amendment to section 509(a)(2)(B) provides that income from an unrelated trade or business acquired by the organization after June 30, 1975 (less any tax imposed by section 511 on such income) is to be treated like gross investment income in determining whether an organization meets the test under section 509(a)(2)(B).

Prior Proposed Regulations

On July 24, 1979, the **Federal Register** (44 FR 43290) published proposed regulations relating to Pub. L. 94-81. In general, the proposed regulations in this document are the same as the proposed regulations published on July 24, 1979. The only substantive addition is that § 1.509(a)-3(a)(3)(ii)(B) of the proposed regulations in this document states that, for purposes of section 509(a)(2)(B)(ii), a trade or business acquired after June 30, 1975, shall include a trade or business commenced by an organization after that date. Unrelated business taxable income received by an organization from such a trade or business will therefore be considered as unrelated business taxable income of the organization for purposes of inclusion in the not-more-than-one-third support test.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

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

Proposed Amendments to the Regulations

1. The notice of proposed rulemaking published in the **Fedeal Register** for July 24, 1979, is withdrawn.

2. The following amendments to 26 CFR Part 1 are proposed:

§ 1.507-2 [Amended]

Paragraph 1. Paragraph (c)(1)(iv)(A) of § 1.507-2 is amended by deleting the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

Par 2. Section 1.509(a)-3 is amended as follows:

1. Paragraph (a)(1) is amended by adding the heading *"General rule."* and deleting the words "one-third gross investment income" in the second sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (a)(2) is amended by adding the heading *"One-third support test."*

3. Paragraph (a)(4) is amended by adding the heading *"Purposes."* and deleting the words "one-third gross investment income" and inserting in lieu

thereof "not-more-than-one-third support".

4. Paragraph (c)(1)(i) is amended by deleting the words "gross investment income" in the second sentence wherever it appears and inserting in lieu thereof "items described in section 509(a)(2)(B)".

5. Paragraph (c)(1)(iii)(*a*) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

6. Paragraph (c)(3) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "of gross investment income" in the fourth sentence and inserting in lieu thereof "described in section 509(a)(2)(B)".

7. Paragraph (c)(6) is amended by deleting the words "gross investment income referred to" in the third sentence of example 1 and inserting in lieu thereof "items described" and by deleting the words "gross investment income" in the fourth sentence of example 1 and inserting in lieu thereof "items described in section 509(a)(2)(B)."

8. Paragraph (d)(2) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support" and by deleting the words "gross investment income" from the second sentence and inserting in lieu thereof "items described in section 509(a)(2)(B)".

9. Paragraph (d)(3)(iii) is amended by deleting the words "gross investment income" and inserting in lieu thereof "items described in section 509(a)(2)(B)".

10. Paragraph (e)(4)(i)(*f*) is amended by deleting the words "gross investment income" from the second third, fourth and second sentences of examples 1, 2, 3, and 4 respectively and inserting in lieu thereof "not-more-than-one-third support".

11. Paragraph (a)(3) is revised to read as follows:

§ 1.509 (a)–3 Broadly, publicly supported organizations.

(a) * * *

(3) *Not-more-than-one-third support test*—(i) *In general.* An organization will meet the not-more-than-one-third support test under section 509(a)(2)(B) if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from the sum of its gross investment income (as defined in section 509(e)) and the excess (if any) of the amount of its unrelated business taxable income (as defined in section 512) derived from trades or businesses which were acquired by the organization after June 30, 1975, over the amount of tax imposed on such income by section 511. For purposes of this section the amount of support received from items described in section 509(a)(2)(B) will be referred to as the numerator of the not-more-than-one-third support fraction, and the total amount of support (as defined in section 509(d)) will be referred to as the denominator of the not-more-than-one-third support fraction. For purposes of section 509(a)(2), paragraph (m) of this section distinguishes gross receipts from gross investment income.

(ii) *Trade or business.* For purposes of section 509(a)(2)(B)(ii), a trade or business acquired after June 30, 1975, by an organization shall include, in addition to other trades or businesses:

(A) A trade or business acquired after such date from, or as a result of the liquidation of, an organization's subsidiary which is described in section 502 whether or not the subsidiary was held on June 30, 1975.

(B) A new trade or business commenced by an organization after such date.

(iii) *Allocation of deduction between businesses acquired before, and businesses acquired after, June 30, 1975.* Deductions which are allowable under section 512 but are not directly connected to a particular trade or business, such as deductions referred to in paragraphs (10) and (12) of section 512(b), shall be allocated in the proportion that the unrelated trade or business taxable income derived from trades businesses acquired after June 30, 1975, bears to the organization's total unrelated business taxable income, both amounts being determined without regard to such deductions.

(iv) *Allocation of tax.* The tax imposed by section 511 shall be allocated in the same proportion as in paragraph (a)(3)(iii) of this section.

* * * * *

§ 1.509(a)–4 [Amended]

Par. 3. Paragraph (k)(2) of § 1.509(a)–4 is amended by deleting the words "gross investment income" in the third and sixth sentences of the example and inserting in lieu thereof "items described in section 509(a)(2) (B)."

§ 1.509(a)–5 [Amended]

Par. 4. Section 1.509(a)–5 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the words "gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

2. Paragraph (b)(1) is amended by deleting the words "one-third gross investment income" in the first sentence and inserting in lieu thereof "not-more-than-one-third support".

3. Paragraph (c) is amended by deleting the words "one-third gross investment income" and inserting in lieu thereof "not-more-than-one-third support".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-31757 Filed 10-9-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Locking Out and Tagging of Machines, Equipment Systems and Process in General Industry and Lockout/Tagout of Machines and Equipment in the Construction Industry; Informal Public Meetings

Correction

In FR Doc. 80–29898 appearing on page 63883 in the issue of Friday, September 26, 1980, third column, fourth line under "**Chicago * * ***", change "1:00 a.m." to "1:00 p.m.".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Oklahoma Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule.

SUMMARY: On February 28, 1980, the State of Oklahoma submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review

of the program submission, the Secretary of the Interior has determined that the Oklahoma program partially meets the requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Oklahoma program.

Oklahoma will not assume primary jurisdiction for implementing the permanent regulatory program until its entire program receives approval.

DATE: Oklahoma has until December 9, 1980 to submit revisions to the disapproved portions of the program for the Secretary's consideration.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4225

ADDRESSES: Copies of the Oklahoma program and the administrative record on the Oklahoma program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106. Telephone: (816) 374–3920;

Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Oklahoma 73105, Telephone (404) 521–3859;

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4728.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1231–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands that received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program regulations were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725 and 795, 42 FR 62639 *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the State. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424).

Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447) and August 6, 1980 (45 FR 52306–52324). Portions of these regulations have been suspended, pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need change to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the federal program has been implemented.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. 30 CFR 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in § 732.13 (45 FR 33927, May 20, 1980). The Oklahoma program was submitted on February 28, 1980, and the 104th day following submission was June 11, 1980.

The Secretary's rules for the review of state programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a state should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the state bases its program, must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the state 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the states have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's

opinions, program narratives, descriptions and other information, may be revised by the state at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is applying the criteria of Section 503 of SMCRA (30 U.S.C. 1253) and 30 CFR 732.15. In reviewing the Oklahoma program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144.

Because of that litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 [of SMCRA], those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary, when requested by a state, to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph one below.

Therefore, the Secretary is applying the following standards to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the district court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II district court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's decisions, all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation. Nonetheless, a state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based remanded or suspended regulations.

4. A state program may not contain any provison that is inconsistent with a provision of SMCRA.

5. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, conditionally approved or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

6. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604). A proposed list of Oklahoma provisions incorporating suspended or remanded federal regulations was available at a public hearing in Muskogee, Oklahoma, held on July 15, 1980, and is available at the Region IV office of OSM and at the Oklahoma Department of Mines office (*See* addresses above).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Oklahoma will be found in 30 CFR Part 936.

Background on the Oklahoma Program Submission

On February 28, 1980, OSM received a proposed regulatory program from the State of Oklahoma. The program was submitted by the Oklahoma Department of Mines, the agency designated as the state regulatory authority under the proposed Oklahoma permanent program. Notice of receipt of the submission initiating the program review was published in the March 6, 1980, **Federal Register** (45 FR 14599–14600) and in newspapers of general circulation in Oklahoma. The announcement invited public participation in the initial phase of the review process concerning the Regional Director's determination of whether the submission was complete.

On April 17, 1980, the regional director held a public review meeting in Oklahoma City, Oklahoma, concerning the completeness of the program submission. The public comment period on completeness began on March 6, 1980, and closed April 17, 1980.

On April 25, 1980, the regional director published notice in the **Federal Register** announcing that the program submission had been determined to be incomplete (45 FR 27954–27955). The notice specified that the submission was missing a legal opinion from the Attorney General of Oklahoma that should include a section-by-section comparison of the state regulations and the federal regulations as required by 30 CFR 731.14(c).

Amendments to the Oklahoma Program

On April 17, 1980, Oklahoma submitted a proposed alternative pursuant to 30 CFR 731.13 concerning reference areas for determining success of revegetation.

On May 13, 1980, Oklahoma submitted two amendments to the statutes administered by the Oklahoma Department of Mines.

On May 30, 1980, Oklahoma submitted to OSM a legal opinion from the Attorney General of Oklahoma, including a section-by-section

comparison of the state regulations and the federal regulations.

On June 11, 1980, Oklahoma submitted numerous revisions to the Oklahoma permanent program submission. These revisions were a result of the Attorney General's opinion on the state regulations and communications between Oklahoma and OSM after the preliminary review of the Oklahoma program submission. Revisions were made to the surface coal mining regulations and the program narrative.

On June 18, 1980, the regional director published notice in the **Federal Register** (45 FR 41158–41160) and in newspapers of general circulation within the State announcing the revisions to the Oklahoma program submission and their availability for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Oklahoma program.

On July 11, 1980, the Secretary announced in the **Federal Register** (45 FR 46820–46826) the availability of a list of provisions of the Oklahoma program analogous to those federal rules suspended or remanded by the U.S. District Court for the District of Columbia and requested public comment on the completeness of the list. The list was available at a public hearing in Muskogee, Oklahoma, on July 15, 1980, and has been available at OSM's Region IV office and the Oklahoma Department of Mines office (*See* addresses above). No comments were received as a result of that notice. However, OSM determined that the proposed list was incomplete because Part 845 should have been included to the extent it establishes a point system for determination of civil penalties.

On July 15, 1980, the regional director held a public hearing on the Oklahoma submission in Muskogee, Oklahoma. The public comment period on the Oklahoma permanent regulatory program ended on July 22, 1980.

On August 5, 1980, the regional director submitted to the Director of OSM, his recommendation that the Oklahoma program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On August 15, 1980, the Secretary published a notice formally disclosing to the public the comments received on the Oklahoma program from the Environmental Protection Agency, the Secretary of Agriculture, and other federal agencies (45 FR 54371).

On August 22, 1980, Oklahoma was contacted by telegram and asked whether there were any provisions in the Oklahoma program which are based on suspended or remanded federal rules and which the State did *not* wish the Secretary to disapprove in complying with the District Court order. Oklahoma has not yet replied to that inquiry.

On September 4, 1980, the Director of OSM recommended to the Secretary that he approve the Oklahoma program in part and disapprove it in part.

On September 4, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Oklahoma program being approved today.

Elements Upon Which The Secretary Evaluates the Oklahoma Program For This Decision

In consideration of the matters discussed under "General Background on State Program Approval Process," the Secretary hereby sets forth the elements of the proposed Oklahoma program upon which the findings and decisions below are being made:

(a) The Oklahoma Coal Reclamation Act and other fully enacted Oklahoma statutes.

(b) Because Oklahoma did not have any regulations promulgated by June 11, 1980, (the 104th day after submission) the Secretary will not make final determinations of the acceptability of Oklahoma's proposed regulations in his decision. All program provisions dependent upon required, enacted regulations will be disapproved.

(c) Statutes other than the Oklahoma Coal Reclamation Act and program narrative received on February 28, 1980, and the revisions to the program narrative submitted on June 11, 1980, have been evaluated. These revisions were announced to the public prior to the public hearing and were open to public comment for a week after the public hearing.

Secretary's Findings

In reaching his decision to approve in part and disapprove in part the Oklahoma program submission, the Secretary makes the following findings pursuant to Section 503 of SMCRA and 30 CFR 732.15. Also, see the paragraph below entitled "Additional findings."

1. The Secretary makes the following findings for the provisions of Section 503(a) of SMCRA:

(a) The Oklahoma Coal Reclamation Act (OCRA) and the Oklahoma Administrative Procedures Act (OAPA) provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Oklahoma in accordance with SMCRA, except (1) the provisions of OCRA apply to "operators" instead of "person," as discussed below in Finding 4(a), (2) it is unclear whether the authority to administer the small operator assistance program (SOAP) exists, as discussed below in Finding 4(n), (3) OCRA, according to the Oklahoma Attorney General does not allow citizen access to Oklahoma courts consistent with Section 520 of SMCRA, as discussed below in Finding 4(k), and (4) it is unclear whether OCRA provides a right of entry for purposes of inspection consistent with Section 517(b)(3) of SMCRA, as further discussed below in Finding 4(f);

(b) The OCRA provides sanctions for violations of Oklahoma laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Oklahoma Department of Mines or its inspectors, except it is unclear whether the scope of OCRA's application to "persons" is as broad as that required by SMCRA, as discussed below under Finding 4(a);

(c) The Oklahoma program submission does not describe how the proposed staff would be sufficient to regulate surface coal mining and reclamation operations in Oklahoma. Therefore, the Secretary is unable to find that the Oklahoma Department of Mines (DOM) has sufficient administrative and technical personnel and sufficient funding to enable Oklahoma to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. The Secretary finds that the state program must include a description of how the proposed staff will be adequate to administer the program as required by 30 CFR 731.14(j);

(d) The OCRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Oklahoma except that (1) it is unclear whether the scope of OCRA's application to "persons" is as broad as that required by SMCRA, as discussed below under Finding 4(a), and (2) the authority to administer the small operator assistance program contained in Section 19 of OCRA violates the

Oklahoma Constitution according to the Oklahoma Attorney General (*See* Finding 4(n) below and administrative Record Document No. OK-85);

(e) The OCRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Oklahoma has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to a proposed operation except that Oklahoma does not have fully enacted regulations to implement such coordination;

(g) Oklahoma does not have fully [4] enacted regulations consistent with regulations issued pursuant to SMCRA. The Secretary finds that the state program must have enacted regulations consistent with 30 CFR Chapter VII.

2. As required by section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3) and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Oklahoma program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Oklahoma program that relate to air or water quality standards promulgated under the authority of the federal Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*), and;

(c) Held a public review meeting in Oklahoma City, Oklahoma, on April 17, 1980, to discuss the completeness of the Oklahoma program submission and subsequently held a public hearing in Muskogee, Oklahoma, on July 15, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)) the Secretary finds the State of Oklahoma does not have the legal authority necessary for the enforcement of the environment protection standards of SMCRA and 30 CFR Chapter VII because of the deficiencies noted in findings 1(a), (b) and (d) and because necessary regulations have not been enacted. Also, the Secretary is unable to find that the State of Oklahoma has the qualified personnel necessary for those purposes because Oklahoma has not described in the submission how the proposed staff would be adequate to administer the program (*See* finding 1(c) above).

4. In accordance with 30 CFR 732.15, and on the basis of information in the Oklahoma program submission, including the section-by-section comparison of the Oklahoma law and SMCRA, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, the Secretary makes the following findings:

(a) Pursuant to the requirements of 30 CFR 732.15(a), the Secretary finds that the proposed Oklahoma program does not provide for the Oklahoma Department of Mines to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII because Oklahoma has not enacted regulations to put its proposed program into effect and for the additional reasons set forth in Findings 1(a), (b), (c), and (d). Furthermore, because OCRA lacks a definition of the term "person" as defined in Section 701(19) of SMCRA, it is unclear whether OCRA applies to all "persons" regulated by SMCRA. According to the May 27, 1980, opinion of the Attorney General of Oklahoma (*See* Administrative Record Document No. OK–85), it is beyond the authority granted the DOM by OCRA to propose rules to regulate "persons" rather than "operators."

Pursuant to that opinion, Oklahoma has revised the proposed regulations §§ 701.11(a)–(c) and (f), 770.4, 785.14(a), 785.15(a), 785.17(a), 785.18(a), 785.20(a), 785.21(a), 785.22(a), 817.11(d), 818.11, 819.11(a), and 826.12(b) to replace the term "person" with the term "operator." The Secretary is unable to find that the Oklahoma program provides the Oklahoma DOM with authority to regulate all "persons" that mine coal to the extent required by SMCRA, since it is unclear whether joint ventures, unincorporated associations, joint stock companies, cooperatives, societies and other business organizations are within the definition of "operator."

The Secretary further finds that the alternative approach to a requirement of 30 CFR Chapter VII submitted by Oklahoma is not in accordance with SMCRA and 30 CFR Chapter VII. Pursuant to 30 CFR 731.13, Oklahoma proposed an alternative approach or "state window" concerning the reference area provisions contained in 30 CFR 816.116 for determining the success of revegetation on reclaimed mined areas (*See* Administrative Record Document No. OK–51). The Secretary is disapproving the alternative approach because there is insufficient information in the Administrative Record for the Secretary to evaluate this alternative. Oklahoma did not propose an alternative regulation as required by 30 CFR 731.13(b) and did not submit data, analysis and information, including identification of sources as required by 30 CFR 731.13(c) to demonstrate:

(1) that the proposed alternative will be in accordance with the applicable provisions of SMCRA and consistent with the regulations of 30 CFR Chapter VII and;

(2) that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions.

(b) Pursuant to the requirements of 30 CFR 732.15(b)(1), the Secretary finds that the Oklahoma DOM does have the statutory authority under the OCRA, but does not have the authority under fully enacted regulations, to implement, administer and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. The Secretary finds that Parts 818–828 of the Oklahoma proposed regulations are consistent with 30 CFR Chapter VII, Subchapter K, except to the extent that they apply to "operators" instead of "persons" (*See* Finding 4(a) above). Special performance standards for operations in alluvial valley floors west of the 100th meridian are not included in Oklahoma law and regulations even though there are coal deposits west of the 100th meridian in Cimmaron County, Oklahoma. However, the coal deposits west of the 100th meridian in Oklahoma are small and the seams are thin and the Secretary believes these deposits are not a viable economic resource. This decision is based on communications with the Oklahoma Geological Survey (Administrative Record No. OK–59) and information in U.S. Geological Survey Bulletin No. 1412. Therefore, the Secretary finds that alluvial valley floor provisions comparable to 30 CFR Part 822 are not required in the Oklahoma program at this time. If economic and technological conditions should change to make coal mining feasible west of the 100th meridian in Oklahoma, the program will have to amended to be consistent with 30 CFR Part 822 and 30 CFR 785.19;

(c) Pursuant to the requirements of 30 CFR 732.15(b)(2), the Secretary finds that the Oklahoma DOM does not have the statutory authority under the OCRA and does not have the authority under fully enacted regulations to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority. The permit

provisions of OCRA (Sections 4–8) are acceptable except that they apply only to "operators" instead of "persons" (*See* Finding 1(d) and 4(a), above).

(d) Pursuant to the requirements of 30 CFR 732.15(b)(3), the Secretary finds that the Oklahoma DOM does have statutory authority under the OCRA, but does not have the authority under fully enacted regulations, to regulate coal exploration consistent with 30 CFR Part 776 and 30 CFR Part 815.

(e) Pursuant to the requirements of 30 CFR 732.15(b)(4), the Secretary finds that the DOM does have statutory authority under the OCRA, but does not have the authority under fully enacted regulations, to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707.

(f) Pursuant to the requirements of 30 CFR 732.15(b)(5), the Secretary finds that the Oklahoma DOM does have the statutory authority under Sections 32–35 of the OCRA (except as discussed below), but does not have the authority under fully enacted regulations, to provide for entry, inspections, and monitoring of all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Oklahoma consistent with Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L. Section 33.A of OCRA provides inspectors the right to enter for purposes of inspection "upon the lands of the operator," whereas Section 517(b)(3) of SMCRA provides the right of entry "to, upon, or through any surface coal mining and reclamation operations" or any premises where records required to be kept are maintained. Because the operator may not own the lands to be entered or may not maintain the records to be inspected on site, OCRA may not provide the DOM with statutory authority consistent with SMCRA. However, if the proposed Oklahoma Part 840 regulations are fully enacted without change, the Secretary could probably find that DOM inspectors have entry authority consistent with SMCRA and 30 CFR Part 840.

(g) Pursuant to the requirements of 30 CFR 732.15(b)(6), the Secretary finds that the Oklahoma DOM does have the statutory authority under Sections 9 and 37–40 of the OCRA, but does not have the authority under fully enacted regulations, to provide for implementation and enforcement of a system for performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J.

(h) Pursuant to the requirements of 30 CFR 732.15(b)(7), the Secretary finds that the Oklahoma DOM does have statutory authority under Section 56 of OCRA, but does not have the authority under fully enacted regulations, to provide for civil and criminal sanctions for violations of the Oklahoma law, regulations and conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and 30 CRF Part 845 including the same or similar procedural requirements.

(i) Pursuant to the requirements of 30 CFR 732.15(b)(8), the Secretary finds that the Oklahoma DOM does have the authority under Sections 42–47 of the OCRA, but does not have the authority under fully enacted regulations, to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and with 30 CFR Chapter VII, Subchapter L. Although Sections 42–47 of OCRA include the same or similar requirements as Section 521, the procedures are not reflected in enacted regulations consistent with 30 CFR Chapter VII, Subchapter L.

(j) Pursuant to the requirements of 30 CFR 732.15(b)(9), the Secretary finds that the Oklahoma DOM has the statutory authority under the OCRA in Sections 48–50, but does not have the authority under fully enacted regulations, to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F.

(k) Pursuant to the requirements of 30 CFR 732.15(b)(10), the Secretary finds that the Oklahoma DOM has statutory authority under the OCRA, but does not have the authority under fully enacted regulations, to provide for public participation in the development and revision of Oklahoma regulations consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. Oklahoma also has statutory authority to provide for public participation in the permitting process and the enforcement of its laws and regulations, with one exception.

Section 520 of SMCRA provides for citizen's suit brought against a government agency or any other person in which there is alleged violation of the Act or any rule, regulation, order or permit pursuant to it, and which suit seeks to compel compliance with the Act, or performance of a non-discretionary duty. It contemplates an original civil action, as distinguished from judicial review of administrative action pursuant to Section 526 of the Act. However, Section 41 of OCRA, which corresponds to Section 520 of SMCRA, in its subsection C, provides that "[a]ny action respecting a violation of this act or the regulations thereunder may be brought only pursuant to the Administrative Procedures Act. . . ." The Oklahoma Attorney General has interpreted the Oklahoma statute as being inconsistent with the Federal law because, according to his opinion, no action may be commenced unless relief is first pursued before the Oklahoma DOM, presumably through exhaustion of its procedures. Opinion of the Oklahoma Attorney General, February 25, 1980, Administrative Record Document No. OK–18. It also appears that the only relief then available would be judicial review of the administrative determination, which has different standards under both State and Federal law than original actions. Because the Oklahoma statute, as interpreted by the Oklahoma Attorney General, does not provide the same access to the courts for citizen suits that SMCRA does, the Secretary is not approving Section 41.C of OCRA until Oklahoma, in its resubmission, adequately demonstrates that citizens, under OCRA, have the same access to courts as provided under SMCRA.

(l) Pursuant to the requirements of 30 CFR 732.15(b)(11), the Secretary finds that the Oklahoma DOM has the statutory authority under the OCRA, but does not have the authority under fully enacted regulations, to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Oklahoma DOM consistent with 30 CFR Part 705.

(m) Pursuant to the requirements of 30 CFR 732.15(b)(12), the Secretary finds that the Oklahoma DOM has the statutory authority under 45 O.S. Section 902 (1978), but does not have the authority under fully enacted regulations, to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Under 30 CFR 732.15(b)(12), the State is not required to implement regulations governing such training, examination and certification until six months after federal regulations have been promulgated for these provisions. Federal regulations have not been promulgated as of this time. However, when OSM issues final rules on this subject, Oklahoma will be required to have regulations consistent with them.

(n) Pursuant to the requirements of 30 CFR 732.15(b)(13), the Secretary finds that the Oklahoma DOM has the statutory authority to operate a small

operator assistance program. However, according to the May 27, 1980, opinion of the Oklahoma Attorney General (*See* Administrative Record Document No. OK–85), the payment of state tax dollars to mine opertors pursuant to 45 O.S. Supp. 1979, Section 745.16 (Section 19 of OCRA), or pursuant to Oklahoma proposed regulation Section 795.1(b) violates Article X, Section 15 of the Oklahoma Constitution and is therefore invalid. Pursuant to this opinion, Oklahoma withdrew Part 795 of the proposed regulations and the program narrative describing its small operator assistance program. (*See* Administrative Record Document No. OK–98.) A small operator assistance program is required in state programs by Section 507(c) of SMCRA and 30 CFR 732.15(b)(13). The Secretary finds that the Oklahoma program must have a small operator assistance program consistent with 30 CFR Part 795.

(o) Pursuant to the requirements of 30 CFR 732.15(b)(14), the Secretary finds that Oklahoma has statutory authority under Section 36.1 of OCRA and the Oklahoma program contains provisions for protection of DOM employees consistent with the protection afforded federal employees under Section 704 of SMCRA.

(p) Pursuant to the requirements of 30 CFR 732.15(b)(15), the Secretary finds that the Oklahoma DOM has the statutory authority under the OCRA Sections 53 and 54, but does not have the authority under fully enacted regulations, to provide for administrative and judicial review of the Oklahoma program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) Pursuant to the requirements of 30 CFR 732.15(b)(16), the Secretary finds that the Oklahoma DOM has authority under the OCRA and the Oklahoma program contains provisions to cooperate and coordinate with, and provide documents and other information to, the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) Pursuant to the requirements of 30 CFR 732.15(c), the Secretary finds that the laws and regulations of Oklahoma contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII. The provisions of the OCRA that would interfere with or preclude implementation of SMCRA and the Secretary's regulations are detailed elsewhere in these findings.

The Secretary is unable to determine whether the State water quality statutes and regulations contain provisions that would interfere with or preclude implementation of the state program because the water quality statutes were not included in the program submission. The Secretary finds that Oklahoma's laws concerning water quality must be submitted in accordance with 30 CFR 731.14(b).

(s) Pursuant to the requirements of 30 CFR 732.15(d), the Secretary finds that the Oklahoma program submission has not demonstrated that DOM and other agencies having a role in the program have sufficient legal, technical, and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws (*See* Findings 1(c) and 3 above).

Additional Findings

None of Oklahoma's regulations are being approved today because they have not been fully enacted as required by Section 503(a)(7) of SMCRA and 30 CFR 732.15(b) (*See* Finding 1(g) above). However, the Secretary has reviewed through OSM, the proposed Oklahoma regulations and has made a preliminary analysis whether these regulations meet the requirements of SMCRA and 30 CFR Chapter VII. The Secretary is providing his analysis of Oklahoma's proposed rules in a letter from the Director, OSM to the State. This letter will be sent shortly and entered into the administrative record. Copies of the letter will be available for public review at the addresses shown above under "Addresses." Any conclusions expressed in that letter or the proposed regulations are tentative and subject to further public and OSM review and comment when the regulations are resubmitted as fully enacted.

Since all Oklahoma regulations are being disapproved at this time, no separate findings of disapproval need be made to comply with the order of the district court discussed above under "General Background on State Program Approval Process."

Disposition of Comments

A discussion follows of all significant issues raised in comments which OSM and the Secretary received concerning the Oklahoma program submission. Where the Secretary has addressed a comment concerning Oklahoma's proposed regulations the disposition is subject to reconsideration by the Secretary pending the completion of rulemaking and further public review.

1. The Heritage Conservation and Recreation Service (HCRS) commented that numerous currently unidentified historic, archeological, and other cultural resources that may be eligible for the National Register could be destroyed or lost unless steps in the permitting process are taken adequately to insure the identification of such resources. The Secretary notes that the Director of OSM has proposed to enter into a Programmatic Memorandum of Agreement with the Advisory Council on Historic Preservation (See 45 FR 41988, June 23, 1980) which, when signed and implemented, will allow the State Historic Preservation Office (SHPO) to have an integral part in insuring identification of historic lands for each permit application. The Secretary also notes that 30 CFR 761.11(c) and 761.12(f)(1) relating to lands unsuitable for mining, have been suspended to the extent that surface coal mining operations are prohibited on lands that would affect places "eligible for listing on" the National Register of Historic Places.

2. The U.S. Fish and Wildlife Service (FWS) commented that the "Instructions to Operators" for gathering vegetation information required in a permit application did not reflect the provisions of Section 816.117(c) of the proposed State regulations that require vegetation density and diversity measurements when the pre-and post-mining land use is fish and wildlife habitat and forestland. The suggestion was forwarded to Oklahoma for consideration; however, the Secretary is not basing his decision on forms submitted as part of the submission. The adequacy of forms will be discussed with the State as part of the Secretary's monitoring function.

3. The FWS and the Bureau of Mines (BOM) commented that in the narrative description of coordination and consultation with other agencies contained in Table I of Chapter VII–10 of the State program submission, the FWS should be listed as the primary contact within the Department of the Interior (DOI) for the development of fish and wildlife requirements and the evaluation of mining impacts on fish and wildlife pursuant to the requirements of §§ 779.20 and 786.17(a)(2). In the revisions submitted by the State on June 11, 1980 (Administrative Record Document No. OK–98), Oklahoma moved this table to Chapter X and listed the FWS as the DOI agency to contact for consultation on fish and wildlife matters.

4. The FWS suggested that Oklahoma add an ecologist or biologist to its staff described in Chapter IX of the submission. This suggestion has been forwarded to Oklahoma for its consideration. The Secretary is unable

to judge the adequacy of the staff at this time because the State has not described how the proposed staff will perform the functions under the program. The Secretary will not approve Oklahoma's program until it is shown that the Oklahoma DOM has sufficient administrative and technical personnel to enable Oklahoma to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA.

5. Pursuant to Section 7 of the Endangered Species Act of 1973, as amended, OSM Region IV initiated consultation with the FWS. The FWS Regional Office in Albuquerue, New Mexico, rendered a biological opinion and commented that the proposed Oklahoma program does not adequately protect the continued existence and the habitat of endangered species. The Secretary has determined that Oklahoma's proposed regulations are consistent with 30 CFR Chapter VII concerning the protection of threatened or endangered species and their critical habitats. A June 10, 1980 memorandum of understanding (MOU) between OSM and the FWS provides OSM's monitoring obligations of State programs as they relate to endangered species. The Secretary is not approving the Oklahoma program at this time. He will ask the FWS to evaluate closely Oklahoma's resubmitted program and its potential effect on threatened or endangered species.

6. The Bureau of Mines (BOM) commented that in Oklahoma's regulations and in the narrative description on permitting in Chapter VII–1 the maps of proposed mining operations are required at a fractional scale of 1:200, while the State probably intended the scale to be 1 inch equals 200 feet. In the revisions submitted on June 11, 1980 (Administrative Record Document No. OK–898), Oklahoma has amended § 771.23(e)(i) of the proposed regulations to require the scale of maps be 1 inch equals 200 feet. With this change the Secretary believes that the issue raised by the commenter has been adequately addressed.

7. The U.S. Geological Survey (USGS) recommended that Oklahoma be made aware of the Bureau of Land Management (BLM), USGS, and Office of Surface Mining (OSM) Memorandum of Understanding (MOU) on the management of federal coal. Oklahoma has been provided a copy of the joint MOU.

8. The USGS recommended that Oklahoma be apprised of exploration requirements on federal lands and that a reference to those requirements be included in the permanent program. The Secretary finds that exploration responsibilities are included as a part of the BLM, USGS, and OSM memorandum which has been sent to the state and that exploration requirements on federal lands do not need to be restated in the text of the program submission.

9. The National Park Service (NPS) requested that it be notified by the DOM before the DOM approves or disapproves any application for exploration or for a surface coal mining and reclamation permit that may affect an NPS unit. Part 776 of Oklahoma's proposed regulations requires approval of exploration operations that will produce less than 250 tons of coal only when those operations would substantially disturb the surface. Since OSM's regulations in 30 CFR 776.11 do not require approval by the regulatory authority before conducting exploration operations that produce less than 250 tons, the Secretary will not require the state to include the notification provision requested. However, according to proposed § 776.12, the permit provisions of Parts 778 and 786 of Oklahoma's proposed regulations apply to any exploration operation that produces more than 250 tons of coal as well as to all surface coal mining and reclamation operations. Section 786.11(c) of Oklahoma's proposed regulations, in turn, provides for DOM, upon receipt of a complete permit application, to send written notification to federal, state, and local governmental agencies with jurisdiction over or an interest in the area of the proposed operations. Section 786.12(a) of Oklahoma's proposed regulations allows governmental entities notified pursuant to § 786.11(c) to comment on the proposed permit application. Therefore, the NPS' comment is accommodated in the proposed program except for exploration operations involving removal of 250 tons of coal or less. As to those operations, the Secretary urges Oklahoma to notify NPS when such explorations will be conducted near lands managed by NPS, but under 30 CFR Chapter VII, he cannot require such notification. Therefore, no change is required in Oklahoma's proposed program.

10. The NPS requested the opportunity to (1) be involed in setting bond amounts for surface mining and reclamation activities that may have an impact on NPS units, (2) be allowed to participate in inspections prior to the release of those bonds, and (3) be allowed to participate in inspections conducted in response to a petition or notice of violation that may affect an NPS unit. The Secretary believes that Sections 780.18(b)(2), 800.13 and 805.11 of Oklahoma's regulations, if enacted as proposed, are consistent with 30 CFR 780.18(b)(2), 800.13 and 805.11 and with Section 509 of SMCRA concerning the determination of the performance bond amount. The NPS and other federal agencies, like private citizens, would have the right to comment on proposed mining operations including the proper amount of bond. *See* Sections 786.12, 786.13, and 786.14. Under the Secretary's regulations in 30 CFR Parts 805 and 806, the state regulatory authority will set the terms and amounts of the performance bond on non-federal and non-Indian lands. Federal agencies also would have an opportunity to comment on proposed bond releases for areas for which they may have a concern under Section 807.11(c)7 of Oklahoma's proposed regulations. The Secretary's regulations do not require states to allow the NPS to participate routinely in inspections. Therefore, no further program change is required.

11. The NPS commented that the Oklahoma program needs to provide for coordination with the Advisory Council for Historic Preservation as required in Section 106 of the National Historic Preservation Act (NPHA). The Secretary believes that the proposed Programmatic Memorandum of Agreement between OSM and the Advisory Council on Historic Preservation (*See* 45 FR 41988, June 23, 1980), when signed and implemented, will assure compliance with Section 106 of NHPA.

12. The NPS requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in protecting all resources on lands under its jurisdiction from mining in adjacent areas. Oklahoma's proposed regulation § 762.11, identifying the criteria for developing lands as unsuitable, is consistent with 30 CFR 762.11 and the Secretary cannot require the State to adopt additional criteria. The petition process included in Oklahoma's proposed regulation 764.13 provides the opportunity for any person having an interest that is or may be adversely affected to petition to have an area designated as unsuitable for mining. This approach provides the NPS with the opportunity it seeks to protect lands in the National Park System.

The Secretary has instructed the Park Service not to seek criteria in State programs which would establish "buffer zones" adjacent to National Parks as automatically unsuitable for coal mining, unless these lands meet one or

more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for Federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other Federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that agency's approach to State unsuitability criteria will be compatible with the Secretary's policy on Federal unsuitability criteria.

13. The NPS commented that the program narrative on permitting in Chapter VII–1 should include provisions for the DOM to refer applicants to the NPS Air Quality Office for pre-application consultation where the proposed mine may have adverse impacts on NPS areas that may fall within the purview of Section 522(e) of SMCRA. The Secretary's regulations in 30 CFR Chapter VII do not require such a pre-application conference; therefore, the Secretary cannot require a state to require such a conference. It is noted that § 786.11(c) of Oklahoma's proposed regulations would require written notification to NPS after receipt of an application that might affect an NPS unit. This would provide the NPS with an opportunity to comment on the proposed operation. In addition, proposed § 786.14, which is consistent with 30 CFR 786.14, would allow federal agencies, including NPS, to request an informal conference with DOM and the applicant to discuss any issue relevant to the application in which the agency might have an interest. The Secretary finds that these provisions adequately address NPS' concern.

14. The Mine Safety and Health Administration (MSHA) pointed out that §§ 816.55 and 817.55 of Oklahoma's proposed regulations require MSHA's approval before water can be discharged into an underground mine. MSHA explained its procedure for issuing this approval. MSHA's procedure for approval has been forwarded to Oklahoma.

15. The MSHA noted that Oklahoma had adopted the languge of the Secretary's regulaton in proposed §§ 816.92(b) and 817.92(b) allowing drainage diversions to be designed to the 100-year, 24-hour precipitation event while MSHA guidelines recommend design for a 100-year, 6-hour precipitation event. The proposed regulations are consistent with 30 CFR 816.92(b) and 817.92(b).

16. The MSHA commented that in Chapter VII–13 of the program narrative for training and certification of blasters, certain Oklahoma regulations differ from MSHA's regulations in 30 CFR 77.1201(a) and 77.1301(h). (The reference in the comment to 77.1201(a) probably should have been to 77.1301(a).) In the revisions submitted on June 11, 1980 (*See* Administrative Record Document No. OK–98), Oklahoma withdrew Chapter VII–13. 30 CFR 732.15(b)(12) requires a state to implement regulations governing certification and training of persons engaged in blasting within six months after federal regulations for these revisions have been promulgated. Since the federal regulations have not been promulgated at this time, the Secretary will not presently require any change in the Oklahoma program.

17. The Department of Energy (DOE) commented that Chapters V, VI, VII–9, and VII–10 should be revised to include a more formal procedure for assistance from and consultation with other state agencies. In Chapters V and VI of the program submission, the DOM is shown to have sole responsibility for the administration of the program in Oklahoma. Since Chapters VII–9 and VII–10 indicate that other state agencies will perform only general review and comment responsibilities on permit activities under the program, the Secretary believes that the procedures between the DOM and other state agencies are adequately addressed. Therefore, the Secretary would require no change in the proposed program.

18. The DOE commented that in Chapter V of the submission concerning the organization of the regulatory authority Oklahoma should have included a job description for the Division Chief for Planning and Enforcement. There is no such position in the Oklahoma program; the commenter was probably referring to the absence of a job description for the Chief of Permit and Enforcement. In the revisions received on June 11, 1980 *(See* Administrative Record Document No. OK–98), a job description was included for the Chief of Permit and Enforcement; therefore, no further change is required in Oklahoma's proposed program.

19. The DOE commented that in the narrative description of the process for assessing and collecting civil penalties in Chapter VII–7 of the submission, Oklahoma does not include the point system or any other method for determining the amount of a civil penalty. Part 845 of Oklahoma's proposed regulations provides for a civil penalty system that is consistent with the federal system in 30 CFR Part 845. 30 CFR 732.15(b)(7) and 840.13(a) were remanded on May 16, 1980, to the extent they require states to have a civil penalty point system as stringent as 30 CFR Part 845. However, the Secretary will require a state to have a civil penalty system that evaluates the four criteria of Section 518(a) of SMCRA.

20. The DOE suggested that Oklahoma include data on future coal prodution from the USGS in Chapter VIII, Part 8 of its program submission, if state projections are not available. Those specific statistical data are not mandatory under 30 CFR 731.14(h)(8) and the Secretary will not require Oklahoma to provide them.

21. The DOE commented that the program narrative in Chapter IX should address the adequacy of the proposed Department of Mines staff as required by 30 CFR 731.14(j). The Secretary agrees and is unable to find that the staff proposed by Oklahoma is adequate based on the information in the submission (*See* finding 1(c), 3, and 4(s)).

22. The DOE commented that Chapter IX of the submission should contain a projection for the use of other state agency personnel as required by 30 CFR 731.14(k). (The reference in the comment to Chapter IX probably should have been to Chapter XI of the submission.) The revisions to Chapter XI submitted on June 11, 1980 (*See* Administrative Record Document No. OK–98), adequately describe the use of professionals from other agencies to review and comment on permit applications.

23. The U.S. Environmental Protection Agency (EPA) commented that OCRA lacked provisions for the reclamation of abandoned mined lands, including the establishment of an Abandoned Mine Reclamation Fund. A state program is not required to include provisions on abandoned mined lands (AML) or the Abandoned Mine Reclamation Fund, but, in accordance with 30 CFR Part 884 (State Reclamation Plans), Oklahoma may submit a state AML plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

24. The EPA commented that OCRA does not contain a provision equivalent to Section 515(c)(6) of SMCRA, which provides for the review of permits issued for mountain-top removal mining within three years from the date of issuance. The Secretary does not agree that a change is required. The Oklahoma Attorney General, in Opinion No. 79–

213, dated February 25, 1980 *(See* Administrative Record Document No. OK–18), pointed out that other provisions of OCRA allow DOM to review permit compliance even more frequently than every third year. In the revisions submitted on June 11, 1980 (*See* Administrative Record Document No. OK–98), Oklahoma has proposed a regulation (Section 785.14(d)) that is consistent with 30 CFR Section 785.14. Therefore, no change is required in Oklahoma's proposed program.

25. The EPA commented that OCRA requires exhaustion of administrative remedies before one can file a citizens' suit under Section 41(C), thereby placing restrictions on citizens' suits that are not found in Section 520 of SMCRA. The Secretary is disapproving Section 41(C) of OCRA. Oklahoma must allow citizens' suits in its courts consistent with Section 520 of SMCRA *(See* findings 1(a) and 4(k)).

26. The EPA commented that the anti-degradation policy in the Oklahoma Water Quality Standards must be considered before a permit application that may affect a legitimate water supply use is approved. EPA also noted that the proposed program does not include relevant water quality statutes in Chapter II as required under 30 CFR 731.14(b). The Secretary is requiring DOM to provide a copy of Oklahoma's water quality laws and regulations. However, the Secretary notes that Section 55 of OCRA is identical to Section 717 of SMCRA, governing water rights and replacement. DOM's proposed regulations include provisions comparable to 30 CFR 779.17 and 783.17, requiring alternative water supply information, and to 30 CFR 816.47–57 and 817.42–57, relating to protection of the hydrologic balance. Proposed Section 786.19(c) makes it a criterion for permit approval that DOM find that the proposed operation will prevent damage to the hydrologic balance outside the proposed mine plan area. The Secretary will examine Oklahoma's water quality statutes and regulations to determine whether they would interfere with or preclude implementation of Oklahoma's program.

27. The EPA commented that adequate quality assurance programs should be required in presenting criteria for qualified laboratories in Section 795.17 of Oklahoma's proposed regulations. The proposed regulations in Part 795 for the Small Operator Assistance Program have been withdrawn by Oklahoma (*See* Administrative Record Document No. OH–98). Furthermore, a state program for small operator assistance need only include qualification provisions for laboratories consistent with 30 CFR 795.17.

28. The EPA commented that the public notice procedures should provide for release of (1) information on potential ground and surface water quality and quantity impacts, and (2) information pertaining to the proposed permit's conformance with applicable state water quality management plans. Oklahoma's proposed regulations 786.15 and 700.14, analogous to 30 CFR 786.15 and 700.14, provide for release and public availability of all permit application data except those protected from disclosure by Sections 507(b)(17), 508(a)(12) and 508(b) of SMCRA. The Secretary's regulations do not specifically require applicants to show that their plans conform to state water quality management plans and the Secretary will not require a state to do more than the federal regulations require. However, the federal regulations do provide for protection of the hydrologic balance (*See* comment No. 26 above). 30 CFR 786.12–786.14 provide opportunity for water quality agencies to comment on mine permit applications, and proposed DOM regulations 786.12–786.14 provide the same opportunity.

29. The EPA stated that the provisions established by Section 527 of SMCRA should be included in the Oklahoma program. Section 527 requires separate regulations for special bituminous surface coal mines located west of the 100th meridian that, in addition to other specific criteria, have been producing coal since January 1, 1972. The Secretary finds that no such operations exist west of the 100th meridian in Oklahoma (*See* finding 4(b)).

30. The EPA asked to be added to the list in Chapter VII–10 of agencies with whom the DOM will coordinate permit activities. The narrative in Chapter VII–10 discusses consultation, not coordination processes. The coordination requested by EPA appears to be provided by § 770.12 of Oklahoma's proposed regulations.

31. The EPA suggested that the Oklahoma program should require all mines to quantify all emissions, including fugitive dust particulates, that are associated with their operations and to make the information readily accessible for input into Prevention of Significant Deterioration (PSD) air quality models. To avoid conflict with the Clean Air Act program for prevention of significant deterioration and protection of nonattainment areas, the Secretary has decided not to require separate demonstrations of compliance with those clean air programs beyond the requirements of Sections 508(a)(9) and 515(b)(4) of SMCRA. Oklahoma's proposed regulations are consistent with 30 CFR 780.15, requiring a fugitive dust control plan. The proposed regulations also are consistent with 30 CFR 816.95.

32. The EPA observed that Chapter V of the Oklahoma program does not include information on the organization of the state water quality agency. Under 30 CFR 731.14(e), the program submission need not contain a description of the organization of other state agencies not performing any part of the state regulatory program. Therefore, no change is required.

33. The EPA questioned that the different uses of the terms "person" and "operator" in SMCRA and OCRA. The Secretary agrees, and has requested the State to rectify this ambiguity. (*See* findings 1(a) and 4(a).).

34. Several commenters stated that the Oklahoma regulations, by following OSM's regulations, went beyond the requirements of SMCRA. The validity of OSM's regulations has been the subject of judicial review (*In Re: Permanent Surface Mining Regulations Litigation,* Civil Action No. 79–1144, U.S. District Court for the District of Columbia). To the extent the court has invalidated the Secretary's regulations, Oklahoma will not be required to comply with them (*See* discussion above under Background On Permanent Regulatory Program and 45 FR 46820 (July 11, 1980)).

35. One commenter suggested that Oklahoma's regulations include a provision that would automatically remove provisions found to be unconstitutional. Such a clause need not be added to a state's regulations since a judicial decision would result in the invalidation of those regulations found to be unconstitutional.

36. One commenter stated that Oklahoma's regulations should provide more protection of streams by expanding the buffer zone from 100 feet to 150 or 200 feet. It is the Secretary's determination that the provisions of §§ 816.57 and 817.57 of Oklahoma's proposed regulations are consistent with 30 CFR 816.57 and 817.57 that prohibit mining activities within 100 feet of certain streams unless specifically authorized by the regulatory authority. Since the Secretary does not require a state to have more stringent provisions than those in 30 CFR Chapter VII, no change in the proposed regulations is required.

37. Several commenters stated that the Oklahoma program and the staffing provisions are adequate and urged that the program be approved. The Secretary, however, is unable to approve the entire

program at this time for the reasons noted in his findings.

38. One commenter suggested that the Secretary not approve or disapprove the Oklahoma program in light of the July 10, 1980, ruling from the Court of Appeals for the District of Columbia. Under Section 503(b) of SMCRA, the Secretary must approve or disapprove a state's permanent program submission according to a specified timetable and has proceeded with decision-making on submittals, as appropriate, under the appeals court decision. In addition, the opinion of the court of appeals was vacated on August 25, 1980 and has no effect on the Secretary's obligations or his decision under Section 503 of SMCRA.

39. One commenter made several points about the Small Operator Assistnce Program (SOAP) required in state programs under 30 CFR Part 795 and 30 CFR 732.15(b)(13). The commenter noted that (1) Sections 507(b)(11) and (15) are too narrow in scope to do small operators much good, and forces small operators to stay small (less than 100,000 tons/yr.) to continue receiving assistance; (2) OSM should provide tax breaks for investments on pollution control equipment required by SMCRA; (3) SOAP money could be channeled through local government units, rather than the state Department of Mines, to pay for the professional services covered by SOAP; and (4) the Department of Mines could administer SOAP, but the funds would flow directly from OSM to the operators or the consulting firms that actually do the work.

First, the Secretary is not, in the context of decisions on state programs, amending the scope of SOAP, as that is statutorialy prescribed and implemented through federal regulations. The commenter may submit a petition for rulemaking if a federal rule change is sought. *See* 30 CFR 700.12. Second, the Secretary has no authority over tax considerations for reclamation-related investments. Third and fourth, Oklahoma has withdrawn Part 795 of the proposed regulations; consequently, the Secretary has no proposal before him to which the comments are applicable. The Secretary acknowledges the problem arising from the opinion of the Oklahoma Attorney General that found the SOAP program authorized by OCRA to be in violation of the Oklahoma Constitution. The Secretary is eager to examine alternative approaches to resolve this problem and urges the DOM to submit alternatives with supporting rationale, data, and legal authority when the program is resubmitted. The Secretary finds that the Oklahoma program must have a small operator assistance program consistent with the federal program.

40. Several commenters indicated that Oklahoma should be required only to comply with the requirements of SMCRA and not be required to comply with the Secretary's regulations. The Secretary has interpreted Sections 503(a)(7) and other provisions of SMCRA to require him to promulgate minimum requirements for the contents of state programs and to provide minimum national standards for permitting, bonding, performance standards, enforcement and other requirements of SMCRA.

41. One commenter suggested that Oklahoma's regulations concerning stream channel diversions are inadequate. Provisions dealing with stream channel diversions are in §§ 816.44 and 817.44 of Oklahoma's proposed regulations. The Secretary believes that §§ 816.44 and 817.44 are consistent with equivalent federal regulations at 30 CFR 816.44 and 817.44.

42. One commenter criticized Oklahoma's regulations for requiring a reference area to assist in determining the success of revegetation because of the difficulty in identifying an area that is representative of the area proposed for mining. 30 CFR 816.116 and 817.116 provide, as an alternative to reference areas, that the ground cover and productivity may be compared to other technical guides approved by the Director of OSM for use in a state program. Oklahoma did submit an alternative approach to reference areas, but submitted it under the provisions of 30 CFR 731.13. The alternative approach, however, does not satisfy the provisions of 30 CFR 731.13 and is being disapproved (*See* finding 4(a)).

43. One commenter suggested that Oklahoma's regulations do not specify methods for sediment control. Sections 816.41–816.57 and 817.41–817.57 of Oklahoma's proposed regulations are consistent with equivalent provisions in the federal regulations. These regulations prescribe the methods that must be utilized by an operator to control sediment. Thus, no change is required in Oklahoma's program in response to this comment.

Approval In Part/Disapproval In Part

The Oklahoma program is approved in part and disapproved in part. As indicated above under the Secretary's Findings, certain parts of the program meet the criteria for state program approval in 30 CFR 732.15 and certain parts of the program do not meet the criteria. Partial approval means that Oklahoma may revise and resubmit the disapproved portions of the program within 60 days of the effective date of this decision. The resubmission will then be reviewed and approved or disapproved under procedures in 30 CFR Part 732. Until the entire program is approved, however, the state will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA.

The following program parts are approved:

(a) The Oklahoma Coal Mining and Reclamation Act of 1979, (OCRA) with the following exceptions:

(1) Section 19, pertaining to a small operator assistance program (SOAP) because the Oklahoma Attorney General has found Section 19 to be in conflict with the Oklahoma Constitution.

(2) Section 41.C because, as interpreted by the Oklahoma Attorney General, it does not provide the same access to the courts for citizen suits that SMCRA does.

(3) OCRA does not apply to all "persons" defined in Section 701 (19) of SMCRA for purposes of permitting, bonding and enforcement of the performance standards required by SMCRA and 30 CFR Chapter VII.

(4) Section 33.A of OCRA to the extent that is does not provide a right of entry for purposes of inspection consistent with Section 517(b)(3) of SMCRA.

(b) The program provisions to provide for protection of employees of the Oklahoma DOM in accordance with the protection afforded federal employees.

The following program parts are not approved:

(a) Section 19 of OCRA.

(b) Section 41.C of OCRA.

(c) Section 33.A of OCRA to the extent that is does not provide a right of entry for purposes of inspection consistent with Section 517(b)(3) of SMCRA.

(d) The proposed regulations submitted with the program.

(e) The provisions to:

(1) Coordinate the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit processes applicable to the proposed operations (*See* Finding 1(f)).

(2) Implement, administer and enforce all applicable performance standards (*See* Finding 4(b)).

(3) Implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority (*See* Finding 4(c)).

(4) Regulate coal exploration and prohibit coal exploration that does not comply with the performance standards required by SMCRA (*See* Finding 4(d)).

(5) Require that persons extracting coal incidental to government-financed construction maintain information on site (*See* Finding 4(e)).

(6) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations (*See* Finding 4(f)).

(7) Implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees (*See* Finding 4(g)).

(8) Provide for civil and criminal sanctions for violations of state law, regulations and conditions of permits and exploration approvals including civil and criminal penalties (*See* Finding 4(h)).

(9) Issue, modify, terminate and enforce notices of violations, cessation orders and show cause orders (*See* Finding 4(i)).

(10) Designate areas as unsuitable for surface coal mining (*See* Finding 4(j)).

(11) Provide for public participation in the development, revision and enforcement of state regulations, and the state program (*See* Finding 4(k)).

(12) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the state regulatory authority (*See* Finding 4(l)).

(13) Provide for small operator assistance (*See* Finding 4(n)).

(14) Provide for administrative and judicial review of state program actions (*See* Finding 4(p)).

(15) Cooperate and coordinate with and provide documents and other information to OSM (*See* Finding 4(r)).

(16) Provide administrative, legal, and technical personnel and funding for the implementation, regulation, and enforcement of the program and 30 CFR Chapter VII and other applicable state and federal laws (*See* Finding 1(c)).

(f) The proposed alternative pursuant to 30 CFR 731.13 concerning reference areas for revegetation under 30 CFR 816.116 (*See* Finding 4(a)).

Consideration of District Court's Order To Disapprove Certain Regulations

As discussed under "Background on State Program Approval Process" above, the Secretary was ordered by the district court on May 16, 1980, to "affirmatively disapprove" state program regulations incorporating OSM regulations suspended or remanded by the court. However, on August 15, 1980, the court stayed this portion of its opinion. The effect of the stay is to allow the Secretary to approve provisions equivalent to remanded or suspended federal provisions (1) if the state requests, (2) if the state rulemaking takes place after the court's decisions or (3) if the state rulemaking took place before enactment of SMCRA.

A preliminary listing of the proposed Oklahoma rules that would have been disapproved was prepared by OSM and made available to the public by an announcement in the **Federal Register** on July 11, 1980 (45 FR 46820–46826). The list remains available, upon request, at the addresses listed under "Addresses" above. Because all of Oklahoma's regulations are being disapproved today, no separate disapproval is necessary to comply with the court's order.

Effect of This Action

Oklahoma is not now eligible to assume primary jurisdiction to implement the permanent regulatory program. Oklahoma may submit additions or revisions to its proposed program to correct those parts of the program being disapproved within sixty days after publication of this decision. Oklahoma should submit enacted statutes, regulations and additional information as identified in the Secretary's findings.

If no revised submission is made within sixty days, the Secretary will take appropriate steps to promulgate and implement a federal program for the State of Oklahoma. If the disapproved portions of the state regulatory program are revised and resubmitted within the sixty-day time limit, the Secretary will have an additional sixty days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other federal agencies and to approve, disapprove, or conditionally approve the final Oklahoma program submission.

This approval in part and disapproval in part relates to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of Title IV of SMCRA, the abandoned mine lands reclamation (AML) program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Oklahoma may submit a state AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the state has an approved permanent regulatory program.

Surface mining and reclamation operations on federal lands are presently governed by regulations in 30 CFR Part 211, the initial federal lands program. When a state regulatory program is approved, the federal lands program will be governed by 30 CFR Chapter VII, Subchapter D.

The Secretary intends not to promulgate rules in 30 CFR Part 936 until the Oklahoma program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: October 3, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

[FR Doc. 80-31765 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 942

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Tennessee Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule, partial approval/partial disapproval of the Tennessee permanent regulatory program.

SUMMARY: On February 28, 1980, the State of Tennessee submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Tennessee program partially meets the minimum requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Tennessee program. Tennessee will not assume primary jurisdiction for implementing SMCRA until its entire program receives approval.

DATE: Tennessee has until December 9, 1980 to submit revisions to the

disapproved portions of the program for the Secretary's consideration.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4225.

ADDRESSES: Copies of the Tennessee program and the administrative record on the Tennessee program are available for public inspection and copying during business hours at:

Administrative Record Room, Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902

Tennessee Department of Conservation, Division of Surface Mining and Reclamation, 1720 West End Avenue, Nashville, Tennessee 37203

Tennessee Department of Conservation, Division of Surface Mining and Reclamation, 618 Church Avenue, S.W., Knoxville, Tennessee 37902

Administrative Record, Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4728

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environment protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received State permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639 *et seq.*

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA. The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 5, 1980 (45 FR 37818), and June 10, 1980 (45 FR 39446–39447) and August 6, 1980 (45 FR 52306–52324). Portions of these regulations have been suspended, pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining within its borders under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the State to make additions or modifications to the program and an opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the State may submit revisions to correct the items that need change to meet the requirements of SMCRA and the applicable Federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Secretary implements the Federal program.

The procedures and timetable for the Secretary's review of State programs were initially published March 13, 1979 (44 FR 15326), 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for States to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

The Secretary had to reestablish a cutoff date for program amendments prior to the comment period and hearing established by 30 CFR 732.12. Therefore, on May 20, 1980 (45 FR 33927), 30 CFR 732.11(d) and 732.12(b)(2) were amended. In that **Federal Register** notice the cutoff date for program amendments was established as the 104th day after initial submission and other minor adjustments were made to the timetables for comments and hearings. The Tennessee program was submitted to OSM on February 28, 1980. The 104th day after February 28 was June 11, 1980.

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the State bases its program, must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing State programs, is applying the criteria of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. In reviewing the Tennessee program, the Secretary has followed the Federal rules as cited

above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.*

In that litigation the court issued its initial decisions in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations.

The court also ordered the Secretary to "affirmatively disapprove, under Section 503 [of SMRCA], those segments of a State program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its judgment. The effect of this stay is to allow the Secretary, to approve State program provisions equivalent to remanded or suspended Federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standards to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the district court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II district court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's decisions, all provisions of a State program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and in State courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended or remanded regulation and no State program will be disapproved for failure to contain a suspended or remanded regulation.

4. A State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980, (45 FR 45604).

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Tennessee will be found in 30 CFR 942.

Background on the Tennessee Program Submission

On February 28, 1980, OSM received a proposed regulatory program from the State of Tennessee. The program was submitted by the Tennessee Department of Conservation. Notice of receipt of the submission initiating the program review was published in the March 11, 1980, **Federal Register** (45 FR 15578–15580) and in newspapers of general circulation in Tennessee. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On April 15, 1980, the Regional Director held a public review meeting in Knoxville, Tennessee, on the program submission and its completeness. The public comment period on completeness began on March 11, 1980, and closed April 15, 1980.

On April 29, 1980, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be incomplete (45 FR 28369). The notice specified that the program submission did not fulfill the content requirements for program submission under 30 CFR 731.14. the following required elements of the program submission contained insufficient material to be called complete: fully drafted regulations, 30 CFR 731.14(a); copies of other relevant State laws 30 CFR 731.14(b); legal opinion and section-by-section analysis of laws and regulations, 30 CFR 731.14(c); a legal document designating an agency as the State regulatory authority for Title V of SMCRA, 30 CFR 731.14(d); administrative procedures, program implementation systems, and other supporting documentation required by 30 CFR 731.14(e), (f), (g)(7), (g)(9), (g)(11), (g)(12), (g)(14), (g)(15), (g)(16), (i), (j), (k), (l), (m), and (o).

In accordance with 30 CFR 732.11(c) and (d) of the permanent regulatory program regulations, as amended on May 20, 1980 (45 FR 33927), the Regional Director's notice established June 11, 1980, as the final date for submission of a revised program. On June 11, 1980, Tennessee submitted additions and modifications to its program of February 28, 1980. On June 23, 1980 (45 FR 41979–41981), the Regional Director published notice in the **Federal Register** announcing receipt of additions and modifications, which were itemized in the notice, and specified that these revisions did not complete all the elements identified as missing in the Regional Director's completeness determination. The required elements still missing were listed in the notice.

The Regional Director set forth procedures for the public hearing and comment period on the substance of the Tennessee program in the June 23, 1980, notice (45 FR 41979–41981) and in newspapers of general circulation within Tennessee.

On July 11, 1980, public comment was invited on a tentative list of provisions in the Tennessee program which appeared to be based on suspended and remanded Federal rules in 45 FR 46820–46826.

On July 21, 1980, a public hearing on the Tennessee program submission was held in Knoxville, Tennessee, by the Regional Director. The public comment period on the Tennessee permanent regulatory program ended on July 24, 1980.

On July 30, 1980, the Regional Director submitted to the Director of OSM his recommendation together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record.

On August 7, 1980, the Secretary formally announced public disclosure of the comments received on the Tennessee program from the Environmental Protection Agency, the Secretary of Agriculture and other Federal agencies in 45 FR 52407–52408.

On August 22, 1980, the Director of OSM sent a telegram to State officials asking if there were any provisions in the program which were based on remanded or suspended Federal rules, and which the State wished the Secretary not to disapprove. The State has not replied to this telegram.

On September 4, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Tennessee program being approved today.

On September 15, 1980, the Director of OSM recommended to the Secretary that he approve the Tennessee program in part and disapprove it in part.

Elements Upon Which the Secretary Evaluates the Tennessee Program

The Secretary's findings and decision are being made only on the Tennessee Coal Surface Mining Law of 1980.

Tennessee's regulations were not promulgated by June 11, 1980, the 104th day after initial program submission. In accordance with the 104-day rule promulgated on May 20, 1980 (30 CFR 732.11(d), 45 FR 33927), only those statutory provisions and rules that were fully enacted by Tennessee on or before June 11, 1980, can be considered as a basis for approval of the Tennessee program and those not fully enacted must be disapproved. Accordingly, the Secretary is disapproving the part of the Tennessee program that contains the proposed regulations as discussed below in Finding 7.

The narrative descriptions required by 30 CFR 731.15(g), as submitted on February 28, 1980, and amended on June 11, 1980, also are not being considered for approval and are being disapproved because they are based on the proposed regulations and are incomplete. The balance of the program (required by 30 CFR 731.14
(h) and (l) through (o) also are being disapproved because they are incomplete.

The Director of OSM will provide the State with comments based on his review of the State's proposed regulations and narrative descriptions. Where unresolved issues were raised by commenters during review of the initial submission of February 28, 1980, and the revised submission of June 11, 1980, those issues will be included in the Director's letter. The letter will be available for review in the administrative record on or about the date of publication of this notice.

The Secretary will review the State's disposition of the comments in the Director's letter during review of the State's resubmission. The Secretary does not, however, expect to make further response to the public and Federal agency comments themselves. Commenters should review the enacted regulations and narrative descriptions when the State's resubmission is available for review. If their concerns have not been addressed, they should resubmit their comments during the public comment period for the program resubmission.

Since Tennessee's regulations were not fully enacted on June 11, 1980, and they cannot form the basis for approval of any portion of the State's program, the findings and accompanying explanations are based only on the enacted State law and comments submitted by the public on the law. The primary focus of the explanation of these findings is the significant differences between Federal law and State law as identified by the Department of the Interior and public commenters.

Secretary's Findings

In accordance with Section 503(a) of SMCRA, the Secretary finds that Tennessee has, in part, and fails to have, in part, the capability to carry out the provisions of SMCRA and to meet its purposes in the ways and to the extent set forth in Findings 1 through 7 below:

1. The Tennessee Coal Surface Mining Law of 1980 (TCSML) provides for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Tennessee in accordance with SMCRA with the exceptions discussed below in Finding 2.

2. The TCSML provides sanctions for violations of Tennessee laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cease-and-desist orders by the Tennessee Department of Conservation or its inspectors except to the extent that the provisions listed below may be interpreted as inconsistent with SMCRA. These inconsistencies appear to arise because of ambiguous language. However, because the TCSML may be read to include these inconsistencies, those portions of it are not being approved until corrected or clarified by Tennessee Attorney General Opinion, by enacted regulations, or by statutory change, as appropriate.

2.1 TCSML Section 18(a) contains the language "The Commissioner shall assess a penalty in all cases in which a second notice of violation for any singular violation, cease order, suspension, or revocation is issued. The Secretary assumes that the word "second" relates only to "notice of violation," and that a penalty shall be assessed for *every* cease order issued pursuant to TCSML Section 17. This provision corresponds to Section 518(a) of SMCRA. The Secretary requests additional comment or clarifying information.

2.2 TCSML Section 18(c) contains the clause "violation of the amount of the penalty" instead of the clause "violation or the amount of the penalty." This could allow a contest of the fact of violation as part of the review of proposed civil penalty without a prepayment of the penalty amount in escrow. This would be inconsistent with Section 518(c) of SMCRA. The Secretary requests clarification.

2.3 TCSML Section 17 appears to provide for issuance of both a notice of violation and a cease order in situations where a cease order is required. To the extent that a notice of violation can be a substitute for a cease order in each situation where a cessation order is required in Section 521 of SMCRA, Section 17 of the TCSML is inconsistent with SMCRA.

2.4 In TCSML Section 17(a), use of the word "agreement" is ambiguous and can result in unacceptable extensions of time for abatement or in nonabatement. This would be inconsistent with Sections 521(a)(2), (a)(3) and (a)(5) of SMCRA concerning orders or notices of violation other than modifications,

vacations, terminations or extensions for good cause.

2.5 In TCSML Section 17(b), use of the word "operations" might be interpreted to exclude reclamation operations from being subject to a cease order since the word is defined by Section 3(o) as including only coal removal. This would conflict with Section 521(a)(3) of SMCRA. However, when "operations" is viewed in its broadest sense in the context of TCSML Section 17 and the language in TCSML Section 22(b), authority appears to be provided to issue cease orders for surface coal mining *and reclamation* operations as required in Section 521 of SMCRA. TCSML Section 22(o) provides that temporary relief may be granted by the court on "an order or decision issued pursuant to Section 21(h)(9) pertaining to any order issued under Section 17 for cessation of coal mining and reclamation operations." The Secretary requests clarification regarding the extent to which the word "operations" in Section 17(b) includes reclamation operations.

2.6 TCSML Section 17 does not specifically state that cease orders remain in effect until the Commissioner or his designee determines that the condition, practice or violation has been abated, or until modified, vacated, or terminated as required in Section 521(a)(2) of SMCRA. However, Tennessee has clear authority in TCSML to include such a provision in regulations. If a regulatory provision defining the effective period of cease orders is included in the program resubmission, the Secretary could approve the program for compliance with Section 521(a)(2) of SMCRA. Because there is not yet an enacted regulation, the Secretary cannot approve this provision of the statute.

2.7 TCSML Section 22(b) does not specifically state that temporary relief granted by the Commissioner is subject to judicial review as required in Section 526(c) of SMCRA. The Secretary requires additional clarification.

2.8 TCSML Section 17(a) requires show cause hearings to be "subject to 5 USC Section 554" which applies to Federal proceedings and not state proceedings. This reference would subject State hearings to Federal law rather than analogous State law. The Secretary requests clarification and defers approval at this time.

2.9 The phrases "other parties aggrieved" and "any person aggrieved," or similar wording appearing in TCSML, with respect to standing, are more restrictive than the phrase "any person with an interest which is or may be adversely affected" and similar wording as used in SMCRA and TCSML. The State language refers to past action, rather than past and possible future action. In addition, the State language may by specifying "parties," limit challenges to previous participants.

2.10 TCSML Section 21(g)(9) provides temporary relief from a notice or order by the Commissioner (upon the required showing), pending determination of an appeal to the Board of Reclamation Review. It does not clearly provide temporary relief from a decision on a permit application or other decisions by the Commissioner. The Secretary requires clarification.

2.11 The State uses the phrase "the probability of significant, imminent environmental harm" in Section 17(b) of TCSML in lieu of the Phrase "can reasonably be expected to cause significant, imminent environmental harm" in Section 521(2) of SMCRA. The State has not provided an Attorney General's Opinion to establish that the phrase used in TCSML is at least equivalent to the phrase found in SMCRA. Without such an opinion, the Secretary cannot approve Section 17(b) at this time.

3. The Tennessee Department of Conservation does not have sufficient administrative and technical personnel and sufficient funds to enable Tennessee to regulate surface coal mining and reclamation operations in accordance with the requirements of SCMRA. An analysis of this finding is contained in Finding 30 below.

4. The TCSML provides, in part, for the effective implementation, maintenance, and enforcement of a permit system in accordance with the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Tennessee. Provisions that are not in accordance with SMCRA are discussed in Finding 2.

5. The Tennessee program includes in the TCSML, and to that extent has established, in part, a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA.

6. The Tennessee program includes in the TCSML, and to that extent has established, in part, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations.

7. Tennessee does not have fully enacted rules and regulations consistent with the regulations issued by the Secretary pursuant to SMCRA. As discussed above, under "Elements Upon Which the Secretary Evaluates the Tennessee Program," Tennessee submitted proposed regulations as part of the State's program on June 11, 1980. Review of the proposed regulations indicates that additional changes will be needed to meet the requirements of Section 503(a)(7) of SMCRA. In addition, because of the 104-day rule, the Secretary cannot approve any part of these rules until they have been enacted. Because the Tennessee program does not include fully enacted regulations, the Secretary finds that the Tennessee program does not meet the regulatory requirements pursuant to 30 CFR 732.15. Accordingly, the Department of Conservation's regulations as submitted to date are not approved.

As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM, fulfilled the requirements set forth in Findings 8 through 10 below:

8. Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the proposed Tennessee program.

9. Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Tennessee program which relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

10. Held a public review meeting in Knoxville, Tennessee, on April 15, 1980, to discuss the completeness of the Tennessee program submission and subsequently held a public hearing in Knoxville, Tennessee, on July 21, 1980, on the substance of the program submission.

11. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Tennessee has, in part, the legal authority, but does not have sufficient qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII. See Finding 30 below.

In accordance with 30 CFR 732.15, the Secretary makes Findings 12 through 30, below, based on information in the Tennessee program submission, including the section-by-section comparison of the Tennessee law with SMCRA, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information.

12. The Tennessee program shows that Tennessee can in part, carry out the provisions and meet the purposes of SMCRA but cannot fully carry out the provisions and meet the purposes of 30 CFR Chapter VII as discussed in Finding 7 above. This finding is made under 30 CFR 732.15(a), and is based on the discussions in Findings 12.1–12.3 as well as issues discussed in Findings 1–11 and 13–30.

12.1 The Tennessee program provisions submitted under 30 CFR 731.14(c), which requires a legal opinion from the chief legal officer of the Tennessee Department of Conservation stating that Tennessee will have legal authority through existing law and enactment of new regulations to implement, administer, and enforce the program in accordance with SMCRA and consistent with 30 CFR Chapter VII, including a section-by-section comparison of Tennessee laws and regulations with SMCRA and 30 CFR Chapter VII, are inadequate because Tennessee does not have enacted regulations.

12.2 The Tennessee program does not contain any document fulfilling the requirement of 30 CFR 731.14(d) which requires a copy of a legal document which designates one State agency as the regulatory authority and authorizes that agency to implement, administer and enforce a State program and to submit grant applications and receive and administer grants under Subchapter C of 30 CFR Chapter VII.

12.3 The Tennessee program is not required to include provisions pursuant to 30 CFR 731.14(n) concerning special performance standards for anthracite surface coal mining since no such mining occurs or is expected to occur in Tennessee.

13. In accordance with 30 CFR 732.15(b)(1), the Secretary finds that the Tennessee Department of Conservation (DOC) has the authority under TCSML, in part, to implement, administer, and enforce a system of environmental protection performance standards. The TCSML contains provisions in Sections 2, 4, 8, 11 and 12 which are in accordance with the performance standards provisions in Sections 102, 201, 515 and 516 of SMCRA. Provisions of the TCSML which are not in accordance with SMCRA for purposes of enforcing the performance standards are discussed in Finding 2.

14. In accordance with 30 CFR 732.15(b)(2), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to implement, administer and enforce a permit system and to prohibit surface coal mining and reclamation operations without a permit issued by the DOC. The TCSML contains provisions in Sections 2, 4, 6, 7, 8, 10, 11, 13, 14, 21, 22 and 35 which are in accordance with the permitting provisions in Sections 102, 201, 506, 507, 508, 510, 511, 512, 513, 514 and 522 of SMCRA. Provisions of the TCML which are not in accordance with SMCRA for purposes of enforcing the permit system are discussed in Finding 2.

15. In accordance with 30 CFR 732.15(b)(3), the Secretary finds that the Tennessee DOC has the authority under TCSML to regulate coal exploration. The TCSML contains provisions in Sections 2, 4, 6, 8, 11 and 12 which are in accordance with the coal exploration provisions in Sections 102, 201, 512, 515 and 516 of SMCRA.

16. In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Tennessee DOC has the authority under TCSML to require that persons extracting coal incidental to government-financed construction maintain information on site. The TCSML contains provisions in Sections 2 and 4 which are in accordance with the provisions for exemption for coal extraction incident to government-financed highway or other construction in Section 528 of SMCRA.

17. In accordance with 30 CFR 732.15(b)(5), the Secretary finds that the Tennessee DOC has the authority in part, to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Tennessee. The TCMSL contains provisions in Sections 2, 4, 15, 17 and 33 which are in accordance with the entry, inspection, and monitoring provisions in Sections 102, 201 and 517 of SMCRA except as discussed in Finding 2.

18. In accordance with 30 CFR 732.15(b)(6), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees. The TCSML contains provisions in Sections 2, 4, 7, 8, 9, 10 and 13 which are in accordance with the performance bonds and liability insurance provisions in Sections 102, 201, 507, 509, 510, and 519 of SMCRA except as discussed in Finding 2.

19. In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to provide for civil and criminal sanctions for violations of the TCSML, Tennessee regulations and conditions of permits and exploration approvals, including civil and criminal penalties. The TCSML contains provisions in Section 18 which are in accordance with the civil and criminal sanction provisions in Section 518 of SMCRA except as discussed in Finding 2.

20. In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders. The TCSML contains provisions in Sections 2, 4, 17 and 22 which are in accordance with the enforcement requirements in Sections 102, 201, 521 and 526 of SMCRA except as discussed in Finding 2.

21. In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Tennessee DOC has the authority under TCSML to designate areas as unsuitable for surface coal mining. The TCSML contains provisions in Sections 2, 4, 13 and 31 which are in accordance with the provisions for designating areas as unsuitable for surface coal mining in Sections 102, 201 and 522 of SMCRA.

22. Pursuant to 30 CFR 732.15(b)(10), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to provide for public participation in the development, revision, and enforcement of Tennessee regulations and the Tennessee program. The TCSML contains provisions in Sections 4, 20, 21 and 22 which are in accordance with the public participation provisions of Sections 501, 520 and 526 of SMCRA except as discussed in Finding 2.

24. Pursuant to 30 CFR 732.15(b)(12), the Secretary finds that the Tennessee DOC has the authority under TCSML to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives. Because the Secretary has no final regulations on this matter, Tennessee is not required to enact similar regulations until the Secretary does so.

25. Pursuant to 30 CFR 732.15(b)(13), the Secretary finds that the Tennessee DOC has the authority under TCSML to provide for small operator assistance. The TCSML contains a provision in Section 7(i) which is in accordance with the provisions of Section 507(c) of SMCRA.

26. Pursuant to 30 CFR 732.15(b)(14), the Secretary finds that the Tennessee DOC has the authority under TCSML Section 18 to provide for the protection of State employees of the DOC in accordance with the protection afforded Federal employees under Section 704 of SMCRA.

27. Pursuant to 30 CFR 732.15(b)(15), the Secretary finds that the Tennessee DOC has the authority under TCSML, in part, to provide for administrative and

judicial review of Tennessee program actions. The TCSML contains provisions in Sections 17, 21 and 22 which are in accordance with the administrative and judicial review provisions in Sections 525 and 526 of SMCRA except as discussed in Finding 2.

28. Pursuant to 30 CFR 732.15(b)(16), the Secretary finds that the Tennessee DOC has the authority under TCSML to cooperate and coordinate with and provide documents and other information to OSM. The TCSML contains a provision in Section 4(l) which is in accordance with Section 503 of SMCRA.

29. Pursuant to 30 CFR 732.15(b)(6), the Secretary finds that neither the Tennessee Coal Surface Mining Law of 1980 nor any other Tennessee law, or Tennessee regulations, included in the Tennessee submission, as revised, contain provisions which would interfere with or preclude implementation of SMCRA or 30 CFR Chapter VII, except as set forth in Findings 2 and 29.01–29.05 below. During the period of resubmission the Secretary will continue to review Tennessee laws and regulations for consistency with Federal requirements.

29.1 The Tennessee Blasting Standards Act of 1975 by allowing, among other things, a greater peak particle velocity and a greater maximum charge per delay, contains provisions which appear inconsistent with SMCRA and 30 CFR Chapter VII. Upon full approval of the Tennessee program those provisions would be superseded to the extent that its provisions are less stringent and inconsistent with SMCRA, by operation of Section 34 of the TCSML.

29.2 The Tennessee Uniform Administrative Procedures Act (TUAPA) appears to conflict with 30 CFR 700.12 in two regards: requiring five persons to petition for rule change rather than one, and not specifying a time limit for a decision on a petition rather than a 90 day time limit. The TUAPA also appears to conflict with Section 526(a)(1) in that Section 4–512 of the TUAPA allows challenge to Tennessee rulemaking at anytime rather than only within 60 days.

29.3 There are several references to Tennessee's bonding laws and practices in the section-by-section comparison of laws and regulations (30 CFR 731.14(c)), yet no such bonding laws or regulations were submitted pursuant to 30 CFR 731.14(b). Therefore, the Secretary cannot determine if a conflict exists with such bonding laws or regulations.

29.4 The Tennessee Safe Dams Act, UCA 70–2501, *et seq.*, and the Coal Severance Tax Act, TCA 67–5901, *et seq.*, were not submitted pursuant to 30 CFR 731.14(b). It cannot be determined if a conflict exists with these existing and potential laws until they are included in the State program.

30. State agencies performing functions under the program are the Tennessee Department of Conservation, the Department of Public Health, the Attorney General's Office, and the Tennessee Wildlife Resources Agency. Pursuant to 30 CFR 732.15(d), the Secretary finds that the Tennessee program does not contain sufficient information to demonstrate that any of the agencies mentioned have sufficient legal, technical and administrative personnel, and sufficient funding to implement, administer and enforce the provisions of the program and the requirements of 30 CFR 732.15(b) and other applicable State and Federal laws.

Disposition of Public and Federal Agency Comments

Comments have been accepted and considered on Tennessee's initial program submission of February 28, 1980 (Administrative Record No. TN–17) as well as the program revision of June 11, 1980 (Administrative Record Nos. TN–192 and TN–200).

The periods during which comments were accepted are described in this notice under "Background on the Tennessee Program Submission." All comments received were considered in evaluating the Tennessee program. Responses to the comments are included below and are organized into three groups: public, Federal agencies outside the Interior Department, and Federal agencies within the Interior Department.

Public Comments

Tennessee submitted proposed rules on February 28, 1980, and revisions on June 11, 1980, to be considered in the initial decision. However, as discussed above under "Elements upon which the Secretary Evaluates the Tennessee Program," the Secretary must disapprove the regulations because they are not fully enacted. The Director of OSM is given Tennessee guidance by letter on the inconsistencies and deficiencies contained in the program submission. This letter will be available for public review in the administrative record on or about the date this notice is published. Revisions suggested by commenters are being included in the Director's letter.

In the following discussions, comments on the February 28, 1980, documents are discussed as the initial submission. Comments on the June 11, 1980, documents are discussed as the revised submission. Where comments are applicable to both the February 28, 1980, and the June 11, 1980, documents, the documents are discussed as the proposed program. Where the Secretary has addressed a comment concerning Tennessee's proposed regulations, the disposition is subject to reconsideration by the Secretary pending completion of rulemaking and further public review following resubmission by Tennessee of its program.

1. The Izaak Walton League of America, Lakeway Chapter, Morristown, Tennessee commented on April 14, 1980, that the proposed State legislation aimed at enforcing SMCRA lacked adequate enforcement provisions and requested acceptance of only legislation containing a strong measure of enforceability. The TCSML, enacted on May 2, 1980, and submitted in the revised submission, has been determined adequate to enforce all provisions of SMCRA, applicable to Tennessee, with the exceptions listed in Finding 2.

2. William Allen from Rural Legal Services of Tennessee, Inc., submitted comments 3 through 12 which were received on April 21, 1980, and concern the initial Tennessee program submission.

3. Mr. Allen commented that the State has not complied with 30 CFR 731.14(a) because the regulations submitted have not been proposed and are merely a paste-up of existing regulations and OSM regulations. The State's June 11, 1980, program revision included fully drafted regulations which were proposed to the public.

4. Mr. Allen commented that public participation in the development of State regulations was lacking and that this violates OSM regulations and may therefore be grounds to disapprove the program. Mr. Lenny L. Croce, a private citizen, also commented on the lack of public participation.

At the time the comments were submitted the State was only beginning public participation in the development of regulations. The State conducted three public hearings on the program in different locations in Tennessee prior to submitting program revisions on June 11, 1980. The State has accepted public comment on the program from the date of the first hearing (May 12, 1980) until August 1, 1980. This effort complies with the Secretary's regulations and all applicable Federal requirements.

5. Mr. Allen suggested that using emergency procedures to promulgate State regulations would violate the Federal regulations and would be sufficient grounds to deny a State program. The emergency promulgation procedures appear acceptable, providing

that adequate public participation has occurred. As indicated in comment 4 above, Tennessee has made a reasonable effort to obtain public participation in the development of the program. Also, since regulations promulgated under emergency procedures would be effective for a period of 120 days only, the State must, and has indicated its intentions to, promulgate regulations under the normal procedures of Tennessee's Uniform Administrative Procedures Act which requires additional public participation and review.

6. Mr. Allen noted that the Tennessee Priority Energy Project Act of 1980 (SB 2335 pending before the legislature) and the Tennessee Safe Dams Act, T.C.A. 70–2501, *et seq.*, were not included in the program as required by 30 CFR 731.14(b). These potential and existing laws may affect the regulation of surface coal mining and should be included in the State program as discussed in the letter from the Director OSM. However, since Mr. Allen's initial comments were filed, the Tennessee legislature has been out of session and SB 2335 was not enacted. The Safe Dams Act was not included in the submission. *See* Finding 29.4, above.

7. Mr. Allen commented that the program is missing the information required by 30 CFR 731.14(c). The Tennessee program revision corrected this situation to the extent that the required information is no longer missing. However, deficiencies in this section exist in that the legal opinion and the section by section comparison address proposed rules rather than final rules. This information must be revised for the resubmission.

8. Mr. Allen commented that the program omits the documents required by 30 CFR 731.14(f). The Tennessee program revision provided the required documents. However, they contain deficiencies and the State is being so advised in a letter from the Director.

9. Mr. Allen commented that the material submitted pursuant to 30 CFR 731.14(g) is omitted in part and generally insufficient. This comment is also applicable to the June 11, 1980, program revision. Although the revision improved the submission, may deficiencies remain and are discussed in the letter to Tennessee by the Director.

10. Mr. Allen commented that the program does not discuss illegal mining operations in Tennessee relating to the requirements of 30 CFR 731.14(h). The Director is advising Tennessee that he would find discussion of illegal operation useful.

11. Mr. Allen commented that those portions of the program relating to 30 CFR 731.14(j), (k) and (l) are incomplete and inadequate. The Director has notified Tennessee of these deficiencies.

12. Mr. Allen indicated that the material required by 30 CFR 731.14(o) concerning a description of other programs administered by the Department of Conservation is inadequate. This was corrected in the June 11, 1980, program revision.

13. A number of commenters requested either that the State of Tennessee not be approved to administer the program because of past inadequate enforcement of a surface mining regulatory program, or that such past performance be considered in the decision whether or not to approve Tennessee's program. Such comments were offered by the following commenters: Don C. Dagnan, (June 24, 1980); Cherokee Group of the Sierra Club, (June 27, 1980); Margaret Gregg, (July 15, 1980); William H. Skelton, (July 15, 1980); Melinda Royalty, (July 16, 1980); Tennessee Scenic Rivers, Association (July 16, 1980); Tressa Baker, (July 18, 1980); Kenneth S. Warren, (July 18, 1980); John Burris, Betty Anderson, Connie White, Lorraine Frazier, Barbara Levi, Raymond Weaver and Melody Reeves for Save Our Cumberland Mountains, (July 21, 1980); Tom Johnson and Liane Russell for Tennessee Citizens for Wilderness Planning, (July 21, 1980); Dr. Vance Sherwood, (July 21, 1980); Majorie Ketelle for the League of Women Voters of Tennessee, (July 21, 1980); Lynnie Richardson, (July 22, 1980); Robert W. Peelle, (July 22, 1980); Earl B. Wells, (July 21, 1980); Bertha Thompson, (July 23, 1980); Rosalyn K. Cothran, (July 24, 1980); and Barbara A. Kelly for the Cherokee Group and Tennessee Chapter of the Sierra Club, (July 23, 1980).

The Secretary is not considering prior performance in deciding whether or not to approve a State program. In the initial preparation of the Federal regulations such a provision was proposed in 30 CFR 731.14 and 732.15 but was removed when the regulations were published in final form. This regulatory history prohibits such consideration being determinative during the State program review and approval process. SMCRA was passed by Congress because many States were not adequately protecting the environment. Congress, in structuring a system under SMCRA which enables every State to assume primacy, had directed that each State at least be afforded the opportunity to implement the minimum requirements of the Federal law, including its enforcement requirements. If a State program is approved, but the State fails to enforce it, then the Federal government can enforce the program or establish a full Federal program.

14. Save Our Cumberland Mountains, Inc. (SOCM), stated that in many instances the submitted program regulations conformed to the Federal regulations but not the State law. For example, notes the commenter, the State law places some restrictions on subcontractors. The State regulations, like the Federal regulations, make no mention of subcontractors. Additionally, under State law no more than 25 tons of coal can be mined unless a permit is obtained, while under the State and Federal regulations, as much as two acres of surface may be disturbed before a permit is required. Similarly, State law prohibits mining through streams, while under the Federal and State regulations, mining through streams may be permitted under certain conditions. It would seem that, in writing the State regulations, notes the commenter, the Federal regulations were copied verbatim without regard for the stronger provisions of State laws.

Section 505 of SMCRA allows the State to adopt statutes and regulations more stringent than those of the Federal act or regulations or to adopt statutes or regulations controlling activities not addressed by the Federal act. To be approved, however, the State program must only contain regulatory provisions consistent with and at least as stringent as the Federal provisions. Inconsistencies between the State program and the Federal act and regulations must be resolved during program review, but the Secretary has no authority to require the State to regulate to the full extent authorized by State law.

15. SOCM indicated that Tennessee's revised systems descriptions were inadequate or were not included in the revised program. Specifically, the program lacks (1) provisions for designating lands unsuitable, (2) provisions regarding public participation, (3) description of a staffing structure and justification for the staff, (4) budget data, and (5) description of how staff from other agencies will be used.

Tennessee's revised program contains several deficiencies related to "systems." The Director has notified Tennessee of these deficiencies.

16. SOCM commented that the State program contains no provisions regarding protection of citizens against intimidation or reprisal by industry members.

SMCRA contains no provisions regarding citizen protection, and the

Secretary is not requiring State programs to address the issue.

17. SOCM noted that 30 CFR 786.14 specifically states that any person whose interests may be adversely affected by permit issuance may request and be involved in informal conferences. Tennessee's June 11, 1980, revision does not appear to outline procedures for holding such conferences, nor does it ensure that the conference officer will be impartial and that participating citizens will be protected from violence. No formal agreement to assist at conferences exists between DSM and State law enforcement agencies.

The systems for issuing public notices and holding public hearings (731.14(g)(8)) or for receiving and processing notices of intention to explore and applications for mining permits (731.14(g)(1)) included in Tennessee's proposed program do not appear to be adequate. This information is esential to an objective evaluation of Tennessee's capability to assume primacy over surface coal mining operations in the State.

Further, previous history of civil disobedience in matters related to coal mining in Tennessee, which are documented in the administrative record, would strongly indicate that the State should give special attention to the protection of citizens who exercise their rights under the public participation provisions of the program. This might include the execution of an agreement with the appropriate State law enforcement authorities to ensure that hearings and conferences are conducted orderly and free from intimidation.

18. Tennessee's revised program, noted SOCM, does not allow parties to the informal conference access to the mine plan area for the purpose of gathering information pertinent to the conference.

Both Tennessee regulation 3.14(b)(3) and 30 CFR 786.14(b)(3) provide for the regulatory authority to grant parties to the conference access to the mine plan area. Tennessee's regulation 3.14(b)(3) appears to be consistent to 30 CFR 786.14(b)(3). Therefore, changes would not be necessary.

19. SOCM stated that certain information contained in permit applications on file with the regulatory authority are required by 30 CFR 786.15 to be made available for public inspection upon written request. This requirement has been omitted from the State's narrative.

Tennessee's June 11, 1980, revised program (regulation 3.15) appears to satisfy the Federal requirement. Proposed regulation 3.15 appears to allow the public the same right to inspect permit applications as provided by 30 CFR 786.15. If regulation 3.15 is promulgated, no changes seem necessary.

20. The regulatory authority, indicates SOCM, is required to review all public comments pertaining to a permit application prior to making a decision. Neither State regulation 3.01(d) nor the State narrative specifically mentions this requirement.

Tennessee's revised regulation 3.17 appears to provide requirements identical to those required to 30 CFR 786.17(a)(1). The narrative description of the proposed system for processing notices of intention to explore and permit applications, however, appears unacceptable. Tennessee will, therefore, be required to submit additional information to comply with 30 CFR 731.14(g)(1).

21. SOCM also noted that 30 CFR 842.11(d)(1) clearly calls for a program of irregular inspections on weekends and at night to prevent illegal operations. If the State would establish a toll-free emergency number, citizens could assist the State in monitoring such operations.

The adoption of a toll-free number is discretionary with the State. Tennessee's proposed regulation 12.05(d) appears to be consistent with 30 CFR 842.11(d)(1). If the proposed regulation is promulgated, no changes seem necessary.

22. Tennessee's narrative and regulations, noted SOCM, do not include a system for receiving and processing citizen complaints in a fair and timely manner. There is no guarantee of anonymity if the citizen wishes to be granted that status, nor is there a procedure outlined for handling oral complaints by telephone. The coal fields are isolated from the State's regional offices and long-distance calls would pose a hardship on many citizens. SOCM, therefore, suggests establishing a toll-free number.

Also, stated SOCM, the Federal regulations required that a specific process for responding to citizens' complaints be established. Finally, asserts the commenter, there is no provision in the State program for reporting hearing findings to the citizen who initially requested an inspection or site hearing.

Significant portions of 30 CFR Part 842 have been omitted from Tennessee's proposed program. Tennessee will, therefore, be required to submit regulations comparable to those in 30 CFR Part 842 as discussed in the Director's letter. Inclusion of a toll-free number, however, is not required by the Federal regulations and would be discretionary with the State.

23. SOCM stated that Tennessee's revised program provides for record files in Nashville, Knoxville, and for permit applications only in local courthouses. No attempt has been made to create complete files in the major coal fields of the State.

Both Tennessee's proposed regulation 12.14(b) and 30 CFR 840.14(b) provide that record files should be made immediately available to the public in the area of mining so that they are conveniently available to residents of that area. Tennessee regulation 12.14(b) appears to be consistent with 30 CFR 840.14(b). Changes seem, therefore, unnecessary.

24. SOCM noted that Tennessee's June 11, 1980, revision did not set forth guidelines relating to the number of times the State should negotiate with an operator prior to bond forfeiture, the length of time one should negotiate, who should do the negotiating, or with what operators negotiations would most likely be successful.

Tennessee's bonding requirements in regulation 13 seems comparable to 30 CFR Part 808. Both the Federal regulation and proposed Tennessee regulations provide for similar procedures and criteria for bond forfeiture. The description of the process and procedure (731.14(g)(3)) for implementing and administering a system of performance bonding, however, is incomplete. Additional information will be required before an objective evaluation of the State's capability in this area can be made.

25. Tennessee Citizens for Wilderness Planning (TCWP) noted that Tennessee's implementing legislation omits provisions comparable to Section 522(e)(3)–(5) of SMCRA. These sections are pertinent to the State program and should be included in the State law, intead of only being relegated to the regulations.

Tennessee has elected to include provisions comparable to Sections of 522(e) of SMCRA under Section 13(r) of Tennessee's law. This "re-formatting" adequately addresses the Federal provisions since the provisions are fully enforceable.

26. TCWP stated that Subsection .31(f) of Tennessee's law, which provides for appeals of the Commissioner's decisions on a petition, does not have a Federal counterpart. The inclusion of this provision in Tennessee's law, asserts the commenter, weakens the 522 process and makes it not comply with Section 522 of SMCRA.

Subsection 31(f) of Tennessee's law and Tennessee regulation 10.08(h) appear to be consistent with Federal requirements. The inclusion of the Board

of Reclamation Review (BRR) merely includes an additional appeal in the administrative review process, and its decisions are subject to judicial review.

27. TCWP indicated that Tennessee's definition of "valid existing rights," proposed regulation 10.04(a)(1)(B)(ii), includes lands "adjacent to" operations ongoing and under permit on August 3, 1977. This is not based on Federal law, asserts the commenter, and could be used by the State to greatly expand areas exempt from designation as unsuitable.

Tennessee's revised program of June 11, 1980, concerning the inclusion of the language "adjacent to" in the definition of "valid existing rights" if promulgated, would be consistent with 30 CFR 761.5(a)(2)(ii).

28. Regulation 10.06(b)(2) of Tennessee's revised program, noted TCWP, exempts lands for which permits were issued after August 3, 1977. This, the commenter believes, is inconsistent with Section 522(a)(3) of SMCRA.

Section 522(a)(6) of SMCRA specifically states that the requirements of this section shall not apply to lands "under a permit issued pursuant to this Act" Tennessee's proposed regulation, therefore, appears to be consistent with the Act and 30 CFR 762.13(b).

29. TCWP indicated that regulation 10.07(e)(6) of Tennessee's June 11, 1980, revision should specify the time period for notifying the petitioner of the receipt of a permit application. Also noted the commenter, regulation 10.07(f)(3) of Tennessee's program should be revised; the cut-off period for intervention should be longer than 3 days.

Both regulation 10.07(e)(6) of Tennessee's June 11, 1980 revision and 30 CFR 764.15(a)(6) provide for notification to the petitioner. Both Tennessee revised regulation 10.07(f)(3) and 30 CFR 764.15(c) state that any person may intervene in the proceeding until 3 days before a hearing. Tennessee's revised regulations 10.07(e)(6) and 10.07(f)(3) appear to be consistent with Federal requirements at 30 CFR 764.15(a)(6) and 764.15(c). If the proposed regulations are promulgated, no further changes seem necessary.

30. TCWP indicated that the statement on the potential coal resources of an area and the impact on the supply of coal should pertain to the State's total resources and total supply.

Tennessee's revised regulation 10.08(d) provides for a statement on the potential coal resources of an area, the demand for those resources, and the impact on the environment, the economy and the supply of coal. This language appears to be consistent with 30 CFR 764.17(e). If the Tennessee proposed regulation is promulgated, no changes appear necessary.

31. Regulations 10.11(b)(1)(B) and 10.11(b)(2)(E)(i) of Tennessee's proposed program, noted TCWP, must be revised to indicate that "all lands that are included in the National Register of Historic Places should be exempted if adversely affected—not just publicly owned places, as stated in these paragraphs." As written, asserts the commenter, these Tennessee regulations are inconsistent with Section 522(e)(3) of SMCRA.

The Federal counterparts of these regulations, 30 CFR 761.11(c) and 761.12(f)(1), concerning privately-owned properties listed on the National Register have been suspended. (*See* 44 FR 67942.) For additional discussion of suspended regulations, the reader is referred to "General Background on State Program Approval Process" of this **Federal Register** notice.

32. TCWP indicated that Tennessee's proposed regulation 10.11 omits any mention of national forest lands and, therefore, does not track Section 522(e)(2) of SMCRA.

Section 522(e)(2) of SMCRA and 30 CFR 761.11(b) pertain to Federal lands within the boundaries of a national forest and, therefore, do not require promulgation of State regulations. Operations on Federal lands are governed by regulations published at 30 CFR Parts 740–745. Therefore, no change appears necessary for the State regulation.

33. TCWP stated that there is nothing in Federal law that would allow a previous owner of a dwelling to consent to surface mining operations closer than 300 feet as provided in Tennessee's proposed regulation 10.11(b)(1)(D).

Recognition of waivers given by previous owners as provided in regulation 10.11(b)(1)(D) appears inconsistent with the Act and 30 CFR 761.11(e). The language of regulation 10.11(b)(1)(D) would allow the operator to utilize a waiver given by a previous owner when the present owner would not necessarily be aware of the waiver.

34. Regulation 10.11(b)(2)(B)(ii) of Tennessee's proposed program, indicated TCWP, is in error because the language of the referenced section, 10.11(b)(1)(B), only requires that an operation "adversely affect" an public park or national historic site in order to deny a permit.

Tennessee's June 11, 1980, proposed regulation, if promulgated, seems more stringent than the Federal counterpart, 30 CFR 761.12, because it would require the regulatory authority to "follow-up" with additional contact where the Division is unable to determine the effect of operations on protected lands.

35. TCWP believes that Tennessee's proposed regulation 10.21(b) should be revised to include the Tennessee Wildlife Resources Agency among the list of agencies from which information is to be elicited.

Both Tennessee proposed regulation 10.21(b) and 30 CFR 764.21(b) include the United States Fish and Wildlife Service, the State Historic Preservation officer, and the agency administering Section 127 of the Clean Air Act as the agencies from which information is to be elicited. Tennessee's proposed regulation appears to be consistent with 30 CFR 764.21(b). Changes, therefore, seem unnecessary if the regulation were promulgated.

36. TCWP believes that Tennessee's revised program of June 11, 1980, did not provide a description of the system for implementing and administering Section 522 of SMCRA (Section 31 of the State law). Mr. Lenny L. Croce, a private citizen, also commented that Tennessee apparently had no provisions for designating lands as unsuitable for surface mining.

Tennessee did not submit the information required by 30 CFR 731.14(g)(11). Until the information becomes available, the Secretary will not be able to fully evaluate the State's ability and capability to implement and administer a "lands unsuitable" program.

37. The Wildlife Society asserted that the Tennessee Wildlife Resources Agency (TWRA) must review each mining plan to assure its compliance with Section 2.50 of Tennessee's proposed regulations. In this regard, the Wildlife Society asked if provisions have been made for the transfer of coal funds to TWRA. If not, such budgetary arrangements need to be made.

Tennessee's June 11, 1980, revised program does not describe the extent of involvement the TWRA will have in the review of permit applications. Therefore, the potential budgetary impacts are unclear. Funding of the various agencies which will have a role in the administration of the surface mining program is a matter to be resolved at the State level. It would appear reasonable, however, that any State agency providing support for the surface mining program should receive consideration in allocating the available fiscal resources.

38. Proposed regulation 16.97(d)(9)(i), noted the Wildlife Society, should include a statement stressing the need to permanently retain safely constructed sediment ponds for the benefit of fish and wildlife.

Tennessee's proposed regulation 16.97(d)(9)(i) and its Federal counterpart, 30 CFR 816.97(d)(9)(i), both provide for certain criteria to be followed to enhance fish and wildlife habitat where select plant species are used on reclaimed areas. The Federal regulation does not require nor does it stress retaining sediment ponds permanently. As written, Tennessee's June 11, 1980, proposed regulation 16.97(d)(9)(i) appears consistent with 30 CFR 816.97(d)(9)(i). If the proposed regulation is promulgated, the suggested revision appears unnecessary.

39. Regulation 17.114(h)(3) of Tennessee's proposed program, noted the Wildlife Society, indicates that the planting season for trees is given as November 1 to May 1 while the planting time for wildlife shrubs and trees is given as February 1 to April 15 in Section 17.114(i)(2)(A). Although the optimum planting time is the latter date, the Society asserts that wildlife vegetation is as hardy as forest trees and should also be allowed the longer planting season.

The Director has notified Tennessee, by letter, of this inconsistency.

40. Tennessee's proposed regulation 17.114(i) simply allows wildlife plantings to be interspersed in clumps or strips among forest tree species with the end result being a solidly planted mine site. In many cases, asserted the Wildlife Society, a better wildlife plan would be to leave open spaces on the mine broken by strips and clumps of wildlife vegetation. Additionally, continues the commenter, the operator should be allowed to submit other fish and wildlife planting designs for review and approval. This section as written is too inflexible.

Tennessee's proposed regulation 17.114(i) appears to be consistent with Federal requirements. Paragraph (1) of this regulation, if promulgated, would provide sufficient flexibility to meet a variety of conditions and objectives. The permit applicant can submit a postmining land use plan which emphasizes fish and wildlife resources. Additionally, an approved reclamation plan can be modified to reflect changing conditions or more recent information. In this regard, Tennessee's proposed regulation 17.114(i) would not prevent the operator (permittee) from submitting a revised reclamation to the regulatory authority.

41. The Wildlife Society believes that Tennessee's proposed regulation 17.114(i)(1) should be changed to read "autumn olive and two or more of the following" in lieu of "of one or more of the following." The commenter does not specify the rationale for the change.

If promulgated, Tennessee's proposed regulation 17.114 appears consistent with and more stringent than 30 CFR 817.114, by providing specific preparations, mixture, and seed requirements for revegetation. Therefore, the suggested change is discretionary with the State.

42. Bush honeysuckle, stated the Wildlife Society, is a poor species to plant on most surface mines because of inadequate survival rates. The species is one of several listed that an operator may plant for revegetation spacing under proposed regulation 17.114(i)(2)(ii).

If promulgated, Tennessee's regulation 17.114, as discussed immediately above, appears more stringent than 30 CFR 817.114. Therefore, deletion or substitution for the species noted by the commenter would be discretionary with the State.

43. The Wildlife Society stated that *Sericea lespedeza* will present a severe competition problem for both planted and naturally invading vegetation on almost all surface mines where it is sown.

If promulgated, Tennessee's proposed regulation 17.114(k), which allows replacing *Sericea lespedeza*, appears consistent with the Federal requirement. However, the State will be advised to carefully consider the comment to assure early resolution of any problems. Any changes to the regulation would be discretionary with the State and subject to approval by the Secretary.

44. Virginia R. Tolbert indicated that the bonding requirements set forth in the proposal are vague and the amounts suggested per acre are inadequate for reclamation if the bond is forfeited. Additionally, notes the commenter, the State has a poor record for collection of these bonds and for subsequent reclamation of abandoned lands. Ms. Tolbert further alleges that Tennessee's previous record of administering and enforcing a surface mining program in Tennessee is extremely poor and, therefore, suggests rejection of the proposed program.

Tennessee's proposed bonding regulations and the description of the system for implementing such regulations appear to be inadequate. With regard to the allegations that the State has compiled a poor record for administering and enforcing surface mining laws prior to SMCRA, the Secretary is prohibited from considering past performance in deciding whether to approve a State program, as discussed in comment 13 above.

45. The Sierra Club noted that Tennessee's June 11, 1980, revised program did not include several of the requirements of 30 CFR 731.14(g). In particular the State needs to describe systems relating to public participation, staffing needs, funding, inspection and enforcement, bonding, assessing civil penalties, etc., in much greater detail. The Tennessee Environmental Council also expressed concern about deficiencies in those areas.

Tennessee's revised program of June 11, 1980, did not include several of the descriptions of systems, as noted by the commenter.

46. Fred W. Wyatt requested clarification regarding the July 21, 1980, public hearing in Knoxville, Tennessee. Specifically, Mr. Wyatt wondered if this public hearing satisfied the provisions of Section 503(b)(3) of the Act which requires at least one public hearing within the State prior to Secretarial approval of the State program.

The hearing was held to satisfy the requirement of Section 503(b)(3) of the Act. See Finding 10, above.

47. Mr. Wyatt also stated that, assuming Tennessee's proposed program is not approved and given the November 3, 1980, deadline for resubmission of a State program and the 60 day period for review by the Secretary, it would appear that the time factor involved for public participation will exceed the January 3, 1980, deadline for approval.

Federal regulation 30 CFR 732.13(f) provides that the public hearing on a resubmitted program may be held within 15 days of the publication of notice of receipt of the program. The deadline for written comments on the resubmission is discretionary with OSM, to the extent that it follows the public hearing. These Federal requirements permit sufficient flexibility to permit full public participation within the 60-day period for the Secretary to review and reach a decision on the resubmitted program.

48. Assuming the State gains primacy on January 3, 1980, all mining operations, noted Mr. Wyatt, must submit new applications by March 3, 1981, and the State must issue or deny all permits within 8 months of State program approval or by September 3, 1981. This date, however, would tend to conflict with the February 3, 1981, date (42 months after enactment of SMCRA) established by Section 502(d) of SMCRA.

On October 22, 1979, the Office of Surface Mining published amendments to 30 CFR Subchapter C (44 FR 60969) extending the latest date for submission of a State program to March 3, 1980. This revision was in response to an August 21, 1979, court order permanently enjoining the Secretary from requiring the submission of State programs on the

date required under Section 503(a) of the Act. Along with this amendment and based on an Interior Department Solicitor's opinion consistent with the court order, the final date for the Secretary to approve or disapprove a State program was extended to January 3, 1981.

Although neither the court order nor the Solicitor's opinion specifically addressed the deadlines for permit applications and approval in Section 502(d) of SMCRA, extending the final date for permit approval to September 3, 1981—or 8 months following approval of the State program is consistent with both decisions and the Federal regulations.

49. Rural Legal Services of Tennessee, Inc. (RLS) asserted that Tennessee's proposed regulations of June 11, 1980, are not fully enacted as required by 30 CFR 732.11(d). Additionally, many of Tennessee's proposed regulations are inconsistent with Federal requirements.

Tennessee's proposed regulations do contain numerous deficiencies, as noted by the commenter. For specific discussion of the inconsistencies between the State's proposed program and the Federal regulations, the reader is referred to the Director's letter to Tennessee.

50. Tennessee's proposed program, noted RLS, did not include several Tennessee laws and regulations that affect certain portions of the State surface mining law. These include the State Safe Dams Act and the Coal Severance Tax Act.

Tennessee is being requested to submit all laws and regulations that affect portions of the State surface mining law. See Finding 29.

51. RLS indicated that Tennessee's revised program omits several of the required systems for implementing a State program. Other systems as presented, asserts the commenter, are incomplete or inadequate and should not be approved until more detailed information is provided. Specifically, the systems descriptions for 30 CFR 731.14(e), 731.14(g)(2)–(8) and (g)(12)–(16), 731.14(h), and 731.14(j) are either not included in Tennessee's submission or are inadequately developed.

Tennessee's description of systems, as required by 30 CFR 731.14, is deficient in several areas. For additional discussion of these deficiencies, the reader is referred to the Director's letter to Tennessee.

52. The Council of Southern Mountains (COSM) stated that Section 3(v) of the Tennessee Act and regulation 1.03 define "permittee" only as a person holding a permit. This, asserts the commenter, is inconsistent with 30 CFR 701.5, which includes in the definition of "permittee" those persons required to hold a permit.

Tennessee's definition of "permittee," as provided in Tennessee's law, is consistent with SMCRA. However, the omission in Tennessee's regulations of the language noted by the commenter seems to be a significant departure from the Federal counterpart.

53. Both the Tennessee act and regulations, noted the COSM, punctuate the definition of "surface mining operations" with semicolons throughout. This changes the meaning of that term, contrary to section 701(28) of SMCRA and 30 CFR 701.5.

The use of semicolons does not change the meaning of the definition of "surface mining operations" to a less stringest standard. Therefore, the Tennessee definition, as provided in Section 3(gg) of the Tennessee Coal Surface Mining Law of 1980, is consistent with the Federal requirement.

54. The COSM commented that Tennessee's program does not contain an equivalent to Section 517(h)(2) of the Act and 30 CFR 842.14, as required by 30 CFR 732.15(b)(10) and 840.15.

While a counterpart to Section 517(h)(2) of SMCRA is not required in a State statute, a regulation is required to provide similar public participation. A counterpart to 30 CFR 842.14 has been omitted from Tennessee's revised submission. The State will be notified to submit the required provisions and information for review and approval.

55. Tennessee's proposed regulation 12.05(e), noted the COSM, does not clarify the investigation of imminent hazards requirements of Section 15(i) of Tennessee's Act. The statute, continued the commenter, suggests that imminent hazards will be investigated immediately only if proof is provided that they exist. Such a proof requirement is not consistent with 30 CFR 842.11 and 842.12.

Tennessee's statute is consistent with the SMCRA in this regard. Section 521(a)(1) of SMCRA allows immediate action upon "adequate proof" and Section 15(i) of TCSML provides for immediate appropriate action "if proof is provided." The State, however, should clarify the "proof" requirement in its regulations to be consistent with the Federal requirements and add no additional hurdle of proof before investigating an imminent danger.

56. The COSM stated that the Tennessee statute and regulation 12 provide for a "complete report" to a complainant. COSM asserts that it must be made clear that a "complete report" includes a description of actions taken or an explanation of why no action was taken.

The suggested revision would clarify the report contents and Tennessee is being informed of this need for clarification.

57. COSM notes that Tennessee has not promulgated regulations corresponding to 30 CFR Part 843.

Tennessee is being requested to provide proposed regulations consistent with 30 CFR Part 843.

58. COSM maintains that the Tennessee program does not address the intervention, discovery, public participation and award of cost and expenses requirements of 43 CFR Part 4.

Tennessee's proposed program is deficient in these areas. Additional information must, therefore, be submitted to the Secretary for review and approval.

59. The COSM commented that Tennessee's proposed 19 inspectors is inadequate. The COSM suggests that at least 41 inspectors are needed to perform the State's mandatory duties.

Based on information submitted, Tennessee's proposal for an inspection force is inadequate.

60. The Environmental Policy Institute (EPI) notes that Tennessee's Coal Surface Mining Law, Sections 7(b)(1) and 7(m), impose certain informational requirements pertaining to the permit applicant's subcontractors and place a limitation on their use. EPI would have the Secretary require the State to apply the conditions, relevant to past performace, for the grant of a permit to the applicant's subcontractors as well.

Section 7(b)(1) of TCSML requires, in the event a subcontractor is used, that the permit application contain the same information on the subcontractor as required in Section 7(b)(1) and 7(b)(3) on the applicant. Similarly, Section 7(b)(4) explicitly includes proposed subcontractors in its requirements. These requirements in the TCSML relate to the prohibition in Section 7(m) against the use of subcontractors whose own operations are in violation or who have previously had a bond forfeited or have been convicted of "wildcat" mining. The informational requirements pertaining to "subcontractors" and the limitations on their use are not found in SMCRA. Tennessee's efforts in this area have resulted in a statute that is more stringent than SMCRA. Moreover, Section 13 of TCSML, pertaining to permit approval or denial, has provisions which are as stringent as the provisions of Section 510 of SMCRA. Therefore, no change is required.

61. EPI and RLS observe that Section 8 of the TCSML exempts local governments and State agencies from

paying permit application and acreage fees. They maintain that this is inconsistent with Section 507(a) of SMCRA, which they characterize as requiring a fee, and Section 524 which states that governmental agencies shall comply with the provision of Title V of SMCRA.

Section 507(a) of SMCRA gives the State wide discretion in determining the amount of the application fee. The fee does not need to cover the cost of reviewing, administering and enforcing the permit. The application fee in Tennessee is $250 for initial applications, $200 for renewals, and $50 for exploration permits. State agencies and local governments are instrumentalities of the State. There is no purpose to require the State to collect an application fee from itself.

EPI and RLS also allege that State agencies and local governments are exempted from the bonding requirements of Section 36 of TCSML. They assert that this provision is inconsistent with Section 524 of SMCRA.

Section 36 of TCSML provides that local government entities and State agencies shall not be subject to fees or bonds *except* as otherwise provided by the TCSML. The bonding provisions of the Tennessee law are found in Section 9. Local government entities and State agencies are subject to the provisions of Section 9. Therefore, no change is required.

62. EPI maintains that the Tennessee act has no counterpart to Section 508(a)(12) of SMCRA requiring, as a part of the reclamation plan, information on the results of test borings and the location of subsurface water and an analysis of the chemical properties, including acid forming properties, of the mineral overburden.

However, these provisions for information and analysis are found in Section 7(b)(14) and (15 of TCSML as an informational requirement of the permit application. The Tennessee decision to put these requirements under this section rather than under the reclamation plan provision does not have any less stringent significance. This is true especially in light of the Section 508(a) of SMCRA requirement for the reclamation plan to be contained as part of the information required in the permit application. Therefore, no change is required.

63. EPI and RLS maintain that Section 7(b)(9) of TCSML may provide less time for public review and comment regarding permit applications, and thus is less stringent that the Federal counterpart.

Section 7(b)(9) of TCSML provides that prior to the filing of the permit application the applicant shall have placed in a newspaper of general cirulation in the locality of the proposed mine site, once a week for four consecutive weeks, an advertisement announcing, among other things, the location of the place where the application is available for public inspection. Section 13(b) of TCSML provides for a thirty-day period of comment beginning after the last publication of the newspaper notice or receipt of the complete application, whichever is later.

Section 513(a) of SMCRA requires a similar newspaper advertisement, but it is to begin to run on the date the application is filed. Section 513(b) of SMCRA provides for a thirty-day comment period which begins to run after the last publication of the newspaper notice.

EPI and RLS view the Tennessee scheme as allowing only thirty days for review and comment, whereas in the Federal scheme a sixty-day period is allowed.

The Secretary disagrees. Both statutes provide for a thirty-day inspection period and a thirty-day comment period. Tennessee's inspection period differs only by preceding the actual filing of the application. Section 513(a) of SMCRA sets forth the newspaper advertisement requirement. Section 513(b) separately provides for the comment period and states that "(a)ny person * * * shall have the right to file written objections * * * within thirty days after the last publication of the * * * notice." Therefore, no change is required.

64. EPI and RLS take issue with the wording of Section 13(e) of TCSML, which section provides that "any person aggrieved" may appeal a permit application decision. COSM joins these commenters in questioning the wording of Section 21(f)(1) of TCSML which provides that the Board of Reclamation Review shall hear appeals from "mineral owners, operators, property owners, or other interested parties aggrieved * * *" RLS also points to similar language in 21(g)(9) of TCSML, which concerns temporary relief applications. All commenters assert that the State's wording may be more restrictive than SMCRA. EPI and RLS point to Section 514(c) of SMCRA, the counterpart to Section 13(e) of TCSML, which provides that "any persons with an interest which is or may be adversely affected" may request a hearing on a permit application decision. The commenters point to Section 21(g)(1) of TCSML which provides that "any person having an interest which is or may be adversely affected" by any decision of the Commissioner may have a hearing. They assert that Section 21(g)(1) is not consistent with 21 (f)(1) of TCSML. RLS states that the difference in the use of the two terms can be seen in Section 514(f) of SMCRA which provides the right of judicial appeal to "any person with an interest which is or may be adversely affected and who has participated in admininstrative proceedings as an objector, *and* who is aggrieved by the decision of the regulatory authority."

A difference does exist between the two choices of phraseology used. The State language refers to past action, rather than past and possible future action. In addition, the State language may by specifying "parties," limit challenges to previous participants. Therefore the Secretary has not approved the TSCML pharaseology to the extent that the phrases may be more restrictive with respect to standing. (*See* Finding 2.09.)

65. EPI and RLS commented that Section 14(c) of TCSML is inconsistent with Section 511(c) of SMCRA. They maintain that the Tennessee act provides for one-time review to occur within one year of the passage of TCSML, whereas Section 511(c) provides for these reviews to occur on a continual basis. EPI specifically suggests that the Secretary require Tennessee to delete that portion of its Section 14(c) which reads "within one year after the passage of this act."

The commenters are correct insofar as they maintain that Section 14(c) of TCSML, by itself, could be interpreted to make the review of outstanding permits a one-time event. However, upon consideration of other provisions of TCSML, the Secretary has concluded that the Tennessee act provides for reviews to occur on a continual basis. Section 4 of TCSML grants the Commissioner broad powers to promulgate regulations. Section 10(f) of TCSML provides that the Commissioner may require a change in the mining or reclamation plant to take into account changed conditions or to correct any previous oversight. Section 14(a)(1) has a similar provision pertaining to permits. Section 15 of TCSML gives the Commissioner wide powers to require reports and information from permittees, and Section 16 affirmatively requires an annual report from each permittee. These provisions taken together give the Commissionerr more than an adequate statutory basis for requiring and carrying out periodic permit reviews. Further, Section 511(c) of SMCRA provides that the time limit for the

review of outstanding permits shall be prescribed in regulations, and Tennessee's proposed regulations 4.11 provides for continual periodic mid-term reviews of all outstanding permits. Therefore, no change is required.

66. EPI and RLS maintain that Section 17(b) of TCSML is unclear as to whether a cessation order will be issued at the mine site in cases involving imminent danger to the health and safety of the public or the possibility of significant imminent harm to the environment. RLS asserts that the wording of Section 17(b) of TCSML is not specific enough. Both commenters claim that Section 17(a) of TCSML is a factor in creating this asserted lack of clarity in that Section 17(a) provides for personal service or service by certified mail of the cessation orders and notices of violation. The commenters insist that this allows the inspector to avoid issuing a cessation order at the mine site.

The Secretary disagrees. The intent of Section 17(b) clearly provides: "If the Commissioner or his designee determines that there is imminent danger to the health and safety of the public, or the probability of significant, imminent environmental harm, he shall issue an immediate, emergency cease order directing all operations to cease * * *" The service by certified mail provided for in Section 17(a) is an alternative means when onsite service is not possible. To read this provision as implying that service by mail may be used to avoid requiring the immediate cessation of operations would appear contrary to the express language of Section 17(b). Section 521(a)(5) of SMCRA states that notices and orders shall be "given promptly to the permittee or his agent." The Federal provision contains no more specificity than the Tennessee provision. Therefore, no change is required.

EPI, RLS and COSM maintain that Section 17(b) does not provide for the Commissioner to impose affirmative obligations to correct the condition causing imminent danger to the health and safety of the public or the probability of significant imminent harm to the environment. EPI and RLS refer to Section 4(f) of TCSML and assert that this section also fails to provide a basis upon which to order affirmative obligations. RLS specifically points out that Section 4(f) of TCSML mentions "remedial measures" but not "affirmative obligations."

The Secretary disagrees. The Tennessee act requires and authorizes the Commissioner to order the performance of any work necessary to abate conditions causing an imminent change to the health and safety of the public or a possibility of significant, imminent environmental harm. Section 17(b) of TCSML states that a cessation order shall require the cessation of all operations "except those directed toward removing the danger." Section 4(f) of the TCSML provides that powers of the Commissioner "shall have and exercise" the power and authority "to issue * * * cease orders * * * requiring the adoption by an operator of remedial measures necessary * * *." These provisions, read together or separately, authorize and obligate the Commissioner to order the performance of appropriate corrective actions. Therefore, no change is required.

67. COSM comments that Tennessee's Section 17(b) is not in accordance with Section 521(a)(2) of SMCRA because 17(b) requires that there be a "probability" of significant imminent environmental harm. Section 521(a)(2) of SMCRA uses the phraseology "is causing, or can reasonably be expected to cause significant, imminent environmental harm." COSM maintains that it must be made clear that Tennessee's "probability" finding is not more of a hurdle than its Federal counterpart to actions under Section 17(b) of TCSML.

The Secretary recognizes a possible difference between the two choices of phraseology. Therefore, the Secretary has not approved this phraseology in TCSML, Section 17(b) to the extent that the meaning of the phrase imposes a greater likelihood standard than SMCRA. The Secretary has requested an Attorney General opinion for clarification. (*See* Finding 2.11.)

68. COSM comments that the affirmative obligations for cease orders are not adequately spelled out in Section 17(a) of TCSML. COSM maintains that Section 17(a) establishes no standards as does Section 521 of SMCRA and 30 CFR 843.11 regarding imposition of affirmative obligations to abate in the most expeditious manner possible where cessation itself does not abate the problem. Similarly, COSM contends there is no provision for specific obligations concerning use of existing or additional resources.

Section 521(a)(3) of SMCRA provides for the issuance of cessation orders for failure to abate violations previously subject to a notice of violation. Section 17(a) of TCSML has essentially the same provision. However, Section 521(a)(3) of SMCRA also provides that the Secretary shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order. While Section 17(a) of TSCML does not itself have this provision, Section 4(f) of TCSML provides that the Commissioner shall have and exercise the authority and power "* * * to issue * * * cease order [5] * * * requiring the adoption by an operator of remedial measures necessary * * *." Further, Section 17(a) does provide that the notice of violation preceding the cessation order for failure to abate shall "Impose whatever affirmative obligations are necessary to correct the violation." There is no indication in the Tennessee act that these affirmative obligations are negated by the issuance of a cessation order for failure to abate the violation. Therefore, no change is required.

69. EPI, RLS and COSM commented that the Board of Reclamation Review, provided in Section 21 of TCSML, includes two members who shall be representatives of the mining industry. EPI maintains that this is an "inherent conflict of interest" that does not allow for objective decisionmaking. RLS asserts that the makeup of the board is "unconstitutional" and "illegal." RLS maintains that two members of this supposedly impartial board cannot lawfully be required to represent mining interests. COSM terms the mixed board a "major deficiency," and provides an extensive legal memorandum on the subject. Although COSM acknowledges that members of the board are subject to the conflict of interest provisions of the Tennessee statute, they maintain that the makeup of the board is partial and illegal because it is designed to reflect interests.

The Secretary must disagree because 30 CFR 705.5 states explicitly that, "* * * members of advisory board or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees." Section 517(g) of SMCRA which requires in the relevant part that "no employee of the State regulatory authority performing any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operation," is therefore not applicable to the Tennessee Board of Reclamation Review. In response to a petition filed on December 15, 1978 (44 FR 11795, March 2, 1979) the Secretary proposed certain amendments to the regulations (44 FR 52098, September 6, 1979). Since no final regulations have been promulgated at this time, Tennessee's proposal for a "mixed" board is not inconsistent with Federal law or regulations.

However, Tennessee's proposed regulation 35.05 has defined "employee" as including the members of the Board of Reclamation Review who were

appointed to represent mining interests. Section 33 of TCSML prohibits all employees of the Department of Conservation from having any direct or indirect financial interest in underground or surface coal mining operations. This provision of the TCSML then applies to those members of the board appointed to represent mining interests and it is, to that extent, as stringent as Section 517(g) of SMCRA. Therefore, no change is required.

70. EPI and RLS comment that Sections 21(g)(1) and 21(g)(9) of TCSML are in conflict. Section 21(g)(1) states that an appeal shall not result in a stay of the decision appealed from and Section 21(g)(9) provides for a stay pending appeal. They maintain that this conflict should be resolved.

Section 21(g)(1) contains the general rule that an appeal of a decision will not act to stay its effect. Section 21(g)(9), on the other hand, is a provision for temporary relief (upon written request) from the decision being appealed, pending determination of the appeal. Sections 21(g)(1) and 21(g)(9) of TCSML are therefore consistent with the counterpart provisions found in Section 525(a) and 525(c) of SMCRA except as stated in Finding 2.10.

EPI and RLS state that TCSML does not have a counterpart to Section 514(d) of SMCRA which provides for temporary relief from decisions on permit applications pending appeal. They assert that Section 21(g)(9) applies only to notices of violation and cessation orders. RLS stresses the importance of such relief to citizens affected by proposed operations.

Section 13(e) of TCSML provides that any person aggrieved by a decision on a permit application may appeal to the Board of Reclamation Review and that the hearing of such appeal shall be conducted as provided in Section 21(g) of TCSML. Section 21(g) has a number of provisions including Section 21(g)(9) which provides that "any person aggrieved by *a decision* of the Commissioner may, after filing an appeal with the board file with the Commissioner, a written request that the Commissioner grant temporary relief from any notice or order." (emphasis added) Although the EPI acknowledges that Section 21(g)(9) has the temporary relief elements of Section 514(d) of SMCRA, it insists that the word "order" be construed so as only to refer to "cessation orders." RLS takes a similar view. Thus the commenters contend these provisions do not apply to decisions on permit applications. The Secretary agrees that Section 21(g)(9) of TCSML may not provide for temporary relief from decisions on permit applications. (*See* Finding 2.10)

71. EPI and RLS object to the provision in Section 21(g)(3) of TCSML which requires that the cost of preparation of the transcript shall be paid for by the party requesting it. The commenters observe that Section 514(e) of SMCRA has no provision for a charge, and they view any charge as an undue burden.

The Secretary disagrees. The Tennessee provision is not inconsistent with Federal practice and Section 514(e) of SMCRA does not require transcripts to be given out free. Section 21(g)(3) of TCSML requires a verbatim record to be made of the hearing. Although it explicitly provides that the cost of providing a copy of the transcript be paid by a party requesting the transcript, the costs of the hearing and transcripts are similarly borne by the parties in the Federal practice.

72. EPI and RLS comment that while Section 33 of TCSML has provisions for prohibited employment and financial interests for the regulatory authority employees, TCSML has no language as to how this statutory mandate is to be implemented. EPI acknowledges that Section 4 of TCSML grants the Commissioner the power to adopt regulations on conflicts of interest, but it comments, as does RLS, that there is no language, as found in Section 517(g) of SMCRA, requiring the adoption of such regulations.

The Secretary disagrees that Section 33 of TCSML must provide an explicit requirement for regulations. Section 517(g) of SMCRA requires that the Secretary adopt regulations to establish methods by which the provisions of 517(g) will be monitored and enforced by the Secretary and the State regulatory authority. Those regulations were published in the Federal Register on October 20, 1977, (42 FR 56060 *et seq.*) and appear in 30 CFR Part 705. Tennessee must implement a counterpart regulation to those Federal requirements.

73. RLS notes that Section 13(e) of TCSML refers to a hearing on appeal of a permit application decision, which hearing is to be conducted according to the provisions of Section 21(h), but that TCSML has no Section 21(h). RLS also notes that Section 21(g)(1) of TCSML references 21(h)(8) which too does not exist.

These errors apparently result from the section numbers used in an earlier draft being carried over into the instant one. The provisions apparently intended to be referenced are Sections 21(g) and 21(g)(8), respectively. The Secretary assumes that these are typographical errors and that reference to Section 21(h) will be read as reference to 21(g).

74. RLS states that Section 11(b)(16)(B) of TCSML refers to the "Secretary" when it should say "Commissioner." RLS observes that the Secretary has no authority to promulgate Tennessee regulations.

Section 515(b)(16) of SMCRA allows the regulatory authority to grant variances from the contemporary reclamation requirement therein if, among other things, the Secretary has promulgated specific regulations to goven the granting of such variances. The reference in Section 11(b)(16)(B) of TCSML to the Secretary's regulations is, therefore, not inconsistent with the Federal counterpart. Therefore, no change is required.

75. COSM questions that portion of Section 17(a) of TCSML which provides for issuance of a cessation order if the previously noticed violation has not been abated or "the operator has not reached an agreement with the Commissioner." The commenter maintains that this provision conflicts with Section 521(a)(3) of SMCRA where the enforcement provisions are mandatory.

Section 521(a)(3) of SMCRA provides for issuance of a cessation order "after expiration of the period of time as originally fixed or subsequently extended" if the violations are not abated. The Secretary believes that the "agreement language" in Section 17(a) of TCSML appears ambiguous and may result in unacceptable extensions of time for abatement or in nonabatement. This would be inconsistent with Sections 521(a)(2), (3), and (5) of SMCRA, concerning extensions of time for good cause, modifications, vacations, and terminations. (*See* Finding 2.4.)

76. COSM comments that there is a "suggestion" in Section 18 of TCSML, regarding the assessment of civil penalties, that a second notice of violation may be issued instead of a failure to abate cessation order.

The Secretary assumes that the word second refers only to "notice of violation" and that a penalty shall be assessed for every cease order issued pursuant to TCSML Section 17. The Secretary has requested clarification. Section 18 of TCSML may not be so interpreted. (*See* Finding 2.1.) The language that probably concerns COSM appears in the portion of the statute dealing with civil penalties and not in the enforcement portion, i.e., Section 17. Section 17 may not provide for the issuance of a second notice of violation in lieu of a cessation order for failure to abate. (*See* Finding 2.3.)

77. COSM maintains that Section 17(a) of TCSML is unclear regarding the suspension and revocation of permits for a pattern of violations. The commenter notes that at one point 17(a) states that "if necessary, the Commissioner or his designee shall order suspension or revocation of a permit * * *," and later "The Commissioner or his designee shall * * * suspend or revoke permits for a pattern of violations."

The Secretary disagrees because the Tennessee statute Section 17(a), mandates action consistent with Section 521(a)(4) of SMCRA for pattern of violations. Both require suspension or revocation of permits for pattern of violations.

78. COSM comments that Section 21(g)(9) of TCSML, which provides that the Commissioner may grant temporary relief from its own decisions once an appeal has been filed with the Board of Reclamation Review, is not in accordance with Section 525 of SMCRA and is not consistent with due process guarantees given the Commissioner's status.

Section 525(c) provides that the Secretary may grant temporary relief pending the completion of the investigation and hearing pursuant to an application for review of a notice of violation or cessation order. The Tennessee statute similarly provides that the Commissioner may grant temporary relief pending the conclusion of an appeal to the Board of Reclamation Review. Therefore, no change is required.

79. COSM criticizes Section 21(g)(10) of TCSML, which provides for the award of attorney fees, for confusion as to who properly determines the award. Tennessee provides that the Commissioner and the Board of Reclamation Review, as does a court, shall award costs and fees incurred at their respective levels of litigation. COSM maintains that the award should be made, for the whole proceeding, at the level of the final decision.

The Secretary disagrees. The Tennessee statute provides the same or similar requirements as Section 525(e) of SMCRA, by providing that the award of attorney fees may be assessed against either party as the court, or the Secretary (in SMCRA) or Commission (in TCSML) deems proper. The Tennessee statute is consistent with Section 525(e) of SMCRA. Therefore, no change is required.

80. In commenting on Section 20 of TCSML, COSM states that "it must be made absolutely clear that costs and expenses may be awarded against citizens only where the action has been initiated in 'bad faith' as has been determined under Federal case law."

Section 20(d) of TCSML reads substantially verbatim with Section 520(d) of SMCRA. Accordingly, the Secretary concludes that the Tennessee statutory provision meets the requirements of its Federal counterpart. However, the Secretary will evaluate Tennessee's resubmission for assurance that attorney's fees will be awarded against citizens only in circumstances where they would be so awarded under Federal practice.

81. COSM also comments that Section 20 of TCSML does not define "person with an interest which is or may be adversely affected." The commenter maintains that the definition must be coterminous with the broadest standing requirements enunciated by the U.S. Supreme Court.

The Tennessee statute uses the exact language of its counterpart, Section 520(a) of SMCRA. Therefore, no change is required.

82. COSM takes issue with several provisions of the Tennessee Administrative Procedures Act, TCA 4–501 *et seq.* COSM maintains that the matter of standing to seek judicial review is unclear. COSM questions whether the standing provided in TCA 4–507 to 4–527 meets the requirements of Section 526 of SMCRA.

Section 526(e) of SMCRA provides that "Action of the State regulatory authority pursuant to an approved State program shall be subject to judicial review by a court of competent jurisdiction in accordance with State law * * *."

TCA 4–523 provides, with respect to administrative proceedings, that "A person who is aggrieved by a final decision a contested case is entitled to judicial review * * *." Section 21(a) of TCSML provides that "Any final order or determination by the Board of Reclamation Review shall be subject to judicial review * * *." Section 22(c) of TCSML provides for a right of appeal for judicial review whenever the Board of Reclamation Review or the Commissioner fails to act within the time limits set by TCSML. Such right extends to a permit applicant or any person with an interest which is or may be adversely affected who has participated in the administrative proceedings as an objector and who is aggrieved by this failure to act. The Secretary believes that the various provisions of TCSML read in conjunction with Tennessee's Administrative Procedures Act warrant the conclusion that not only has Tennessee met the requirements of Section 26 of SMCRA but that Tennessee has established a basis for even broader standing to seek judicial review.

83. COSM observes that TCA 4–511 requires five or more persons "having an interest" to petition for rulemaking, whereas Section 201(g) allows "any person" to petition for rulemaking.

The Secretary agrees as discussed in Finding 29.02.

84. COSM comments that under TCA 4–509 and 4–530 rulemakings do not require a hearing or result in a basis and purpose statement except upon request. COSM maintains that this is more restictive than Federal rulemaking requirements, citing Section 501 of SMCRA and 5 U.S.C. 553.

The Secretary has found that the cited portions of Tennessee's Administrative Procedures Act (APA) are consistent with Federal rulemaking requirements, and that the Tennessee program is acceptable in this regard. TCA 4–509 requires that the agency "consider fully" all written and oral submissions respecting proposed rules; however, a "concise statement of the principal reasons for its actions" is not required unless requested by an interesed person. This merely permits a waiver of what the party otherwise has a right to. In this respect, a participant in a rulemaking proceeding under Tennessee's APA does not have any less rights than under 5 U.S.C. 553(c) which requires only that the agency "consider" relevant matter presented and then issue a "concise general statement" of the basis and purpose of the rule.

Tennessee's hearing requirements in TCA 4–530, on the whole are consistent with those found in the Federal Admininstrative Procedures Act. While TCA 4–530 requires a public hearing upon petition by twenty-five persons or an association representing twenty-five or more persons, 5 U.S.C. Section 553(b) gives the agency broad discretion to avoid notice and public procedure where it is "impracticable, unnecessary, or contrary to the public interest."

85. COSM suggests that standing to seek judicial review of a rule under TCA 4–512 may be more stringent than under Section 526 of SMCRA.

TCA 4–512 provides that a rule may be challenged, in a suit for declaratory judgment, if the court finds that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the complainant. Section 526(a) of SMCRA provides that any Secretarial action to approve or disapprove a State program or to prepare or promulgate a Federal program shall be subject to judicial review upon petition by any person who

is aggrieved. No significant difference exists between the two standards. Each standard, on its face, provides very broad standing for any interested party who is adversely affected by a rule.

86. COSM observes with respect to Tennessee's APA that TCA 4–512 apparently allows ongoing challenges to the validity of a rule, whereas Section 526 of SMCRA permits such challenges only if filed within 60 days of the rule's promulgation.

The Secretary agrees. (*See* Finding 29.02.) This provision in the Tennessee APA is inconsistent with the Federal counterpart which allows for finality of rulemaking and provides fairness to both operators and the public. Tennessee's decision to permit a rule to be overturned anytime a court finds the rule exceeds the statutory authority of the agency, or the rule was adopted without compliance with the rulemaking proceedings of the Tennessee APA, is inconsistent with SMCRA.

87. COSM criticizes Section 21(g)(8) of TCSML which contains provision for rehearing upon request by any persons to whom an order of suspension of a permit is directed. The commenter maintains that this is contrary to Section 521(a)(4) of SMCRA. COSM insists that once a pattern of violations is found the permit must be suspended or revoked.

Section 17(a) of TCSML provides for the suspension or revocation of permits for a pattern of violations after the issuance of a show cause order and offering an opportunity for public hearing. If the operator fails to show cause why the permit should not be suspended or revoked the permit will be suspended or revoked and the operator must cease mining and complete reclamation. Section 21(g)(8) of TCSML provides a hearing on a permit suspension order. The order of suspension remains in effect, however, unless temporary relief is granted. This is consistent with the Federal law and regulations, including 43 CFR 4.1196 of the Secretary's regulations which provides for appeals from admininstrative law judge decisions in proceedings for suspension or revocation of permits under Section 521(a)(4) of SMCRA. Therefore, no change is required.

88. The League of Women Voters of Tennesssee and Lenny L. Bruce, a private citizen, commented that the Tennessee legislature did not include in its law a clause providing for the confiscation of wildcat equipment. The Secretary's rules do not require the State to provide for the confiscation of wildcat equipment. Therefore, no change is required.

Comments of Federal Agencies Outside Interior

1. The U.S. Forest Service (USFS) comments of April 24, 1980, on Tennessee's initial program submission of February 28, 1980 (TN–17), are discussed in Numbers 2 through 12 below. Subsequent to the June 11, 1980, revision of the Tennessee program (TN–192), the U.S. Forest Service indicated by letter received July 15, 1980, that it had no comments on the revised Tennessee program.

2. The USFS suggested that the surface landowner of a severed estate be notified in writing of proposed surface mining activity and have adequate input into the method of mining and reclamation. 30 CFR 786.11 through 786.13 allows for public notification of intent to mine and public participation in review of the mine and reclamation plan. The Federal regulations do not require such detailed notification procedures. Therefore, the Secretary will not require them in the Tennessee program.

3. The USFS commented that the surface mine applicant should outline the method of timber disposal or slash disposal prior to topsoil removal. 30 CFR 816.22 requires that vegetative cover interfering with the use of topsoil be cleared but does not specify a particular method of disposal. Therefore the State proposed revised regulation 16.22 appears consistent with 30 CFR 816.22.

4. The USFS commented that the State program should insure that abandoned access and haul roads are revegetated and returned to the surface owner in a well maintained condition. 30 CFR 816.151–816.156, 816.161–816.166, and 816.171–816.176 requiring the construction, use, maintenance, and restoration of roads to control or minimize erosion, siltation, air and water pollution, and damage to public or private property, were remanded by court order. *See* FR 45604–45609 and "General Background on State Program Approval Process," above, for additional discussion of remanded regulations. However, Section 515(b)(17) of SMCRA specifically requires surface coal mining operations to be conducted to insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property. Section 515(a) of SMCRA also requires that affected surface mining areas including roads be restored to a condition capable of supporting the uses which it was capable of supporting prior to mining. Sections 11(a) and (b)(17) of the Tennessee Coal Surface Mining Law of 1980 provide the same requirements as SMCRA and are consistent with both Sections 515(A) and 515(b)(17).

5. The USFS suggested that public and private landowners adjacent to and in close proximity of proposed mining areas be notified of the proposed mining by the regulatory authority. Proposed Tennessee regulation 3.10 provides for public disclosure of intent to mine for four consecutive weeks in a newspaper of general circulation in the locality of the proposed action. If enacted, this would comply with the Federal requirement.

6. The USFS commented that the next to the last sentence in paragraph 2, Section 13, item 2, should be reworded to change the first "and" should be corrected to read "or." The Tennessee act uses the identical language of Section 522(e)(2) of SMCRA. Therefore no change is required.

7. The USFS commented that the State regulations should require that fill on which seedlings are to be placed will not be compacted. 30 CFR 816.24(b)(2) specifies that after final grading topsoil will be redistributed in a manner to prevent excessive compaction. Tennessee's proposed revised regulation 16.24 appears consistent with 816.24 by providing that topsoil shall be redistributed in a manner that prevents excess compaction of the topsoil. If the proposed rule is promulgated, no change seems necessary.

8. The USFS asked what mitigation measures will be taken if the effluent of surface and ground water drainage from the permit area does not meet applicable effluent standards and within what time frame will mining be stopped if standards are not met.

30 CFR 843.11 requires the regulatory authority representatives to order immediately a cessation of surface coal mining and reclamation operations upon finding that any condition exists which creates imminent danger to the health or safety of the public or is causing or can be expected to cause imminent environmental harm to land, air, or water resources. 30 CFR 843.12 likewise requires issuance of a notice of violation for any violation of SMCRA, 30 CFR Chapter VII, or relevant State laws and regulations. The time for abatement of the violation must be specified in the notice of violation and shall not exceed 90 days from the date of issuance. Failure to abate within the 90 day period results in a cessation order being issued. The Tennessee program must provide the required counterparts to 30 CFR 843.11 and 843.12.

9. The USFS commented that surface owners should be notified of proposed exploration activity prior to issuance of the permit. 30 CFR 776.12(b)(1) provides for public noitice of the filing of the exploration application. The Tennessee revised proposed regulation 5.03(b) provides the same notification procedurs as the Federal counterparts, thus, if it is promulgated, it appears consistent with 30 CFR 776.12(b)(1).

10. The USFS commended that surface owners should be notified of application for bond release and be afforded the opportunity to participate in the inspection and evaluation of reclamation work. 30 CFR 807.11(a)(2) requires written notification to the surface owner prior to requesting bond release. The comparable State proposed revised regulation 11.11(a)(1) appears to provide the same notification. 30 CFR 807.11(c) provides for written objections to the bond release and request for an informal hearing by any affected person. Proposed revised State regulation 11.11(c), as written, appears identical to 30 CFR 807.11(c), its Federal counterpart. Similarly, 30 CFR 807.11(e) and Tennessee proposed regulation 11.11(e) appear consistent. However, 30 CFR 807.11(e) has been remanded by court order because the regulation did not allow citizen access to the mine site for performance bond release. Upon promulgation of new Federal rules to comply with the courts demand, the Secretary will afford Tennessee the opportunity to adopt requirements consistent with the new Federal rules.

11. The USFS commented that the initial Tennessee program submission failed to incorporate permanent performance standards relating to 30 CFR 816.11, 816.13, 816.14, 816.15, 816.22, 816.23, 816.24, 816.41–816.57, 816.59, 816.71–816.74, 816.95, 816.97, 816.99, 816.102–816.105, 816.111–816.117, 816.131, 816.132, 816.133, 816.150–816.176, and 816.180. Tennessee's revised proposed regulations 16.97–17.93 incorporate performance standards that, if promulgated, appear consistent with the above listed 30 CFR 816.11, 816.13, 816.71 and 816.117. The State is being advised of provisions that would not be consistent with the Federal regulations.

12. The USFS commented that the State Forester should be involved in the review of reclamation plans when the postmining and premining land use involves forestry.

30 CFR 731.14(g)(9) and 731.14(g)(10) direct that State programs include a description of proposed systems for coordinating issuance of permits with other State, Federal, and local agencies and consulting with State and Federal agencies having responsibility for the protection or management of related environmental matters. 30 CFR 731.14 (i) and (j) provide for describing the State program. 30 CFR 780.23 requires the reclamation plan to contain a description of how the postmining land use is to be achieved and requires a copy of comments from State and local government agencies only where that agency has to initiate, implement, approve or authorize the proposed use of the land. Both SMCRA and 30 CFR Chapter VII provide broad flexibility to the State regulatory authority to consult with other State units of government or to acquire special professional staff in their own organization to accomplish various program objectives. Since authorization by the State Forester for postmining land use involving forestry is not required in Tennessee nor specifically in SMCRA and the State regulatory authority organizational chart reflects a number of existing foresters, it would seem inappropriate for the Secretary to require involvement by the State Forester in the review of reclamation plans as a condition of program approval.

13. The USFS commented that it would be desirable to make provisions for early release of reclamation performance bonds on specific delineated areas in order to encourage reclamation research between mine operators and Federal research organizations.

30 CFR Part 807, Procedures, Criteria and Schedule for Release of Performance Bond, provides minimum requirements and standards for bond release. No provision is included which would allow early release of the operator from bond liability. The Secretary also notes that thousands of acres of abandoned mine lands in various States presently afford vast opportunity for reclamation research.

14. The Department of Energy (DOE) commented in a letter received on June 16, 1980, that the initial Tennessee program of February 28, 1980, lacked a side-by-side comparison between Federal and State regulations as required by 30 CFR 731.14(c). The Tennessee revised program submission includes the 731.14(c) comparison material. The DOE also provided comments 15 thru 20 on the Tennessee initial program submission.

15. The DOE commented that Section 3K of the Tennessee proposed law failed to include "subcontractors" in its definition of "operator." The Secretary agrees. However, Section 3(p) of the Tennessee Coal Surface Mining Law of 1980 signed on May 2, 1980, revised the definition of "operator" to include any person engaged in surface coal mining or exploration operations. This statutory change makes that section of the Tennessee law consistent with SMCRA. Thus, no change is now necessary.

16. The DOE commented that Section 4 of Tennessee's proposed law failed to provide authority for the State to request the Attorney General to initiate action for an injunction to restrain any interference with the exercise of the right to enter property or conduct any work provided by Section 27, the State counterpart to Title IV of SMCRA. Section 27(d)(2) of the TCSML was subsequently changed and now provides Tennessee with Section 412(c) authority. Thus, no change is necessary.

17. The DOE stated that Section 7(a)(15) of Tennessee proposed legislation should require cross sections of proposed reclaimed landforms to allow consistency with Section 507(b)(14) of SMCRA. Tennessee Section 7(a)(15) does not exist and is apparently mis-referenced for 7(b)(15). Section 7(b)(15) of the Tennessee Coal Surface Mining Law of 1980 has been determined comparable to Section 507(b)(15) of SMCRA and Section 10(b) comparable to Section 507(b)(14). Both Section 7(b)(15) of TSCML and Section 507(b)(15) of SMCRA provide that the regulatory authority may waive any provisions of the subsection. Accordingly, it would be inappropriate to require the State to require that the waiver aspects of Section 7(b)(15) be consistent with Section 10(b). Therefore, no change is required.

18. The DOE commented that Section 17E of the proposed legislation should require monthly mining progress reports to be consistent with SMCRA Section 517(b)(1). The Tennessee statute does not contain the referenced Section 17E. However, Section 15(e)(3) of Tennessee's 1980 enacted legislation incorporated the monthly reporting requirement of Section 517(b)(1). Therefore, no change is required.

19. The DOE stated that Section 20 of Tennessee's proposed legislation was inconsistent with Section 518(b) of SMCRA because operators were not afforded a hearing opportunity prior to assessment of a civil penalty. Section 18(b) of Tennessee's 1980 enacted surface mining legislation corrected the deficiency of the earlier proposed legislation. Therefore, no change is required.

20. The DOE commented that Section 24 of the State's proposed legislation reflected a serious deficiency in the composition of the review board responsible for hearing appeals on the regulatory agency's decisions. The comment did not specify the nature of the alleged deficiency of the

composition of the review board which is composed of two representatives from industry, two private citizens, and a representative from the Tennessee Department of Public Health. Section 24 does not relate to the review board and is apparently misreferenced. Section 21 does address the issue and is apparently the intended reference. The reader is referred to public comment number 69 which addresses DOE's concern.

21. DOE asserts that TCSML Section 36 is inconsistent with Section 705 of SMCRA which DOE says prohibits employees of the regulatory authority from owning interests in a mining operation. DOE also says that the Tennessee law allows for citizen members of the State Board of Reclamation Review to have financial interests in a mining operation. This does not support the intent of SMCRA. DOE has cited Section 36 of the proposed draft of the Tennessee law.

Section 33 of TCSML prohibits employees of the regulatory authority from direct or indirect financial interest in any underground or surface coal mining operation consistent with Section 517(g) of SMCRA. Section 705 of SMCRA is an apparent miscitation by DOE since it deals with grants to States and not financial interest of employees. It is assumed that DOE intended to reference 30 (FR Part 705. As pointed out in public comment number 69, above, the Tennessee requirement is consistent with current Federal requirements.

22. The Mine Safety and Health Administration, in letters received May 15, 1980, and July 23, 1980, indicated no comments on the Febraury 28, 1980, program submission and the intention to submit late comments on the June 11, 1980, revised program. No comments were received before the record closed and comments received after the closure cannot be considered in this decision.

23. The U.S. Army Corps of Engineers commented on May 16, 1980, that several sections were missing from the Febraury 28, 1980, program submission. These sections were included in the program revision and a subsequent letter from the Corps, received July 14, 1980, indicated no comment on the revised program.

24. The Appalachian Regional Commission, in a letter received July 14, 1980, indicated no comment on the Tennessee revised program.

25. The Tennessee Valley Authority (TVA) commented on May 23, 1980, that the surface water information required by various parts of Tennessee's Febraury 28, 1980, proposed regulations will often be difficult and expensive to obtain. TVA further states that the data gathered is to be used to determine the probable hydrologic consequences (PHC) of the proposed mining operation; however, Tennessee's proposed submission does not elaborate on how the required hydrologic data might be utilized in the PHC determination.

The hydrologic data required by Tennessee's proposed regulations will be used by the permit applicant to identify, evaluate, and describe the probable hydrologic consequences. This same data will be available to the regulatory authority for technical evaluation in reaching a decision on the permit application. Tennessee's revised submission provides proposed regulations, which, if promulgated, appear to provide for the basic requirements of the Federal counterpart (30 CFR 780.21(c)). However, a more detailed discussion of the technical use of the required hydrologic data may be helpful. The comment regarding the cost of acquiring data does not affect the Tennessee program evaluation since the comment applies to the Federal requirement which has already undergone national public review and final decision-making.

26. The TVA offered edditional comments on July 11, 1980, regarding the June 11, 1980, Tennessee program revision, which are discussed in Numbers 27 through 44 below.

27. The TVA recommends that Tennessee regulation 16.97(9)(i) expand the statement concerning selection of plant species to include "their own proven ability to survive and grow on surface mine spoil" and "their ability to quickly provide quality food and cover (5 to 8 years) for fish and wildlife." Also, Section 16.97(9)(i) should include a statement stressing the need to permanently retain safely-constructed sediment ponds for the benefits of fish and wildlife needs.

The revegetation requirements of revised proposed Tennessee regulation 16.114 are designed to provide suitable ground cover, depending upon the approved postmining land use. This includes the use of vegetable species which will survive and grow on the reclaimed land and which will meet vegetative production requirements. Tennessee revised proposed regulation 16.49 permits retention of sedimentation ponds, provided they are part of the postmining land use and they meet certain standards specified in Tennessee regulation 16.46. If promulgated, these Tennessee regulations appear acceptable.

28. The TVA commented that Tennessee regulations 16.46(b), (c), and (h) are too weak and inadequate. Since Sections 16.46(b), (c) and (h) correspond to Federal regulations 30 CFR 816.46(b), 816.46(c), and 816.46(h), respectively, which have been suspended pending promulgation of new requirements (*See* 45 FR 45604–45609 and "General Background on State Program Approval Process," above), there is no basis in Federal regulations to judge these proposed requirements at this time.

29. The TVA recommended that State regulation 16.49(a)(5) be deleted since it follows the Federal regulation too closely; however, it was suggested that the State should make copies of the cited technical literature available to permittees. The parts essential to the State program and modification of this regulation are discussed in the Director's letter to Tennessee.

30. The TVA recommends deleting the requirements in regulation 16.52(a) for monitoring of infiltration rates and subsurface flow since they are meaningless in decisionmaking. The determination of hydrologic consequences during the premining phase requires baseline information to predict the impacts to the hydrologic regime. Tennessee's regulation 16.52(a) concerns surface and groundwater monitoring to determine the quality and quantity of water during the mining operation.

Tennessee's proposed program must include provisions for monitoring infiltration rates and subsurface flows to be consistent with Federal requirements. The Federal regulations (and as mirrored by Tennessee's proposed rules), however, provided that the manner of monitoring be approved by the regulatory authority. Such discretion permits the regulatory authority considerable flexibility in determining what measurements need to be monitored at a specific site and how such monitoring shall be conducted. If promulgated, the proposed Tennessee regulations appear consistent with 30 CFR 816.52(a).

31. The TVA commented that the availability of mycorrhizal inoculated pines may be a problem in attaining a stimulation of plant growth. The availability of mycorrhizal inoculum for pine trees is not included in the Federal regulations and thus would not be required in the Tennessee program.

32. The TVA commented that the State's requirements for fertilizer application frequency in 16.114(d) were unclear, especially the statement that "All fertilizer will be applied twice yearly and coincide with growing season." Proposed Tennessee regulation 16.114(d) explicitly and in detail provides stringent soil preparation methods for revegetation. The regulation appears consistent with 30 CFR 816.114.

33. The TVA commented that the State's requirements in 16.114(h) need to be evaluated in terms of whether they provide the diversity required in 30 CFR 816.111(a). The diversity requirement would appear satisfied by promulgation of the State's revegetation requirement in 16.114(j), which provides that one of the mixtures listed in (i) through (u) shall be sown on the entire disturbed area. Therefore, no change appears necessary.

34. The TVA commented that the State's planting date requirements in 16.114(i), limiting the planting of wildlife shrubs to the February 1–April 15 season, will discourage their use in revegetation, especially since forest tree planting is permitted over a much longer period. The Director's letter will advise the State that the dates may be too restrictive.

35. The TVA commented that the State's requirements in 16.114(i) concerning wildlife clump plantings are too restrictive and limit wildlife habitat development opportunities. The Director's letter will advise the State that the requirement of not more than two wildlife clump plantings per acre to substitute for tree planting may be too restrictive.

36. The TVA commented that Section 16.62(a) is ambiguous. The Secretary tentatively concurs that it does not conform with 30 CFR 816.62 and SMCRA Section 515(b)(15)(E) which require that, upon request, a preblast survey be conducted of any structure within ½ mile of the permit area. There can be no exclusions to this Federal requirement such as excluding the haul road from the permit area as proposed by the State in Section 16.62(a). The State is being so advised.

37. The TVA commented that in Section 16.64(c)(1), as proposed by the State, there is no need for preblast surveys if only a time change is involved in the blasting schedule. The section closely follows 30 CFR 816.64(c)(1) except that the following phrases have been omitted: ". . . Paragraphs (a) and (b) of this Section. Where notice has previously been mailed to the owner or residents under. . . ." Addition of these phrases in Section 16.64(c)(1) immediately following the words "according to the procedures in" would clarify the section. The Director's letter will advise the State that this section could benefit from clarification.

38. The TVA commented that the State's proposed regulation 16.11(f) concerning signs should describe blasting signals and that a description of the signals shall be provided in regulation 16.65(c). Both of these State sections mirror comparable Federal sections in 30 CFR 816.11(f) and 816.65(c). Proposed regulation 16.11(f) does require signs "which clearly explain the blast warning and all clear signals that are in use." If promulgated, proposed regulation 16.65(c) appears adequate to require that mining activities "maintain signs in accordance with Regulation 16.11(f)."

39. The TVA questioned the meaning of a phrase in proposed Section 16.65(e)(2) limiting the Director's approval of an incorporation by reference of specifications for an instrument to measure air blast. The Director's letter will advise Tennessee that proposed regulation 16.65(e)(2) contains language from 30 CFR 816.65(e)(2) which does not appear appropriate for the State regulations.

40. The TVA commented that within the permit area blasting closer than 1,000 feet to buildings and 500 feet to facilities should be allowed as long as the blasts "are announced at the time of the blast." Proposed Sections 16.65(f)(1) and (2) which contain the above limitations mirror 30 CFR 816.65(f)(1) and (2) which were suspended by court order insofar as they restrict blasting at distances greater than 300 feet. *See* 45 FR 45604–45609 and the discussion under "General Background on State Program Approval Process," above.

41. The TVA commented that proposed regulation 16.65(h) should be revised to allow adverse impacts from blasting to affect abandoned underground mines. This would make the rule less stringent. The language of the Sate's proposed regulation 16.65(h) mirrors 30 CFR 816.65(h) and SMCRA Section 515(b)(15)(c). Therefore, if promulgated, proposed State regulation 16.65(h) appears to satisfy Federal requirements.

42. The TVA commented that in proposed State regulation 16.65(i) the location of the recording seismograph should be specified as being "adjacent to the structure on the side of the blast." This section presently specifies that "the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building." The language of proposed State regulation 16.65(i) mirrors 30 CFR 816.65(i) and, if promulgated, appears to satisfy Federal requirements.

43. TVA commented that proposed State regulation 16.65(j) allows adverse impacts on underground mines from blasting as long as the underground mine is within the permit area. Adverse impacts to any underground mine from blasting are prohibited by Section 515(b)(15)(C) of SMCRA. Proposed State regulation 16.65(j) mirrors the language of 30 CFR 816.65(j) and, if promulgated, appears to satisfy Federal requirements by providing that if blasting is to be conducted, to prevent adverse impacts, then the maximum peak particle velocity limitation of paragraph (i) shall not apply at certain specified locations. Therefore, no change appears to be necessary.

44. The TVA commented that the blast data required by proposed State regulation 16.68 should be available when air blast measurements are made. As presently worded, the data in regulation 16.68 are required to be recorded for all blasts regardless whether or not air blast measurements are conducted. Therefore, the data recommended by the TVA comment would be required by the regulation in its current form.

45. The Soil Conservation Service (SCS) in a letter received July 16, 1980, commented that they believed that regulation 23, Special Performance Standards, Operations on Prime Farmland, adequately addressed the reconstruction of prime farmland that may be mined, SCS, however, suggested improving regulations 16.114(i), Wildlife Plantings, and 16.114(j), Legumes, Perennial Grains, and Annual Grains, to increase species diversity and to reflect the results of field trial plantings on surface mined areas. Specific language is provided by the commenter. (*See* Administrative Record No. TN–243.)

Tennessee's revised proposed regulations 16.114(i) and (j) appear to provide sufficient diversity to be consistent with 30 CFR 816.114 through 816.117. However, the revisions suggested by the commenter have merit and Tennessee should carefully evaluate the suggested language for inclusion in the Tennessee program.

Comments of Federal Agencies Within Interior

1. The Heritage Conservation and Recreation Service responded with no comment on the initial and revised Tennessee program in memoranda received on May 7, 1980, and July 17, 1980.

2. The Bureau of Land Management responded with no comment on the initial and revised Tennessee program in a memorandum received on July 3, 1980.

3. The Bureau of Mines (BOM) offered comments in a letter received May 12, 1980, on the initial program submission of February 28, 1980 (TN–17), which are discussed in Numbers 4 through 10 below.

4. The BOM indicated that Section 11(b)(8)(B) of Tennessee's proposed law made reference to Sections 53–801–810 and 70–2501–2530 of the Tennessee Code

Annotated. Tennessee's proposed implementing regulations, however, did not contain the required components.

Tennessee's enacted legislation now makes reference to Pub. L. 83–566 (16 U.S.C. 1006) which provides requirements similar to those of Sections 53 and 70 of the Tennessee Code Annotated. Tennessee's revised program also includes proposed regulations to implement Sections 16 and 17.

5. The BOM noted that all or portions of 30 CFR 731.14 (c), (f), (g)(7), (g)(9), (g)(15), (h)(4), and (h)(8) were not included in Tennessee's initial submission.

Tennessee's revised submission includes all of the omitted system sections, except 30 CFR 731.14(h)(8).

6. The BOM pointed out two apparent editorial errors in the initial submission. First, notes the Bureau, the index entitles Section 731.14(g)(6), "Permanent Program Performance Standards." The contents of this section, however, comply with Federal requirements in 30 CFR 731.14(g)(6) for administering and enforcing the program. Second, notes the Bureau, the section addressing conflict of interest was referenced to Section 36 of the Act. It should have been referenced to Section 33.

Tennessee's index system merely provides a "short title" for the submission of information related to "Administering and Enforcing the Permanent Program Performance Standards" (30 CFR 731.14(g)(6)). The "short title" used by Tennessee in its initial and revised submissions is acceptable.

With regard to the comment on the reference error, Tennessee's revised submission deletes all reference to "conflict of interest" provisions in Tennessee's proposed implementing legislation. Since no reference is required by Federal regulation, this omission is acceptable.

7. Subchapter D, Federal Land Program, notes the BOM, was not included in the Tennessee submission.

The State of Tennessee is not required to develop regulations governing surface coal mining operations on Federal land.

8. The BOM indicated that Tennessee's initial submission did not contain proposed regulations comparable to 30 CFR Parts 810, 816, 817, 820 and 825.

Tennessee's revised submission appears to correct this deficiency, to the extent that the basic required submissions seem provided. The adequacy of the individual regulations submitted is discussed more fuly in the Director's letter to the State of Tennessee. With regard to 30 CFR Parts 820 and 825, these are special regulations which only apply to certain operations in the States of Pennsylvania and Wyoming, respectively. Therefore, Tennessee is not required to include comparable requirements in its program.

9. Tennessee, notes the BOM, included regulations for blaster training and certification (Regulation 20) in its initial submission. This is not a part of 30 CFR Subchapter K.

The blaster training and certification regulations were submitted at the discretion of the State of Tennessee. As noted in the **Federal Register** (44 FR 15309), OSM will be publishing revised Federal requirements for training programs for blasters and members of blasting crew and certification programs for blasters. States will be required to submit comparable requirements within 6 months of publication of the final regulations. Tennessee deleted its proposed blaster training and certification regulations from the revised submission.

10. Tennessee's initial program, indicates the BOM, deleted the reference to "moist bulk density requirements as a measure of compaction."

The portion of 30 CFR 823.14(c) relating to moist bulk density standard for soil compaction was remanded by court judgment. Until a standard for soil compaction is proposed and adopted or the judgment is reversed, States need only submit requirements consistent with the court order. *SDee* 45 FR 45604–45609, July 7, 1980. Tennessee's submission appears, at this time, consistent with the court's judgment.

11. The Fish and Wildlife Service (FWS) offered comments on Tennessee's initial and revised program in memoranda received on May 29, and July 21, 1980. Those comments are discussed in Numbers 12 through 34 below.

12. The FWS noted that Sections 16 and 17 for performance standards were omitted from the initial proposed program. Because of the revised submission, however, the FWS indicates that FWS concerns are satisfied.

13. The FWS noted that Tennessee's initial submission did not provide a legal opinion from the Attorney General of Tennessee regarding the State's legal authority to implement, administer, and enforce the proposed program and a section-by-section comparison of State laws and Federal regulations, as required by 30 CFR 731.14(c). Tennessee's initial submission did not contain these documents. However, the revised submission did include these documents but the legal opinion and the section-by-section comparison address proposed rules rather than final regulations. Therefore, Tennessee must resubmit this portion of the program in their resubmission.

14. The FWS indicated that the proposed program at (30 CFR 731.14(e)) does not require the regulatory authority to consult with the Tennessee Wildlife Resources Agency and the U.S. Fish and Wildlife Service. This consultation is required by several sections of the Federal regulations (e.g. 30 CFR 779.20, 783.20, and 741.13). In addition to recognizing the consultation requirements, the Tennessee program should also include a description of the structural organization and coordination system, including lines of authority between these agencies and the regulatory authority.

Tennessee did not provide a description of the existing and proposed structural organization of the regulatory authority and other agencies or applicable divisions or departments of those agencies which have duties in the State program and the State is being asked for the information in the Director's letter. With regard to consultation with the FWS, such requirements need to be addressed at 30 CFR 731.14(e). Such consultation processes should more appropriately be described at 30 CFR 731.14(g)(10).

15. The FWS notes that the revised program includes a proposed formal agreement between the Tennessee Wildlife Resources Agency (TWRA). However, this agreement with TWRA appears insufficient to assure constructive involvement in the regulatory program. Further, notes the FWS, there is no agreement with FWS included in Tennessee's proposal.

The Federal regulations only require supporting agreements between agencies which will have duties in the State program. The reference to agencies in 30 CFR 731.14(f) refers to "other agencies or applicable divisions or departments of the regulatory authority or supporting state agencies." To that extent, only the TWRA and the regulatory authority (RA) need to execute an agreement, provided TWRA will be a supporting agency. The agreement appears to provide for the necessary coordination required by 30 CFR 731.14(f). With regard to the FWS being a party to the agreement, it is discretionary with the RA and its supporting agency. Lack of a formal agreement with FWS, however, does not absolve the RA from its obligation to consult with FWS on fish and wildlife matters, as appropriate.

16. Section 731.14(g)(1) of Tennessee's proposed program, notes the FWS, needs to explain thoroughly the pathway that a permit application will

follow from submission to a final decision. It is important that this part include a description of when, where, and how public notification and receipt of public comments will occur, as well as how these comments will be incorporated into the decisionmaking process. It is also important to specifically describe the areas where consultations and requests for comments from TWRA and FWS will occur.

Tennessee's proposed program submission lacks the details regarding methodology or system required by 30 CFR 731.14(g)(1). Tennessee will be required to submit the necessary information.

17. The Section 731.14(g)(3) of the revised submission, notes the FWS, simply restates laws and regulations and does not explain the procedures to be used. FWS recommends reconstruction of this part to explain fully all aspects related to performance bonds. Additionally, asserts the commenter, the FWS and TWRA should be given the opportunity to participate in a field inspection following a request for performance bond release. Also, the revised program specifies that a performance bond "shall be $1,500 per acre." FWS understands that this is a minimum amount and the bond will be determined as an actual cost to reclaim the area if greater. This discrepancy, notes FWS, should be corrected accordingly.

The Tennessee submission does not adequately describe a means for implementing, administering, and enforcing a system of performance bonds and liability insurance or other equivalent guarantees. This deficiency is discussed in the Director's letter to the State of Tennessee. Regarding FWS participation in field inspections, Tennessee's proposed program, as written, adequately recognizes the basic Federal requirements for other agency involvement in the bond release procedures. Finally, Tennessee's minimum performance bond requirements appear as stringent as the Federal counterpart.

18. Subsection 731.14(g)(4), indicates the FWS, should be expanded to include a more definitive explanation of the inspection system such as: (1) contents of a partial and a complete inspection, (2) parameters to be included in the required monitoring, (3) procedures for public reporting of suspected violations, and (4) the actions to be taken by the inspector for a violation.

Tennessee's submission does not adequately describe a system for inspecting and monitoring of coal exploration and surface coal mining and reclamation operations, including provisions for public participation.

19. On two occasions, notes the FWS, Section 731.14(g)(6) of Tennessee's initial submission refers to Section 15 of the State law; this reference should be to Section 13. Furthermore, continues the comment, this part should be expanded to show that the RA has the authority and methodology to assure compliance with all performance standards.

Although Tennessee's revised program corrects the reference error noted by the commenter, the proposed program appears still to be unsatisfactory because Tennessee failed to submit a complete description of the system or methodology for administering and enforcing the permanent program performance standards.

20. Section 731.14(g)(7), notes the FWS, was omitted from the initial submission, pending passage of the State law. In part, states the FWS, the revised submission corrects many of the earlier FWS concerns. However, for clarity, the final program submission should include a description of the penalty assessment system.

Although Tennessee's revised submission corrects some of the deficiencies of the initial program submission, the description of a system or methodology for assessing and collecting civil penalties remains inadequate. Additional information and materials needed to satisfy 30 CFR 731.14(g)(7) will be required.

21. The FWS indicates that § 731.14(g)(8) of the initial submission erroneously references Section 15 of the State law. Also, notes the commenter, informal conference requests and written comments could only be submitted by local government bodies and agencies. In the opinion of the FWS, this entire section should be rewritten to better describe the opportunities and procedures for public participation in all areas of the State's surface mining program.

Tennessee's revised program submission corrects, in part, several of the initial proposed program deficiencies. Nevertheless, the resubmission remains unacceptable because it does not adequately describe a system or methodology for issuing public notices and conducting public hearings.

22. Section 731.14(g)(9), notes the FWS, has been omitted from Tennessee's initial proposed program. Also, § 731.14(g)(10) of the revised program submission does not clearly explain the proposed system for consultation with other State and Federal agencies having defined responsibilities in the proposed program.

As noted by the FWS, Tennessee's revised submission combines § 731.14(g)(9) and (10) but does not provide an acceptable description of the system or methodology for coordinating the issuance of permits or consultation with other agencies. Tennessee has been requested to provide more detailed and comprehensive information to satisfy the Federal requirements.

23. FWS noted that § 731.14(g)(14) of Tennessee's initial submission did not include a description of the public input realized in the development of the program. Subsequent FWS comments on the revised submission did not address the "adequacy" of this section.

Tennessee's initial proposed program did not include a sufficiently detailed and comprehensive discussion of public participation efforts and the revised submission also failed to correct the earlier omissions.

24. The FWS noted that several of its concerns related to proposed regulation Section 2.23 of Tennessee's initial proposed program were corrected in Tennessee's revision. However, the "Guidelines for Collections of Fish and Wildlife Information and Recommendations for Reclamation" developed by the TWRA, asserts the FWS, should be referenced in the State regulations and included in the State program.

Federal regulations do not require the inclusion of fish and wildlife guidelines in the State program. Therefore, the inclusion of such guidelines is discretionary with the State of Tennessee.

25. Regulation 2.28 of Tennessee's initial submission requires vegetative information, if requested by the RA. This statement, asserts FWS, conflicts with the recommended requirements of the fish and wildlife guidelines developed by TWRA.

Tennessee's proposed requirements for vegetation information appear to be as stringent as the Federal counterpart (30 CFR 779.19). If Tennessee's regulation is in conflict with the guidelines, the regulation would prevail. As an alternative, Tennessee may elect to revise either the regulation or the guidelines to resolve any inconsistency. Any revision to the regulation, however, would require provisions as stringent as the Federal regulation.

26. The FWS indicated that Tennessee's initial proposed program (regulation 2.29) omitted a considerable portion of the requirements of 30 CFR 779.27. As a result of the revised submission, however, the FWS notes

that Tennessee has satisfied FWS concerns related to this section.

27. Regulation 2.49 of Tennessee's proposed program submission, asserts the FWS, should be restructured to conform with the requirements of the fish and wildlife guidelines.

The requirements of regulation 2.49 of Tennessee's submission appear consistent with 30 CFR 780.18(b)(5). Any "restructuring," as suggested by the FWS, would have to result in Tennessee regulations as stringent as the Federal counterpart. On that basis, there would be no objection to efforts by the RA to resolve inconsistencies between Tennessee's regulation and the guidelines.

28. FWS commented that regulation 3.01 of Tennessee's proposed program does not require sufficient information for the FWS to fulfill its responsibilities under SMCRA and Federal regulations. As an alternative, suggests FWS, this section should be reworded so that the TWRA and the FWS are provided with information requested in the fish and wildlife guidelines or a summary equivalent.

Tennessee's proposed program submission appears to provide requirements as stringent as those in 30 CFR 770.4(b), 30 CFR 786.4(a)–(d), 30 CFR 786.11(b)–(d), and 30 CFR 786.23(c)–(f), with the exception that 3.01(b)(4) in the initial submission did not contain the required reference to 3.12, Opportunity for Submission of Written Comments. This deficiency has been corrected in the revised submission. Tennessee's regulations in this section, if promulgated, appear acceptable and further revision, as suggested by the FWS, would not be necessary.

29. FWS noted that regulation 3.05 of Tennessee's initial submission was inconsistent with 30 CFR 816.133 in that the Federal regulation specifically requires mitigating measures to be approved by TWRA and FWS if postmining land use represents a change from the premining land use. The Tennessee counterpart, on the other hand, only required that the proposed postmining land use be approved by the RA. The FWS recognized in its comments on the revised submission that Tennessee corrected this deficiency to the satisfaction of the FWS.

30. The FWS comments that regulation 4.01 of Tennessee's initial program submission and the revised submission do not provide for notification of the FWS when a permit revision involves endangered or threatened species, migratory birds, hawks and eagles.

Regulation 4.01 of Tennessee's proposed program submission appears as stringent as Federal requirements, except that Tennessee omitted from its original submission the requirement of the RA's order for a revision of a permit being subject to administrative and judicial review (30 CFR 788.11(d)) and the requirements of 30 CFR 788.12(a)(1) of establishing parameters to determine significant departure from the original permit. Tennessee's revised submission, however, corrected both of these deficiencies. The lack of reference to consultation requirements in Section 4.01 does not relieve the State from its obligation to develop and describe a system or methodology for consulting with State and Federal agencies pursuant to 30 CFR 731.14(g)(10), however. Additionally, regulation 3.05(k) of Tennessee's proposed program requires a finding that approval of a permit revision would not affect threatened or endangered species. Such requirements, if promulgated, would appear to provide adequate protection for threatened or endangered species.

31. Regulation 5.03 of Tennessee's proposed program, notes the FWS, needs to be reworded to include notification of the TWRA and the FWS on all applications for exploration and a request for comments prior to the final decision on an application.

The recommended changes appear to be necessary. As noted in the response to the previous comment, other required coordination and consultation processes will assure protection of fish and wildlife resources.

32. FWS notes that its comments on regulation 2 of the Tennessee program submission also apply to regulation 6.

The reader is referred to the above responses to FWS comments on regulation 2, comments number 24 through 27.

33. Section 731.14(g)(11) of the proposed program, needs to outline a procedure for notifying and requesting comments from the TWRA and the FWS on every petition received by the RA. The system should also describe a procedure for requesting comments from the TWRA, the FWS, the originator of the petition, and any other person involved in the petition process prior to the RA making a determination of compatability of an exploration activity with the reason for an area's designation as unsuitable. The FWS concluded its comment by indicating that this section should describe a methodology approved by the TWRA, the FWS, and the RA for including information on endangered and threatened species, migratory birds of Federal interest, and hawks and eagles.

Tennessee's proposed program, as noted by the FWS, is deficient in describing a system or methodology for designating lands unsuitable for mining.

34. The FWS believes that § 731.14(k) of Tennessee's proposed program submission should mention the use of FWS personnel. Additionally, information on the job function of these personnel should be provided. Also, contends the FWS, the supporting agreement between the TWRA and the RA should define the compensatory measures for TWRA's support of the program.

The mention of the use of FWS personnel, as suggested by FWS, appears inappropriate for inclusion in § 731.14(k). This section pertains only to professional and technical personnel within the State government. A description of job functions needs to be provided, to the extent that such data applies to State personnel in support of the surface mining program. Finally, the Director recognized that the State's permanent surface mining program may have budgetary impacts on several State agencies providing support functions as discussed in his letter to Tennessee. The RA, therefore, needs to evaluate carefully the magnitude and extent of these fiscal implications. However, any agreement terms which relate to compensatory measures are negotiable issues which must be resolved by the parties to the agreement.

Approval in Part/Disapproval in Part

As indicated under the Secretary's findings, parts of the Tennessee program meet the criteria for approval in Section 503(a) and (b) of SMCRA and in 30 CFR 732.15 and parts do not meet these criteria for approval. Accordingly, the Tennessee program is approved in part and disapproved in part.

The Tennessee Coal Surface Mining Law of 1980, except for those aspects listed in Findings 2.1 through 2.11, meets the criteria for approval and constitutes that part of the Tennessee program which is approved. Before Tennessee obtains primacy of its regulatory program, it must submit clarifications or corrections to those findings on the State statute discussed in Finding 2a. All other aspects of the Tennessee program do not meet the criteria for approval and are hereby disapproved.

The Tennessee regulations are disapproved because they were not fully enacted by the 104th day after initial submission. Because the regulations have been disapproved, the Secretary has not separately disapproved those regulations that are based on remanded or suspended Federal regulations. For reference to those sections where State regulations are based on suspended and remanded regulations, refer to

Administrative Record No. TN-298. If Tennessee resubmits its program, the Secretary will evaluate the extent to which the program provisions are based upon suspended and remanded rules, taking into consideration, among other things, the nature and extent of rulemaking proceedings which occurred after the court's order of May 16, 1980.

Effect of This Action

Partial approval/partial disapproval means that Tennessee is not now eligible to assume primary jurisdiction over implementation of the permanent regulatory program pursuant to SMCRA. Tennessee may submit additions or revisions to its proposed program to correct the disapproved parts within 60 days from the date this decision is published in the **Federal Register**. Fully enacted, approvable regulations are required. These regulations and all the other program provisions required under 30 CFR 731.14 must incorporate changes to correct the deficiencies identified in the Secretary's findings and the letter from the Director of OSM.

If the disapproved parts of the Tennessee program are revised and resubmitted within the 60-day limit, the Secretary will have an additional 60 days to review the revised program to solicit comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies, and to approve, disapprove, or conditionally approve the final Tennessee program submission pursuant to Section 503 (a) and (b) of SMCRA and 30 CFR Part 732. If no resubmission is made within 60 days, the Secretary will take appropriate steps to promulgate and implement a Federal program for the State of Tennessee.

This approval in part/disapproval in part relates at this time only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to implementation of Title IV of SMCRA, the abandoned mine lands reclamation program (AML). In accordance with 30 CFR Part 884 (State Reclamation Plans), Tennessee may submit a State AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

There are no coal-bearing Indian lands in Tennessee. Coal development is anticipated on Federal lands in Tennessee. Such development will be regulated by the initial Federal lands program according to 30 CFR 211. If a State regulatory program is approved, the Federal lands program will be governed by Subchapter D of 30 CFR Chapter VII.

The Secretary intends not to promulgate rules in 30 CFR Part 924 until the Tennessee program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement needs to be prepared on this decision.

The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this decision.

Dated: October 3, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

[FR Doc. 80-31800 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Ch. II

Improving Government Regulations; Semiannual Agenda

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: As required by Executive Order 12044, "Improving Government Regulations," and the Treasury Department directive implementing that Executive Order, the Bureau of Government Financial Operations announces that it is reviewing a nonsignificant regulation.

FOR FURTHER INFORMATION CONTACT: O. H. Brown, (202) 566-5546. For information about the item on the semiannual agenda, please contact the individual listed in the column headed "knowledgeable official".

Semiannual Agenda

The semiannual agenda reads as set forth below.

Dated: September 25, 1980.

By Direction of the Secretary of the Treasury.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations, Fiscal Service, Treasury Department.

Description	Justification for regulatory action	Regulatory analysis	Legal authority	CFR	Knowledgeable official
Endorsement and payment of checks drawn on the United States.	This proposed regulation will establish a policy of assessing additional charges (i.e., interest) on overdue reclamations from banks and double payment refunds from payees.	No	31 U.S.C. 528, 564, 932; 5 U.S.C. 301.	31 CFR 240.4	Michael D. Serlin, Assistant Commissioner, Disbursement and Claims, 202-566-2392.

[FR Doc. 80-31763 Filed 10-9-80; 8:45 am]

BILLING CODE 4810-35-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[PH FRL 1631-4; OPP-00129]

Discussion of Pesticides; State FIFRA Issues Research and Evaluation Group Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a two-day meeting of the Working Committee on Registration and Classification of the State FIFRA Issues Research and Evaluation Group (SFIREG) and a two-day meeting of the SFIREG Working Committee on Enforcement to discuss various aspects of pesticides. The meetings will be open to the public.

DATES: The Working Committee on Registration and Classification will meet on Tuesday and Wednesday, October 28 and 29, 1980, at 8:30 a.m. each day. The Working Committee on Enforcement will meet on Thursday and Friday, October 30 and 31, 1980, also at 8:30 a.m. each day.

ADDRESS: Both meetings will be held at: Bellevue Hotel, 505 Geary St., San Francisco, CA, (415-474-3600).

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Program Support Division (TS-770-M), Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460, (202-472-9400).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Update on Label Improvement Program;
2. Update on revised Section 3 regulations;
3. Tolerances for rotated crops;
4. Section 24(c) Nitrosamine Policy;
5. New AOAC Methods of Chemical Analysis;
6. Computer label codes;
7. Draft final Section 24(c) regulations;
8. National Food Processors' proposed FIFRA amendment on Lack of Essentiality;
9. EPA's regulatory plans for chlordane;
10. Discussion of Scientific Advisory Panel recommendations that EPA reevaluate certain aspects of classification program; and
11. Discussion of proposed RPAR rules.

The meeting of the Working Committee on Enforcement will be concerned with the following topics:

1. Status of and comments on State Primacy Use draft regulations.
2. Discussion of the National Food Processors Association interest in amending FIFRA to prevent States from using "Lack of Essentiality" as a criterion for registration;
3. Drift;
4. Producer inspection compliance history;
5. State Primacy-unilateral EPA action;
6. Enforcement funding reductions;
7. Civil penalty authority under State laws;
8. Protocol to channel labels to EPA for label reviews; and
9. Draft ULV–LV Advisory Opinion.

Dated: October 1, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-31685 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 6

[ER-FRL 1573-2]

Implementation of Procedures for the Identification, Protection, and Maintenance of Historical and Cultural Resources

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking invites public participation in this Agency's implementation of procedures to identify, protect and maintain properties of historical and cultural significance. These procedures are written to comply with Section 106 of the National Historic Preservation Act of 1966, as amended; Executive Order 11593, Presidential Memorandum on Environmental Quality and Water Resources Management; and the Advisory Council's amended regulations on Historic Preservation, 36 CFR Part 800.

ADDRESS: Comments should be addressed to Judith L. Troast, Office of Environmental Review (A104), Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Comments must be received on or before November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Judith L. Troast, Office of Environmental Review, Environmental Protection Agency; telephone (202) 755–0780.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effect of their undertakings on any district, site, building, structure or object that is included or eligible for inclusion in the National Register of Historic Places. Additionally, the National Environmental Policy Act of 1969 (NEPA), as amended, declares that one objective of national policy is "to preserve important historic, cultural and natural aspects of our national heritage." Executive Order 11593 published on May 13, 1971, requires Federal agencies to institute procedures which assure the preservation and enhancement of historic properties affected by their activities. On July 12, 1978, President Carter issued a memorandum which, among other things, required the Advisory Council on Historic Preservation to develop regulations to apply Section 106. The memorandum also required each affected Federal agency to implement the Council's regulations. The Council's final regulations became effective on March 1, 1979.

EPA proposes to institute procedures which will comply with the above-described statutes, regulations and directives. As a first step, the Agency's NEPA regulations in 40 CFR Part 6 will be amended to include these procedures as Subpart K. EPA programs which will be affected by these regulations include Construction Grants, New Source NPDES, Solid Waste Demonstration Projects, Research and Development, and EPA Facility Support Activities.

It should be noted that NHPA and Executive Order 11593 are independent from NEPA requirements and must be complied with even when an environmental assessment or environmental impact statement is not required. The Clean Air Act and Clean Water Act exempt a number of EPA activities from the preparation of EISs; however, Section 106 requires the consideration of historic impacts on all Agency undertakings which may affect cultural and historical resources. Consequently, a number of EPA programs which are not covered by NEPA could come under the purview of this statute. These programs include Prevention of Significant Deterioration (PSD), Hazardous Waste, Underground Injection Control (UIC), NPDES New Discharges, and Clean Lakes. As a second step in the rulemaking, the applicability of NHPA to these EPA programs will be determined. Individual regulations governing these programs, then, could be amended to ensure adequate consideration of historic preservation.

Issues

There are a number of issues which have to be resolved in developing these procedures. We would like comments on the following matters:

—This Agency needs to determine which EPA programs and activities, not subject to NEPA, would fall under the purview of NHPA.

—EPA will have to develop some guidelines on determining the geographical limits of an affected area and the extent that secondary impacts should be considered.

—This Agency must provide guidance on the level of effort required to identify historic and cultural resources. A number of steps could be involved in this process. Of importance are the considerations which should be taken into account in determining the steps necessary for identification.

—EPA will have to develop some standards on the level of effort to be undertaken for mitigation. The mechanism by which these measures

are to be funded under the affected EPA programs also needs to be determined.

—EPA needs to resolve whether states which are transferred permit issuance authority should be required to consider the effects of their permitting action on historical and archaeological resources.

—EPA has to determine how to integrate the historic analysis into those EPA programs not subject to NEPA without causing project delays.

Special Analyses

EPA will prepare an analysis support document which will focus on costs to applicants for cultural resource and archaeological surveys; costs incurred through project delays; mitigation and resource recovery costs for historic and archaeological properties uncovered during construction; and the administrative burden on states and EPA offices responsible for implementing these procedures.

This document will also examine the adverse environmental impacts associated with project delays and the environmental benefits to historic/cultural resources. Urban and community impacts will also be addressed.

External Participation

EPA would like comments on these regulations from local and state governments, the public, Federal agencies and any other interested parties. Concurrently, with the publication of this Notice in the **Federal Register**, copies will be sent to State Clearinghouses, State Historic Preservation offices, historical and archaeological professional societies, constituent parties of affected EPA programs, and the following Federal agencies: Advisory Council on Historic Preservation, Council on Environmental Quality, and U.S. Department of Interior, (Heritage Conservation and Recreation Service). These parties will also be sent copies of the Notice of Proposed Rulemaking and the final document.

Douglas M. Costle,

Administrator.

Oct. 6, 1980.

[FR Doc. 80-31658 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-37-M

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40 CFR Part 52

[A6-FRL 1628-4]

Air Quality Implementation Plans; Revisions to Arkansas Regulations Pertaining to Malfunctions/Upsets and Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes approval of two revisions to the Arkansas State Implementation Plan (SIP). These revisions were submitted by the Governor to fulfill the requirements of the Clean Air Act, as amended in August 1977 (the Act). The revisions being acted on today relate to the State regulation (Section 6(a)) pertaining to malfunctions or upsets and the State regulation (Section 7(e)) pertaining to continuous emissions monitoring.

DATE: Intersted persons are invited to submit comments on this proposed action on or before November 10, 1980.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Divisons, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, Attn: Jerry Stubberfield.

Copies of the State's submittals are available for inspection during normal business hours at the address above and at the following locations:

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

Arkansas Department of Pollution, Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Divison, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On April 27, 1977 (42 FR 21472) the EPA promulgated a regulation which precipitated a review of all State regulations pertaining to malfunctions or upsets. The State of Arkansas' malfunction regulation provided for a blanket exemption once the operator reported the occurrence of a malfunction. The regulation as written also exempted excess emissions occuring during periods of routine maintenance. These deficiencies were presented to Arkansas, and on July 11, 1979 the State submitted an amended malfunction/upset regulation. The amended regulation is enforceable by the State. It places responsibility for exceedance of emission limits directly on the source and it requires sources to identify processes or control equipment causing the malfunction/upset and to give a description of steps to be taken to prevent a recurrence.

Arkansas has also amended its continuous monitoring regulation by requiring continuous monitoring of those source categories listed in Appendix P, 40 CFR 51. This amended regulation meets the requirements of 40 CFR 51.19(e) by requiring that stationary sources included in categories listed in Appendix P of 40 CFR Part 51 adhere to all applicable provisions of Appendix P including the installation, calibration, maintenance and operation of equipment for continuously monitoring and recording emissions.

EPA has reviewed these revisions and is proposing approval of them with this notice.

Note.—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 is issued under the authority of Section 110 of the Clean Air Act, as amended, (42 U.S.C. 7410).

Dated: September 23, 1980.

Frances E. Phillips,

Deputy Regional Administrator.

[FR Doc. 80-31323 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 52

[A-1-FRL 1629-1]

Approval and Promulgation of Implementation Plans—Massachusetts; Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commissioner of the Department of Environmental Quality Engineering (the Massachusetts Department) submitted on April 25, 1980 a revision to the Massachusetts State Implementation Plan (SIP). The proposed revision to Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" would allow

Natick Paperboard Corporation, Natick to increase its sulfur-in-fuel content from 1% to 2.2%. EPA is proposing to approve this revision.

DATE: Comments must be received on or before November 10, 1980.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460; and Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Massachusetts 02111.

Comments should be submitted to the Director, Air and Hazardous Materials Division, Region I, Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 233-5609.

SUPPLEMENTARY INFORMATION: The request to allow the Natick Paperboard Corporation in Natick to burn 2.2% sulfur fuel oil in accordance with Regulation 7.05(1) was submitted to EPA on April 25, 1980. The facility is rated at 131 million Btu per hour maximum design capacity and is located in the Metropolitan Boston Air Pollution Control District (MBAPCD) outside of the "Boston core" area. (Within the Boston core area, all sources are limited to 0.5% sulfur oil, except those rated at 2.5 billion Btu/hr or greater, which may burn 1% sulfur fuel oil.) Regulation 31 CMR 7.05(1) allows approved sources in the MBAPCD outside of the Boston core area rated at 100 million Btu per hour or greater to burn fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential (approximately 2.2% sulfur content residual oil by weight). Sources rated at less than 100 are limited to 1% sulfur fuel oil.

The original Massachusetts SIP of May 31, 1972 (37 FR 10842) limited all sources outside of the Boston core area of the MBAPCD to 1% sulfur fuel oil. Pursuant to Chapter 494 of the Massachusetts General Laws of 1974, the Massachusetts Department was required periodically to review the control strategies and relax any regulation which was more stringent than necessary to obtain National Ambient Air Quality Standards (NAAQS). During 1975, the Massachusetts Department reviewed the sulfur-in-fuel regulations for MBAPCD and as a result submitted revisions to its SIP to allow certain sources to burn higher sulfur content fuel on a temporary basis. With exceptions, these revisions were approved by EPA on December 5, 1975, August 22, 1977 and November 30, 1978.

On May 21, 1979 (44 FR 29453) EPA approved a revision to the Massachusetts SIP allowing sources in the MBAPCD outside the Boston core area which were then burning 2.2 percent sulfur fuel oil to continue burning the higher sulfur fuel permanently. On October 2, 1979 (44 FR 56694) EPA approved the remainder of the sources in the MBAPCD which were included in the list submitted by the Massachusetts Department. The Natick Paperboard Corporation was not submitted for approval since its maximum design capacity was then less than 100 million Btu per hour.

Technical support for the proposed revision includes an evaluation of compliance with NAAQS and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide.

The NAAQS are allowable concentrations set to protect public health and welfare. The NAAQS for SO_2 is 80 $\mu g/m^3$ based on an annual average; 365 $\mu g/m^3$ based on a 24-hour average; and 1300 $\mu g/m^3$ based on a 3-hour average. The PSD increments are allowable ambient air pollutant concentrations which are set to limit the degradation of air quality over baseline levels. According to current EPA regulations, the baseline increments for SO_2 which apply to the Natick area are 91 $\mu g/m^3$ (24-hour average); 512 $\mu g/m^3$ (3-hour average) and 20 $\mu g/m^3$ (annual average). The baseline is defined as the date on which a source subject to the PSD regulations filed a permit application to construct or modify in an area designated attainment or unclassifiable under Section 107(d)(1) of the Clean Air Act. The baseline date has been set for the entire State of Massachusetts which is the 107 designated attainment area. The date is August 4, 1978 which was set by the application filed by the Massachusetts Municipal Wholesale Electric Company.

The application of mathematical modeling techniques and an evaluation of existing ambient air quality demonstrated that Natick Paperboard will not cause or contribute to violations of ambient air quality standards. The maximum ambient levels of SO_2 predicted by the model are: 37 $\mu g/m^3$ (annual average); 259 $\mu g/m^3$ (24-hour average); and 635 $\mu g/m^3$ (3-hour average). The maximum PSD increment consumption predicted by the modeling is: 8 $\mu g/m^3$ (annual average); 79 $\mu g/m^3$ (24-hour average) and 177 $\mu g/m^3$ (3-hour average). Therefore, the entire available PSD increment will not be consumed and the NAAQS will not be violated.

Although 2.2% sulfur fuel oil burning will cause an increase in particulate emissions, the current Massachusetts SIP particulate emission limitation (0.12 pounds per million Btu) will not be violated.

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.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601).

Dated: August 29, 1980.

Leslie Carothers,

Acting Regional Administrator, Region I.

[FR Doc. 80-31684 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 180

[PP 9E2248/P154; PH-FRL 1630-7]

Malathion; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the insecticide malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate). This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment will establish a maximum permissible level for residues of the subject insecticide on flax seed and flax straw at 0.1 and 1.0 part per million (ppm), respectively.

DATE: Comments must received on or before November 10, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Emergency Response Section, Registration Division (TS-767), Office of

Pesticide Programs, Rm. E–124, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 9E2248 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of North Dakota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide malathion in or on the raw agricultural commodities flax seed at 0.1 ppm and flax straw at 1.0 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicology data considered in support of the proposed tolerances included two-year rat feeding studies, one with no-observed-effect-level (NOEL) of 100 ppm, but significant depression of cholinesterase activity at 1,000 and 5,000 ppm, and another two studies showing significant depression of cholinesterase activity at all levels of exposure ranging from 100 to 20,000 ppm; a one-generation rat reproduction study in which reproductive effects were observed at 4,000 ppm, the only level tested; a negative neurotoxicity study in chickens; a negative single dose (900 milligrams (mg)/kilogram (kg) of body weight (bw)) intraperitoneal teratology study in rats; rat and mouse oral lethal dose (LD_{50}) tests; two negative mutagenicity tests using microbial assay systems; and carcinogenic studies in rats and mice conducted by the National Cancer Institute (NCI) which indicated that under the terms of the bioassay, malathion is not a carcinogen; and a 47-day human feeding study with an NOEL at 0.2 mg/kg of bw/day.

Based on this last study and using a safety factor of 10, the acceptable daily intake (ADI) is 0.02 mg/kg of bw/day. The maxiumum permissible intake (MPI) for 60-kg human is 1.2 mg/day. A three generation rat reproduction study is currently lacking.

Tolerances have previously been established for residues of malathion on a variety of raw agricultural commodities at levels ranging from 0.1 ppm to 135 ppm.

On a theoretical basis, the total maximal residue contribution (TMRC) of these tolerances exceeds the ADI. However, the Food and Drug Administration's total diet surveys show that over a four-year period the actual exposure to malathion was not more than 0.00013 mg/kg of bw/day, which is less than 1 percent of the ADI. The increment of human exposure due to the tolerances on seed and flax straw would be negligible, and thus, the increment in risk, if any, is acceptable. The metabolism of malathion is adequately understood and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. There are no actions pending against continued registration of malathion, nor are any other considerations involved in establishing the proposed tolerances. The currently established tolerances for meat and milk are adequate to cover any residues from the animal feed. Thus, based on the above information considered by the Agency, it is concluded that the tolerance of 0.1 ppm in or on flax seed and 1.0 ppm on flax straw established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before November 10, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number, "PP 9E2248/P154". All written comments filed in response to this petition will be available for public inspection in the office of Clinton Fletcher from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 364a(e))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Divison, Office of Pesticide Program.

Therefore, it is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "flax seed" and "flax straw" in the table under § 180.111 to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Flax seed	0.1
Flax straw	1.0
* * * * *	

[FR Doc. 80–31693 Filed 10–9–80; 8:45 am]

BILLING CODE 6560–32–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–585; RM–3631]

FM Broadcasting Station in Varnado, La.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign Channel 224A to Varnado, Louisiana, as that community's first FM assignment, in response to a petition filed by Northlake Audio, Inc.

DATES: Comments must be filed on or before November 28, 1980, and reply comments on or before December 18, 1980.

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

FOR FURTHER INFORMATION CONTACT: Rosa Iris Ovaitt, Broadcast Bureau, (202) 623–6302.

SUPPLEMENTARY INFORMATION:

Adopted: September 29, 1980.

Released: October 8, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making[1] was filed by Northlake Audio, Inc. ("petitioner"), proposing the assignment of FM Channel 224A to Varnado, Louisiana, as that community's first FM assignment.

(b) Channel 224A could be assigned to Varnado in compliance with the

[1] Public Notice of the petition was given on April 11, 1980, Report No. 1223.

minimum distance separation requirements.

(c) Petitioner states that it will apply for the channel, if assigned. No responses to the petition were received.

2. *Demographic Data:*

(a) *Location:* Varnado, in Washington Parish, is located in eastern Louisiana, approximately 144 kilometers (90 miles) north of New Orleans, Louisiana.

(b) *Population:* Varnodo—320;[2] Washington Parish—41,987.

(c) *Local Aural Broadcast Service:* None.

3. *Economic Considerations:* Petitioner states that the area of Varnado is expected to undergo an increase in population soon, and mentions the construction of a new hospital, a new prison and the construction of 60 new homes as indications of the expected growth in the area.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Varnado, Louisiana, the Commission believe it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Varnado, Louisiana, as follows:

City	Channel No.	
	Present	Proposed
Varnado, La		224A

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 28, 1980, and reply comments on or before December 18, 1980.

7. For further information concerning this proceeding, contact Rosa Iris Ovaitt, Broadcast Bureau, (202) 632-6302. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel it if is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.*

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-31753 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-589; RM-3583]

TV Broadcast Station in Muncie, Ind.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition filed by Ball State University, this action proposes to substitute UHF television Channel *17 for Channel *61 as the channel assignment reserved for noncommercial educational use in Muncie, Indiana.

DATES: Comments must be filed on or before November 28, 1980, and reply comments must be filed on or before December 18, 1980.

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

FOR FURTHER INFORMATION CONTACT: Joaquin Cantu, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 29, 1980.

Released: October 9, 1980.

By the Chief, Policy and Rules Division.

In the matter of amendment of § 73.606(b) Table of Assignments, Television Broadcast Stations (Muncie, Indiana).

1. The Commission has before it a petition for rule making [1] submitted on December 26, 1979, by Ball State University ("BSU"), licensee of noncommercial educational television Station WIPB, Channel 49, Muncie, Indiana. The petition asks that the Commission substitute UHF television Channel 17 for Channel 61 as the channel assignment reserved for noncommercial educational use in Muncie, Indiana.[2] No oppositions or

[1] The Commission published a Public Notice of the petition on February 27, 1980, Report No. 1218.

[2] Petitioner BSU initially also requested that its license for WIPB be modified to specify Channel

Footnotes continued on next page

comments have been filed in response to the BSU petition.

2. Muncie (population 69,082),[3] seat of Delaware County (population 129,219), is located in east central Indiana, 56 miles northeast of Indianapolis. Muncie is currently assigned Channel 49 (WIPB) and Channel 61 (an unused channel reserved for noncommercial educational use). Thus, the community receives local television broadcast service solely from unreserved Channel 49 (WIPB).

3. BSU states that the proposed channel substitution (with an eventual license modification) would serve the public interest for a number of reasons. First, Channel 17 can be assigned to Muncie in full accordance with all applicable engineering standards. Second, the superior propagation characteristics of channels on the lower end of the UHF band (such as Channel 17) would enable WIPB to incur substantial savings in operating and maintenance costs. Finally, the switch by WIPB to a reserved channel (Channel 17) at Muncie would free Channel 49, an unreserved channel, for commercial use as it was originally intended.

4. While we do not find that the propagation difference between UHF Channels 17 and 61 (or between 17 and 49) are significant, there is a clear benefit to be derived from pursuing this proposal. That is, the unreserved assignment (Channel 49) would become available for commercial applications.

5. In view of the foregoing, the Commission believes that consideration of BSU's proposal is warranted. Canadian concurrence in the proposal must be obtained. Accordingly, IT IS PROPOSED TO AMEND § 73.606(b), of the Television Table of Assignments, to read as follow:

City	Channel No.	
	Present	Proposed
Muncie, Indiana	49, *61–	*17+, 49

Comments are invited on this matter.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 28, 1980, and reply comments on or before December 18, 1980.

8. For further information concerning this proceeding, contact Joaquin Cantu, Broadcast Bureau (202) 632–9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considerd if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-31747 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

Footnotes continued from last page

*17. However, in a supplement to its petition for rule making filed on August 22, 1980, BSU withdrew its modification request because of an unexpected inability to fund the channel modification at this time. BSU still advocates the requested change in the reserved channel assignment at Muncie and states that it will proceed with its plans to seek a modification of its license, as soon as its financial difficulties have been resolved.

[3]Population figures taken from the 1970 U.S. Census.

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47 CFR Parts 90 and 95

[SS Docket No. 78–236; FCC 80–549]

Directional Antennas at Stations Located at High Elevations in Southern California; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Termination of proposed rulemaking (memorandum opinion and order).

SUMMARY: The FCC denied a request to modify its rules to require the use of directional or down-tilted antennas on stations situated on Mt. Wilson, Mt. Lukens and Santiago Peak in Southern California. The Commission decided that it was not appropriate at this time to adopt the rules due to the lack of certainty as to the efficacy of these requirements to correct the interference problem for which they were proposed.

DATE: Non-Applicable.

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

FOR FURTHER INFORMATION CONTACT: Arthur Radice, Private Radio Bureau, (202) 634–2443.

Adopted: September 25, 1980.

Released: October 13, 1980.

In the Matter of Amendment of Part 90 (formerly Parts 89, 91, and 93) and Part 95 (General Mobile Radio Service only) to require the use of directional antennas at stations located at high elevations in Southern California.

By the Commission:

1. On August 9, 1978, we released a *Notice of Inquiry and Proposed Rule Making* in this proceeding[1] proposing to require the use of either directional or down-tilted antennas on stations situated on Mt. Wilson, Mt. Lukens, and Santiago Peak in Southern California. Our objective in proposing these rules was to address and attempt to resolve problems presented by a petition for rule making filed by Palomar Communications Company. In its petition, Palomar had requested the adoption of measures to help reduce the interference to land mobile stations operating in the San Diego, California, area from systems operating on high sites in the vicinity of metropolitan Los Angeles. At the same time, we also requested information as to the interference caused to Los Angeles systems from San Diego operations, and precise data as to interfering and victim stations in both locations. We also pointed out that other solutions had been suggested, and we requested public comments on moving San Diego users to 12.5 kHz offset frequencies and on reducing the effective radiated power (ERP) of stations operating in this area. Lastly, we asked for information as to: the radiation suppression required for directional antennas; the amount of down-tilt which should be required; and the cost to licensees of the modifications to their system which each of these solutions would entail.

2. One hundred and thirteen parties participated in this phase of the proceeding. By and large those who addressed the specifics of the proposal opposed them. The general thrust of the comments was that neither down-tilted nor directional antennas would eliminate the problem we were addressing but would seriously impair the effectiveness of communications systems of Los Angeles licensees in the metropolitan region and to the south, where many had valid communications requirements. For similar reasons, there was little enthusiasm for reduced effective radiated power. It was felt that this too would not eliminate the problem, and would diminish the effectiveness of these communications systems. While some who commented felt that the 12.5 kHz offset frequencies were a theoretical solution to the problem, they pointed out that economic and logistical hurdles to moving San Diego licensees onto these frequencies made such an approach impractical. Lastly, Los Angeles licensees pointed out that nothing was being proposed to relieve the interference they were receiving from San Diego systems. In short, few who commented believed that the solution we proposed in our Notice would eliminate the interference problem, and most argued that the proposals would adversely affect the communications capabilities of Los Angeles licensees. Little new information was contained in the comments which would help us resolve the interference problem in Southern California. The principal solution offered was closer frequency coordination. This approach has merit, and to a varying degree it may help prevent the most obvious problems and we urge closer coordination among applicants and licensees. However, we are not persuaded that this is the only solution. We think we need more information before we can adopt this or any other approach.

3. Efforts to devise realistic frequency coordination criteria are complicated by the existence of anomalous propagation in the area. A persistent inversion layer of air over a moist marine layer along the southern California coast causes trapping or ducting of radio signals and results in greatly enhanced RF fields at extended ranges. The extent and range of the enhancements varies diurnally and seasonally with meteorological conditions, topography, frequency and height of the transmitter and receiver.

4. The Commission has completed plans for a long term measurement program of selected radio signals in the VHF and UHF bands. Equipment for this project is now being developed at the Institute of Telecommunications Sciences (ITS) with FCC funding. Measurements are expected to start in April 1981 and be completed by July of 1982. When correlated with meteorological data these data will permit prediction of the level, location and range of signal enhancements with a much greater degree of confidence than is now possible. This will permit more realistic spectrum planning and frequency coordination that take into consideration frequency, topography, distance and antenna heights in order to maximize spectrum efficiency and limit interference. When the results of this study are analyzed, we will know better whether downtilted or directional antennas or reduced effective radiated power or other approaches which have been suggested in this proceeding represents practical solutions to the interference problems which exist in southern California.

5. For the foregoing reasons, we are declining to adopt rules to require use of directional or down-tilted antennas in southern California. Later when our study is completed, all of the solutions offered in this proceeding will be considered in light of the information we have developed in our coastal propagation study.

6. Accordingly, it is ordered that this proceeding is terminated and that RM-2931 submitted by Palomar Communications Company is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-31755 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

[1] *Notice of Inquiry and Proposed Rule Making*, SS Docket 78-236, FCC 78-752, released August 9, 1978.

Notices

Federal Register
Vol. 45, No. 199
Friday, October 10, 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

Commodity Credit Corporation

[Amendment 5]

Loan Programs—1973 and Subsequent Corp Price Support Programs and Farm Storage and Drying Equipment Loan Program; Interest Rates

The revised announcement by Commodity Credit Corporation published in the issue of the Federal Register of Tuesday, June 13, 1978, at 43 FR 25453, as amended in the issues of July 31, 1978, at 43 FR 33276, June 5, 1979, at 44 FR 32259, April 30, 1980, at 45 FR 28785 and June 19, 1980, at 45 FR 41472, of the rate of interest applicable to price support programs on 1973 and subsequent crops or production and to financing the purchase or construction of farm storage facilities and drying equipment is hereby amended to change the interest rate applicable to farm storage facilities and drying equipment loans.

Paragraph B (2) of the announcement of interest rate by the Commodity Credit Corporation published at 43 FR 25453, as amended, is revised to read as follows:

2. (a) Loans disbursed by Commodity Credit Corporation on or after April 1, 1977, for which applications were received prior to March 22, 1979, shall bear interest at the per annum rate of 7.0 percent from the date of disbursement until the date of repayment; (b) loans disbursed on applications received on or after March 22, 1979, and prior to April 16, 1980, shall bear interest at the per annum rate of 10.5 percent from the date of disbursement until date of repayment; (c) loans disbursed prior to September 29, 1980, on applications received on or after April 16, 1980, shall bear interest at the per annum rate of 13.0 percent from the date of disbursement until date of repayment; (d) loans disbursed on or after September 29, 1980, for which applications were received on or after April 16, 1980, shall bear interest at the per annum rate of 12.5 percent from the date of disbursement until date of repayment; a different rate may be subsequently announced for new loans.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); sec. 401 (a) and (b), 63 Stat. 1051, as amended (7 U.S.C. 1421 (a) and (b)))

Signed at Washington, D.C. October 3, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-31637 Filed 10-9-80; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 80-10-22; Docket 38794]

Boston-Denver/Philadelphia Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-10-22, *Boston-Denver/Philadelphia Show-Cause Proceeding.*

SUMMARY: The Board is proposing to grant Boston-Philadelphia and/or Boston-Denver authority to Continental Air Lines, USAir, Western Airlines, Piedmont Aviation, and Delta Air Lines. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file and serve upon all persons listed below, no later than November 6, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections or additional data should be filed in Docket 38794, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mark W. Atwood, Bureau of Domestic Aviation, Civil Aeronatutics Board, Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: Objections shoud be served upon the following persons:

Continental Air Lines, USAir, Western Air Lines, Piedmont Aviation and Delta Air Lines; the Governors of Massachusetts, Pennsylvania and Colorado, the Mayors of Boston, Philadelphia, and Denver, and the airport managers of Logan International Airport (Boston), Philadelphia International Airport, and Stapleton International Airport (Denver).

The complete text of Order 80-10-22 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80-10-22 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation: October 3, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-31689 Filed 10-9-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc., Fitness Investigation; Reassignment of Proceeding

This proceeding has been reassigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., October 7, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-31696 Filed 10-9-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38767]

New York Air Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., October 7, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-31697 Filed 10-9-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Glass-Lined Steel Storage Tanks, Pressure Vessels and Parts Thereof From France; Dismissal of Countervailing Duty Petition

AGENCY: U.S. Department of Commerce.

ACTION: Dismissal of petition.

SUMMARY: This notice is to advise the public that a petition has been received requesting that a countervailing duty be imposed with respect to the importation of glass-lined steel storage tanks, pressure vessels, and parts thereof from France. As the petition does not properly allege the basis upon which countervailing duties may be imposed and does not appear to present information reasonably available to the petitioners in support of the allegations, the petition is being dismissed and the proceeding terminated.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Program Analyst, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3464).

SUPPLEMENTARY INFORMATION: On September 15, 1980, a petition was received pursuant to section 303, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, 93 Stat. 190, (19 U.S.C. 1303 *et seq.*) (hereinafter referred to as "the Act") from the Pfaudler Company, division of Sybron Corporation, Rochester, New York, requesting that a countervailing duty be imposed with respect to the importation of glass-lined steel storage tanks having a capacity of over 75 gallons, glass-lined steel pressure vessels, and parts thereof from France on the basis of certain benefits available under French law, which may constitute subsidies within the meaning of section 701 of the Act, as amended (19 U.S.C. 1671).

Under Section 702(c) of the Act (93 Stat. 152), the Commerce Department has 20 days to "determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations."

The petition in this case does not meet this standard. It lists a number of French Government incentive and assistance programs but it does not allege that the French producer actually receives subsidies under any of these programs. It does not provide information, such as the value of any such subsidies when received, or other information, to support the allegations made. It does not allege or describe efforts that the petitioner has made to obtain such information or otherwise provide a basis to conclude that the petitioner has made reasonable efforts to obtain and present information in support of his petition. The petition also omits other important information required, insofar as available, by the Department of Commerce regulations, 19 CFR 355.26, such as whether the petitioner is seeking any other import relief, and the volume and value of the imports in question. Therefore, notice is hereby given that the petition is dismissed and the proceeding terminated.

A copy of this determination is being furnished to the U.S. International Trade Commission in accordance with section 732(d)(1) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)(1)).

(Sec. 732(c)(3) of the Act (93 Stat. 163, 19 U.S.C. 1673a(c)(3)))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

October 6, 1980.

[FR Doc. 80-31530 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Modification of Permit; National Marine Mammal Lab; Elephant Seals

Notice is hereby given that, pursuant to the provisions of Sections 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Scientific Research Permit to take four Northern elephant seals (*Mirounga angustirostris*) issued to the National Marine Mammal Laboratory on July 2, 1979 (44 FR 40540), is modified in the following manner:

"The period of validity of the Permit is extended from December 31, 1980, to December 31, 1981."

This modification is effective October 10, 1980.

The Permit, as modified, and documentation pertaining to the modification is available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109.

Dated: October 6, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-31743 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals Modification of Permit No. 71 for Northwest Fisheries Center; Sea Lions

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 71 issued to the Northwest Fisheries Center, National Marine Fisheries Service on Jan. 21, 1975, as modified, is further modified as follows:

Section A is modified by changing Section A–5 to read as follows: "Up to 100 California sea lions (*Zalophus californianus*) may be captured, lavaged or induced to regurgitate, and released."

With this modification the 100 California sea lions previously authorized to be taken, lavaged and released are now authorized to be taken, lavaged or induced to regurgitate, and released.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: October 2, 1980.

Robert K. Crowell,

Deputy Executive Director National Marine Fisheries Service.

[FR Doc. 80-31742 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of public hearings.

SUMMARY: The North Pacific Fishery Management Council will hold public

hearings for the purpose of public input on the Draft Fishery Management Plan (DFMP) for the Western Alaska King Crab, and amendments to the Tanner Crab Fishery Management Plan (FMP) and the Bering Sea Groundfish FMP.

DATES: Written comments on the DFMP for Western Alaska King Crab and the amendments to the plans for Tanner Crab and Bering Sea Groundfish from members of the public may be submitted no later than December 9, 1980.

Individuals or organizations wishing to comment on any of the above fishery management plans may do so at public hearings to be held at the time and location listed below:

October 21, 1980—Dutch Harbor, Alaska.
December 6, 1980—Seattle, Washington.
December 6, 1980—Kodiak, Alaska.
December 9, 1980—Anchorage, Alaska.

ADDRESS: Send comments to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

Public hearing locations:

October 21, 1980—School Building, Dutch Harbor, Alaska, 7:30 p.m.
Nome, Alaska—Meeting place and date pending.
December 6, 1980—Sheraton-Renton Inn, 800 Ranier Avenue South, Renton, Washington, 9:30 a.m.
December 6, 1980—Elks Hall, Kodiak, Alaska, 9:00 a.m.
December 9, 1980—Anchorage Westward Hilton, Anchorage, Alaska, 9:00 a.m.

Winter travel in Alaska is sometimes difficult and makes it necessary to consider alternative meeting places and times. We have therefore planned to visit the city where a hearing was cancelled as soon as weather permits. Cancellations and new locations, if necessary, will be announced locally by telephone and radio, newspapers, and television.

Copies of the fishery management plans are available at the following locations:

Anchorage

1. Alaska Department of Fish and Game, 333 Raspberry Road, Anchorage, Alaska 99502.
2. National Marine Fisheries Service, Federal Building, and U.S. Court House, 701 C Street, Anchorage, Alaska 99513.
3. Z.J. Loussac Public Library, 427 F Street, Anchorage, Alaska 99501.
4. North Pacific Fishery Management Council, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska.

bethel

1. Alaska Department of Fish and Game, P.O. Box 96, Bethel, Alaska 99559.
2. Bethel Public Library, Bethel, Alaska 99559.

Cordova

1. Alaska Department of Fish and Game, P.O. Box 669, Cordova, Alaska 99574.
2. Cordova Public Library, Cordova, Alaska 99574.

Dillingham

1. Alaska Department of Fish and Game, P.O. Box 199, Dillingham, Alaska 99576.
2. Dillingham Public Library, Dillingham, Alaska 99576.

Fairbanks

1. Alaska Department of Fish and Game, 1300 College Road, Fairbanks, Alaska 99701.
2. Fairbanks North Star Borough Public Library, 901 1st Avenue, Fairbanks, Alaska 99701.

Sitka

1. Alaska Department of Fish and Game, State Office Building, Sitka, Alaska 99835.
2. Kedelson Memorial Library, Sitka, Alaska 99835.

Unalaska

1. Alaska Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, Alaska 99685.
2. Unalaska/School/Community Library, Unalaska, Alaska 99685.

Valdez

1. Alaska Department of Fish and Game, Valdez, Alaska 99686.

Homer

1. Alaska Department of Fish and Game, Homer, Alaska 99603.
2. Homer Public Library, Homer, Alaska 99603.

Juneau

1. Alaska Department of Fish and Game, S.E. Regional Office, 210 Ferry Way, Juneau, Alaska 99801.
2. Alaska Department of Fish and Game, Commissioner, Subport Building, Juneau, Alaska 99801.
3. National Marine Fisheries Service, Room 453, Federal Building, Juneau, Alaska 99802.
4. Juneau Memorial Library, 114 West 4th Street, Juneau, Alaska 99801.

Ketchikan

1. Alaska Department of Fish and Game, 208 State Court and Office Building, 415 Main Street, Suite 208, Ketchikan, Alaska 99901.
2. Ketchikan Public Library, 629 Dock Street, Ketchikan, Alaska 99901.

Kodiak

1. Alaska Department of Fish and Game, Kodiak, Alaska 99615.
2. A. Holmes Johnson Memorial Library, Kodiak, Alaska 99615.
3. National Marine Fisheries Service, Gibson Cove, Kodiak, Alaska 99615.

Kotzebue

1. Kotzebue Public Library, Kotzebue, Alaska 99752.

Petersburg

1. Alaska Department of Fish and Game, Swanson Building, Petersburg, Alaska 99833.
2. Petersburg Public Library, Petersburg, Alaska 99833.

Sand Point

1. Alaska Department of Fish and Game, Sand Point, Alaska 99661.
2. Sand Point Community/School Library, Sand Point, Alaska 99661.

Seward

1. Alaska Department of Fish and Game, Seward Court Building, Seward, Alaska 99664.

Wrangell

1. Alaska Department of Fish and Game, P.O. Box 200, Wrangell, Alaska 99929.
2. Wrangell Public Library, Wrangell, Alaska 99929.

Yakutat

1. Alaska Department of Fish and Game, P.O. Box 68, Yakutat, Alaska 99689. Limited numbers of the DFMP will be available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Anchorage, Alaska 99501 (P.O. Box 3136DT, Anchorage, Alaska 99510) and the National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510. Telephone (907) 274–4563.

Signed at Washington, D.C. this 7th day of October, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-31744 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Commerce Technical Advisory Board; Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Tuesday, October 28, 1980 from 9:00 a.m. until 5:00 p.m. at International Harvester Company, Melrose Park, Illinois; Museum of Science and Industry, 57th Street and Lake Shore Drive, Chicago; and 6101 Sheridan Road, East (43rd Floor), Chicago; and on Wednesday, October 29, 1980 from 9:00 a.m. until 3:00 p.m. at Borg-Warner Research Center, Chicago.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the Business Community.

Agenda items will include:

- Computer integrated design and manufacturing technologies
- The role of museums in stimulating human resources for innovation

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal advisory Committee act, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377–5065.

Dated: October 3, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-31688 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-18-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Prehearing Conference.

AGENCY: Department of Education.

ACTION: Notice of Education Appeal Board proceeding scheduled for October 1980.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of North Dakota*, Docket No. 8–(44)–78, for October 15, 1980. This notice also advises readers that interested third parties may apply to intervene in the appeal proceedings.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under the Education Amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct (1) audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on April 3, 1980 (45 FR 22634).

Prehearing Conference

The Education Appeal Board has scheduled a prehearing conference in the *Appeal of the State of North Dakota*, Docket No. 8–(44)–78, for October 15, 1980, in Room 3000, 400 Maryland Avenue, SW., Washington, D.C. The conference will begin at 10:30 a.m.

In its appeal, North Dakota is contesting final audit determinations made by the Deputy Commissioner for Elementary and Secondary Education (now the Assistant Secretary for Elementary and Secondary Education). The Deputy Commissioner found that in fiscal year 1974, the Fargo and Grand Forks school districts were not eligible to receive funds under Title I of the Elementary and Secondary Education Act of 1965 because the school districts were not able to demonstrate that they has used State and local funds to provide services in Title I target schools comparable to the services provided in nontarget schools. The Deputy Commissioner also found that in fiscal year 1974, the Minot school district used Title I funds to reimburse a private school for the salaries of two teachers whose services were supervised and administered entirely by the private school; the Dunseith school district used Title I funds to pay for teacher aides to provide general library services designed to meet the needs of a student body at large; and the Devils Lake school district was unable to support costs claimed for Title I administration. Finally, the Deputy Commissioner found that in fiscal year 1974, the Bismarck, Fargo, Minot, and Mandan school districts used Title I funds to supplant State and local funding of services to handicapped children. The Deputy Commissioner requested a refund of $117,030 from North Dakota.

Intervention

Section 100d.43 of the final regulatons establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the *Appeal of the State of North Dakota*, Docket No. 8–(44)–78.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

All such applications or questions should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(20 U.S.C. 1234)

Dated: October 6, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number not applicable)

[FR Doc. 80-31531 Filed 10-9-80; 8:45 am]

BILLING CODE 4000-01-M

Education Statistics Advisory Council; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of the forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This Document is intended to notify the general public of their opportunity to attend.

DATE: November 5–6, 1980.

ADDRESS: Room 205, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director Advisory Council on Education Statistics, National Center for Education Statistics, 400 Maryland Avenue, SW

(Presidential Building) Washington, DC 20202, telephone number 301–436–7885.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is mandated by Section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, P.O. 93–380, (20 USC 122e–1(L)), to advise the Secretary of The Department of Education, and the Assistant Secretary for Educational Research and Improvement, and the Administrator of The National Center for Education Statistics; and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting of the Council is open to the public. The agenda includes the Administrator's report on recent developments of the National Center for Education Statistics, the recent Congressional testimony on vocational education and vocational education data, and preliminary results from the 1980 High School and Beyond Study. The major focus of the meeting will be planning of the Council's agenda for 1981.

Records are kept of all council proceedings, and available for public inspection at the office of the Advisory Council on Education Statistics, 205 Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland.

Signed at Hyattsville, Maryland, October 6, 1980.

Marie D. Eldridge,

Administrator National Center for Education Statistics.

[FR Doc. 80-31533 Filed 10-9-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Case No. 53003-0568-03-82]

United Illuminating Co. of New Haven, Conn.; Powerplant and Industrial Fuel Use Act of 1978; Notice of Intention To Proceed With Prohibition Order Proceedings

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of its intention to proceed with the pending Prohibition Order Proceedings relating to a powerplant owned by United Illuminating Company of New Haven, Connecticut (United Illuminating) and located at Bridgeport Harbor, Connecticut, and identified as Bridgeport Harbor No. 3.

Pursuant to Sections 301(b) and 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, a proposed prohibition order for Bridgeport Harbor No. 3 was issued by ERA on November 21, 1979 and published in the **Federal Register** on November 27, 1979 (44 FR 67706).

Description of Prohibition Order Proceedings

In accordance with 10 CFR 501.51, the proposed prohibition order commenced an initial public comment period, during which period United Illuminating was given an opportunity to challenge ERA's initial finding that Bridgeport Harbor No. 3 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source. During this period the utility was required to furnish ERA with evidence bearing upon the other statutory findings which ERA must make prior to the issuance of a final prohibition order. The utility must also have identified, during this period, any exemptions for which the powerplant may qualify, but need not have submitted evidence attempting to demonstrate entitlement to an exemption.

The publication of this Notice of Intention to Proceed commences a second three month period during which United Illuminating may present evidence to demonstrate that the powerplant would qualify for an exemption, which would constitute a defense to the issuance of a final prohibition order.

Subsequent to the end of the second three month period ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a Tentative Staff Analysis concerning the findings ERA must make prior to issuance of a final prohibition order. Those findings, which are required by Section 301(b) of FUA, are: (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the power plant or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source.

The provisions of Section 701(d) of FUA and 10 CFR 501.33 afford any interested person an opportunity to request a public hearing on the proposed prohibition order. Interested persons wishing a hearing must make their request, in writing, no later than 45 days after publication of the Notice of Availability of the Tentative Staff Analysis. If a hearing is requested, the hearing will be held in accordance with Subpart C of 10 CFR Part 501. Interested persons may also submit written comments during this 45 day period.

After the hearing and comment period closes, ERA shall determine whether a final prohibition order will be issued based upon ERA's review of the entire administrative record. Any final prohibition order, together with a summary of the basis therefor, will be published in the the **Federal Register.** Such order shall not take effect earlier than sixty days after publication.

Comments and Written Submissions Received on Proposed Prohibition Order

During the initial comment period, comments on the proposed prohibition order to Bridgeport Harbor No. 3 were received from United Illuminating and from residents in the service area. Some local citizens supported the proposed order, stating that the burning of coal in Bridgeport Harbor No. 3 will result in fuel oil savings for the United States and reduce the cost of electricity to the consumer. Other commenters opposed coal burning at Bridgeport Harbor No. 3 primarily because of its potential adverse impacts on the environment and the financial cost of converting and maintaining the unit on coal. These comments will be fully addressed if ERA issues a Tentative Staff Analysis.

United Illuminating submitted comments which support the proposed prohibition order, provided the conversion of Bridgeport Harbor No. 3 can be accomplished with the full support of interested Federal and state regulatory agencies. United Illuminating also maintains that conversion of Bridgeport Harbor No. 3, with its potential for displacing more than three million barrels of oil annually, warrants a concerted and constructive effort by all concerned parties.

During this period, neither United Illuminating nor any other interested persons submitted any information contrary to ERA's initial finding that Bridgeport Harbor No. 3 has or previously had the technical capability to burn an alternate fuel (coal) as a primary energy source.

In accordance with 10 CFR 501.51 United Illuminating also submitted evidence relating to the other findings that ERA is required to make under Section 301(b) of FUA, and identified, in their response dated February 11, 1980, those exemptions for which Bridgeport Harbor No. 3 may qualify. The temporary exemptions authorized by

Section 311 of the Act, which United Illuminating identified are: (1) lack of alternate fuel supply, site limitations, inability to comply with applicable environmental requirements; (2) public interest; and (3) powerplant necessary to maintain reliability of service. In addition, United Illuminating identified the following permanent exemptions for which Bridgeport Harbor No. 3 may qualify as authorized by Section 312 of the Act: (1) lack of alternate fuel supply, site limitations, inability to comply with applicable environmental requirements; (2) fuel mixtures; and (3) cogeneration.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Steven Frank, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3302, Washington, D.C. 20461, (202) 653-4184.

James Renjilian, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C. September 26, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion Economic Regulatory Administration.

[FR Doc. 80-31759 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 289]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 29, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
*A L BAUDER JR					RECEIVED: 09/12/80 JA: TX			
8057011	18984	4249731537	103		#1 SCOTT	ATOKA 6400	31.8	NATURAL GAS PIPELINE
*ADOBE OIL & GAS CORPORATION					RECEIVED: 09/12/80 JA: TX			
8057188	20363	4247531892	103		BARSTOW NO 17	SCOTT (CHERRY CANYON)	720.0	TRANSWESTERN PIPELIN
*ALFRED J SMITH					RECEIVED: 09/12/80 JA: TX			
8056794	12364	4217900000	108		BOWERS 03391	PANHANDLE GRAY COUNTY FI	1.3	PHILLIPS PETROLEUM C
*AMERICAN PETROFINA COMPANY OF TEXAS					RECEIVED: 09/12/80 JA: TX			
8056989	18467	4235500000	108		MABEL ELLIFF #12	AGUA DULCE 5600	20.0	TENNESSEE GAS PIPELI
8056990	18468	4235500000	108		MABEL ELLIFF #15	AGUA DULCE 5600	20.0	TENNESSEE GAS PIPELI
*AMINOIL USA INC					RECEIVED: 09/12/80 JA: TX			
8056886	17822	4246131155	103		UNIVERSITY 18	MCELROY	10.5	PHILLIPS PETROLEUM C
*AMOCO PRODUCTION CO					RECEIVED: 09/12/80 JA: TX			
8057241	21692	4218930135	103		ANTON IRISH CLEARFORK UNIT # 357	ANTON IRISH	3.6	PIONEER NATURAL GAS
8057242	21693	4218930288	103		ANTON IRISH CLEARFORK UNIT # 365	ANTON IRISH	12.0	PIONEER NATURAL GAS
8057243	21694	4218930149	103		ANTON IRISH CLEARFORK UNIT # 376	ANTON IRISH	12.0	PIONEER NATURAL GAS
8057244	21695	4218930307	103		ANTON IRISH CLEARFORK UNIT # 407	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057245	21696	4230330440	103		ANTON IRISH CLEARFORK UNIT # 410	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057246	21697	4218930308	103		ANTON IRISH CLEARFORK UNIT # 411	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057239	21690	4218930306	103		ANTON IRISH CLEARFORK UNIT # 416	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057240	21691	4227930215	103		ANTON IRISH CLEARFORK UNIT # 418	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057250	21739	4227930053	103		ANTON IRISH CLEARFORK UNIT #392	ANTON IRISH	1.8	PIONEER NATURAL GAS
8057237	21688	4218930309	103		ANTON IRISH CLEARFORK UNIT #413	ANTON IRISH	1.0	PIONEER NATURAL GAS
8057238	21689	4230330439	103		ANTON IRISH CLEARFORK UNIT #415	ANTON IRISH	1.0	PIONEER NATURAL GAS
8056863	17175	4227930220	103		ANTON IRISH CLEARFORK UNIT #424	ANTON IRISH	1.0	PIONEER NATURAL GAS
*8056790	14268	4203931305	103		BELIA MATSUSHITA NO 9	HASTINGS WEST	58.4	TEXAS EASTERN TRANSM
8057102	20002	4229530725	103		C L KING A WELL #7	BRADFORD TONKAWA	73.0	PHILLIPS PETROLEUM C
8057273	20610	4229530736	103		C L KING B WELL #5	BRADFORD-TONKAWA	1.0	PHILLIPS PETROLEUM C
8057022	19309	4236530994	103		CARTHAGE GAS UNIT 13 WELL NO 4	CARTHAGE (TRAVIS PEAK)	219.0	TENNESSEE GAS PIPELI
8056818	15767	4236530740	103		CARTHAGE GAS UNIT 15 NO 4	CARTHAGE (TRAVIS PEAK)	274.0	TENNESSEE GAS PIPELI
8056872	16609	4236530881	103		CARTHAGE GAS UNIT 7 WELL NO 4	CARTHAGE (TRAVIS PEAK)	182.5	TENNESSEE GAS PIPELI
*8056791	14273	4203931277	103		FANNIE DRAKE NO 25	HASTINGS WEST	21.9	AMOCO GAS CO
8057154	20134	4239330726	103		G A MAHLER WELL #4	NW MENDOTA	329.0	MICHIGAN-WISCONSIN P
*8056792	14274	4203931306	103		G W WHITTON NO 2	HASTINGS WEST	74.8	AMOCO GAS CO
8057041	19571	4210532373	103		J F & M E SUDDERTH D #2	WHITEHEAD (STRAWN)	164.0	LONE STAR GAS CO
8057260	20704	4224500000	108		W P MCCORMACK #11	BEAUMONT WEST/MIOCENE 29	10.9	AMOCO GAS CO
*ANDOVER OIL COMPANY					RECEIVED: 09/12/80 JA: TX			
8057115	20062	4237100000	108		DOW PUCKETT B #1	BELDING (YATES)	10.0	EL PASO NATURAL GAS
8057114	20063	4237100000	108		DOW PUCKETT C #1	BELDING (YATES)	10.0	EL PASO NATURAL GAS
8057116	20061	4237100000	108		DOW PUCKETT H #1	BELDING (YATES)	10.0	EL PASO NATURAL GAS
*ARAPAHOE PRODUCTION CO					RECEIVED: 09/12/80 JA: TX			
8056809	10442	4223300000	108		MITTIE STEVENSON #3 WELL	WEST PANHANDLE HUTCHINSO	4.0	PANHANDLE PRUDUCING

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*ARCO OIL AND GAS COMPANY					RECEIVED: 09/12/80 JA: TX			
8057215	20518	4210531941	103		CRYSTELLE CHILDRESS 3 NO 1	OZONA (CANYON SAND)	190.0	VALERO TRANSMISSION
8057158	20121	4200332092	103		EMMA COWDEN NO 65	EMMA	8.2	EL PASO NATURAL GAS
8057160	20119	4200332091	103		EMMA COWDEN NO 66	EMMA	5.0	EL PASO NATURAL GAS
8057157	20122	4200332090	103		EMMA COWDEN NO 67	EMMA	5.0	EL PASO NATURAL GAS
8057159	20120	4200332089	103		EMMA COWDEN NO 68	EMMA	10.0	EL PASO NATURAL GAS
8057156	20124	4200332152	103		EMMA COWDEN NO 70	EMMA	22.0	EL PASO NATURAL GAS
8057097	19901	4213133986	103		J R FOSTER #59	HAGIST RANCH	110.0	NATURAL GAS PIPELINE
8057062	19900	4213133984	103		J R FOSTER #61	HAGIST RANCH	110.0	NATURAL GAS PIPELINE
8057096	19902	4213133983	103		J R FOSTER #62	HAGIST RANCH	110.0	NATURAL GAS PIPELINE
8057262	20706	4206500000	108		J W MCCONNELL A #5	PANHANDLE WEST	19.0	KERR MCGEE CORP
8057261	20705	4219500000	108		LAURENCE J FITZSIMON #1	TWIN (TONKAWA)	15.5	NATURAL GAS PIPELINE
8056851	15317	4206500000	108		R C WARE DE #1	PANHANDLE CARSON	0.6	GETTY OIL CO
8056862	15240	4206500000	108		R C WARE DE #16	PANHANDLE CARSON	0.6	GETTY OIL CO
8056847	15241	4206500000	108		R C WARE DE #17	PANHANDLE CARSON	0.0	GETTY OIL CO
8056848	15242	4206500000	108		R C WARE DE #18	PANHANDLE CARSON	0.6	GETTY OIL CO
8056849	15243	4206500000	108		R C WARE DE #19	PANHANDLE CARSON	0.6	GETTY OIL CO
8056852	15318	4206500000	108		R C WARE DE #4	PANHANDLE CARSON	0.6	GETTY OIL CO
8056861	15219	4206500000	108		R C WARE DE #9	PANHANDLE CARSON	0.6	GETTY OIL CO
8056819	15794	4223300000	108		W T COBLE #1	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056827	15802	4223300000	108		W T COBLE #10	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056820	15795	4223300000	108		W T COBLE #2	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056821	15796	4223300000	108		W T COBLE #3	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056822	15797	4223300000	108		W T COBLE #4	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056828	15835	4223300000	108		W T COBLE #5	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056823	15798	4223300000	108		W T COBLE #6	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056824	15799	4223300000	108		W T COBLE #7	PANHANDLE (HUTCHINSON)	0.0	GETTY OIL CO
8056825	15800	4223300000	108		W T COBLE #8	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8056826	15801	4223300000	108		W T COBLE #9	PANHANDLE (HUTCHINSON)	2.4	GETTY OIL CO
8057222	20561	4223330689	103		WARE A #1-31	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO
8057223	20562	4223330687	103		WARE A #1-33	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO
8057224	20563	4223330683	103		WARE A #1-35	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO
8057225	20564	4223330684	103		WARE A #1-36	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO
8057203	20565	4223330685	103		WARE A #1-37	PANHANDLE CARSON COUNTY	4.0	GETTY OIL CO
8057208	20570	4223330697	103		WARE B #2-26	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057204	20566	4223330696	103		WARE B #2-27	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057205	20567	4223330695	103		WARE B #2-28	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057207	20569	4223330694	103		WARE B #2-29	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057206	20568	4223330693	103		WARE B #2-30	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057274	20612	4223330692	103		WARE B WELL #2-31	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
8057275	20613	4223330691	103		WARE B WELL #2-32	PANHANDLE HUTCHINSON COU	4.0	GETTY OIL CO
*ARKLA EXPLORATION COMPANY					RECEIVED: 09/12/80 JA: TX			
8056814	06321	4241930278	103		LAWRENCE T FRANKS #1-C	STOCKMAN (TRAVIS PEAK WE	174.0	ARKANSAS LOUISIANA G
8056815	06333	4236530642	103		MULLINS #1	CARTHAGE (TRAVIS PEAK)	181.0	ARKANSAS LOUISIANA G
*B D CLICK CO INC					RECEIVED: 09/12/80 JA: TX			
8056916	18266	4209330615	103		CLICK WELL #1	SPARKMAN (MARBLE FALLS)	52.0	ENERGY PIPELINE CORP
*BASS ENTERPRISES PRODUCTION CO					RECEIVED: 09/12/80 JA: TX			
8057249	21703	4249531025	103		GULF-JENKINS #12	KEYSTONE	50.0	TRANSWESTERN PIPELIN
*BETTIS BOYLE & STOVALL					RECEIVED: 09/12/80 JA: TX			
8056954	18643	4248300000	108		A J LAYCOCK #1	PANHANDLE EAST	9.7	WARREN PETROLEUM CO
8056955	18644	4248300000	108		A J LAYCOCK 2	PANHANDLE EAST	4.4	WARREN PETROLEUM CO
8056957	18645	4248300000	108		A J LAYCOCK 3	PANHANDLE EAST	10.1	WARREN PETROLEUM CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8056935	18597	4248300000	108		ATKINS #2	PANHANDLE EAST	0.9	WARREN PETROLEUM CO
8056937	18599	4248300000	108		BROWN #1	PANHANDLE EAST	1.0	WARREN PETROLEUM CO
8056938	18600	4248300000	108		BURCHAM 6	PANHANDLE EAST	11.7	WARREN PETROLEUM CO
8056958	18646	4248300000	108		C A LINKEY 2	PANHANDLE EAST	8.4	WARREN PETROLEUM CO
8056959	18647	4248300000	108		CHARLES A LINKEY 3	PANHANDLE EAST	12.5	WARREN PETROLEUM CO
8056948	18633	4248300000	108		CHARLES HICKS 1	PANHANDLE EAST	3.8	WARREN PETROLEUM CO
8056975	18608	4208700000	108		COLEMAN #1	PANHANDLE EAST	7.7	WARREN PETROLEUM CO
8056976	18609	4248300000	108		COOPER	PANHANDLE EAST	7.0	WARREN PETROLEUM CO
8056977	18610	4248300000	108		CUDDEBACK #1	PANHANDLE EAST	3.9	WARREN PETROLEUM CO
8056966	18655	4248300000	108		D L MORGAN 2	PANHANDLE EAST	3.1	WARREN PETROLEUM CO
8056967	18656	4248300000	108		D L MORGAN 3	PANHANDLE EAST	9.3	WARREN PETROLEUM CO
8057057	18696	4248300000	108		E L WOODLEY 1-A	PANHANDLE EAST	3.9	WARREN PETROLEUM
8057058	18697	4248300000	108		E L WOODLEY 1-B	PANHANDLE EAST	6.6	WARREN PETROLEUM
8057059	18698	4248300000	108		E L WOODLEY 1-C	PANHANDLE EAST	17.6	WARREN PETROLEUM
8057054	18692	4248300000	108		ED R WALLACE 1	PANHANDLE EAST	5.0	WARREN PETROLEUM
8056979	18612	4248300000	108		EDWARDS W A #1	PANHANDLE EAST	16.0	WARREN PETROLEUM CO
8056961	18649	4248300000	108		F LEE MAJOR ET AL 1	PANHANDLE EAST	11.9	WARREN PETROLEUM CO
8056981	18625	4248300000	108		GROGAN/B	PANHANDLE EAST	9.9	WARREN PETROLEUM CO
8056943	18628	4248300000	108		HAINES #1	PANHANDLE EAST	1.8	PHILLIPS PETROLEUM C
8056945	18630	4248300000	108		HATCHER 2	PANHANDLE EAST	10.5	WARREN PETROLEUM CO
8056946	18631	4248300000	108		HATCHER 3	PANHANDLE EAST	4.5	WARREN PETROLEUM CO
8056947	18632	4208700000	108		HAWKINS 26887	PANHANDLE EAST	10.3	WARREN PETROLEUM CO
8056972	18605	4248300000	108		IVY CLOSE #20	PANHANDLE EAST	15.7	WARREN PETROLEUM CO
8056939	18602	4248300000	108		IVY CLOSE 15	PANHANDLE EAST	3.9	WARREN PETROLEUM CO
8056940	18603	4248300000	108		IVY CLOSE 17	PANHANDLE EAST	7.0	WARREN PETROLEUM CO
8056941	18604	4248300000	108		IVY CLOSE 18	PANHANDLE EAST	6.8	WARREN PETROLEUM CO
8056978	18611	4248300000	108		J D CUDDEBACK #1	PANHANDLE EAST	11.9	WARREN PETROLEUM CO
8056956	18669	4248300000	108		J D PURCELL #1	PANHANDLE EAST	3.2	WARREN PETROLEUM CO
8056971	18668	4248300000	108		J D PURCELL 1	PANHANDLE EAST	9.9	WARREN PETROLEUM CO
8057052	18686	4248300000	108		J W TURNBOW 1	PANHANDLE EAST	3.1	WARREN PETROLEUM
8056980	18626	4248300000	108		JOHN W GROGAN #2	PANHANDLE EAST	1.8	WARREN PETROLEUM CO
8056982	18627	4248300000	108		JOHN W GROGAN #3	PANHANDLE EAST	0.6	WARREN PETROLEUM CO
8057047	18677	4248300000	108		L B SIMS 1	PANHANDLE EAST	3.8	WARREN PETROLEUM
8056951	18639	4248300000	108		LANKFORD #2	PANHANDLE EAST	8.7	WARREN PETROLEUM CO
8056973	18606	4248300000	108		M D CLOSE 1	PANHANDLE EAST	12.2	WARREN PETROLEUM CO
8056974	18607	4248300000	108		M D CLOSE 3	PANHANDLE EAST	4.2	WARREN PETROLEUM CO
8056929	18590	4248300000	108		M E ACKLEY #3	PANHANDLE EAST	4.3	WARREN PETROLEUM
8056930	18591	4248300000	108		M E ACKLEY #4	PANHANDLE EAST	3.0	WARREN PETROLEUM
8056931	18592	4248300000	108		M E ACKLEY #5	PANHANDLE EAST	3.0	WARREN PETROLEUM
8056926	18587	4248300000	108		M E ACKLEY 1	PANHANDLE EAST	12.9	WARREN PETROLEUM
8056927	18588	4248300000	108		M E ACKLEY 1-A	PANHANDLE EAST	5.4	WARREN PETROLEUM
8056928	18589	4248300000	108		M E ACKLEY 1-B	PANHANDLE EAST	5.3	WARREN PETROLEUM
8056936	18598	4248300000	108		M M BINKLEY #1	PANHANDLE EAST	8.1	WARREN PETROLEUM CO
8057000	18672	4248300000	108		M S PURCELL #1	PANHANDLE EAST	7.3	WARREN PETROLEUM CO
8057045	18673	4248300000	108		M S PURCELL A	PANHANDLE EAST	6.6	WARREN PETROLEUM
8056965	18654	4248300000	108		MOBIL OIL CO #1	PANHANDLE EAST	2.9	WARREN PETROLEUM CO
8056944	18629	4248300000	108		O B HARVEY	PANHANDLE EAST	3.3	WARREN PETROLEUM CO
8057050	18684	4248300000	108		O P STUCKEY 1	PANHANDLE EAST	4.7	WARREN PETROLEUM
8056932	18593	4248300000	108		P P ACKLEY #1	PANHANDLE EAST	9.7	WARREN PETROLEUM CO
8056970	18663	4248300000	108		PARSON #3	PANHANDLE EAST	0.1	WARREN PETROLEUM CO
8056969	18662	4248300000	108		PARSONS #2	PANHANDLE EAST	2.7	WARREN PETROLEUM CO
8056960	18648	4248300000	108		PAUL MACINA 1	PANHANDLE EAST	4.4	WARREN PETROLEUM CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8056998	18670	4248300000	108		PURCELL J D #1	PANHANDLE EAST	13.8	WARREN PETROLEUM CO
8056999	18671	4248300000	108		PURCELL J D #2	PANHANDLE EAST	6.4	WARREN PETROLEUM CO
8057046	18674	4208700000	108		PURKEY #1	PANHANDLE EAST	7.6	WARREN PETROLEUM
8056934	18595	4248300000	108		R L ADAMSON NO 2	PANHANDLE EAST	17.9	WARREN PETROLEUM CO
8056933	18594	4248300000	108		R L ADAMSON 1	PANHANDLE EAST	2.7	WARREN PETROLEUM CO
8056968	18660	4248300000	108		SAM PAKAN 1	PANHANDLE EAST	5.6	WARREN PETROLEUM CO
8057048	18680	4208700000	108		STAFFORD #2	PANHANDLE EAST	7.3	WARREN PETROLEUM
8057049	18682	4248300000	108		STAUFFER	PANHANDLE EAST	10.3	WARREN PETROLEUM
8056949	18635	4248300000	108		T C JONES ET AL #3	PANHANDLE EAST	5.2	WARREN PETROLEUM CO
8056950	18636	4248300000	108		T C JONES ET AL #4	PANHANDLE EAST	10.7	WARREN PETROLEUM CO
8057051	18685	4248300000	108		T E TROSTLE 2	PANHANDLE EAST	4.0	WARREN PETROLEUM
8057053	18689	4248300000	108		VALENCIK #1	PANHANDLE EAST	4.0	PHILLIPS PETROLEUM C
8057056	18695	4248300000	108		W B WOFFORD 1	PANHANDLE EAST	3.6	WARREN PETROLEUM
8056962	18650	4248300000	108		W C MARTIN #1	PANHANDLE EAST	4.3	WARREN PETROLEUM CO
8056963	18652	4248300000	108		W M MCMURTNY #2	PANHANDLE EAST	7.2	WARREN PETROLEUM CO
8056964	18653	4248300000	108		W M MCMURTRY #3	PANHANDLE EAST	4.1	WARREN PETROLEUM CO
8056952	18641	4217900000	108		W P LATHAM #4	PANHANDLE WEST	5.2	CITIES SERVICE CO
8056953	18642	4217900000	108		W P LATHAM #5	PANHANDLE WEST	4.2	CITIES SERVICE CO
8057055	18693	4248300000	108		WILLIAMS & LAYCOCK 1	PANHANDLE EAST	8.0	WARREN PETROLEUM
=BTA OIL PRODUCERS					RECEIVED: 09/12/80 JA: TX			
8057101	20007	4226930865	103		7907 KING #1	PRUDENCE (ATOKA)	377.0	
=C L GAGE JR					RECEIVED: 09/12/80 JA: TX			
8057118	20045	4249731620	103		J J COVINGTON NO 1	BOONSVILLE (BEND CONGL)	0.0	NATURAL GAS PIPELINE
8056860	14984	4249700000	103		T N MAXWELL #1	BOONSVILLE (BEND CONG)	180.0	NATURAL GAS PIPELINE
8056835	16436	4249700000	103		TAYLOR #1	BOONSVILLE (BEND CONGLUM	175.0	NATURAL GAS PIPELINE
=CARTER FOUNDATION PRODN CO					RECEIVED: 09/12/80 JA: TX			
8056887	17956	4249531065	103		PURE-WALTON #33	KEYSTONE (COLBY)	59.0	SID RICHARDSON GASOL
=CHALMERS OPERATING CO INC					RECEIVED: 09/12/80 JA: TX			
8056871	17364	4205932077	103		SNYDER MINERAL TRUST B #1	BAIRD NE (CONGL)	36.0	DELHI GAS PIPELINE C
=CHAMPLIN PETROLEUM COMPANY					RECEIVED: 09/12/80 JA: TX			
8057230	20498	4223531469	103		A H DUFF ESTATE ND 4	DOVE CREEK CANYON D)	91.0	NORTHERN NATURAL GAS
=CHAPARROSA OIL CO					RECEIVED: 09/12/80 JA: TX			
8056804	11275	4250731072	102		B K JOHNSON #11	FEEDLOT (SERPENTINE) FIE	1009.2	LOVACA GATHERING CO
8056804	11275	4250731072	103		B K JOHNSON #11	FEEDLOT (SERPENTINE) FIE	1009.2	LOVACA GATHERING CO
8056803	11272	4250731044	102		R S MATTHEWS #1	R S MATTHEWS (ESCONDIDO)	0.0	LOVACA GATHERING CO
8056803	11272	4250731044	103		R S MATTHEWS #1	R S MATTHEWS (ESCONDIDO)	0.0	LOVACA GATHERING CO
=CITIES SERVICE COMPANY					RECEIVED: 09/12/80 JA: TX			
*8057197	20407	4240930679	103		JONES G NO 1	MIDWAY SOUTH (FRIO DEEP)	980.0	VALERO TRANSMISSION
=COLA PETROLEUM INC					RECEIVED: 09/12/80 JA: TX			
*8057248	21700	4232930785	103		BRADEN #1	CALVIN (DEAN)	8.5	PHILLIPS PETROLEUM C
8057236	21679	4246131260	103		BRADEN A #1	CALVIN (DEAN)	4.0	PHILLIPS PETROLEUM C
*8057043	19584	4246131343	103		ELKIN 29 #1	CALVIN (DEAN)	54.0	PHILLIPS PETROLEUM C
*8057042	19583	4246131366	103		ELKIN 29 #2	CALVIN (DEAN)	68.0	PHILLIPS PETROLEUM C
*8057044	19585	4232930821	103		HUTCHISON #1-A	SPRABERRY TREND AREA (DE	9.0	PHILLIPS PETROLEUM C
*8057247	21699	4222732011	103		JOHNSON #1	KNOTT WEST (PENN REEF)	72.0	GETTY OIL CO
8056900	17427	4238931042	103		ONEY BROS #1	RAMON (5270)	360.0	NORTHERN NATURAL GAS
*8057174	20227	4222731889	103		REID #2	COAHUMA N (FUSSEL)	125.0	GETTY OIL CO
=COLORADO INTERSTATE GAS CO					RECEIVED: 09/12/80 JA: TX			
8057229	20446	4223300000	108		BIVINS 17R	WEST PANHANDLE (RED CAVE	15.0	(1) COLORADO INTERST
8057256	20653	4223300000	108		BIVINS 18R	WEST PANHANDLE (RED CAVE	12.0	(1) COLORADO INTERST
8057100	20013	4223300000	108		BIVINS 7R	W PANHANDLE (RED CAVE)	10.0	(1) COLORADO INTERST
=CONOCO INC					RECEIVED: 09/12/80 JA: TX			

JD NO	JA DKT	API NO	SEC	U	WELL NAME	FIELD NAME	PROD	PURCHASER
8056903	17677	4216500000	108		A L WASSON 53 #10 ID #10779	WASSON	0.7	SHELL OIL CO
8057004	18808	4206530721	103		C E DEAML NO 3-R	WEST PANHANDLE	2.3	CITIES SERVICE GAS C
8056817	10123	4215100000	108		E A HALL NO 7 01911	ROUND TOP /CANYON/	6.0	LONE STAR GAS CO
8056905	17694	4238900000	108		FORD GERALDINE UNIT #142 ID #21021	GERALDINE/FORD	0.4	EL PASO NATURAL GAS
8057098	20023	4238900000	108		FORD GERALDINE UNIT #156 ID # 21021	GERALDINE FORD	0.4	EL PASO NATURAL GAS
8056906	17695	4238900000	108		FORD GERALDINE UNIT #157 ID #21021	GERALDINE/FORD	0.2	EL PASO NATURAL GAS
8057099	20020	4238900000	108		FORD GERALDINE UNIT #158 ID # 21021	GERALDINE FORD	0.1	EL PASO NATURAL GAS
8056904	17691	4238700000	108		FORD GERALDINE UNIT #91 ID #21021	GERALDINE FORD	0.1	EL PASO NATURAL GAS
8056805	10223	4238900000	108		FORD-GERALDINE UNIT NO 14 21021	GERALDINE/FORD	5.8	EL PASO NATURAL GAS
8056806	10256	4238900000	108		FORD-GERALDINE UNIT NO 6 21021	GERALDINE/FORD	4.3	EL PASO NATURAL GAS
8056893	18182	4213533218	103		GIST UNIT #119 ID #19373	FOSTER	0.3	ODESSA NATURAL GASUL
8056894	18182	4213533241	103		GIST UNIT #123 ID #19373	FOSTER	0.3	ODESSA NATURAL GASUL
8056808	10271	4243300000	108		GUEST (CANYON SD) UNIT NO 33 10855	GUEST (CANYON SAND)	0.4	CITIES SERVICE OIL C
8056807	10268	4243300000	108		GUEST/CANYON SD/UNIT NO 10 10855	GUEST/CANYON SAND/	0.4	CITIES SERVICE OIL C
8057201	20421	4200432127	103		J W BONER B #29	FUHRMAN-MASCHO	0.7	PHILLIPS PETROLEUM C
8057202	20422	4213533181	103		L E WIGHT B-21 #2 ID #25419	COWDEN NORTH	33.5	AMOCO PRODUCTION CO
8057005	18850	4213533182	103		L E WIGHT B-21 #3 ID #25419	COWDEN NORTH	2.9	AMOCO PRODUCTION CO
8057217	20544	4250531157	103		SANCHEZ-MCMURREY NO 3	HUNDIDO (LOBO)	365.0	
8056880	17772	4213500000	108		WIGHT UNIT #100 ID #20661	NORTH COWDEN	1.6	AMOCO PROD CO
8056881	17773	4213500000	108		WIGHT UNIT #102 ID #20661	NORTH COWDEN	0.3	AMOCO PROD CO
8056882	17774	4213500000	108		WIGHT UNIT #104 ID #20661	NORTH COWDEN	2.9	AMOCO PROD CO
8056873	16737	4213533155	103		WIGHT UNIT #133 ID #20661	NORTH COWDEN	21.4	AMOCO PRODUCTION CO
8056874	16740	4213533158	103		WIGHT UNIT #135 ID #20661	NORTH COWDEN	1.1	AMOCO PRODUCTION CO
8056875	16742	4213533159	103		WIGHT UNIT #137 ID #20661	NORTH COWDEN	28.8	AMOCO PRODUCTION CO
8056876	16743	4213533160	103		WIGHT UNIT #138 ID #20661	NORTH COWDEN	1.4	AMOCO PRODUCTION CO
8056907	17769	4213500000	108		WIGHT UNIT #61 ID #20661	NORTH COWDEN	8.2	AMOCO PROD CO
8056908	17770	4213500000	108		WIGHT UNIT #75 ID #20661	NORTH COWDEN	0.9	AMOCO PROD CO
8056879	17771	4213500000	108		WIGHT UNIT #82 ID #20661	NORTH COWDEN	12.5	AMOCO PROD CO
*COTTON PETROLEUM CORPORATION					RECEIVED: 09/12/80 JA: TX			
8057152	20179	4235730423	103		FRANTZ NO 1			
8056888	17958	4229530668	103		LAUBMAN NO 2	SHARE SE/UPPER MORROW	90.0	DIAMOND SHAMROCK COR
*CRAMPTON & DENNIS					RECEIVED: 09/12/80 JA: TX	WILDCAT	900.0	TRANSWESTERN PIPELIN
8057030	19586	4239931473	103		JAMES E BAILEY NO 3			
*CURTIS HANKAMER					RECEIVED: 09/12/80 JA: TX	COCKATOO (GARDNER)	0.0	UNION TEXAS PETROLEU
8057034	19717	4214930371	103		A J ROD #1 WELL 12478			
*DALE GAS JOINT VENTURE 1979 A					RECEIVED: 09/12/80 JA: TX	GIDDINGS (AUSTIN CHALK)	140.0	PHILLIPS PETROLEUM C
8056902	17580	4202500000	103		R L COPELAND #1			
*DAVID ALBERT OIL & GAS					RECEIVED: 09/12/80 JA: TX	TYNAN EAST (FRIO 4350-LE	78.7	TRUNKLINE GAS CO
8057267	024289	4223700000	108		A A KINDER			
*DELTA DRILLING CO					RECEIVED: 09/12/80 JA: TX	KINDER (ATOKA CONGLOMERA	1.2	LONE STAR GAS CO
8057172	20230	4242300000	108		A A BRADLEY #1 ID #15928			
8057173	20229	4242300000	108		CALDWELL HUGHES DELAY & ALLEN 15931	CHAPEL HILL (RODESSA) FI	1.3	UNITED GAS PIPELINE
*DIAMOND SHAMROCK CORPORATION					RECEIVED: 09/12/80 JA: TX	CHAPEL HILL (RODESSA) FI	9.8	UNITED GAS PIPELINE
8057252	20625	4235730946	103		BROWNLEE BROTHERS - COOK NO 4-669	NORTHRUP	73.0	1/8 SOUTHWESTERN PUB
8057253	20626	4235730961	103		CARL ELLIS F NO 4	ELLIS RANCH	50.0	NATURAL GAS PIPELINE
*8057184	20330	4234100000	108		COFFEE C NO 1	PANHANDLE WEST	8.0	NORTHERN NATURAL GAS
8057183	20329	4234100000	108		FINLEY NO 1	PANHANDLE WEST	10.0	NATURAL GAS PIPELINE
8056942	20624	4239330636	103		FRANK M CHAMBERS B NO 2	MENDOTA NW	36.0	
8057106	19948	4229500000	108		JIM RAY TRENFIELD B NO 1	LIPSCOMB	7.0	SOUTHWESTERN PUBLIC
8056857	14895	4239300000	108		L A MADDOX NO 27	QUINDUNO	1.2	NATURAL GAS PIPELINE
8057180	20305	4223300000	108		LOGAN NO 1	PANHANDLE	1.0	NORTHERN NATURAL GAS
8057181	20306	4223300000	108		LOGAN NO 3	PANHANDLE	1.0	NORTHERN NATURAL GAS

JD NO	JA DKT	API NO	SEC	D	WELL NAME
8057182	20307	4223300000	108		LOGAN NO 4
8057179	20304	4223300000	108		LOGAN-DUNIGAN NO 3
8057178	20303	4223300000	108		LOGAN-DUNIGAN NO 8
8057190	20378	4223300000	108		LUCAS NO 8
8057187	20334	4239300000	108		MCGARRAUGH I NO 1-154
8057185	20331	4235700000	108		MORRISON E NO 1-52L
8057107	19947	4239330706	103		SUSAN B KAUFMAN NO 2-81
8057186	20333	4235700000	108		WALTER B NO 1
-DUNIGAN OPERATING CO INC					RECEIVED: 09/12/80 JA: TX
8056810	10472	4217900000	108		JOHNSON FEDERAL #8
-EL PASO NATURAL GAS COMPANY					RECEIVED: 09/12/80 JA: TX
8056992	18503	4208726059	108		COLLINS #1
8057104	19981	4208726060	108		COLLINS A #1
8057103	19982	4243519208	108		DEBERRY A #3
8056993	18504	4248326066	108		DEKLE #1
8056922	18505	4208726104	108		HAYES #2
8057010	18951	4208726144	108		LEDBETTER #1
8056991	18502	4208726188	108		MILEUR #1
8057175	20215	4243519227	108		THOMSON 62 #1
-ENERGY RESERVES GROUP INC					RECEIVED: 09/12/80 JA: TX
8057196	20401	4223531455	103		ELA C SUGG 71 #2
-ENGERCH EXPLORATION INC					RECEIVED: 09/12/80 JA: TX
8057257	20678	4223700000	108		ROY CHERRYHOMES A NO 3
-EXXON CORPORATION					RECEIVED: 09/12/80 JA: TX
8057191	20390	4237100000	108		COYANOSA UNIT 3 #2
8057254	20628	4222732005	103		DOUTHIT UNIT #310
8057255	20632	4222731989	103		DOUTHIT UNIT #526
8057120	20041	4235700000	103		DUDE WILSON GAS UNIT 5 #3
8057226	20436	4216531703	103		EXXON FEE EUBANKS C #11
8057169	20274	4216531704	103		EXXON FEE EUBANKS C #12
8056924	18543	4216531692	103		EXXON FEE EUBANKS D #7
8057123	20038	4237132887	103		FORT STOCKTON UNIT #717
8057121	20040	4237132888	103		FORT STOCKTON UNIT #815
8057006	18855	4239931392	103		GRACE T HARBER B #1
8056923	18541	4216531617	103		HELEN CUNNINGHAM B #2
8057167	20283	4216531617	103		HELEN CUNNINGHAM B #2
8056917	18380	4210332100	103		J B TUBB A/C 1 #196U
*8057124	20032	4210332113	103		J B TUBB A/C 1 #200L
8057227	20437	4210332138	103		J B TUBB A/C 1 #205U
8057166	20284	4210332147	103		J B TUBB A/C 1 #206L
8057165	20285	4210332139	103		J B TUBB A/C 1 #207L
8057164	20286	4210332139	103		J B TUBB A/C 1 #207U
8057168	20275	4210332140	103		J B TUBB A/C 1 #208L
8057122	20039	4200332107	103		MEANS SAN ANDRES UNIT #2568
8057272	20596	4226130474	103		MRS S K EAST 102-D (86028)
8057155	20128	4216531691	103		ROBERTSON CLFK UNIT #1092
8057095	19905	4204730735	103		SANTA FE RANCH 46 (83809)
-FISHER-WEBB INC					RECEIVED: 09/12/80 JA: TX
8056853	15335	4208130782	103		GUEST B NO 1
-FORTUNE DRILLING COMPANY INC					RECEIVED: 09/12/80 JA: TX
8057119	20044	4223531189	103		PHILLIPS A #1
-GENERAL AMERICAN OIL COMPANY OF TEX					RECEIVED: 09/12/80 JA: TX

FIELD NAME	PROD	PURCHASER
PANHANDLE	1.0	NORTHERN NATURAL GAS
PANHANDLE	1.0	NORTHERN NATURAL GAS
PANHANDLE	1.0	NORTHERN NATURAL GAS
PANHANDLE	4.0	NORTHERN NATURAL GAS
HORIZON	4.0	NATURAL GAS PIPELINE
PARSELL	2.0	SOUTHWESTERN PUBLIC
MENDOTA NW	120.0	
ELLIS RANCH	4.0	NORTHERN NATURAL GAS
PANHANDLE	0.7	PHILLIPS PETROLEUM C
PANHANDLE EAST-BROWN DOL	10.5	EL PASO NATURAL GAS
PANHANDLE EAST-BROWN DOL	15.1	EL PASO NATURAL GAS
SONORA CANYON UPPER GAS	24.0	EL PASO NATURAL GAS
PANHANDLE EAST-BROWN DOL	13.1	EL PASO NATURAL GAS
PANHANDLE EAST-BROWN DOL	13.4	EL PASO NATURAL GAS
PANHANDLE EAST-BROWN DOL	21.2	EL PASO NATURAL GAS
PANHANDLE EAST-BROWN DOL	15.7	EL PASO NATURAL GAS
SONORA-CANYON UPPER	19.7	EL PASO NATURAL GAS
SPRABERRY TREND AREA	108.0	NORTHERN NATURAL GAS
CRAFTON WEST	0.0	LONE STAR GAS CO
COYANOSA	20.0	NORTHERN NATURAL GAS
HOWARD-GLASSCOCK	0.1	PHILLIPS PETROLEUM C
HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEUM C
ELLIS RANCH (CLEVELAND)	0.0	TRANSWESTERN PIPELIN
ROBERTSON N (CLFK 7100)	2.0	PHILLIPS PETROLEUM C
ROBERTSON N (CLFK 7100)	10.0	PHILLIPS PETROLEUM C
ROBERTSON N (CLFK 7100)	1.0	PHILLIPS PETROLEUM C
FORT STOCKTON (YATES LOW	12.0	NUECES CO
FORT STOCKTON (YATES LOW	0.0	NUECES CO
WINTERS SW (GARDNER LIME	33.0	LONE STAR GAS CO
ROBERTSON N (CLFK 7100)	3.5	PHILLIPS PETROLEUM C
ROBERTSON	3.9	PHILLIPS PETROLEUM C
SAND HILLS (MCKNIGHT)	63.1	EL PASO NATURAL GAS
SAND HILLS (TUBB)	148.0	EL PASO NATURAL GAS
SAND HILLS (MCKNIGHT)	0.1	EL PASO NATURAL GAS
SAND HILLS (TUBB)	88.0	EL PASO NATURAL GAS
SAND HILLS (TUBB)	10.0	EL PASO NATURAL GAS
SAND HILLS MCKNIGHT	58.0	EL PASO NATURAL GAS
SAND HILLS (TUBB)	61.0	EL PASO NATURAL GAS
MEANS	2.0	PHILLIPS PETROLEUM C
RITA (4-R SEG II)	274.0	NATURAL GAS PIPELINE
ROBERTSON N (CLFK 7100)	23.0	PHILLIPS PETROLEUM C
SANTA FE EAST (MASSIVE 1	290.0	NATL GAS PIPELINE CO
ARLEDGE (PENN SAND)	75.0	SUN GAS CO
BAKER RANCH (CANYON)	180.0	NORTHERN NATURAL GAS

JD NO	JA DKT	API NO	SEC	D	WELL NAME
8057001	18729	4237330428	103		PERKINS NO 1
					RECEIVED: 09/12/80 JA: TX
-GEORGE S GALBRAITH					
8057014	19084	4242932216	103		FOUR J CATTLE CO #5
					RECEIVED: 09/12/80 JA: TX
-GETTY OIL COMPANY					
8057117	20056	4236500000	103		FROST B NO 2
8057148	20205	4223330718	103		HERRING A TRACT #2 NO 92
8057147	20206	4223330720	103		HERRING A TRACT 2 NO 91
-GRACE PETROLEUM CORPORATION					
8057192	20391	4241930300	103		GILBERT WHEELER
					RECEIVED: 09/12/80 JA: TX
-GUADALUPE EXPLORATION CORP					
8056883	17778	4208730124	103		BEDNORZ #1
					RECEIVED: 09/12/80 JA: TX
-GUERNSEY PETROLEUM CORPORATION					
8057012	19055	4224931088	103		BALDWIN #A-1
8056836	16472	4224931056	103		JOHN LACEY #8
8057013	19056	4224931110	103		REHMET ESTATE #1
					RECEIVED: 09/12/80 JA: TX
-GULF OIL CORPORATION					
8056795	12417	4217900000	108		ARNOLD #10
8056859	14967	4247932262	103		BRUNI MINERAL TRUST NO 7 #83803
8057093	19912	4247531864	103		CRAWAR FIELD UNIT NO
8057094	19911	4247531847	103		CRAWAR FIELD UNIT NO 11
8057264	20715	4245930385	103		D A COLLIE GAS UNIT NO 2
8057258	20692	4247531905	103		HUTCHINGS STOCK ASSN WELL NO 1016
8057259	20693	4247531996	103		HUTCHINGS STOCK ASSN WELL NO 1056
8057263	20714	4247531857	103		HUTCHINGS STOCK ASSN WELL 1017
8057023	19321	4250531105	103		J M VELA NO 4 #85283
8056918	18387	4247531860	103		JACK EDWARDS J NO 2
8056793	12243	4204130444	103		KOLOGINCZAK UNIT I WELL NO 1
8056884	17779	4250531086	103		MARTINEZ-VIDAURRI UN NO 1 #83380
-H-M OIL CO					
8056891	18158	4239131323	103		ELSIE SCHUBERT #1
8057209	20572	4223931425	103		J N WHITLEY #1
					RECEIVED: 09/12/80 JA: TX
-H L HUFFMAN LTD					
8056833	16227	4210500000	108		P R HENDERSON NO 1-46 #46996
					RECEIVED: 09/12/80 JA: TX
-H V RIBIEN					
8056788	14088	4224930961	103		VALADEZ ESTATE #12 RRC ID #84019
					RECEIVED: 09/12/80 JA: TX
-HANLEY COMPANY					
8057027	19353	4217331006	103		D C REED WELL NO 3 (08487)
8057025	19351	4217331005	103		IVY HUEGLER WELL #4 (09904)
8057026	19352	4217331004	103		IVY HUEGLER WELL NO 3 (09904)
8057028	19354	4217331021	103		J B CALVERLEY B WELL #5 (14594)
					RECEIVED: 09/12/80 JA: TX
-INDIAN WELLS OIL CO					
8056985	18438	4210532275	103		MCMULLAN #1
8056984	18437	4210532355	103		MCMULLAN #2-16
					RECEIVED: 09/12/80 JA: TX
-INTEGRAL ENERGY CORP					
8056885	17787	4232100000	103		STATE TRACT 178 #1-A
					RECEIVED: 09/12/80 JA: TX
-J B TERRELL JR					
*8057234	20511	4215130978	103		ARLIE CASSLE #1 ID-15505
*8057235	20512	4215130999	103		HOLLY TOLER (SOUTH)#1 ID-15610
*8057198	20408	4215130867	103		VELTA P TOLER #1 ID-14639
					RECEIVED: 09/12/80 JA: TX
-J B WATKINS					
8056812	10935	4206500000	108		DOUGLAS #2
					RECEIVED: 09/12/80 JA: TX
-JAMES M FORGOTSON					
8057040	19478	4220300000	108		B B LOFTIS UNIT 56519

FIELD NAME	PROD	PURCHASER
GOAT HILL (WOODBINE)	100.0	TEXAS EASTERN TRANSM
FOUR J (DUFFER UP)	30.0	GULF OIL CO
CARTHAGE (COTTON VALLEY)	250.0	DELHI GAS PIPELINE C
PANHANDLE HUTCHINSON	2.6	PANHANDLE EASTERN PI
PANHANDLE HUTCHINSON	4.0	PANHANDLE EASTERN PI
NORTH STOCKMAN	256.0	ARKANSAS LOUISIANA G
EAST PANHANDLE	20.0	EL PASO NATURAL GAS
ALFRED (3300)	0.0	UNITED GAS PIPELINE
ALFRED WEST (1600)	0.0	
ORANGE GROVE (4100)	0.0	UNITED GAS PIPELINE
PANHANDLE GRAY	5.0	GETTY OIL CO
BRUNI RANCH (NAVARRO)	730.0	VALERO TRANSMISSION
CRAWAR (ELLENBURGER)	121.0	TRANSWESTERN PIPELIN
CRAWAR (TUBB)	49.0	TRANSWESTERN PIPELIN
GILMER S (COTTON VALLEY)	500.0	WESTERN GAS CORP
HARD-ESTES NORTH	4.0	CABOT CORP
WAGON WHEEL (PENN)	159.0	CABOT CORP
WARD-ESTES NORTH	29.0	CABOT CORP
LAREDO (LOBO)	700.0	VALERO TRANSMISSION
JANELLE SE (TUBB)	68.0	M & T GATHERING
KURTEN (WOODBINE)	0.5	PRODUCERS GAS CO
LAREDO (LOBO)	30.0	CO VACA GATHERING CO
BONNIE VIEW (5230)	0.0	FLORIDA GAS TRANSMIS
MORALES N (3300)	160.0	HOUSTON PIPELINE CO
OZONA (CANYON SAND)	2.6	EL PASO NATURAL GAS
MAGNOLIA CITY FIELD	175.0	TENNESSEE GAS TRANSM
SPRABERRY (TREND AREA)	22.0	PHILLIPS PETROLEUM C
SPRABERRY (TREND AREA)	22.0	EL PASO NATURAL GAS
SPRABERRY (TREND AREA)	24.0	EL PASO NATURAL GAS
SPRABERRY (TREND AREA)	20.0	PHILLIPS PETROLEUM C
OZONA (CANYON SAND)	400.0	NORTHERN NATURAL GAS
OZONA (CANYON SAND)	400.0	NORTHERN NATURAL GAS
MATAGORDA BAY NE (MIOCEN	547.0	DOW CHEMICAL CO
VELTA (CANYON)	87.0	PALO DURO PIPELINE C
KEELER WIMBERLY (CANYON	28.0	PALO DURO PIPELINE C
VELTA (CANYON)	132.0	PALO DURO PIPELINE C
PANHANDLE	21.7	PHILLIPS PETROLEUM C
HALLSVILLE S (HOSSTON-CO	1.4	HYDROCARBON TRANSFER

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-JOHN DEETER					RECEIVED: 09/12/80 JA: TX			
8057177	20213	4235500000	108		SANDS-EGGERT NO 1 (08886)	AQUA DULCE (COMSTOCK 8-1	3.0	HOUSTON PIPELINE CO
8057176	20214	4235500000	108		SANDS-EGGERT NO 3 (35375)	AQUA DULCE (STRAY 5100)	4.0	HOUSTON PIPELINE CO
-JOHN L COX					RECEIVED: 09/12/80 JA: TX			
8057029	19357	4211531292	103		EMFINGER WELL NO 1 RRC #62530	WELLS SOUTH (SPRABERRY)	15.0	PHILLIPS PETROLEUM C
8057061	18714	4217330981	103		IRMA WRAGE B WELL NO 1 RRC #25571	SPRABERRY (TREND AREA)	20.0	EL PASO NATURAL GAS
8057060	18713	4217330984	103		IRMA WRAGE B WELL NO 2 RRC #25571	SPRABERRY (TREND AREA)	20.0	EL PASO NATURAL GAS
-JOSEPH L BROWN					RECEIVED: 09/12/80 JA: TX			
8057276	20623	4213300000	108		POTOMAC-GREENWOOD #1-ID18324	SIPE SPRINGS (MARBLE FAL	8.0	LONE STAR GAS CO
-J3 OIL CO INC					RECEIVED: 09/12/80 JA: TX			
*8056850	15260	4239131313	102		HYNES MINERAL TRUST #1	REFUGIO-FOX (5200) PROPO	4.0	UNITED GAS PIPE LINE
*8056850	15260	4239131313	103		HYNES MINERAL TRUST #1	REFUGIO-FOX (5200) PROPO	4.0	UNITED GAS PIPE LINE
*8056832	16094	4239131344	103		HYNES MINERAL TRUST A 3	REFUGIO-FOX (3300)	2.7	UNITED GAS PIPELINE
-KERR-MCGEE CORPORATION					RECEIVED: 09/12/80 JA: TX			
8057111	20070	4223330763	103		PITTS NO 89	PANHANDLE HUTCHINSON	0.0	GETTY OIL CO
8057269	20587	4223330761	103		PITTS NO 91	PANHANDLE HUTCHINSON	23.0	GETTY OIL CO
-KLING INC					RECEIVED: 09/12/80 JA: TX			
8057009	18947	4217500000	103		P A ALBRECHT NO 2	BOYCE (REKLAW)	900.0	UNITED GAS PIPELINE
-LA JUNTA ENTERPRISES INC					RECEIVED: 09/12/80 JA: TX			
8057002	18765	4250300000	108		VAUGHAN NO 3 21607	SEWELL FIELD (CADDO)	19.3	LONE STAR GAS CO
-LEWIS ENERGY CORP					RECEIVED: 09/12/80 JA: TX			
8057268	20580	4213133939	103		CARLOS GARCIA #1	ANACUAS FIELD (V-2)	100.0	TRANSCONTINENTAL GAS
8057211	20579	4204700000	103		PAT MURPHY #1	BOB COOPER (5800)	125.0	VALERO INTERSTATE TR
-MARALO INC					RECEIVED: 09/12/80 JA: TX			
8057231	20500	4235330775	103		WHITESIDE 66-1	GROUP 8 (SADDLE CREEK)	11.0	PALO DURO PIPELINE C
-MAZEL OIL AND GAS CO					RECEIVED: 09/12/80 JA: TX			
8057132	20087	4217900000	108		COMBS-WORLEY #2	PANHANDLE	2.3	PHILLIPS PETROLEUM C
8057131	20088	4217900000	108		COMBS-WORLEY #3	PANHANDLE	2.3	PHILLIPS PETROLEUM C
8057135	20084	4217900000	108		COMBS-WORLEY A #1	PANHANDLE	1.6	PHILLIPS PETROLEUM C
8057134	20085	4217900000	108		COMBS-WORLEY A #2	PANHANDLE	1.6	PHILLIPS PETROLEUM C
8057146	20073	4217900000	108		COMBS-WORLEY A #3	PANHANDLE	1.6	PHILLIPS PETROLEUM C
8057133	20086	4217900000	108		COMBS-WORLEY A #4	PANHANDLE	1.6	PHILLIPS PETROLEUM C
8057130	20089	4217900000	108		J B BOWERS #2	PANHANDLE	6.2	PHILLIPS PETROLEUM C
8057129	20090	4217900000	108		J B BOWERS #3	PANHANDLE	6.2	PHILLIPS PETROLEUM C
8057128	20091	4217900000	108		J B BOWERS #4	PANHANDLE	6.2	PHILLIPS PETROLEUM C
8057110	20072	4217900000	108		J B BOWERS #9	PANHANDLE	6.2	PHILLIPS PETROLEUM C
8057144	20075	4217900000	108		JOHNNY HINES #1	PANHANDLE	1.6	CITIES SERVICE CO
8057140	20079	4217900000	108		JOHNNY HINES #3	PANHANDLE	1.6	CITIES SERVICE CO
8057143	20076	4217900000	108		JOHNNY HINES #4	PANHANDLE	1.6	CITIES SERVICE CO
8057136	20083	4217900000	108		NANCY HOLMES #1	PANHANDLE	1.0	PHILLIPS PETROLEUM C
8057145	20074	4217900000	108		P A WORLEY #1	PANHANDLE	2.0	PHILLIPS PETROLEUM C
8057142	20077	4217900000	108		P A WORLEY #2	PANHANDLE	2.0	PHILLIPS PETROLEUM C
8057141	20078	4217900000	108		P A WORLEY #4	PANHANDLE	2.0	PHILLIPS PETROLEUM C
8057139	20080	4217900000	108		P A WORLEY #5	PANHANDLE	2.0	PHILLIPS PETROLEUM C
8057138	20081	4217900000	108		P A WORLEY #6	PANHANDLE	2.0	PHILLIPS PETROLEUM C
8057137	20082	4217900000	108		P A WORLEY #7	PANHANDLE	2.0	PHILLIPS PETROLEUM C
-MESA PETROLEUM					RECEIVED: 09/12/80 JA: TX			
8056895	18249	4210532050	108		HOOVER 1-50	OZONA (CANYON SAND)	0.0	DELHI GAS PIPELINE C
8056911	18250	4210531031	108		HOOVER 1-61	AMERICAN (CLEAR FORK/UPP	0.0	DELHI GAS PIPELINE C
8056912	18251	4210531030	108		HOOVER 1-62	AMERICAN (WOLFCAMP)	0.0	DELHI GAS PIPELINE C
8056913	18253	4210530974	108		MILLSPAUGH 1-69	OZONA CANYON SAND	0.0	DELHI GAS PIPELINE C
8056914	18254	4210531928	108		MOODY 1-33	OZONA CANYON SAND	0.0	DELHI GAS PIPELINE C

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8056915	18255	4210530976	108		MOODY 1-37	OZONA CANYON SAND	0.0	DELMI GAS PIPELINE C
-MENBOURNE OIL COMPANY					RECEIVED: 09/12/80 JA: TX			
8057194	20395	4229530719	103		BRADFORD A #2 ID #04452	BRADFORD (TONKAWA)	27.0	TRANSWESTERN PIPELIN
8057193	20393	4235730928	103		CONDON #1 ID #85913	HUNTOON NO (MORROW LOWER	36.0	NORTHERN NATURAL GAS
8057195	20396	4235730932	103		JUDICE #2 ID #04514	HARDY (MORROW UPPER)	160.0	TRANSWESTERN PIPELIN
-MITCHELL ENERGY CORPORATION					RECEIVED: 09/12/80 JA: TX			
8056830	16056	4249700000	108		C B ANDERSON #1 09167	ALVORD (ATOKA CONGL)	8.0	NATURAL GAS PIPELINE
8056845	15755	4249731509	103		DEAVER (CADDO CONGL) UNIT #6-5	ALVORD (CADDO CONGL)	4.0	NATURAL GAS PIPELINE
8056842	15700	4249700000	108		FLOWERS-BILBERRY #2 28646	BOONSVILLE (BEND CONG GA	2.0	NATURAL GAS PIPELINE
8056829	15854	4249700000	108		G E ADAMS #1 28551	BOONSVILLE (BEND CONG GA	1.3	NATURAL GAS PIPELINE
8056843	15704	4249700000	108		J B BURNS #1 28583	BOONSVILLE (BEND CONG GA	2.0	LONE STAR GAS CO
8057265	20722	4249700000	108		J J WILSON #1 56432	GREENWOOD (ATOKA)	19.0	NATURAL GAS PIPELINE
8057270	20591	4249731662	103		J S WARDEN #2 ID #	CHICO WEST (5700 CONGL)	15.0	NATURAL GAS PIPELINE
8056844	15707	4236700000	108		R T LAND #1 18127	RENO (CONGL)	13.0	NATURAL GAS PIPELINE
8056831	16068	4249700000	108		ROY ROBINSON #4 10009	ALVORD (ATOKA CONGL)	9.0	NATURAL GAS PIPELINE
-MOBIL OIL CORP					RECEIVED: 09/12/80 JA: TX			
8056834	16268	4200300000	108		J W GOWENS NO 3	FUHRMAN/MASCHO	3.7	PHILLIPS PETROLEUM C
8056837	15403	4206500000	108		KIRBY NO 1	PANHANDLE WEST	19.6	NORTHERN NATURAL GAS
8056909	17985	4245900000	108		PEGASUS PENNSYLVANIAN UNIT #54-1	PEGASUS PENNSYLVANIAN	1.9	EL PASO NATURAL GAS
*8056901	17501	4232930822	103		PRESTON SPRABERRY UNIT #20-04	SPRABERRY (TREND AREA)	2.5	EL PASO NATURAL GAS
-MORAN EXPLORATION INC					RECEIVED: 09/12/80 JA: TX			
8057170	20863	4238331428	103		ROCKER B C #9	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
8057151	20193	4238331396	103		ROCKER B D #9	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
8056866	17220	4223530198	108		ROCKER B E #1	SPRABERRY (TREND AREA)	12.2	NORTHERN NATURAL GAS
8056867	17221	4223530220	108		ROCKER B E #2	SPRABERRY (TREND AREA)	12.2	NORTHERN NATURAL GAS
8056868	17231	4223530277	108		ROCKER B G WELL #4	SPRABERRY (TREND AREA)	102.2	NORTHERN NATURAL GAS
8057171	20262	4223531446	103		ROCKER B J-9	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL GAS
8056865	17219	4223531260	108		ROCKER B 86-1	ELA BUGG (WOLFCAMP)	12.4	NORTHERN NATURAL GAS
8056864	17214	4236330165	108		ROCKER B-4 #31	SPRABERRY (TREND AREA)	9.1	NORTHERN NATURAL GAS
-MWJ PRODUCING COMPANY					RECEIVED: 09/12/80 JA: TX			
8057032	19596	4217300000	103		TXL 11 #2	SPRABERRY TREND AREA	49.0	TEXACO INC
8057031	19595	4217330994	103		TXL 39 #2	SPRABERRY TREND AREA	36.0	TEXACO INC
-NATIONAL EXPLORATION COMPANY					RECEIVED: 09/12/80 JA: TX			
8056858	14925	4250530934	103		FANTINA YZAGUIRRE NO 1	FALCON	3.0	TENNESSEE GAS PIPELI
8057251	25679	4250530934	108		FANTINA YZAGUIRRE NO 1	FALCON (WILCOX)	3.0	TENNESSEE GAS PIPELI
-NEUMIN PRODUCTION CO					RECEIVED: 09/12/80 JA: TX			
*8057221	20554	4228531385	103		EDNA SMITH ET AL #1	SPEAKS (3600)	0.6	ALUMINUM CO OF AMERI
-PENNZOIL PRODUCING COMPANY					RECEIVED: 09/12/80 JA: TX			
8057082	19876	4235531410	103		IRENE R WALTON NO B-4-F	AGUA DULCE	325.0	UNITED GAS PIPELINE
8057200	20417	4235500337	108		MINNIE BROWN ET AL NO 1	AGUA DULCE	16.0	UNITED GAS PIPE LINE
-PETRO-SEARCH INC					RECEIVED: 09/12/80 JA: TX			
8056801	13900	4206500000	108		TATE 1-117-00034-10	PANHANDLE	4.7	L JACK GROSS PRODUCT
8056802	13901	4206500000	108		TATE 1-117-00034-11	PANHANDLE	4.7	L JACK GROSS PRODUCT
8056786	13902	4206500000	108		TATE 1-117-00034-13	PANHANDLE	4.7	L JACK GROSS PRODUCT
8056787	13903	4206500000	108		TATE 1-117-00034-14	PANHANDLE	4.7	L JACK GROSS PRODUCT
8056799	13898	4206500000	108		TATE 1-117-00034-5	PANHANDLE	4.7	L JACK GROSS PRODUCT
8056800	13899	4206500000	108		TATE 1-117-00034-6	PANHANDLE	4.7	L JACK GROSS PRODUCT
-PETROLEUM CORPORATION OF TEXAS					RECEIVED: 09/12/80 JA: TX			
8056994	18424	4223500506	108		NORTH MERTZON UT TR 4 #402	MERTZON (SAN ANGELO)	2.7	NORTHERN NATURAL GAS
8056995	18425	4223500568	108		NORTH MERTZON UT TR 6 #601	MERTZON (SAN ANGELO)	0.7	NORTHERN NATURAL GAS
8056996	18426	4223500569	108		NORTH MERTZON UT TR 6 #602	MERTZON (SAN ANGELO)	0.7	NORTHERN NATURAL GAS
8056997	18427	4223500570	108		NORTH MERTZON UT TR 6 #603	MERTZON (SAN ANGELO)	0.7	NORTHERN NATURAL GAS

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8056921	18422	4223500012	108		#101 UT TR 1	MERTZON	10.1	CRA INC
8056919	18420	4223500429	108		#201 UT TR 2	MERTZON	1.0	CRA INC
8056896	18423	4223500052	108		#301 UT TR 3	MERTZON	1.4	CRA INC
8056983	18428	4223500467	108		#503 UT TR 5	MERTZON	1.0	CRA INC
8056920	18421	4223500468	108		#504 UT TR 5	MERTZON	1.0	CRA INC
*PETROLEUM INC					RECEIVED: 09/12/80 JA: TX			
*8057092	19927	4221100000	103		MITCHELL E #1	PARSELL UPPER MORROW	730.0	PHILLIPS PETROLEUM C
*PETROLEUM TECHNICAL SERVICE CO					RECEIVED: 09/12/80 JA: TX			
8057039	19457	4213533247	103		E F COWDEN 40 #2	COWDEN SOUTH	67.9	ODESSA NATURAL CORP
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 09/12/80 JA: TX			
8056854	14720	4213507923	108		(02130) LAREN NO 4	GOLDSMITH (CLEARFORK)	2.2	EL PASO NATURAL GAS
8056856	14729	4238330317	108		(04921) WEATHERBY-A NO 8	SPRABERRY (TREND AREA)	2.0	NORTHERN NATURAL GAS
8056898	17418	4243130171	108		(06742) MUNN-A NO 1	JAMESON (STRAWN)	18.0	LOVACA GATHERING CO
8056899	17420	4213520489	108		(18829) TXL-C NO 5	TXL (SAN ANDRES)	2.0	SHELL OIL CO
8056869	17282	4213500171	108		(21193) GLDS ANDECTOR UNIT NO F-15	GOLDSMITH (CLEARFORK)	13.0	EL PASO NATURAL GAS
8056897	17416	4213503196	108		(21193) GLDS ANDECTOR UNIT NO A-05	GOLDSMITH (CLEARFORK)	9.0	EL PASO NATURAL GAS
8056855	14721	4213521535	108		(24740) MCALPIN NO 2	HARPER (STRAWN)	1.2	EL PASO NATURAL GAS
8056796	12974	4223300000	108		COCKRELL RANCH NO 23	PANHANDLE HUTCHINSON	1.0	GETTY OIL CO
8056838	15672	4206500000	108		HARVEY UNIT #8-13	PANHANDLE CARSON	14.0	GETTY OIL CO
8057216	20526	4223300000	108		HERR #1	WEST PANHANDLE (RED CAVE	20.0	EL PASO NATURAL GAS
8056789	14176	4206500000	108		JORDAN D NO 20	PANHANDLE CARSON	0.5	GETTY OIL CO
8056839	15674	4217900000	108		LEOPOLD C #2	PANHANDLE GRAY	4.5	GETTY OIL CO
8056841	15677	4217900000	108		PHIL-PAMPA UNIT 17-02	PANHANDLE GRAY	13.0	MICHIGAN WISCONSIN P
8056840	15676	4217900000	108		PHIL-PAMPA UNIT 9-8	PANHANDLE GRAY	14.0	MICHIGAN WISCONSIN P
8056846	15757	4240100000	108		THRASH E 8 WELL NO 20	EAST TEXAS	0.7	PARADE CO
*PITTS OIL CO & DALLAS PROD INC					RECEIVED: 09/12/80 JA: TX			
8057015	19100	4207330371	103		GARDINER ESTATE NO 1	WHITE OAK CREEK (TRAVIS	1.6	DELHI GAS PIPELINE C
*RALPH MINES JR					RECEIVED: 09/12/80 JA: TX			
8057038	19442	4250333359	103		E LYNCH NO 5	YOUNG COUNTY REGULAR	18.0	LEWTEX OIL & GAS CO
*REALITOS III EXPLORATION PROGRAM					RECEIVED: 09/12/80 JA: TX			
8056892	18172	4223931438	102		GUADALUPE SANCHEZ NO 1	MORALES (FRIO 3550)	0.0	TENNESSEE GAS PIPELI
*RESOURCES INVESTMENT CORPORATION					RECEIVED: 09/12/80 JA: TX			
8056878	17087	4223931400	103		GOFF #1	WILDCAT	6.0	
*RICHEY EXPLORATION CO					RECEIVED: 09/12/80 JA: TX			
8057163	20288	4249731612	103		H IVY NO 1 ID NO 85909	GAS FINDERS (CONGL)	200.0	NATURAL GAS PIPELINE
8057162	20290	4249731670	103		J T RAMSEY NO 1 ID NO 85908	GAS FINDERS (CONGL)	180.0	NATURAL GAS PIPELINE
*SAMEDAN OIL CORPORATION					RECEIVED: 09/12/80 JA: TX			
8057125	20029	4217531094	103		WEISE #1	MARSHALL NORTH	150.0	TRUNKLINE GAS CO
*SAXON OIL COMPANY					RECEIVED: 09/12/80 JA: TX			
8057189	20374	4238331500	103		UNIVERSITY 34-2 NO 1	SPRABERRY (TREND AREA)	29.2	PHILLIPS PETROLEUM C
8057210	20574	4238331501	103		UNIVERSITY 34-2 NO 2	SPRABERRY (TREND AREA)	15.7	PHILLIPS PETROLEUM C
8057024	19326	4238331479	103		UNIVERSITY 7-2 NO 2	SPRABERRY (TREND AREA)	21.9	PHILLIPS PETROLEUM C
*SHELL OIL CO					RECEIVED: 09/12/80 JA: TX			
8057271	20594	4221530959	103		A A MCALLEN NO 63	MCALLEN RANCH (VICKSBURG	360.0	VALERO INTERSTATE TR
*8057074	19887	4250131705	103		DENVER UNIT #1718	WASSON	10.0	SHELL OIL CO
*8057072	19889	4250131701	103		DENVER UNIT #2935	WASSON	88.0	SHELL OIL CO
*8057089	19931	4250131702	103		DENVER UNIT #2936	WASSON	28.0	SHELL OIL CO
*8057069	19892	4250131682	103		DENVER UNIT #3233	WASSON	0.0	SHELL OIL CO
*8057080	19881	4250231690	103		DENVER UNIT #3536	WASSON	45.0	SHELL OIL CO
*8057079	19882	4250131698	103		DENVER UNIT #3840	WASSON	38.0	SHELL OIL CO
*8057078	19883	4250131700	103		DENVER UNIT #3841	WASSON	100.0	SHELL OIL CO
*8057081	19880	4250131703	103		DENVER UNIT #3930	WASSON	31.0	SHELL OIL CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME
*8057085	19935	4250131684	103		DENVER UNIT 3130
*8057083	19937	4250131689	103		DENVER UNIT 3131
*8057067	19894	4250131685	103		DENVER UNIT 3333
*8057070	19891	4250131680	103		DENVER UNIT 3636
*8057086	19934	4250131681	103		DENVER UNIT 3637
*8057088	19932	4250131692	103		DENVER UNIT 4332
*8057084	19936	4250131693	103		DENVER UNIT 4539
*8057064	19897	4250131711	103		DENVER UNIT 5414
*8057087	19933	4216531574	103		DENVER UNIT 6537
8056813	01468	4216531368	103		DENVER UNIT 7429
*8057076	19885	4216531570	103		DENVER UNIT 7430
*8057068	19893	4216531553	103		DENVER UNIT 7538
*8057077	19884	4216531547	103		DENVER UNIT 7635
*8057075	19886	4216531563	103		DENVER UNIT 7715
*8057073	19888	4216531565	103		DENVER UNIT 8423
*8057071	19890	4216531568	103		DENVER UNIT 8536
*8057065	19896	4216531567	103		DENVER UNIT 8537
*8057066	19895	4216531606	103		DENVER UNIT 9307
8057063	19938	4200331803	103		E F KING NO 20
8057090	19930	4221131067	103		FEE NO 1
8057109	19939	4247531919	103		SEALY SMITH FOUNDATION #169
8057108	19942	4249531042	103		SEALY SMITH FOUNDATION #173
8056986	18452	4216531171	103		T D STARK NO 23
8057091	19929	4213533097	103		TXL-O-4 NO 4
=SOUTHWESTERN GAS EXPLORATION CORP					RECEIVED: 09/12/80 JA: TX
8057150	20201	4223732684	103		CRAFT = JONES #3
=SUBURBAN PROPANE GAS CORP					RECEIVED: 09/12/80 JA: TX
8056910	18021	4210532172	103		MEYBIN A 2
=SUE-ANN OPERATING COMPANY					RECEIVED: 09/12/80 JA: TX
8056797	13636	4208930935	103		POLK-HALCHAR UNIT WELL NO 1
=SUN OIL COMPANY (DELAWARE)					RECEIVED: 09/12/80 JA: TX
*8057035	19833	4221932752	103		COBLE B WELL NO 56
8057018	19273	4223732666	103		DURHAM GAS UNIT B NO 2
8057266	20784	4242330376	103		MITTS LAKE UNIT WELL NO 1-22
8057007	18935	4221131113	103		L P HUMPHREYS NO 3
=SWEETWATER DRILLING CO INC					RECEIVED: 09/12/80 JA: TX
8057003	18789	4236332090	103		T T PATTON-ORAN NO 1 WELL 84190
=TAYLOR OPERATING COMPANY					RECEIVED: 09/12/80 JA: TX
8057212	20424	4249700000	103		ERNEST CHILTON #1 (83823)
8057228	20443	4249700000	103		THOMAS HODGES A #1 (19559)
=TENNECO OIL COMPANY					RECEIVED: 09/12/80 JA: TX
8057127	20109	4239330669	103		MC MORDIE 2-6
8057161	20291	4242731334	103		T B SLICK ESTATE NO 69
=TERRELL OIL CO					RECEIVED: 09/12/80 JA: TX
*8057199	20415	4215130977	103		BONDS & GRIFFIN #1
=TEXACO INC					RECEIVED: 09/12/80 JA: TX
8056987	18463	4243130709	103		FOSTER CONGER NO 1
8056870	17337	4250503161	108		J D JENNINGS #318
*8056890	18109	4210531095	103		J H SCHEUBER C NO 1
8056798	13875	4216130424	103		RUBY MIDDLETON GAS UNIT D/A #2
=TEXAS INTERNATIONAL PET CORP					RECEIVED: 09/12/80 JA: TX
8056816	07561	4228330598	103		C N COOKE #1

FIELD NAME	PROD	PURCHASER
WASSON	13.0	SHELL OIL CO
WASSON	8.0	SHELL OIL CO
WASSON	119.0	SHELL OIL CO
WASSON	68.0	SHELL OIL CO
WASSON	67.0	SHELL OIL CO
WASSON	61.0	SHELL OIL CO
WASSON	22.0	SHELL OIL CO
WASSON	637.0	SHELL OIL CO
WASSON	5.0	SHELL OIL CO
WASSON	0.0	SHELL OIL CO
WASSON	138.0	SHELL OIL CO
WASSON	11.0	SHELL OIL CO
WASSON	3.0	SHELL OIL CO
WASSON	1.0	SHELL OIL CO
WASSON	87.0	SHELL OIL CO
WASSON	22.0	SHELL OIL CO
WASSON	59.0	SHELL OIL CO
WASSON	17.0	SHELL OIL CO
FUHRMAN-MASCHO (YATES)	80.0	PHILLIPS PETROLEUM C
GLAZIER NW (MORROW UPPER	230.0	PHILLIPS PETROLEUM C
MONAHANS (PERMIAN TUBB 2	14.0	EL PASO NATURAL GAS
MONAHANS (CLEARFORK)	69.0	EL PASO NATURAL GAS
NEWSOM (YATES)	110.0	EL PASO NATURAL GAS
GOLDSMITH W (SAN ANDRES)	12.0	SHELL OIL CO
ALLEN = SIX (4800)	600.0	
DAVIDSON RANCH (PENN 789	146.0	NORTHERN NATURAL GAS
HAMEL WEST (900) FIELD	0.1	ESPERANZA TRANSMISSI
LEVELLAND	5.0	AMOCO PRODUCTION CO
JUPITER (CONGLOMERATE 3R	110.0	LONE STAR GAS CO
MITTS LAKE (PALUXY)	2.0	LONE STAR GAS CO
HUMPHREYS (DOUGLAS)	40.0	PANHANDLE EASTERN PI
ORAN NE (CONGL)	164.3	TEXAS UTILITIES FUEL
BOONSVILLE (BEND CONGL G	365.0	NATURAL GAS PIPELINE
WISE COUNTY REGULAR	10.2	NATURAL GAS PIPELINE
MENDOTA NW (GRANITE WASH	104.6	PIONEER NATURAL GAS
MINDE (VICKSBURG 23)	600.0	TENNESSEE GAS PIPELI
VELTA (CANYON)	76.0	PALO DURO PIPELINE C
CONGER (PENN)	38.3	UNION TEXAS PETROLEU
JENNINGS WEST	4.9	TENNESSEE GAS PIPELI
DAVIDSON RANCH (PENN 789	136.0	NORTHERN NATURAL GAS
REED (HAYNESVILLE)	325.0	TEXAS UTILITIES FUEL
COOKE (EDWARDS LIME)	200.0	TRANSCONTINENTAL GAS

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*TEXAS OIL & GAS CORP					RECEIVED: 09/12/80 JA: TX			
8057105	19955	4250333169	103		ATCHISON D #1	FISH CREEK (MISSISSIPPI	73.0	PETROLEUM CORP OF TX
8057153	20175	4250500000	108		HAYNES ESTATE #4	LOS MOGOTES (QUEEN CITY)	150.0	NATURAL GAS PIPELINE
*TEXAS PACIFIC OIL COMPANY INC					RECEIVED: 09/12/80 JA: TX			
8056925	18580	4249531083	103		BROWN-ALTMAN A/C 2 WELL #9	WEINER (COLBY SAND)	21.0	
*THOMAS D COFFMAN					RECEIVED: 09/12/80 JA: TX			
8057017	19207	4214930354	103		MULLIN #2 - 12349	GIDDINGS (AUSTIN CHALK)	300.0	W WILSON CORP
8057016	19206	4214930389	103		MULLIN #3 - 12349	GIDDINGS (AUSTIN CHALK)	600.0	W WILSON CORP
*TRINITY OIL & GAS CORP					RECEIVED: 09/12/80 JA: TX			
8056811	10695	4213300000	108		BYNUM #1 RRC 13842	FOSTER (MARBLE FALLS)	8.4	UDESSA NATURAL CORP
*TUCKER & BAUMGARDNER					RECEIVED: 09/12/80 JA: TX			
8057008	18937	4208130825	103		VAMPIRE NO 1 WELL	BLOODWORTH (5700)	5.5	SUN GAS CO
*UNION OIL COMPANY OF CALIF					RECEIVED: 09/12/80 JA: TX			
8057219	20548	4238931035	103		H F ANTHONY #7	WORSHAM (CHERRY CANYON)	182.0	EL PASO NATURAL GAS
8057220	20549	4238931034	103		H F ANTHONY NO 8	WORSHAM (CHERRY CANYON)	260.0	EL PASO NATURAL GAS
8057218	20547	4246131476	103		UNIVERSITY 3-19 #1	BENEDUM (SPRABERRY)	8.0	
*VANDERBILT RESOURCES CORPORATION					RECEIVED: 09/12/80 JA: TX			
8057149	20203	4246500000	108		CAUTHORN 2-9 ID #56561	VINEGARONE (STRAWN)	19.0	NORTHERN NATURAL GAS
*VENUS OIL COMPANY					RECEIVED: 09/12/80 JA: TX			
8057036	19425	4248100000	103		ANGELO UNIT #1-C RRC NO 85303	EAST BERNARD (7600)	0.0	TRUNKLINE GAS CO
8057037	19426	4248100000	103		ANGELO UNIT #1-T RRC NO 85302	EAST BERNARD (7700)	0.0	TRUNKLINE GAS CO
*W MENGDEN					RECEIVED: 09/12/80 JA: TX			
8056889	18026	4220100000	103		RJS NO 7	DYERSDALE N (Y-5)	276.0	LONE STAR GAS SYSTEM
*WALTER EXPLORATION INC					RECEIVED: 09/12/80 JA: TX			
8057126	20115	4249731523	103		BOND UNIT A-1	BOONSVILLE (BEND CONGLOM	0.0	LONE STAR GAS CO
*WARREN PETR CO A DIV OF GULF OIL CO					RECEIVED: 09/12/80 JA: TX			
8057113	20067	4210332069	103		M B MCKNIGHT TR A NO 121	SAND HILLS N (ELLENBURGE	10.0	EL PASO NATURAL GAS
8057112	20068	4210332078	103		M B MCKNIGHT TR G NO 122	SAND HILLS (JUDKINS)	68.0	EL PASO NATURAL GAS
*WAY & MILLS					RECEIVED: 09/12/80 JA: TX			
8057233	20504	4238331461	103		UNIVERSITY 11 #10	FARMER (SAN ANDRES)	35.6	NORTHERN NATURAL GAS
8057213	20513	4238331457	103		UNIVERSITY 11 #13	FARMER (SAN ANDRES)	25.9	NORTHERN NATURAL GAS
8057232	20503	4238331456	103		UNIVERSITY 11 #14	FARMER (SAN ANDRES)	35.6	NORTHERN NATURAL GAS
8057214	20514	4238331462	103		UNIVERSITY 11 #9	FARMER (SAN ANDRES)	25.2	NORTHERN NATURAL GAS
8057019	19305	4238331466	103		UNIVERSITY 15 #5	FARMER (SAN ANDRES)	28.0	NORTHERN NATURAL GAS
8057020	19306	4238331465	103		UNIVERSITY 15 #7	FARMER (SAN ANDRES)	54.0	NORTHERN NATURAL GAS
8057021	19307	4238331464	103		UNIVERSITY 15 #8	FARMER (SAN ANDRES)	34.5	NORTHERN NATURAL GAS
*WESTLAND OIL DEVELOPMENT CORP					RECEIVED: 09/12/80 JA: TX			
8057033	19692	4203730202	103		J D OWEN GAS UNIT NO 2	MAUD (SMACKOVER)	730.0	NATURAL GAS PIPELINE
8056877	16921	4231530519	103		RHYNE SIMPSON GAS UNIT NO 3	LASSATER (TRAVIS PEAK) F	365.0	ARKANSAS LOUISIANA G
*ZENITH EXPLORATION COMPANY					RECEIVED: 09/12/80 JA: TX			
*8056988	18466	4216331671	103		ESTHER BERRY NO 2	BERRY (FRIO)	0.0	TRANSCONTINENTAL GAS

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Jurisdictional Agency C: Correction to prior Fed. Req. notice
80-52389	DOE	Naval Petroleum Reserve No 3	17 STX/SHX-10	270	09-17-80	C: Well Name
80-52482	DOE	Naval Petroleum Reserve No 3	38-SX-34	270	09-17-80	C: Well Name
80-51462	LA	Bass Enterprises Production Co	CV DAVIS RB SUF; P B DREWETT A #1	268	09-17-80	C: 102 103 Approved
80-02999	LA	Mullins & Prichard	MABEL G MYERS NO 1	106	11-07-79	R: 102 Approved; Rec'd 06-10-80
80-12050	MS	Harkins & Co	DALE UNIT 8-10 NO 1	143	02-06-80	C: 102 103 107 Approved
80-22816	MS	Harkins & Co	NEWSOM-STRINGER 22-4 #1	179	04-18-80	C: 102 103 107 Approved
80-39222	NM	Exxon Corp	NEW MEXICO CU STATE #1	226	07-14-80	C: 108 Approved
80-53178	ND	Energetics Inc	BRENNA 42-14	273	09-17-80	C: 103 Approved (not 102)
80-53445	OH	Buckeye Oil Producing Co	WOLGAMOT 38 #1	274	09-17-80	C: 108 Denied
80-53446	OH	Buckeye Oil Producing Co	WOLGAMOT 38 #2	274	09-17-80	C: 108 Denied
80-43951	OH	Giant Petroleum Co	JAMES & KATHERINE KOCAB #1	244	07-31-80	C: Well Name
80-46269	OH	Giant Petroleum Corp	JAMES & KATHERINE KOCAB #2	253	08-12-80	C: Well Name
80-53460	OH	United Petroleum Corp	MATULEK NO 1	274	09-17-80	C: 108 Denied
80-53458	OH	United Petroleum Corp	KOPE-SIMMONS #1	274	09-11-80	C: 108 Denied
80-53459	OH	United Petroleum Corp	KOPE #3	274	09-17-80	C: 108 Denied
80-45028	OK	Andover Oil Co	FLOYD MILLER #31-1	248	08-06-80	C: 102 103 Approved
80-44582	OK	Hazelwood Inc	PEGGY NO 1	250	08-08-80	C: Applicant, Well Name C: 102 103 Approved
80-45009	OK	Kaiser-Francis Oil Co	COFFEY B #1	248	08-06-80	C: 102 103 Approved
80-07724	OK	Ladd Petroleum Corp	BEHRING #2	127	01-22-80	R: 108 Denied; Rec'd 08-08-80
80-47141	OK	Oklahoma Petroleum Management Co	HANSEN NO 1	256	08-18-80	C: 102 103 Approved
80-47140	OK	Oklahoma Petroleum Management Co	HANSEN NO 2	256	08-18-80	C: 102 103 Approved
80-51600	OK	Oklahoma Petroleum Management Co	HANSEN #3	268	09-17-80	C: 102 103 Approved
80-45018	OK	Production Oil Corp	MAC STEWART 4	248	08-06-80	C: Well Name
80-47146	OK	Samson Resources Co	HAYES UNIT NO 1 - MIDDLE ATOKA	256	08-18-80	C: 102 103 Approved
80-53135	OK	Cobra Oil & Gas Corp	W D FERGUSON #1-T	272	09-17-80	C: 102 103 Approved
80-45785	PA	Appalachian Energy Inc	RODNEY WATROUS #2	251	08-12-80	C: Well Name
80-49684	TX	Bill Forney Inc	A H STEINMEYER 1 A-L	264	09-11-80	C: 102 103 Approved
80-47393	TX	Bill Forney Inc	A H STEINMEYER 2-L	257	08-18-80	C: 102 103 Approved
80-48386	TX	Bill Forney Inc	A H STEINMEYER 2-U	260	08-25-80	C: 102 103 Approved
80-48257	TX	C L Gage Jr	FORTENBERRY FEE #1	260	08-25-80	C: 103 108 Approved
80-47235	TX	David Fasken	FASKEN-BOELKER 215 NO 4	257	08-18-80	C: 102 103 Approved
80-47645	TX	Exxon Corp	KATY GAS FLD CONS UT #7204	257	08-18-80	C: Well Name

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	APPLICANT	WELL NAME	ORIG. FERC VOL. NO.	DATE PUB. IN FEDERAL REGISTER	R: Revision or redetermination by Jurisdictional Agency C: Correction to prior Fed. Reg. notice
80-50503	TX	Exxon Corp	MRS A M K BASS 36-D (09321)	266	09-17-80	C: 102 103 Approved
80-49665	TX	Gas Producing Enterprises Inc	J F CUNNINGHAM #1	264	09-11-80	C: 102 103 Approved
80-47714	TX	Harrison Interests Ltd	NO 13 UNIVERSITY LAND 3-32	257	08-18-80	C: 102 103 Approved
80-49730	TX	Harrison Interests Ltd	NO 14 UNIVERSITY LAND 4-32	264	09-11-80	C: 102 103 Approved
80-47531	TX	HNG Oil Co	HEIN UNIT #1; 73805	257	08-18-80	C: 103 108 Approved
80-49825	TX	HNG Oil Co	UNIVERSITY BLK 21 GU #142-L	264	09-11-80	C: 103 107 Approved
80-49826	TX	HNG Oil Co	UNIVERSITY BLK 21 GU #142-U	264	09-11-80	C: 103 107 Approved
80-49672	TX	Joseph G. Gibson	A K EAST FEE NO 10	264	09-11-80	C: 102 103 Approved
80-49669	TX	Key Production Co Inc	#1 L N SKIPPER	264	09-11-80	C: 102 103 Approved
80-47572	TX	Key Production Co Inc	JOHN HENDERSON #1	257	08-18-80	C: 102 103 Approved
80-50333	TX	Paraffine Oil Corp	P H WELDER "B" NO 3-T	266	09-17-80	C: 102 103 Approved C: Well Name
80-49696	TX	Paraffine Oil Corp	P H WELDER "B" No 4-C	264	09-11-80	C: 102 103 Approved
80-49697	TX	Paraffine Oil Corp	P H WELDER "B" NO 4-T	264	09-11-80	C: 102 103 Approved
80-44954	TX	Phillips Petroleum Co	BLK 11 DEVONIAN UT #15-01	247	08-06-80	C: Well Name
80-44955	TX	Phillips Petroleum Co	GOLDSMITH ANDECTOR UT #C-01	247	08-06-80	C: Well Name
80-43447	TX	Phillips Petroleum Co	GOLDSMITH ANDECTOR UT #E-07	242	07-31-80	C: Well Name
80-43446	TX	Phillips Petroleum Co	GOLDSMITH ANDECTOR UT #R-12	242	07-31-80	C: Well Name
80-43560	TX	Phillips Petroleum Co	N PEMBROOK SPRA UT #5-30	242	07-31-80	C: Well Name
80-49681	TX	Union Texas Petroleum Co	H A BERGMANN NO 1	264	09-11-80	C: 102 103 Approved
79-12766	WV	Allegheny Land & Mineral Co	A-608	58	08-02-79	R: 108 Approved; Rec'd 09-18-80
79-11555	WV	Allegheny Land & Mineral Co	A-700	51	07-25-79	R: 108 Approved; Rec'd 09-18-80
79-11634	WV	Allegheny Land & Mineral Co	A-732	51	07-25-79	R: 108 Approved; Rec'd 09-18-80
79-12760	WV	Allegheny Land & Mineral Co	A-745	58	08-02-79	R: 108 Approved; Rec'd 09-18-80
80-47945	WV	Cabot Corp	ROBSON-PRICHARD-LAFOLLETTE 2-550	258	08-25-80	C: 108 Denied
80-45232	WV	Devon Corp	W23 DINGESS RUM COAL CO #16	248	08-06-80	C: Well Name
80-47942	WV	Fuel Resources Inc	G BLACKWELL #1	258	08-25-80	C: 103 Approved; 102 Denied
80-47941	WV	Fuel Resources Inc	V ZIRCLE #1	258	08-25-80	C: 103 Approved; 102 Denied
80-31974	WV	Grace Petroleum Corp	HOOVER #1	205	05-28-80	C: Well Name
80-32348	WV	Grace Petroleum Corp	KNIGHT #1	206	05-29-80	C: Well Name
80-32351	WV	Grace Petroleum Corp	KNIGHT #2	206	05-29-80	C: Well Name
80-44541	WV	Paleo Inc	BENNETT I-365	246	08-06-80	R: 108 Denied; Rec'd 08-15-80
80-56485	USGS(LA)	Ocean Production Co	OCS-073 NO 29 B	287		C: Well Name
80-31404	USGS(LA)	Shell Oil Co	OCS G-0789 NO A-8	203	05-22-80	C: 102 Denied
80-44052	USGS(LA)	Pennzoil Co	PENNZOIL CO OCS-G 2366 #A-13 ALT	244	07-31-80	C: Well Name
80-44028	USGS(LA)	Pennzoil Producing Co	PENNZOIL CO OCS-G 2366 #A-17 ALT	244	07-31-80	C: Well Name
80-05237	USGS(LA)	C & K Petroleum Co	OCS G-1960 NO 3	116	12-03-79	C: Well Name

BILLING CODE 6450-85-C

Other Purchasers

8056790—Amoco Gas Co.
8056791—Texas Eastern Trans. Co.
8056792—Texas Eastern Trans. Co.
8056832—Tesoro Crude Oil Co.
8056850—Tesoro Crude Oil Co.
8056890—Transcontinental Gas Pipeline Corp.
8056901—Phillips Petroleum Co.
8056988—Compton Corp.
8057035—El Paso Natural Gas Co.
8057042—Intratex Gas Co.
8057043—Intratex Gas Co.
8057044—Northern Natural Gas Co.
8057064—Coltexo Corp.
8057065—Coltexo Corp.
8057066—Coltexo Corp.
8057067—Coltexo Corp.
8057068—Coltexo Corp.
8057069—Coltexo Corp.
8057070—Coltexo Corp.
8057071—Coltexo Corp.
8057072—Coltexo Corp.
8057073—Coltexo Corp.
8057074—Coltexo Corp.
8057075—Coltexo Corp.
8057076—Coltexo Corp.
8057077—Coltexo Corp.
8057078—Coltexo Corp.
8057079—Coltexo Corp.
8057080—Coltexo Corp.
8057081—Coltexo Corp.
8057083—Coltexo Corp.
8057084—Coltexo Corp.
8057085—Coltexo Corp.
8057086—Coltexo Corp.
8057087—Coltexo Corp.
8057088—Coltexo Corp.
8057089—Coltexo Corp.
8057092—Pioneer Natural Gas Co.
8057124—Odessa Natural Corp.
8057174—El Paso Natural Gas Co.
8057184—Panhandle Eastern Pipeline Co.
8057197—Houston Pipeline Co.
8057198—Conoco Inc.
8057199—Conoco Inc.
8057221—Houston Pipeline Co.
8057234—Conoco Inc.
8057235—Conoco Inc.
8057247—El Paso Natural Gas Co.
8057248—Intratex Gas Co.

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 27, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-31690 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 290]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 29, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION						
*ERGON INC			RECEIVED: 09/08/80 JA: LA			
8057278	80-3024	1711121885 108	EXXON E NO 2	MONROE (6824)	12,5	TEXAS GAS TRANSMISSI
OKLAHOMA CORPORATION COMMISSION						
*AMAREX INC			RECEIVED: 09/16/80 JA: OK			
8057361	08190	3512920464 107	#1-16 SHAW	SOUTH CHEYENNE	547,5	
*AMOCO PRODUCTION CO			RECEIVED: 09/15/80 JA: OK			
8057310	05257	3505120781 103	E E CASSEL UNIT WELL #1	WATONGA-CHICKASHA TREND	146,0	MICHIGAN WISCONSIN P
*ANADARKO PRODUCTION COMPANY			RECEIVED: 09/16/80 JA: OK			
8057349	05167	3513921253 103	CITIES SERVICE A NO 5	SOUTH HOUGH	5,0	PHILLIPS PETROLEUM C
8057363	04252	3513921200 102	PRICE D NO 2	HOUGH SOUTH	799,0	PANHANDLE EASTERN PI
*ANDOVER OIL COMPANY			RECEIVED: 09/15/80 JA: OK			
8057306	05258	3501721348 103	SEIGRIST #9-1	WILDCAT	185,0	DELHI GAS PIPELINE C
*ARCO OIL AND GAS COMPANY			RECEIVED: 09/12/80 JA: OK			
8057283	05242	3505920864 103	LAWRENCE E GIBSON #3	LAVERNE	109,5	MICHIGAN WISCONSIN P
*BLAIK OIL COMPANY			RECEIVED: 09/15/80 JA: OK			
8057326	04689	3504721974 103	MILLER UNIT #4	SOONER TREND	63,0	EXXON COMPANY USA
*CANADIAN EXPLORATION CORP			RECEIVED: 09/15/80 JA: OK			
8057340	05149	3501721405 103	CARY NO 3-1	S E YUKON	0,0	MOBIL OIL CORP
*CHAMPLIN PETROLEUM COMPANY			RECEIVED: 09/15/80 JA: OK			
8057332	05272	3504721939 103	BERTHA WRIGHT NO 2	N E ENID	73,0	CHAMPLIN PETROLEUM C
*COTTON PETROLEUM CORPORATION			RECEIVED: 09/16/80 JA: OK			
8057350	05192	3501721070 103	MILLARD NO 1	EAST LOOKEBA	500,0	TRANSOK PIPE LINE CO
*DAVIS OIL COMPANY			RECEIVED: 09/16/80 JA: OK			
8057359	5225	3501720973 102	AIRPORT TRUST NO 1	YUKON NORTHWEST	260,0	PHILLIPS PETROLEUM C
*DONALD C SLAWSON			RECEIVED: 09/15/80 JA: OK			
8057345	04075	3501720760 108	HALL B #1	WATONGA TREND	0,0	CITIES SERVICE GAS C
*ECC OIL CO			RECEIVED: 09/15/80 JA: OK			
8057339	05204	3514721272 103	MERCHANT #1 NW 20-25-14	OGLESBY	192,2	OKAN GAS CO
8057337	05206	3514720999 103	MOODY #1 SW NE 17-25N-14E	OGLESBY GAS FIELD	66,9	OKAN GAS CO
8057338	05205	3514721039 103	PUGH #1 NW SW 20-25N-14E	OGLESBY GAS FIELD	46,2	OKAN GAS CO
8057336	05208	3514721271 103	SNOW #1 C NW NW 17-25N-14E	OGLESBY GAS FIELD	202,3	OKAN GAS CO
*ECC OIL CO			RECEIVED: 09/16/80 JA: OK			
8057353	5207	3514710998 103	GREENWOOD #1A SW 1/4 SE 1/4 SEC 17-	OGLESBY GAS FIELD	33,0	OKAN GAS CO
*F C D LTD			RECEIVED: 09/12/80 JA: OK			
8057293	04987	3507322221 103	BEADLE #2	EAST LACEY	0,0	PHILLIPS PETROLEUM C
*GEODYNE RESOURCES INC			RECEIVED: 09/15/80 JA: OK			
8057312	05254	3504721940 103	BARTLETT #10-1	SOONER TREND	73,0	PHILLIPS PETROLEUM C
*GEORGE P POST DBA POST PETROLEUM CO			RECEIVED: 09/12/80 JA: OK			
8057296	04905	3507322077 103	OVERLAND-MAXON #1	S W REEDING	18,3	CONTINENTAL OIL CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	
*GETTY OIL COMPANY						
8057346	03992	3513500000	108		MCFARLAND-BAKER UNIT #1	RECEIVED: 09/15/80 JA: OK
*GETTY OIL COMPANY						
8057362	04914	3513721820	103		WINANS C NO 6	RECEIVED: 09/16/80 JA: OK
*GMC OIL AND GAS CORP						
8057355	05214	3508321161	103		VOULEK NO 1	RECEIVED: 09/16/80 JA: OK
*GRACE PETROLEUM CORP						
8057354	05211	3512920402	103		TRACY 2-31	RECEIVED: 09/16/80 JA: OK
*GRACE PETROLEUM CORPORATION						
8057294	04917	3515120002	102		PARKER 1-19	RECEIVED: 09/12/80 JA: OK
*HARPER OIL COMPANY						
8057291	05195	3509321695	103		PEMBROOK NO 1	RECEIVED: 09/12/80 JA: OK
*HARPER OIL COMPANY						
8057344	04486	3507300000	108		MORAN #1	RECEIVED: 09/15/80 JA: OK
8057343	04490	3509300000	108		WILLIE SUIT #1	
*HARPER OIL COMPANY						
8057352	05194	3504321014	102		CRONKHITE NO 1	RECEIVED: 09/16/80 JA: OK
*HENRY H GUNGOLL						
8057319	05230	3504721989	103		IREY #1-8	RECEIVED: 09/15/80 JA: OK
*J M HUBER CORPORATION						
8057347	03787	3504520734	103		GRANTHAM NO 2 MORROW	RECEIVED: 09/15/80 JA: OK
*L & N EXPLORATION INC						RECEIVED: 09/15/80 JA: OK
8057318	05237	3508321192	103		CARL PARIS #2-19	
8057316	05239	3508321220	103		LOWE #2-24	
*L & T OIL & GAS INC						RECEIVED: 09/15/80 JA: OK
8057342	04770	3507322287	103		BRITT 5 NO 2	
8057341	04771	3507322252	103		BRITT 5 NO 3	
8057302	02323	3507322033	103		HARRISON 5-1	
8057330	02316	3501720943	103		JIM DEAN 1	
8057329	02320	3507300000	103		JOHN KEY	
8057325	04772	3507322249	103		M B JONES 6 NO 2	
8057301	02325	3507322097	103		M B JONES 6-1	
8057300	02336	3507322047	103		MERCERE COLLINS 1	
8057328	02324	3507322004	103		PEMBERTON 1	
8057299	02334	3507322676	103		011007890100	
*L G WILLIAMS OIL COMPANY INC						RECEIVED: 09/15/80 JA: OK
8057324	05296	3501720929	103		LAMB #19-2	
8057331	05299	3501720922	103		SCHELLSTEDE #14-2	
*LADD PETROLEUM CORPORATION						RECEIVED: 09/12/80 JA: OK
8057297	04873	3503920266	103		MCNEILL NO 4-14	
8057298	04872	3503951917	103		SCHROCK NO 4	
*LADD PETROLEUM CORPORATION						RECEIVED: 09/15/80 JA: OK
8057315	05250	3500721652	103		JUST NO 2	
*LADD PETROLEUM CORPORATION						RECEIVED: 09/16/80 JA: OK
8057364	04871	3503920225	103		MCNEILL NO 2-14	
8057360	08182	3512902492	107		STATE #1-28	
*MAY PETROLEUM INC						RECEIVED: 09/15/80 JA: OK
8057335	05229	3501120974	103		STRACK #1-35	
*NATIONAL OIL COMPANY						RECEIVED: 09/12/80 JA: OK
8057295	04916	3515320877	103		HARPER 153-56436	
*PHILLIPS PETROLEUM COMPANY						RECEIVED: 09/15/80 JA: OK
8057327	04392	3513921149	103		JONES 88 NO 1	

FIELD NAME	PROD	PURCHASER
SHO-VEL-TUM	7,2	GETTY OIL CO
SHO-VEL-TUM	180,0	GETTY OIL CO NATURAL
SOONER TREND	50,0	EASON OIL CO
WEST CHEYENNE	1,1	EL PASO NATURAL GAS
N E LOOKOUT	182,5	NORTHERN NATURAL GAS
N E ORION	100,0	PHILLIPS PETROLEUM C
SOONER TREND	5,0	EXXON COMPANY USA
SE AMES	18,0	PHILLIPS PETROLEUM C
WILDCAT	700,0	DELHI GAS PIPELINE C
E BISON	0,0	
SOUTHEAST GAGE	325,0	PANHANDLE EASTERN PI
NORTHWEST RUSSELL	40,0	EASON OIL CO
WEST BARNS	20,0	EASON OIL CO
SOONER TREND	182,5	CONTINENTAL OIL CO
SOONER TREND	18,5	CONTINENTAL OIL CO
SOONER TREND	218,0	CONTINENTAL OIL CO
SOONER TREND	0,0	CONTINENTAL OIL CO
SOONER TREND	165,0	CONTINENTAL OIL CO
SOONER TREND	36,5	CONTINENTAL OIL CO
SOONER TREND	400,0	CONTINENTAL OIL CO
SOONER TREND	50,0	PHILLIPS PETROLEUM C
SOONER TREND	24,0	CONTINENTAL OIL CO
SOONER TREND	150,0	PHILLIPS PETROLEUM
YUKON	7,8	PHILLIPS PETROLEUM C
N W RICHLAND	9,9	PHILLIPS PETROLEUM C
S E THOMAS	150,5	TRANSOK PIPELINE CO
S E THOMAS	164,3	TRANSOK PIPELINE CO
EAST GRAND VALLEY	274,0	NATURAL GAS PIPELINE
S E THOMAS	180,0	TRANSOK PIPELINE CO
WEST CHEYENNE	1631,4	EL PASO NATURAL GAS
NOT ASSIGNED	273,0	DELHI GAS PIPELINE C
CEDARDALE NORTHWEST	365,0	NORTHERN NATURAL GAS
GUYMON HUGOTON	84,0	MICHIGAN WISCONSIN P

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8057334	05269	3501721263	103		PORTER B #1	W PIEDMONT	365,0	PANHANDLE EASTERN PI
8057322	03440	3513914903	108		WACKER #1	GUYMON HUGOTON	0,0	PANHANDLE EASTERN PL
*POTTS-STEPHENSON EXPLORATION CO					RECEIVED: 09/12/80 JA: OK			
8057292	05001	3512120468	103		BROWNE TRUST #2-36	FEATHERSTON	0,0	GAS TRANSMISSION CO
*RESOURCES INVESTMENT CORPORATION					RECEIVED: 09/12/80 JA: OK			
8057286	05200	3502720313	103		PREBLE #1		0,0	SUN GAS CO
8057287	05199	3502720336	103		PREBLE #2		0,0	SUN GAS CO
*RICKS EXPLORATION CO					RECEIVED: 09/12/80 JA: OK			
8057282	05203	3500721578	103		BERGEN 4-A	BOYD SE	150,0	NORTHERN NATURAL GAS
*ROBERT COLE					RECEIVED: 09/15/80 JA: OK			
8057320	05019	3505320545	103		NO 1 NORMA	MAYFLOWER	108,0	CRA INC
*SAMEDAN OIL CORPORATION					RECEIVED: 09/15/80 JA: OK			
8057313	05253	3501721106	102		HURST #1	NO NAME	130,0	PHILLIPS PETROLEUM C
*SEARCH DRILLING CO					RECEIVED: 09/12/80 JA: OK			
8057290	05196	3500721760	103		BARBY #1-18	MOCANE-LAVERNE	493,0	
*SENECA OIL COMPANY					RECEIVED: 09/16/80 JA: OK			
8057357	05217	3509321582	103		BALDWIN 1-21	S E BADO	252,0	PANHANDLE EASTERN PI
8057358	05218	3509321665	103		GRAY 1-36	S W DANE	10,7	PANHANDLE EASTERN PI
8057356	05216	3509321615	103		THOMPSON 1-18	S E BADO	47,0	PANHANDLE EASTERN PI
*SOONER OIL & GAS CORP					RECEIVED: 09/12/80 JA: OK			
8057288	05198	3511121671	103		VIERLING #8	DUTCHER	0,0	PHILLIPS PET CO
*SOUTHERN UNION EXPLORATION COMPANY					RECEIVED: 09/15/80 JA: OK			
8057311	05255	3513921225	103		PAUL MENDENHALL #1	WEST DOMBEY	91,0	WESTERN GAS INTERSTA
*SOUTHWESTERN EXPLOR CONSULTANTS INC					RECEIVED: 09/15/80 JA: OK			
8057333	05271	3508321199	103		RATCLIFF #1	UNKNOWN	0,0	EASON OIL CO
*STOVE MOUNTAIN CORP					RECEIVED: 09/15/80 JA: OK			
8057314	05251	3511121490	103		COLEMAN-KIZER UNIT-01	EAST BRYANT	2,7	PHILLIPS PETROLEUM C
*SUN OIL COMPANY (DELAWARE)					RECEIVED: 09/15/80 JA: OK			
8057321	04326	3505300000	108		HAWLEY WEST UNIT NO 38-1	WEST HAWLEY	0,4	
*TENNECO OIL COMPANY					RECEIVED: 09/12/80 JA: OK			
8057280	05247	3500700000	103		CARLISLE 13-15 (CHESTER)	MOCANE-LAVERNE	101,7	COLORADO INTERSTATE
8057281	05246	3500700000	103		CARLISLE 13-15 (MORROW)	MOCANE-LAVERNE	133,2	COLORADO INTERSTATE
*TEXAS OIL & GAS CORP					RECEIVED: 09/12/80 JA: OK			
8057285	05202	3503921367	103		MOORE G #1	NORTH BADO	240,0	DELHI GAS PIPELINE C
8057289	05197	3509120285	103		SKINNER #1	S E RAIFORD	674,0	
*UNIVERSAL RESOURCES CORPORATION					RECEIVED: 09/12/80 JA: OK			
8057284	05201	3501721370	103		VOGT 1-26	PIEDMONT WEST	165,0	PHILLIPS PETROLEUM C
*VIERSEN & COCHRAN					RECEIVED: 09/15/80 JA: OK			
8057307	05288	3507320934	108		#1 AUFDERMAR	ALTONA	7,0	PHILLIPS PETROLEUM C
8057309	05286	3507321030	108		GLAZIER #27-1	ALTONA	9,0	PHILLIPS PETROLEUM C
8057308	05287	3507321165	108		WINTERS 1-6	ALTONA	2,0	PHILLIPS PETROLEUM C
*VULCAN ENERGY CORP					RECEIVED: 09/16/80 JA: OK			
8057351	05193	3507322260	103		LIEBL #1	SOONER TREND	75,0	CITIES SERVICE GAS C
*W M & A P FULLER					RECEIVED: 09/16/80 JA: OK			
8057348	04847	3504721879	103		LOUIS KREJCI NO 2	EAST WAUKOMIS	150,0	PANHANDLE EASTERN PI
*WILLIAM H DAVIS					RECEIVED: 09/15/80 JA: OK			
8057317	05238	3508321231	103		JOSEPHINE LOWE #1	N RUSSELL	90,0	EASON OIL CO
*WORLDWIDE ENERGY CORP					RECEIVED: 09/12/80 JA: OK			
8057279	02286	3500700000	108		GUY #1-4	LAVERNE-MORROW	12,0	PANHANDLE EASTERN PI
*WORLDWIDE ENERGY CORPORATION					RECEIVED: 09/15/80 JA: OK			
8057323	02282	3500700000	108		BROWN 1-32	DOMBEY	18,0	KANSAS-NEBRASKA NATU
8057304	02279	3500700000	108		DUERSON #1	DOMBEY	10,0	KANSAS NEBRASKA NATU

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8057303	02288	3500700000	108		MATHERS #1-31	MOCANE-MORROW	18,0	PANHANDLE EASTERN PI
8057305	02271	3500700000	108		PALMER-LOVELL #1	COMO	21,0	NORTHERN NATURAL GAS

TENNESSEE OIL & GAS BOARD

-BIG D OIL & GAS CO INC — RECEIVED: 09/15/80 JA: TN

8057382	A-339	4104920132	102		SHELBY O TURNER #1	SHEPHERD BRANCH	1,0	EAST TENNESSEE NATUR
8057381	A-340	4104920128	102		SHELBY O TURNER #2	SHEPHERD BRANCH	0,8	EAST TENNESSEE NATUR

-CLYDE FULLER-MORGAN-SCOTT DRILLING — RECEIVED: 09/15/80 JA: TN

8057389	A-348	4112920500	102		BOBBY YORK #1	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057390	A-349	4112920538	102		BOBBY YORK #2	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057391	A-350	4112920539	102		BOBBY YORK #4	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057392	A-351	4112920568	102		BOBBY YORK #5	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057387	A-342	4112920587	102		W J BEENE ET AL #1	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057388	A-343	4112920588	102		W J BEENE ET AL #3	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN

-CLYDE FULLER-MORGAN-SCOTT DRILLING — RECEIVED: 09/16/80 JA: TN

8057415	A-353	4112920552	102		BOBBY YORK #7	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057414	A-354	4112920589	102		BOBBY YORK-W J BEENE UNIT #1	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057412	A-356	4112920590	102		BOBBY YORK-W J BEENE UNIT #2	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057413	A-355	4112920537	102		G T BEENE #1	DOUGLAS BRANCH	100,0	INTRASTATE ENERGY IN
8057411	A-344	4112920566	103		JIMMY YOUNG #1	PLEASANT RIDGE	100,0	INTRASTATE ENERGY IN
8057410	A-345	4112920567	103		JIMMY YOUNG #2	PLEASANT RIDGE	100,0	INTRASTATE ENERGY IN
8057409	A-346	4112920578	103		JIMMY YOUNG #3	PLEASANT RIDGE	100,0	INTRASTATE ENERGY IN
8057408	A-347	4112920586	103		JIMMY YOUNG #4	PLEASANT RIDGE	100,0	INTRASTATE ENERGY IN

-COLLINS & WESTERN RESERVES OIL CO — RECEIVED: 09/15/80 JA: TN

8057394	A-403	4112920216	102		CLYDE FREELS #2 PERMIT #970	BURRVILLE SE	29,2	INTERSTATE ENERGY CO
8057393	A-404	4112920356	102		CLYDE FREELS #3 PERMIT #1544	BURRVILLE SE	91,3	INTERSTATE ENERGY CO

-CUMBERLAND OIL PRODUCING CO INC — RECEIVED: 09/15/80 JA: TN

8057373	A-385	4103120028	102		A VANDAGRIFF UNIT #1	HICKORY CREEK	0,8	
8057372	A-384	4103120026	102		BLANTON SAIN UNIT #2	HICKORY CREEK	0,8	
8057399	A-393	4103120011	102		CLAYTON SMITH UNIT #1	HICKORY CREEK	0,8	
8057376	A-379	4103120021	102		CLYDE MILLRANEY UNIT #1	HICKORY CREEK	0,8	
8057370	A-378	4103120020	102		CLYDE WOUTEN UNIT #1	HICKORY CREEK	0,8	
8057401	A-391	4103120013	102		DANNY SPEARS #1	HICKORY CREEK	0,8	
8057369	A-377	4103120019	102		DANNY SPEARS #2	HICKORY CREEK	0,8	
8057403	A-389	4103120015	102		DICK SPEARS #2	HICKORY CREEK	0,8	
8057374	A-386	4103120027	102		DICK SPEARS #4	HICKORY CREEK	0,8	
8057366	A-374	4103120016	102		DICK SPEARS UNIT #3	HICKORY CREEK	0,8	
8057402	A-390	4103120014	102		E H SPEARS #1	HICKORY CREEK	0,8	
8057375	A-387	4103120032	102		E W SMARTT JR #1	HICKORY CREEK	0,8	
8057378	A-381	4103120023	102		F CARR UNIT #1	HICKORY CREEK	0,8	
8057404	A-388	4103120033	102		H STRICKLAND UNIT #1	HICKORY CREEK	0,8	
8057367	A-375	4103120017	102		HOWARD WELLS #2	HICKORY CREEK	0,8	
8057398	A-394	4103120010	102		HOWARD WELLS UNIT #1	HICKORY CREEK	0,8	
8057395	A-358	4112920515	102		JAMES WELBORN #1	FRANKFORT NE	10,0	EAST TENNESSEE NATUR
8057400	A-392	4103120012	102		KERRY MYERS UNIT #1	HICKORY CREEK	0,8	
8057368	A-376	4103120018	102		MCCULLOUGH #1	HICKORY CREEK	0,8	
8057379	A-382	4103120024	102		N GIBBONS UNIT #1	HICKORY CREEK	0,8	
8057371	A-362	4112920563	102		P L BRANSTETTER #7	DOUGLAS BRANCH	10,0	EAST TENNESSEE NATUR
8057365	A-383	4103120025	102		RUBYE HOOVER #1	HICKORY CREEK	0,8	
8057396	A-357	4112920524	102		SAMUEL D WILLIAMS #1	FRANKFURT NE	10,0	EAST TENNESSEE NATUR
8057377	A-380	4103120022	102		W C CUNNINGHAM UNIT #2	HICKORY CREEK	0,8	

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PRLD	PURCHASER
8057397	A-395	4103120009	102		WAYNE MILLRANRY UNIT #1	HICKORY CREEK	0.8	
-CUMBERLAND OIL PRODUCING CO INC					RECEIVED: 09/16/80 JA: TN			
8057405	A-199	4112920339	108		E HOWARD #2	DOUGLAS BRANCH	1.5	EAST TENNESSEE NATUR
8057406	A-40-R1	4112920391	108		T LAVENDER ET AL UNIT #1	DOUGLAS BRANCH	1.1	EAST TENNESSEE NATUR
-DIXIE OIL COMPANY					RECEIVED: 09/15/80 JA: TN			
8057384	A-373	4104920427	102		CLYDE FREELS #1	STOCKTON SW	1.0	
-DIXIE-SHAMROCK OIL & GAS INC					RECEIVED: 09/15/80 JA: TN			
8057380	A-372	4112920593	102		SAMOTIS ET AL #1	WILDCAT	7.0	
-PETROLEUM DEVELOPMENT CORP					RECEIVED: 09/16/80 JA: TN			
8057407	A-183-R1	4112920347	108		LINDSEY-STEELE ET AL #1	DOUGLAS BRANCH	0.2	EAST TENNESSEE NATUR
-PETROLEUM ENERGY OF TENNESSEE CO					RECEIVED: 09/15/80 JA: TN			
8057386	A-405	4104920061	102		SHELBY O TURNER 4-B	SHEPHERD BRANCH	1.0	EAST TENNESSEE NATUR
-S THOMAS BURNETT					RECEIVED: 09/15/80 JA: TN			
8057383	A-337	4104920168	102		SHELBY O TURNER #1	SHEPHERD BRANCH	0.3	EAST TENNESSEE NATUR
-TENNESSEE LAND & EXPLORATION CO					RECEIVED: 09/15/80 JA: TN			
8057385	A-402	4112920127	102		THEODORE-DIXON #1	BURRVILLE	46.0	INTERSTATE ENERGY CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 27, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-31091 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 291]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 29, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
*NORTHERN PUMP COMPANY					RECEIVED: 09/12/80 JA: KS			
*8057563	K-80-0277	1505500000	108		BEBERMEYER #1 08125	HUGOTON	16,0	CITIES SERVICE GAS C
8057564	K-80-0280	1505500000	108		CORN #1 16058	HUGOTON	16,0	CITIES SERVICE GAS C
8057565	K-80-0281	1505500000	108		KRAUS #1 48054	HUGOTON	18,0	CITIES SERVICE GAS C
LOUISIANA OFFICE OF CONSERVATION								
*PEL-TEX OIL COMPANY INC					RECEIVED: 09/17/80 JA: LA			
8057480	80-2661	1710922121	102		S L 7752 #1	MOSQUITO BAY	900,0	
*SHELL OIL CO					RECEIVED: 09/17/80 JA: LA			
8057478	80-121	1704720467	102		E P ALLEN NO 1	WHITE CASTLE	600,0	MONTEREY PIPELINE CO
8057479	80-122	1704720509	102		E P ALLEN NO 2	WHITE CASTLE	450,0	MONTEREY PIPELINE CO
*TENNECO OIL COMPANY					RECEIVED: 09/17/80 JA: LA			
8057476	80-2658	1710922176	102		TENNECO FEE NO 6	EAST LAKE DECADE	1200,0	
*THE SUPERIOR OIL COMPANY					RECEIVED: 09/17/80 JA: LA			
8057477	80-2664	1711320817	102		S L 3052 NO 37	LAC BLANC	1022,0	TENNESSEE GAS PIPE L
OKLAHOMA CORPORATION COMMISSION								
*AN-SON CORPORATION					RECEIVED: 09/17/80 JA: OK			
*8057467	04660	3501520838	102		BAR D #1-36	E EAKLY	0,0	DELHI GAS PIPELINE C
8057465	05033	3503920293	102		HIPPY 1-27	WEST SQUAW CREEK	0,0	
*ANADARKO PRODUCTION COMPANY					RECEIVED: 09/17/80 JA: OK			
8057469	03947	3500721562	102		PFEIFER A NO 1	MOCANE	280,0	PANHANDLE EASTERN PI
*ANDOVER OIL COMPANY					RECEIVED: 09/17/80 JA: OK			
8057463	05327	3501721286	103		SHADE #7-1	WILDCAT	90,0	DELHI GAS PIPELINE C
*APACHE CORPORATION					RECEIVED: 09/17/80 JA: OK			
8057432		3500920302	107		THORNTON #1-30		912,5	MICHIGAN-WISCONSIN P
*BLACKWELL GAS CO					RECEIVED: 09/17/80 JA: OK			
8057460	02119	3507100000	108		CANNON KUHNS #2 327	AUTWINE	15,0	CITIES SERVICE
8057456	02237	3507100000	108		CRONIN 1A 325	AUTWINE	1,7	CITIES SERVICE
8057457	02124	3507100000	108		GOODSON 2A 324	AUTWINE	3,0	CITIES SERVICE
8057458	02122	3507100000	108		J B CANNON 1A 323	AUTWINE	12,0	CITIES SERVICE
8057455	02238	3507100000	108		KEELY 2 321	AUTWINE	6,0	CITIES SERVICE
8057459	02120	3507100000	108		LARRY CANNON #2 328	AUTWINE	3,0	CITIES SERVICE
*CAYMAN EXPLORATION CORP					RECEIVED: 09/17/80 JA: OK			
8057436	05280	3507322354	103		VINCENT #1		73,0	PHILLIPS PETROLEUM C
*CONOCO INC					RECEIVED: 09/17/80 JA: OK			
8057431	00491	3501720911	103		HAUSE #1	CALUMET	464,7	O G & E
8057428	03378	3501160757	103		WHITEBREAST NO 1	N GEARY	391,3	OKLAHOMA GAS & ELECT

JD NO	JA DKT	API NO	SEC	D	WELL NAME
*COTTON PETROLEUM CORPORATION					RECEIVED: 09/17/80 JA: OK
8057450	03915	3504721452	103		DIETERICH NO 3
8057451	03914	3504721505	103		DIETERICH NO 4
8057454	03911	3504721316	103		MARKES #2
8057453	03912	3504721508	103		MARKES #3
8057452	03913	3504721512	103		MARKES #4
8057449		3504721539	103		VANCE 36-2
*DICK BOGERT INC					RECEIVED: 09/17/80 JA: OK
8057434	05284	3507322229	103		LAYTON #1-23
*DOYLE MAYO					RECEIVED: 09/17/80 JA: OK
8057427	04198	3500700000	108		MILES #1
*GEODYNE RESOURCES INC					RECEIVED: 09/17/80 JA: OK
8057438	05273	3504722017	103		BONNETT #20-1
*HELMERICH & PAYNE INC					RECEIVED: 09/17/80 JA: OK
8057468	04601	3505120787	102		CURTIS NO 1-17 051-20787
8057416	05283	3505120834	103		SCHUTTEN NO 1
*HENRY H GUNGOLL ASSOCIATES					RECEIVED: 09/17/80 JA: OK
8057442	05336	3504721962	103		MINNIE LANG #2-29
*K B OIL CO					RECEIVED: 09/17/80 JA: OK
8057425	04293	3500700000	108		MCFARLAND NO 1 007-42678
*L & T OIL & GAS INC					RECEIVED: 09/17/80 JA: OK
8057466	04776	3507322186	103		MATTOCKS 22 NO 1
*L G WILLIAMS OIL COMPANY INC					RECEIVED: 09/17/80 JA: OK
8057464	05300	3501720997	103		ALLISON #31-1
8057461	05333	3501721329	103		ZUM MALLEN #32-1
*LINCOLN ROCK CORP					RECEIVED: 09/17/80 JA: OK
8057471	02695	3508520260	102		BALPH #1
8057473	02691	3508520335	102		DAUBE #5
8057474	02973	3508520293	102		GAITHER #2
8057472	02693	3508520263	102		VIOLA UNIT #3
8057470	02696	3508520294	102		VIOLA UNIT #4
8057475	02990	3508520295	102		VIOLA UNIT #5
*LINN L SHANKS					RECEIVED: 09/17/80 JA: OK
8057429	02092	3511100000	108		CARNEY NO 3
*NATOMAS NORTH AMERICA INC					RECEIVED: 09/17/80 JA: OK
8057430	01535	3512900000	108		FUCHS NO 1
*NORTHWESTERN PRODUCTION INC					RECEIVED: 09/17/80 JA: OK
8057420	05178	3507322250	103		AIRHEART 4 NO 2
8057419	05179	3507322219	103		METZGER 6 NO 2
8057422	05155	3507300000	103		METZGER 6 NO 3
8057421	05156	3507300000	103		NANCY 12 NO 1
8057418	05186	3507322107	103		ROWDY 6 NO 1
*PAYNE INC					RECEIVED: 09/17/80 JA: OK
8057462	05329	3508321165	103		MAX A ACTON #2
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 09/17/80 JA: OK
8057433	05308	3514300000	108		BERGNER-B NO 1
*RALPH E PLOTNER OIL & GAS INVEST IN					RECEIVED: 09/17/80 JA: OK
8057417	05210	3501721162	103		TULLOS NO 1-32
*SAMEDAN OIL CORPORATION					RECEIVED: 09/17/80 JA: OK
8057435	05281	3500730135	108		BAYLIFF UNIT #1
*SEARCH DRILLING CO					RECEIVED: 09/17/80 JA: OK
8057437	05277	3500721753	103		SWALLOW #1-26
*SPELLER OIL CORP					RECEIVED: 09/17/80 JA: OK

FIELD NAME	PROD	PURCHASER
SOONER TREND	75,0	UNION TEXAS PETROLEU
SOONER TREND	140,0	UNION TEXAS PETROLEU
SOONER TREND	90,0	UNION TEXAS PETROLEU
SOONER TREND	6,0	UNION TEXAS PETROLEU
SOONER TREND	220,0	UNION TEXAS PETROLEU
SOONER TREND	54,0	UNION TEXAS PETROLEU
SOONER TREND	300,0	PHILLIPS PETROLEUM
LAVERNE-MORROW	15,0	COLORADO INTERSTATE
SOONER TREND	73,0	ARCO OIL AND GAS CO
S W UNION CITY	365,0	MICHIGAN WISCONSIN P
N MINCO	360,0	TRANSOK PIPE LINE CO
SOONER TREND	0,0	
SIX MILE FIELD	7,0	NORTHERN NATURAL GAS
SOONER TREND	27,5	CONTINENTAL OIL CO
NORTH CONCHO	4,9	PHILLIPS PETROLEUM C
NORTH CONCHO	45,0	PHILLIPS PETROLEUM C
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
NORTHEAST MARIETTA	15,0	CIMARRON TRANSMISSIO
BALDHILL	11,0	PHILLIPS PETROLEUM C
DEMPSEY	16,0	EL PASO NATURAL GAS
SOONER TREND	500,0	CONOCO INC
SOONER TREND	168,0	CONOCO INC
SOONER TREND	336,0	CONOCO INC
SOONER TREND	0,0	CONOCO INC
SOONER TREND	0,0	CITIES SERVICE GAS C
WEST LAWRIE	14,0	EASON OIL CO
GUYMON HUGOTON	18,0	MICHIGAN-WISCONSIN P
	250,0	
MOCANE-LAVERNE	12,0	EL PASO NATURAL GAS
MOCANE-LAVERNE	408,0	

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8057423	04732	3507322185	103		DONNA 21-1	SOONER TREND SE NW SECT	36,0	PHILLIPS PETROLEUM C
*SUN OIL COMPANY (DELAWARE)			RECEIVED: 09/17/80 JA: OK					
8057426	04337	3505500000	108		HAWLEY WEST UNIT NO 17-1	WEST HAWLEY	0,4	CITIES SERVICE GAS C
*8057424	04338	3505300000	108		HAWLEY WEST UNIT NO 23-1	WEST HAWLEY	0,5	
8057447	04322	3504700000	108		S E FLYNN UNIT NO 10-1	DOVER HENNESSEY	18,0	EXXON CORP
8057448	04323	3504700000	108		S E FLYNN UNIT NO 40-2	DOVER HENNESSEY	10,0	EXXON CORP
*THE HARLOW CORP			RECEIVED: 09/17/80 JA: OK					
8057445	05097	3500900000	108		JORDON #1	W MORAVIA	14,4	OKLAHOMA NATURAL GAS
8057444	05098	3500900000	108		SPENCER #1	W MORAVIA	10,3	OKLAHOMA NATURAL GAS
*THETIS ENERGY CORP			RECEIVED: 09/17/80 JA: OK					
8057446	04907	3504721792	103		REISEN NO 18-1	SOONER TREND	0,0	WELLHEAD ENTERPRISES
*UNION OIL COMPANY OF CALIF			RECEIVED: 09/17/80 JA: OK					
8057443	05334	3500920216	103		JOHN S BROWN #1-4	N E MAYFIELD	900,0	EL PASO NATURAL GAS
*W M & A P FULLER			RECEIVED: 09/17/80 JA: OK					
8057439	05264	3509321509	103		BLAND NO 1	SOUTHEAST AMES	300,0	PHILLIPS PETROLEUM C
8057440	05263	3509321424	103		GREGORY NO 1	SOUTHEAST AMES	350,0	PHILLIPS PETROLEUM C
*WM J OCONNOR			RECEIVED: 09/17/80 JA: OK					
8057441	05189	3515120986	103		CORBIN #1	WEST ALINE	185,0	

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WEST VIRGINIA DEPARTMENT OF MINES

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*ALLEGHENY LAND & MINERAL COMPANY			RECEIVED: 09/16/80 JA: WV					
8057536		4703301224	108		A - 702	SARDIS DISTRICT	3,3	CONSOLIDATED GAS SUP
8057537		4703301227	108		A - 733	UNION DISTRICT	15,8	CONSOLIDATED GAS SUP
8057532		4700100913	108		A-706	UNION DISTRICT	9,3	CONSOLIDATED GAS SUP
8057538		4704102183	108		A-744	SKIN CREEK DISTRICT	1,5	CONSOLIDATED GAS SUP
*APOLLO PETROLEUM CORP			RECEIVED: 09/16/80 JA: WV					
8057494		4708503457	108		C CLEVENGER #373	UNION	1,4	CONSOLIDATED GAS SUP
8057493		4708503458	108		C CLEVENGER #374	UNION	1,4	CONSOLIDATED GAS SUP
8057492		4708503459	108		C CLEVENGER #375	UNION	1,4	CONSOLIDATED GAS SUP
8057525		4708503460	108		C CLEVENGER #376	UNION	1,4	CONSOLIDATED GAS SUP
8057524		4708503461	108		C CLEVENGER #377	UNION	1,4	CONSOLIDATED GAS SUP
8057523		4708503462	108		C CLEVENGER #378	UNION	1,4	CONSOLIDATED GAS SUP
8057513		4700100453	108		C SANDUSKY #186	UNION	4,8	CONSOLIDATED GAS SUP
8057505		4703902615	108		ELIZ MECKLEY #440	ELK	7,1	COLUMBIA GAS TRANS
8057506		4703902616	108		FRED KENDALL #441	ELK	1,7	COLUMBIA GAS TRANS
8057507		4703902618	108		FRED KENDALL #442	ELK	1,7	COLUMBIA GAS TRANS
8057508		4703902619	108		FRED KENDALL #443	ELK	1,7	COLUMBIA GAS TRANS
8057522		4708503470	108		G COKELEY #384	GRANT	2,6	CONSOLIDATED GAS SUP
8057520		4708503475	108		G COKELEY #387	GRANT	2,6	CONSOLIDATED GAS SUP
8057521		4708503476	108		G COKELEY #388	GRANT	2,6	CONSOLIDATED GAS SUP
8057519		4708503473	108		G COKELEY #389	GRANT	2,2	CONSOLIDATED GAS SUP
8057518		4708503474	108		G COKELEY #390	GRANT	2,2	CONSOLIDATED GAS SUP
8057516		4708503477	108		G COKELEY #392	GRANT	0,5	CONSOLIDATED GAS SUP
8057517		4708503480	108		G COKELEY #395	GRANT	0,5	CONSOLIDATED GAS SUP
8057510		4700106444	108		I GRAHAM #1	ELK	2,9	CONSOLIDATED GAS SUP
8057512		4700100449	108		I GRAHAM #175	ELK	3,2	CONSOLIDATED GAS SUP
8057555		4703902506	108		J D TAYLOR #324	MALDEN	7,0	COLUMBIA GAS TRANS
8057551		4703902539	108		L UPDEGRAFT #363	BIG SANDY	6,2	COLUMBIA GAS TRANS
8057550		4703902543	108		L UPDEGRAFT #364	ELK	6,2	COLUMBIA GAS TRANS
8057485		4708503437	108		LAFAYETTE BICKERSTAFF #349	MURPHY DIST	2,1	CONSOLIDATED GAS SUP
8057484		4708503441	108		LAFAYETTE BICKERSTAFF #353	MURPHY	1,0	CONSOLIDATED GAS SUP

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8057483		4708503442	108		LAFAYETTE BICKERSTAFF #354	MURPHY	1,0	CONSOLIDATED GAS SUP
8057504		4708503444	108		LAFAYETTE BICKERSTAFF #357	MURPHY	2,2	CONSOLIDATED GAS SUP
8057503		4708503446	108		LAFAYETTE BICKERSTAFF #358	MURPHY	2,2	CONSOLIDATED GAS SUP
8057502		4708503447	108		LAFAYETTE BICKERSTAFF #359	MURPHY	1,1	CONSOLIDATED GAS SUP
8057501		4708503448	108		LAFAYETTE BICKERSTAFF #360	MURPHY	1,1	CONSOLIDATED GAS SUP
8057552		4703902537	108		LOUISA UPDEGRAFT #356	BIG SANDY	6,2	COLUMBIA GAS TRANS
8057490		4708503433	108		MATILDA SCOTT EST #347	MURPHY	1,9	CONSOLIDATED GAS SUP
8057481		4708503445	108		MATILDA SCOTT EST #348	MURPHY	1,9	CONSOLIDATED GAS SUP
8057482		4708503443	108		MATILDA SCOTT EST #355	MURPHY	1,9	CONSOLIDATED GAS SUP
8057491		4708503435	108		MATTHEW SCHUPP #351	MURPHY	2,2	CONSOLIDATED GAS SUP
8057486		4708503436	108		MATTHEW SCHUPP #352	MURPHY	2,2	CONSOLIDATED GAS SUP
8057496		4708503450	108		MILLARD DOSS #362	GRANT	1,5	CONSOLIDATED GAS SUP
8057495		4708503455	108		MILLARD DOSS #369	GRANT	1,5	CONSOLIDATED GAS SUP
8057509		4708701864	108		R F CARPER	GEARY	1,8	COLUMBIA GAS TRANS
8057556		4703902371	108		SARAH SMITH #2 (WXZ6)	ELK	5,9	COLUMBIA GAS TRANS
8057554		4703902512	108		UNION CARBIDE #326	BIG SANDY	7,0	COLUMBIA GAS TRANSMI
8057553		4703902513	108		UNION CARBIDE #327	BIG SANDY	7,0	COLUMBIA GAS TRANSMI
8057515		4702102336	108		W G BENNETT #451	DEKALB	4,7	CONSOLIDATED GAS SUP
8057514		4702102338	108		W G BENNETT #453	DEKALB	4,7	CONSOLIDATED GAS SUP
8057500		4708503449	108		W W RIST #361	GRANT	2,5	CONSOLIDATED GAS SUP
8057499		4708503452	108		W W RIST #366	GRANT	2,5	CONSOLIDATED GAS SUP
8057498		4708503453	108		W W RIST #367	GRANT	2,5	CONSOLIDATED GAS SUP
8057497		4708503454	108		W W RIST #368	GRANT	2,5	CONSOLIDATED GAS SUP
8057511		4700100448	108		WM WENTZ #1 (WX 44)	ELK	4,4	CONSOLIDATED GAS SUP
*CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 09/16/80 JA: WV						
8057487		4703300421	108		F M ATTERHOLT 10789	WEST VIRGINIA OTHER A=85	9,0	GENERAL SYSTEM PURCH
8057488		4704700429	108		GLADYS B COOKE 11184	PINEVILLE FIELD AREA A=5	1,6	GENERAL SYSTEM PURCH
8057489		4704700543	108		POCAHONTAS LAND CO 11495	PINEVILLE FIELD AREA A=5	1,4	GENERAL SYSTEM PURCH
*MERCHANT PROPERTIES		RECEIVED: 09/16/80 JA: WV						
8057541		4702102840	108		SIMON P BUSH #1	TROY	7,0	EQUITABLE GAS CO
*MRS O D SMITH		RECEIVED: 09/16/80 JA: WV						
8057548		4700700495	108		A C ARNOLD #1 55=6030988	NICUT	2,9	CONSOLIDATED GAS SUP
8057549		4700700509	108		A C ARNOLD #2 55=6031265	NICUT	1,0	CONSOLIDATED GAS SUP
*OPPENHEIMER OIL & GAS		RECEIVED: 09/16/80 JA: WV						
8057540		4708504046	108		GUS BEE #606	UNION DISTRICT	4,0	CONSOLIDATED GAS SUP
*OPPENHEIMER OIL & GAS CO		RECEIVED: 09/16/80 JA: WV						
8057539	004228	4708503832	108		GUS BEE #595	UNION	19,0	CONSOLIDATED GAS SUP
*PACIFIC STATES GAS & OIL INC		RECEIVED: 09/16/80 JA: WV						
8057533		4702102868	108		J FITZPATRICK #1	GLENVILLE	11,1	EQUITABLE GAS CO
8057535		4702102869	108		J MOORE #1	GLENVILLE	22,0	EQUITABLE GAS CO
8057543		4702102866	108		SAWDEY-BENNETT #1	GLENVILLE	19,9	EQUITABLE GAS CO
*PENNZOIL COMPANY		RECEIVED: 09/16/80 JA: WV						
8057529		4704301797	108		BIAS-TUDOR UNIT 1 NO 1	DUVAL	2,4	COLUMBIA GAS TRANSMI
8057559		4704301666	108		DOLIVER HILL #1	DUVAL	1,7	COLUMBIA GAS TRANSMI
8057558		4704301577	108		DOLIVER HILL #3	DUVAL	1,3	COLUMBIA GAS TRANSMI
8057542		4704301576	108		HILL DOLIVER NO 2	DUVAL	8,9	COLUMBIA GAS TRANSMI
8057528		4704301775	108		HILL LAURA NO 2	DUVAL	4,5	COLUMBIA GAS TRANSMI
8057557		4704301803	108		HILL LAURA NO 3	DUVAL	4,5	COLUMBIA GAS TRANSMI
8057530		4704301809	108		HILL LAURA NO 4	DUVAL	4,5	COLUMBIA GAS TRANSMI
8057527		4704301810	108		HILL LAURA NO 5	DUVAL	4,5	COLUMBIA GAS TRANSMI
8057531		4704301590	108		SWEETLAND LAND AND MIN #9	DUVAL	1,0	COLUMBIA GAS TRANSMI
8057526		4702103370	108		W L THOMPSON #4	GLENVILLE	0,0	CONSOLIDATED GAS SUP

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
*W VA ENERGY ASSOCIATES	77LP			RECEIVED: 09/16/80 JA: WV			
8057560		4702102885	108	QUEEN - FLESHER #1	TROY	2,5	EQUITABLE GAS CO
*WILLIAM DYE RIDDLE				RECEIVED: 09/16/80 JA: WV			
8057544		4701302388	108	BALL HUNT #1 55-6042264	RICHARDS	0,7	CONSOLIDATED GAS SUP
8057546		4701302408	108	BALL HUNT #2 55-6042264	RICHARDS	0,7	CONSOLIDATED GAS SUP
8057545		4701302413	108	WM J NUTTER #1 55-6044959	RICHARDS	0,3	CONSOLIDATED GAS SUP
*WILLIAM SHEPPARD				RECEIVED: 09/16/80 JA: WV			
8057547		4701301956	108	STALNAKER #2 34-6603679	MT ZION	0,5	CONSOLIDATED GAS SUP
8057534		4701301957	108	STALNAKER WELL #3	MT ZION	0,5	CONSOLIDATED GAS SUP
** U.S. GEOLOGICAL SURVEY - CASPER,WY							
*TENNECO OIL COMPANY				RECEIVED: 09/10/80 JA: ND 5			
8057561	ND 1345-9	3300700344	102	MEE USA 1-17 (DUPEROW)	BIG STICK	75,0	WESTERN GAS PROCESSO
8057562	ND1346-9	3300700344	102	MEE USA 1-17 (MISSION CANYON)	BIG STICK	100,0	WESTERN GAS PROCESSO

OTHER PURCHASERS VOLUME NO: 291

8057424 CITIES SERVICE GAS CO
8057467 PRODUCERS GAS CO
8057563 KANSAS NEBRASKA NAT GAS CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidentical under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 27, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-31692 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-803]

Carolina Power & Light Co.; Notice of Filing

October 3, 1980.

The filing Company submits the following:

Take notice that Carolina Power & Light Company, on September 29, 1980, tendered for filing a letter from CP&L to TVA revising the Interchange Agreement with Tennessee Valley Authority, CP&L FERC No. 95. These revisions have been filed for the purpose of complying with FERC Order No. 84 issued in Docket No. RM79-29 on May 7, 1980. Copies of this filing have been sent to Tennessee Valley Authority, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31620 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-792]

Central Illinois Public Service Co.; Notice of Filing

October 3, 1980.

The filing Company submits the following:

Take notice that on September 23, 1980, Central Illinois Public Service Company filed notice that, effective August 31, 1979, Appendix B to the Interconnection Agreement between Central Illinois Public Service Company (Central Illinois) and Commonwealth Edison Company (Edison) was cancelled. Appendix C re-establishes a point of interconnection which would otherwise be eliminated by the termination of Appendix B.

Appendix B provided stand-by service to Edison at 34 KV via Central Illinois' East Fairbury Substation. Because firm supply to Edison's 34 KV load in this area will no longer require the existing stand-by service from Central Illinois, Edison wishes to terminate Appendix B and replace it with Appendix C which will provide mutual stand-by service only and be operated at 34.5 KV.

A copy of this filing has been sent to Commonwealth Edison and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31521 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-794]

The Cleveland Electric Illuminating Co., Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co., and The Toledo Edision Co., (CAPCO Group); Notice of Filing.

October 3, 1980.

The filing Company submits the following:

Take notice that on September 24, 1980, the CAPCO Group filed the CAPCO Basic Operating Agreement as amended September 1, 1980 (the "revised Agreement") to replace without interruption the CAPCO Basic Operating Agreement dated as of January 1, 1975, as amended (the "Agreement"), which is filed with the Commission under the following Rate Schedule designations:

	Rate schedule
The Cleveland Electric Illuminating Co	FERC No. 13.
Duquesne Light Co	FERC No. 14.
Ohio Edison Co	FERC No. 120.
Pennsylvania Power Co	FERC No. 29.
The Toledo Edison Co	FERC No. 26.

The CAPCO Companies state that facilities over which services will be provided under the revised Agreement have been provided for pursuant to the provisions of the CAPCO Transmission Facilities Agreement among the Parties, dated as of September 14, 1967, which is on file with the Commission and is identified by the rate schedule numbers shown for each listed Company.

Company	FERC rate schedule No.
The Cleveland Electric Illuminating Co	8B
Duquesne Light Co	12B
Ohio Edison Co	96B
Pennsylvania Power Co	22B
The Toledo Edison Co	21B

The CAPCO Companies request that the Commission waive any requirements not already complied with under the Commission's Regulations and permit the revised Agreement to become effective as of September 1, 1980.

The CAPCO Companies state that the revised Agreement amends the CAPCO Basic Operating Agreement dated as of

January 1, 1975 by addition, substitution and deletion in a number of respects.

The revised Agreement continues Coordinated Maintenance responsibilities among the Parties, but discontinues unqualified Replacement Capacity and Replacement Energy entitlements and obligations between the Parties in favor of a limited and qualified mutual back-up system designated as CAPCO Back-Up Power. CAPCO Back-Up Power shall consist of CAPCO Unit Back-Up Power calling for back-up entitlements and obligations upon the loss of a CAPCO Unit designated in the revised Agreement and of CAPCO System Back-Up Power to provide back-up entitlements and obligations upon the outage or outages of other units of the Parties.

The revised Agreement is to continue in effect until such time as all CAPCO Units are retired. Any Party may withdraw from the revised Agreement by giving one year's advance notice in writing, provided that such withdrawal shall not discontinue Coordinated Maintenance of CAPCO Units, CAPCO Unit Back-Up Power, and CAPCO Coordinating Office obligations until such time as all CAPCO Units are retired.

The revised Agreement also terminates the following agreements identified by FERC rate schedule numbers shown for each listed Company:

Company	FERC rate schedule No.
The Cleveland Electric Illuminating Co.	2 and 2.1.
Duquesne Light Co.	10.
Ohio Edison Co.	42, 42.1, 68, 68.2, 71, 71.1, 71.2, and 71.3.
Pennsylvania Power Co.	21, 21.1, 21.2, and 21.3.
The Toledo Edison Co.	3 and 3.2.

Schedule A, entitled *Replacement Capacity and Replacement Energy,* which provided for mandatory replacement capacity and replacement energy transactions, compensation for such transactions and the banking of entitlements and obligations resulting from such transactions, is deleted and substituted for by a new Schedule A now entitled *CAPCO Back-Up Power.* The new Schedule is applicable to CAPCO Back-Up Power transactions among the Parties pursuant to the provisions of Article 6 of the Agreement, shall terminate as to provisions relating to CAPCO System Back-Up Power on August 31, 1982 unless extended, and sets forth compensation charges for CAPCO Back-Up Power.

Schedule B, entitled *Short Term Power and Energy,* is amended by shortening the title to *Short Term Power;* by providing for the reservation of short-term power for periods of one or more days in addition to the weeks previously provided; and by revising the compensation sections.

Schedule C, entitled *Interchange Capacity and Energy,* is amended by changing the title to *Non-Displacement Power* and by revising the compensation sections.

Schedule D, entitled *Economy Interchange of Operating Capacity and/or Energy,* is amended by shortening the title to *Economy Power* and by providing for multiple party transactions.

Schedule E, entitled *Specific Unit Capacity and Energy,* is amended by shortening the title to *Unit Power* and by deleting references to the previous mandatory CAPCO Group allocation procedures.

Schedule F, entitled *Out-of-Pocket Costs,* is amended by deleting specific references to various costs and by substituting a generic listing of operating capacity costs, energy costs, and purchased power costs.

Schedule G, previously entitled *Pre-Commercial Equivalent Energy,* terminated under its own terms on December 31, 1975 and is replaced by a new Schedule G entitled *Emergency Power.* This Schedule requires the Parties to provide emergency power in the event of breakdown or other emergencies in or on the systems of other Parties except where a supplying Party cannot deliver emergency power without interposing a hazard upon its operations or without impairing or jeopardizing its load.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice should, on or before October 24, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents referred to herein are on file with the Commission and are available for public inspection.

Lois D. Cahsell,

Acting Secretary.

[FR Doc. 80-31522 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-798]

Florida Power & Light Co.; Notice of Filing

October 3, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on September 26, 1980, tendered for filing a fully executed Service Agreement and Exhibit A to FPL's FERC Electric Tariff Original Volume No. 1, for service by FPL to the City of Vero Beach (Vero Beach).

FPL states that under the Service Agreement FPL will provide, and Vero Beach will purchase and receive, all of the electric power and energy contracted for by Vero Beach at the delivery point specified in the Exhibit A. The Service Agreement further provides that the rates and charges for this service shall be computed according to the provisions contained in Resale Service Schedule PR in FPL's FERC Electric Tariff and Original Volume No. 1.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Service Agreement be made effective as of October 1, 1980. FPL states that a copy of this filing was served on the City Manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31523 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-800]

Gulf States Utilities Co.; Notice of Filing

October 3, 1980.

The filing Company submits the following:

Take notice that on September 26, 1980, Gulf States Utilities Company (GSU) tendered for filing a Power Interconnection Agreement and a Power Supply Agreement between GSU, the Sam Rayburn Dam Electric Cooperative, Inc., the Sam Rayburn Municipal Power Agency, and the Sam Rayburn G & T, Inc. GSU indicates that the Agreements are to supersede an existing Interim Power Supply Agreement and the existing Wholesale Service Agreements. The estimated effective date of the Agreements is April 1, 1983 and subsequent and pursuant to the completion and co-ownership of certain coal and nuclear electric generating units presently under construction. The Wholesale Electric Agreements shall expire of their own terms on October 31, 1980, and the Interim Power Supply Agreement is expected to expire on March 31, 1983.

According to Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions for protest should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31524 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-801]

Gulf States Utilities; Filing of Transmission Schedules

October 3, 1980.

The filing Company submits the following:

Take notice that on September 26, 1980, Gulf States Utilities Company (Gulf States) tendered for filing a new Service Schedule and a revised Service Schedule relative to the Power Interconnection Agreement between Gulf States and the Cajun Electric Power Cooperative, Inc., (CEPCO). Gulf States indicates that the revised Schedules are to supersede the existing Schedules which are incorporated in the Interconnection Agreement between the parties. The effective date of the new and revised Schedules is November 1, 1980.

According to Gulf States, a copy of the filing was served on the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31525 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-58]

Metropolitan Edison Co.; Notice of Filing

October 3, 1980.

The filing Company submits the following:

Take notice that on September 22, 1980, Metropolitan Edison Company submitted for filing a refund compliance report pursuant to the Commission's letter order of July 17, 1980, in the above-referenced proceeding.

A copy of this filing has been sent to the Pennsylvania Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 27, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31527 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-783]

New Bedford Gas & Edison Light Co.; Filing of Amendment to Unit Power Sale Agreement

October 3, 1980.

The filing Company submits the following:

Take notice that on September 23, 1980, New Bedford Gas and Edison Light Company ("New Bedford") filed an amendment to its currently effective Rate Schedule FERC No. 37 governing the same to the Vermont Marble Co., Inc. ("Vermont Marble") by New Bedford on a portion of its entitlement to capacity and related energy produced by Canal Electric Company's Unit No. 2 ("the Unit"). Said filing was made pursuant to Section 35.13 of the *Regulations Under the Federal Power Act.*

By the provisions of the tendered amendatory agreement, New Bedford proposes to extend the agreement from October 31, 1980 to October 31, 1981 and to increase the monthly Capacity Charge from $2.67 per kilowatt to $3.33 per kilowatt.

New Bedford requests that the Commission's notice requirements be waived pursuant to Section 35.11 of the Commission's Regulations in order to allow said filing to become effective November 1, 1980.

A copy of this filing has been served upon Vermont Marble.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31528 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-799]

Public Service Co. of Indiana, Inc.; Proposed Tariff Change

October 3, 1980.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on September 26, 1980 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Northern Indiana Public Service Company a Sixth Supplemental Agreement to become effective November 25, 1980.

Said Supplemental Agreement increases the demand charge for Short Term Power from 70¢ per kilowatt per week to 85¢ per kilowatt per week and established a minimum of 30 mills per kilowatt-hour for Emergency Service.

Copies of the filing were served upon Northern Indiana Public Service Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to itervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties of the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31529 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1926]

William Richard Gould; Notice of Filing

October 3, 1980.

The filing company submits the following:

Take notice that on September 22, 1980, William Richard Gould submitted an application, pursuant to Section 305 (b) of the Federal Power Act, to hold the following positions:

Chairman of the Board, Chief Executive Officer and Director, Southern California, Public Utility

Director, Beckman Instruments, Inc., Supplying electrical equipment

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before October 21, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-31526 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Cases Filed Week of September 12 Through September 19, 1980

During the week of September 12 through September 19, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedureal regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt of an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

October 6, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 12 through Sept. 19, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 15, 1980	Commonwealth Oil Refining (CORCO)/Marathon Oil Company, Findlay, Ohio.	BEJ-0134	Motion for Protective Order. If granted: Marathon Oil Company would enter into a Protective Order with CORCO regarding the exchange of proprietary information with Marathon Oil Company in connection with CORCO's Application for Exception (Case No. BEE-1308).
Sept. 15, 1980	Dobrovir, Oakes and Gebhardt, Washington, D.C.	BFA-0470	Appeal of an Information Request Denial. If granted: The August 27, 1980 Information Request Denial issued by the Deputy Assistant Secretary for Oil and Gas Policy and Evaluation would be rescinded and Dobrovir, Oakes and Gebhardt would receive access to 6 memoranda concerning President Carter's April 5, 1979 announcement deregulating domestic oil.
Sept. 15, 1980	Golden Gate Petroleum Company, San Francisco, California.	BEE-1396	Price Exception. If granted: Golden Gate Petroleum Company would receive an exception from the provisions of 10 CFR 212.92 and 10 CFR 212.93(b)(3) with regards to freight rates.
Sept. 15, 1980	Golden Gate Petroleum Company, San Francisco, California.	BRS-0106	Request for Stay. If granted: Golden Gate Petroleum Company would receive a stay of the provisions of 10 CFR 212.93 and 212.93(b)(3) pending a final determination on its Application for Exception (Case No. BEE-1396).
Sept. 15, 1980	Greene's Transport Company, Inc., Thomaston, Georgia.	BRX-0096	Supplemental Order to a Remedial Order. If granted: The March 26, 1980 Remedial Order issued to Greene's Transport Company, Inc. would be modified with respect to the refund procedures for overcharges.
Sept. 15, 1980	Le Clair Operating Company, Inc., Abilene, Texas	BEE-1398	Price Exception. If granted: Le Clair Operating Company, Inc. would be permitted to sell at upper tier ceiling prices the crude oil produced from the Croton Creek Unit, located in Dickens County, Texas.
Sept. 15, 1980	Office of Special Counsel, Washington, D.C.	BRD-0072	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with the Statement of Objections to a Proposed Remedial Order (Case No. BRO-0211) issued to Gulf Oil Corporation.
Sept. 15, 1980	Oil, Chemical and Atomic Workers International Union Piketon, Ohio.	BFA-0468	Appeal of an Information Request Denial. If granted: The August 8, 1980 Information Request Denial issued by the Oak Ridge FOIA Officer would be rescinded and the copying and search fees associated with the processing of its FOIA request would be waived.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 12 through Sept. 19, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 15, 1980	Placid Refining Company, Washington, D.C.	BEA-0471	Appeal of the Entitlements Notice. If granted: The June 1980, Entitlements Notice would be modified with respect to Placid Refining Company's entitlements purchase obligations.
Sept. 15, 1980	W.T. Waggoner Estate, Fort Worth, Texas	BEE-1399	Price Exception. If granted: W.T. Waggoner Estate would receive an exception from the provisions of 10 CFR. Part 212, which would accord the firm relief from refund obligations and permit an average markup on crude oil sales.
Sept. 16, 1980	Atlantic Richfield Co., et al, Washington, D.C.	BRZ-0050 thru BRZ-0056.	Interlocutory Order. If granted: The January 25, 1980 Decision and Order concerning contemporaneous construction discovery issued to Atlantic Richfield Co., Gulf Oil Co., Marathon Oil Co., Standard Oil Co. of California, Standard Oil Co. (Ohio), Texaco, Inc., and Louisiana Land and Exploration Co. would be modified.
Sept. 16, 1980	Beacon Oil Company, Hanford, California	BEX-0098	Supplemental Order. If granted: The Department of Energy would stay a portion of Beacon Oil Company's entitlement purchase obligations during the period of October 1980 thru February, 1981 for crude oil receipts and runs to stills during the period of August 1980 to December 1980.
Sept. 16, 1980	Chevron, U.S.A., Inc./USA Petroleum Corp., Washington, D.C.	BEJ-0135	Motion for Protective Order. If granted: Chevron U.S.A., Inc. would enter into a Protective Order with USA Petroleum Corp. regarding the exchange of proprietary information with Chevron in connection with USA Petroleum's Application for Exception (Case No. BEE-1357).
Sept. 16, 1980	Chevron, U.S.A., Inc., San Francisco, California	BXE-1403	Extension of relief granted in Chevron U.S.A., Inc. 3 DOE Par. 81,033 (February 2, 1979). If granted: Chevron, U.S.A., Inc. would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the State Lease PRC 1824, South Flank, located Offshore Santa Barbara County, California.
Sept. 16, 1980	Cities Service Company, Tulsa, Oklahoma	BEE-1400	Price Exception. If granted: Cities Service Company would be granted an exception from the provisions of 10 CFR. Part 212, Subpart E, which would permit the firm to pass through Connecticut gross receipts tax to the prices it charges for covered products sold in Connecticut.
Sept. 16, 1980	Condor Operating Company, Midland, Texas	BRH-1287	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Condor Operating Company in response to a Proposed Remedial Order issued to the firm.
Sept. 16, 1980	Gulf Oil Corporation (Kiefer Unit), Tulsa, Oklahoma	BXE-1402	Extension of relief granted in Gulf Oil Corporation 5 DOE Par. ——— (July 18, 1980). If granted: Gulf Oil Corporation would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the Kiefer Unit, located in Creek County, Oklahoma.
Sept. 16, 1980	Ron's Shell Service, San Francisco, California	BRW-0068	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Ron's Shell Service on April 29, 1980, would be issued as a final Remedial Order.
Sept. 16, 1980	Sage Creek Refining Co., Cowley, Wyoming	BEX-0099	Supplemental Order. If granted: The Department of Energy would stay a portion of the firm's entitlements purchase obligations during the period of November 1980 thru April 1981 for crude oil receipts and runs to stills during the period of September 1980 to February 1981.
Sept. 16, 1980	Samuel L. Hack, Potomac, Maryland	BFA-0472	Appeal of an Information Request Denial. If granted: The September 11, 1980, Information Request Denial issued by the Oak Ridge Operations Office would be rescinded, and Samuel L. Hack would receive access to design reports for various projects.
Sept. 16, 1980	Tenneco Oil Company, Houston, Texas	BEE-1391 and BEL-1391.	Price Exception and Temporary Price Exception. If granted: Tenneco Oil Company would be granted an exception and a temporary exception from the provisions of 10 C.F.R. Part 212, Subpart E which would permit the firm to pass through Connecticut gross receipts tax to the prices it charges for covered products sold in Connecticut.
Sept. 16, 1980	Wald, Harkrader & Ross, Washington, D.C.	BFA-0473	Appeal of an Information Request Denial. If granted: The July 21, 1980, Information Request Denial issued by the Division of FOI and Privacy Acts Activities would be rescinded and Wald, Harkrader & Ross would receive access to telephone logs of the former Administrator of the Economic Regulatory Administration.
Sept. 17, 1980	Bell Fuels, Inc., Washington, D.C.	BST-0097	Request for Temporary Stay. If granted: Bell Fuels, Inc. would receive a temporary stay of its obligation to file a response to the July 20, 1980 Notice of Probable Violation issued by the Economic Regulatory Administration pending a final determination on the firm's Application for Stay (Case No. BES-0097).
Sept. 17, 1980	Coastal Petroleum Refiners, Inc. et al, Washington, D.C.	BEE-1405 thru BEE-1408.	Exceptions from the Entitlements Program. If granted: Coastal Petroleum Refiners, Inc., Giant Industries, Inc., Hempstead Resources Recovery Corp. and Western Refining Co. would each receive an exception from the provisions of 10 CFR 211.67 which would modify its entitlements sales obligations.
Sept. 17, 1980	Eagle's Chevron, West Yellowstone, Montana	BEN-0054	Interim Relief. If granted: Eagle's Chevron would be granted interim relief increasing its base period allocation of motor gasoline pending review by the Federal Energy Regulatory Commission of the denial of its exception request.
Sept. 18, 1980	City of Long Beach, Long Beach, California	BXE-1410	Extension of Relief granted in City of Long Beach, 5 DOE Par. ——— (July 23, 1980). If granted: The City of Long Beach would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the Fault Block III Unit, Wilmington Oil Field located in Los Angeles County, California.
Sept. 18, 1980	Coastal States Gas Corp./Lo Vaca Gathering Co., San Antonio, Texas.	BEX-0100	Supplemental Order. If granted: The August 18, 1980 Decision and Order issued to Coastal States Gas Corp. would be modified regarding the supply obligations of Valero Energy Corp. to Coastal States Gas Corp.
Sept. 18, 1980	Exxon Company, USA, Houston, Texas	BEE-1411	Price Exception. If granted: Exxon Company, USA would be granted an exception from the provisions of 10 CFR Part 212, Subpart E which would permit the firm to pass through the Connecticut gross receipts tax as part of the prices it charges for covered products sold in Connecticut.
Sept. 18, 1980	Pennzoil Producing Co., Houston, Texas	BEE-1409	Exception to the Reporting Requirements. If granted: Pennzoil Producing Co. would be granted an extension of time in which to file Part II of EIA Form 23.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Sept. 12, 1980 through Sept. 19, 1980]

If granted: the following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No.	Date	State
Washington Street Food Store	BEE-1397	Sept. 15, 1980	Texas.
F. L. Roberts & Co	BEE-1404	Sept. 17, 1980	Massachusetts.

Notices of Objection Received

[Week of Sept. 12, 1980 through Sept. 19, 1980)

Date	Name and location of applicant	Case No.
September 16	Butler County Oil Company, Houston, Texas	DEE-8283.

[FR Doc. 80-31733 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of September 5 Through September 12, 1980

During the week of September 5 through September 12, 1980, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

October 6, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 5 through Sept. 12, 1980]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 5, 1980	Bell Fuels, Inc., Washington, D.C	BRS-0097	Request for stay. If granted: Bell Fuels, Inc. would receive a stay from its obligation to file a response to a Notice of Probable Violations within 30 days.
Sept. 5, 1980	Gary Energy Corporation, Denver, Colorado	BFA-0464	Appeal of an Information Request Denial. If granted: The July 31, 1980 Information request Denial issued by the Rocky Mountain District of the Office of Enforcement of the Economic Regulatory Administration would be rescinded, and Gary Energy Corporation would receive access to materials concerning ERA's audit of Gary Operating Company's gas plant operations.
Sept. 8, 1980	Bracewell & Patterson, Washington, D.C	BFA-0466	Appeal of an Information Request Denial. If granted: The August 8, 1980, Information Request Denial issued by the Office of Enforcement would be rescinded, and Bracewell & Patterson would receive access to documents regarding the audit guidelines relating to crude oil resellers.
Sept. 8, 1980	Cities Service Company/Mallard Resources, Tulsa, Oklahoma.	BRD-0132 and BRJ-0132.	Motion for Discovery and Protective Order. If granted: Discovery would be granted and a Protective Order would be entered into between Cities Service Company and Mallard Resources regarding the release of proprietary information to Cities Service Company in connection with Mallard Resources's Statement of Objections to a Proposed Remedial Order (Case No. BRO-1277).
Sept. 8, 1980	Cities Service Company, Tulsa, Oklahoma	BMR-0058	Request for Modification. If granted: The August 13, 1980, Decision and Order issued to Ewing Oil Company would be modified regarding Cities Service Company's supply obligations to the firm.
Sept. 8, 1980	Commonwealth Oil Refining Co., Inc., San Antonio, Texas.	BEE-1389	Exception from the Entitlements Program. If granted: Commonwealth Oil Refining Co., Inc. would receive additional entitlements which would equalize its entitlements cost of crude oil with the average domestic refiner's cost of crude oil.
Sept. 8, 1980	Economic Regulatory Administration; Energy Information Administration, Washington, D.C.	BST-0358	Request for Temporary Stay. If granted: The Department of Energy's Economic Regulatory Administration and Energy Information Administration would receive a temporary stay of a July 1, 1980 Decision and Order issued to Foster Associates, Inc. (Case No. BFA-0358).
Sept. 8, 1980	Excel Corporation, Washington, D.C	BRD-1155	Motion for Discovery. If granted: Discovery would be granted to Excel Corporation in connection with the Statement of Objections submitted in response to a February 22, 1980 Proposed Remedial Order issued to the firm.
Sept. 8, 1980	Fannon Petroleum Service, Inc., Alexandria, Virginia	BEN-1318	Interim Order. If granted: Fannon Petroleum Service, Inc. would receive on an interim basis an increased allocation of unleased gasoline for the production of gasohol.
Sept. 8, 1980	Standard Oil Company (Ohio), Cleveland, Ohio	BEE-1391 and BEL-1391.	Request for Exception and Temporary Exception. If granted: Standard Oil Company (Ohio) would be granted an exception and a temporary exception from the provisions of 10 CFR Part 212 Subpart E which would permit the firm to pass through a Connecticut gross receipts tax solely in the prices it charges for covered products sold in Connecticut.
Sept. 8, 1980	Trends Publishing, Inc. (Kranish), Washington, D.C	BFA-0465	Appeal of an Information Request Denial. If granted: The August 14, 1980 Information Request denial issued by the Office of Advanced Conservation Technologies would be rescinded, and Trends Publishing, Inc. would receive access to information concerning zinc chloride batter technology.
Sept. 8, 1980	Office of Special Counsel, Washington, D.C	BRS-0102	Request for Stay. If granted: Office of Special Counsel would receive a stay of discovery procedings related to Case No. DRO-0199 pending a decision by the Temporary Emergency Court of Appeal in Exxon v. DOE.
Sept. 9, 1980	Damours Service Station (Tougas), Springfield, Massachusetts.	BRW-0066	Proposed Remedial Order. If granted: A Proposed Remedial Order issued to Damours Service Station on March 13, 1980 would be issued as a final Remedial Order.
Sept. 9, 1980	Dow Chemical USA, Houston, Texas	BEE-1393 and BEL-1393.	Request for Temporary Exception and Exception from the Entitlements Program. If granted: Dow Chemical USA would receive an exception and a temporary exception from the provisions of 10 CFR § 211.67 which would modify its entitlements purchase obligations.
Sept. 9, 1980	Falcon Oil Co. et al, Cleveland, Ohio	BED-0071	Motion for Discovery. If granted: Discovery would be granted to Falcon Oil Co. in connection with a Petition for Special Redress which the firm previously filed (Case No. BSG-0032).
Sept. 9, 1980	Energy Research Corporation, Brookfield, Connecticut.	BFA-0467	Appeal of an Information Request Denial. If granted: The August 11, 1980, Information Request Denial issued by the Office of Procurement Operations would be rescinded, and Energy Research Corporation would receive access to data regarding certain contract proposals.
Sept. 9, 1980	Little America Refining Co., Inc., Casper, Wyoming	BEX-0094	Supplemental Order. If granted: An August 22, 1980 Interim Decision and Order issued to Little America Refining Co., Inc. would be modified.
Sept. 10, 1980	Frank's Piping Company, Ltd., Bromptville, Que	BEE-1394	Exception from the Energy Conservation Program for Consumer Products. If granted: Frank's Piping Company, Ltd. would receive an exception from the provisions of 10 CFR, Part 430 which would permit the firm to modify the energy efficiency test procedures applicable to wood/coal & electric combination boilers.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 5 through Sept. 12, 1980]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 10, 1980	Marathon Oil Co./Energy Cooperatives Inc., Findlay, Ohio.	BFJ-0133	Motion for Protective Order. If granted: Marathon Oil Company would enter into a Protective Order with Energy Cooperatives, Inc. regarding the release of proprietary information to Marathon Oil Company in connection with Energy Cooperatives's Application for Exception (Case No. BEE-1127).
Sept. 10, 1980	Office of Special Counsel, Washington, D.C.	BEH-0021	Motion for Evidentiary Hearing. If granted: An Evidentiary Hearing would be convened in connection with the Statement of Objections submitted by the Office of Special Counsel in response to the September 10,1979, Proposed Decision and Order issued to Standard Oil Co. (Indiana).
Sept. 11, 1980	Redman Service, Inc., Washington, D.C.	BRW-0067	Proposed Remedial Order. If granted: A Proposed Remedial Order issued to Redman Service, Inc. on April 7, 1980 would be issued as a final Remedial Order.
Sept. 11, 1980	Richards Oil Company, Savage, MN	BRS-0103	Request for Stay. If granted: Richards Oil Company would receive a stay of the May 1979 Consent Order entered into between the Office of Enforcement, ERA, Region V and Richards Oil Company.
Sept. 12, 1980	Big Muddy Oil Processors, Inc., Glenrock, Wyoming	BEL-1368	Temporary Exception. If granted: Big Muddy Oil Processors, Inc. would receive a temporary exception from the provisions of 10 CFR, Part 212, which would permit the firm to resell the crude oil that it reclaims at market price levels.
Sept. 12, 1980	Stephen M. Shaw, La Jolla, CA	BFA-0469	Appeal of an Information Request Denial. If granted: The September 4, 1980 Information Request Denial issued by Dr. William Callaghan at the Jet Propulsion Laboratory in Pasadena, California would be rescinded and Stephen M. Shaw would receive access to the identity of contractors able to construct a plant to manufacture purified silicon.
Sept. 12, 1980	Wisconsin Electric Power Company, Milwaukee, Wisconsin.	BEE-1395	Exception from the Emergency Building Temperature Restriction. If granted: The Wisconsin Electric Power Company would receive an exception from the provisions of 10 CFR, Part 490, the Emergency Building Temperature Restrictions.

Notice of Objection Received

[Week of Sept. 5, 1980 to Sept. 12, 1980]

Date	Name and location of applicant	Case No.
Sept. 8, 1980	Parker Energy and Petroleum Co., Wakefield, Virginia	BEE-1209.
Sept. 9, 1980	Stewart Oil Company, Champaign, Ill.	BEO-1307.
Sept. 12, 1980	Alfred J. Rosseau, New Haven, CT	BEE-1365.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Sept. 5, 1980 to Sept. 12, 1980]

If granted: the following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No.	Date	State
Union Oil Co. of California	BEE-1390	9/8/80	Ill.
TFCO, Inc.	BEE-1392	9/9/80	PA.
	BEL-1392		

[FR Doc. 80-31734 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of September 8 through September 12, 1980

During the week of September 8 through September 12, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a writen notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

October 6, 1980.

Commonwealth Oil Refining Co., Inc., San Antonio, Tex., BEE-1308, crude oil

Commonwealth Oil Refining Co., Inc. (Corco) filed an Application for Exception from the Final Rule amending the treatment of Alaskan North Slope (ANS) crude oil under the Entitlements Program, 10 C.F.R. § 211.67; 45 Fed. Reg. 26752 (July 10, 1980). If granted, Corco would be required to purchase entitlements for its receipts of ANS crude oil during the months of May, June, and July, 1980. On September 12, 1980, the DOE issued a Proposed Decision and Order in which it tentatively determined that the Corco Application for Exception should be granted.

Crown Central Petroleum Corp., Baltimore, Md., DEE-7756, motor gasoline

Crown Central Petroleum Corporation (Crown) filed an Application for Exception from the provisions of 10 C.F.R. Part 211. In its Application, Crown requests an exception from its obligations during the months of August, September, and October to supply motor gasoline to seven refiners which purchased that product from Crown during

the base period. On September 10, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Edson Oil Co., Windsor, N.Y., BEE-0732, motor gasoline

Edson Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211. The exception request, if granted, would permit Edson to receive an increased base period allocation of motor gasoline for the purpose of blending and selling gasohol. The Department of Energy issued a Proposed Decision and Order which determined that the exception requests be granted.

Keller Oil Co., Enfield, Conn., BEE-0753, gasohol

Keller Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Keller to receive an increased allocation of unleaded gasoline with which to produce gasohol. On September 10, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Nelson Oil Co., Lenoir, N.C., BEE-0144, gasohol

Nelson Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Nelson to receive an increased allocation of unleaded gasoline with which to blend gasohol. On September 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Uselton Oil Co., Pekin, Ill., BEE-0580, motor gasoline

Uselton Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Uselton to receive an increase in its base period allocation for the purpose of blending and selling gasohol. On September 12, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Western Biomass Services, Inc., Bellingham, Wash., BEE-0471, gasohol

Western Biomass Services, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211. The exception request, if granted, would permit Western to receive a base period allocation of unleaded gasoline for use in the firm's gasohol program. On September 11, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Amfood Industries, Inc., DEE-5085, Arlington Heights, Ill.

Maxwell Oil Co., Inc., DEE-6859, Olympia, Wash.

[FR Doc. 80-31735 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project Order Confirming and Approving an Extension of Power Rates on an Interim Basis

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Notice of an Extension of Power Rates on an Interim Basis—Central Valley Project, California.

SUMMARY: Notice is given of Rate Order No. WAPA-5 of the Assistant Secretary for Resource Applications extending power rates on an interim basis for power marketed by the Western Area Power Administration (Western) from the Central Valley Project (CVP), California.

FOR FURTHER INFORMATION CONTACT:

Mr. James A. Braxdale, Office of Power Marketing Coordination, Department of Energy, Mail Code 3344, Federal Building, 12th and Pennsylvania, NW., Washington, DC 20461, (202) 633-8338.

Mr. Conrad K. Miller, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231-1535.

Mr. Gordon R. Estes, Area Manager, Sacramento Area Office, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, CA 95825, (916) 484-4251.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis. The same delegation order delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation.

Pursuant to the delegation order, on October 2, 1979, the Assistant Secretary issued Rate Order No. WAPA-2 (44 FR 57962, October 9, 1979) confirming and approving on an interim basis, effective November 1, 1979, Rate Schedules CV-F4 and CV-P3 for power marketed by Western from the CVP. The rates are to remain in effect for a period of 12 months unless the period is extended or until the FERC confirms and approves them, or substitute rates, on a final basis. The rates were submitted to the FERC for confirmation and approval on a final basis on October 2, 1979.

The FERC has not yet acted on the rates, and the purpose of Rate Order No. WAPA-5 is to extend the power rates for another 12 months (through October 31, 1981) unless further extended or until the FERC confirms and approves them, or substitute rates, on a final basis.

Issued in Washington, D.C., October 3, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Department of Energy, Assistant Secretary for Resource Applications; Order Confirming and Approving an Extension of Power Rates on an Interim Basis

In the Matter of: Western Area Power Administration—Central Valley Project Power Rates.

Rate Order No. WAPA-5.

October 3, 1980.

Pursuant to section 302(a) of the Department of Energy Organization Act, Public Law 95-91, 91 Stat. 565, the power marketing functions of the Secretary of the Interior, under the Reclamation Act of 1902, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Pursuant to Delegation Order No. 0204-33, on October 2, 1979, the Assistant Secretary for Resource Applications issued Rate Order No. WAPA-2 (44 FR 57962, October 9, 1979) confirming and approving on an interim basis, effective November 1, 1979, Rate Schedules CV-F4 and CV-P3 for power marketed by the Western Area Power Administration's (Western) Central Valley Project (CVP). The rate order stated that the rates ". . . shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the FERC confirms and approves them, or substitute

rates, on a final basis." The rate schedules were submitted to the FERC for confirmation and approval on a final basis by the Assistant Secretary's letter of October 2, 1979.

Discussion

The FERC has not yet acted on the CVP power rates submitted to the FERC on October 2, 1979. It appears that unless the rates are extended they will terminate on October 31, 1980.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective November 1, 1980, an extension of existing Rate Schedules CV–F4 and CV–P3. These rates shall remain in effect through October 31, 1981, unless extended, or until the FERC confirms and approves them, or substitute rates, on a final basis.

Issued in Washington, D.C., October 3, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project, California

Schedule of Rates for Wholesale Firm Power Service

Effective: November 1, 1979.

Available: In the area served by the Central Valley Project.

Applicable: To wholesale firm power customers for general power service supplied through one meter at one point of delivery.

Character and Conditions of Service: Alternating current, sixty hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly rate:

Demand Charge: $2.00 per kilowatt of billing demand.

Energy Charge: 5.11 mills per kilowatt-hour for all energy use up to, but not in excess of, the energy obligation under the power sales contract.

Billing Demand: The billing demand will be the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Energy Obligation: The maximum kilowatt-hour obligation of the United States during the month as established under the power sales contract.

Minimum Bill: $2.00 per kilowatt of the effective contract rate of delivery.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual firm power and/or energy obligations, such overrun shall be billed at ten times the above rate.

Adjustments

For character and conditions of service: If delivery is made at transmission voltage so that the United States is relieved of substation costs, five percent discount will be allowed on the demand and energy charges.

For transformer losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased two percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

Central Valley Project, California

Schedule of Rates for Commercial Irrigation and/or Drainage Pumping Service and for Wholesale Firm Power Service When Supplied in Conjunction Therewith

Effective: November 1, 1979.

Available: In the area served by the Central Valley Project.

Applicable: To commerical irrigation customers for their own use for, or for resale for, irrigation and/or drainage pumping and purposes incidental thereto supplied through one meter at one point of delivery, and for the purposes other than irrigation and/or drainage pumping service when supplied in conjunction with the pumping service through the same meter at the same point of delivery.

Character and Conditions of Service: Alternating current, sixty hertz, three phase, delivered and metered at the voltages and points established by contract.

Monthly Rate:

Demand Charge: $2.00 per kilowatt of billing demand.

Energy Charge: 5.11 mills per kilowatt-hour for all energy use up to, but not in excess of, the energy obligation under the power sales contract.

Billing Demand: The billing demand will be the highest 30-minute integrated demand established during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Energy Obligation: The maximum kilowatt-hour obligations of the United States during the month as established under the power sales contract.

Minimum Bill: None.

Billing for Unauthorized Overruns: For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual power and/or energy obligations, such overrun shall be billed at ten times the above rate.

Adjustments

For character and conditions of service: If delivery is made at transmission voltage so that the United States is relieved of substation costs, five percent discount will be allowed on the demand and energy charges.

For transformer losses: If delivery is made at transmission voltage but metered on the low-voltage side of the substation, the meter readings will be increased two percent to compensate for transformer losses.

For power factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 95 percent lagging and 95 percent leading.

[FR Doc. 80-31732 Filed 10-9-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1632-1]

Grants for Construction of Treatment Works

Under the authority of 40 CFR 30.1000, EPA issued on June 27, 1980, a class deviation from certain provisions of 40 CFR Part 35, Subpart E, Grants for Construction of Treatment Works.

Specifically, items (3) and (4) of that class deviation extend the effective dates of 40 CFR 35.920–3(b)(9), and 40 CFR 35.920–3(c)(4), and also require the applicable grantees to submit a workplan detailing the steps necessary to comply with the extended dates.

This notice is to announce that EPA is issuing a Municipal Pretreatment Program Guidance Package which contains a discussion of acceptable workplans referred to in the June 27, 1980 class deviation.

For copies of guidance package or further information, contact: Mr. John Pai, Municipal Construction Division (WH–547), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202/426–8976).

Dated: October 3, 1980.

James N. Smith,

Assistant Administrator for Water and Waste Management (WH–556).

[FR Doc. 80-31643 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-29-M

[FRL-1610-7]

Fuels and Fuel Additives; Definition of Substantially Similar

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interpretive Rule.

SUMMARY: This notice announces EPA's interpretation of the term "substantially similar" as it is used in section 211(f)(1) of the Clean Air Act (Act). This interpretation will enable fuel and fuel additive manufacturers to determine whether their fuels or fuel additives are covered by or excluded from the prohibitions of section 211(f) (1) and (3) of the Act. This interpretation applies only to unleaded gasoline. Leaded gasolines are not covered by the section 211(f) prohibitions and diesel fuels are not addressed in this interpretive rule. The interpretation expands an earlier interpretation issued by EPA (43 FR 11258 (1978), 43 FR 24131 (1978)).

DATES: This interpretation is effective October 10, 1980. However, revisions will be considered based upon comments received on or before January 8, 1981.

ADDRESSES: Send comments to Public Docket EN–79–5, Central Docket Section (A–130), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be identified with the docket number. Copies of information relative to this rule are available for public inspection at the Central Docket Section of the Environmental Protection Agency, West Tower, Gallery I, 401 M Street SW., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Copies of the ASTM "Standard Specifications for Automotive Gasoline" (D 439–79), which are included as part of this interpretive rule, may be obtained from:

Central Docket Section (A–130), EPA, West tower, Gallery I, 401 M Street SW., Washington, D.C. 20460; or
Robert Summerhayes, Field Operations and Support Division (EN–397), Environmental Protection Agency, Washington, D.C. 20460, (202) 472–9367.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, (202) 472–9367.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Clean Air Act prohibits, after March 31, 1977, any fuel or fuel additive manufacturer from first introducing into commerce, or increasing the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.

Under section 211(f)(3), any manufacturer of any fuel or fuel additive which prior to March 31, 1977, and after January 1, 1974, first introduced into commerce or increased the concentration in use of a fuel or fuel additive that would otherwise have been prohibited under section 211(f)(1) of the Act if introduced on or after March 31, 1977, was required not later than September 15, 1978, to cease to distribute such fuel or fuel additive in commerce.

Fuels or fuel additives which are "substantially similar" to those used during a 1975, or subsequent model year, certification are thus excluded from the section 211(f)(1) and (3) prohibitions. For those fuels or fuel additives which are not "substantially similar," the fuel or fuel additive manufacturer may apply for a waiver of the section 211(f)(1) and (3) prohibitions, as provided in section 211(f)(4). The term "substantially similar" is not defined in the Act.

On March 17, 1978 (43 FR 11258) EPA first introduced a limited definition of "substantially similar." This definition stated that a fuel additive is not "substantially similar" if it contains an element, other than an impurity, which is not specified for use in a fuel used in a 1975 model year or later certification, or if the chemical structure of the additive is not identical to that of an additive used in a 1975 model year or later certification. This limited definition proved to be too narrow and would have required the manufacturers of many additives which were in fact "substantially similar," but not identical, to seek a waiver of the prohibitions under section 211(f)(4).

Therefore, on March 16, 1979 (44 FR 16033) EPA proposed an interpretation of the term "substantially similar" in terms of the additive's elemental content, molecular structure, and total concentration in the fuel. EPA received comments on the proposal from twelve fuel and fuel additive manufacturers, two automobile manufacturers, the American Petroleum institute, and the Department of Energy.

Some commenters suggested that the use of the physical and chemical criteria which were proposed would not be appropriate and could present a hardship to the industry since testing is not normally done for these criteria. They suggested that the American Society for Testing and Materials (ASTM) standards for unleaded gasoline be used. Others argued that requiring an additive to be identical to a certification additive before it may be increased in concentration is unfair, since knowledge of the composition of certification additives is not universal, and would exceed EPA's statutory authority because "identical" is more restrictive than "substantially similar." They suggested that a list of the generalized chemical structures of additives used in certification be included in the rule. In response to these comments, a number of changes to the definition have been made. The comments received and the Agency's response are discussed in more detail below.

Summary of Comments Received and Agency Response

EPA solicited comments on the proposed interpretive rule as published on March 16, 1979. The following is a summary and discussion of the significant issues raised in the comments to the public docket.

(1) *Clarification of 211(f)(1) Applicablity.* A number of commenters noted that section 211(f)(1) should be interpreted as applying only to unleaded gasoline and, therefore, that the interpretive rule should apply only to unleaded gasoline as well. The legislative history indicates that section 211(f) was not intended to apply to leaded grades of gasoline. Therefore, this interpretive rule addresess only unleaded gasolines and those unleaded fuels intended for use in spark ignition internal combustion engines. This interpretation does not address diesel fuels.

(2) *Physical and Chemical Characteristics Criteria.* Several commenters stated that some of the proposed chemical and physical criteria, specifically viscosity, stoichiometry, and chemical composition are not routinely determined in the refinery and use of these characteristics as criteria for determining whether a fuel or fuel additive is substantially similar could represent a hardship to the refiners. These and other commenters stated that the Department of Energy (DOE) and Motor Vehicle Manufactures Association (MVMA) surveys as presently published would be inadequate to serves as a basis for a "substantially similar" determination because these surveys do not collect all of the required data (such as stoichiometry and composition) and because they do not reflect the commercial variability of the various physical and chemical critieria. Some commenters suggested that EPA use the physical and chemical properites associated with the American Society for Testing and Materials (ASTM) "Standard Specifications for Automotive Gasoline," designated as D 439 because these properties are routinely and uniformally used throughout the industry as the standards by which the quality of gasoline may be measured. EPA concurs that the use of the ASTM Standards in place of the DOE or MVMA Surveys is appropriate. Therefore, this change has been included in the rule. A copy of ASTM D 439–79 has been included in the Public Docket.

(3) *Maximum Allowable Additive Concentrations.* On the purported basis that the active portion of most additives is contained at substantially less than the 0.25% (2500 parts per million (ppm)) level that was proposed, one commenter suggested that EPA lower the maximum allowable additive concentration to 500 ppm. Another commenter suggested that EPA increase the maximum allowable concentration to 0.37% for all additives and eliminate the 50% increase allowed for any additive which is identical to one used in certification. The rationale

for the latter request was to eliminate any competitive disadvantage produced solely through the knowlede that one's fuel additive was identical to a fuel aditive used in the certification of post-1974 vehicles. A manufacturer whose additive was identical to one used in certification but who was not aware of this would not be able to increase the concentration of the additive. The composition of additives used in certification is information that is not publicly available and whose publication could constitute a breach of confidentiality by EPA.

Several commenters disagreed over whether carrier oils and solvents should be included in the definition of, and consequently, the maximum allowable concentration of, a fuel additive. One stated that carrier oils are composed mainly of carbon and hydrogen and could reasonably be assumed to yield combustion products which would be similar to the products of the hydrocarbon fuel itself. Others stated that these oils and solvents often contain greater than trace contamination (specifically sulfur) and would be exempt from control solely because of function. One of these commenters went on to say that a carrier oil which had a secondary function other than to ensure compatibility and/or solubility would be subject to inclusion in the definition of a fuel additive whereas a similarly composed carrier oil or solvent which had no secondary function would be excluded. The commenter concluded that such a definition would be arbitrary and competitively disadvantageous because it would treat similarly composed materials in different ways.

In order to reconcile these various views, EPA formulated an alternate method for determining whether an additive may be considered substantially simalar to one used in certificatation. This method, which is incoporated in the interpretive rule, defines an additive as "substantially similar" if each component chemical compound of the additive may be described under one or more of a series of molecular structure families contained in those additives known to have been previously used in certification of 1975 model year or later vehicles. The limitations on the allowable concentration of compounds in these categories were derived from the actual concentrations used in the certification plus 50%. As stated in the Proposed Interpretive Rule of March 16, 1979, it is our belief that a 50% increase in the concentration of additives structurally related to those used in certification will not significantly alter emissions performance.

Alternatively, the additive may be considered, "substantially similar" if it is added to the fuel to the extent that the addition does not increase the mass percent of the heterogeneous elements (i.e., other than hydrogen and carbon) by more than certain specified numerical limits. The numerical limits for nitrogen and oxygen were extracted from a listing of additives that were used in the certification of model year 1975, and subsequent model year, automobiles. The numerical limit for sulfur was developed by a separate method described below under the heading *Sulfur.*

(4) *Sulfur.* Two commenters requested that sulfur should be included in the interpretation of "substantially similar" because sulfur may be present in an additive in a number of forms such as trace contamination, or as part of an active ingredient of an additive package. One commenter argued that the amount of sulfur contributed to a gasoline by the inclusion of sulfur-containing additives at levels similar to that which is used for non-sulfur containing additives would be immeasurable by any of the sulfur measuring techniques prescribed for gasoline by ASTM. Therefore, sulfur content of the fuel would be effectively unchanged over the base fuel.

EPA concurs that a provision for sulfur-containing additives should be included. Therefore, this modification has been included in this interpretation. Details concerning the method used to develop the sulfur limitation are discussed in the Methodology section, below.

(5) *Additives Used in Certification.* Several commenters requested that EPA publish a list of the chemical compositions of the actual additives used in the certification of model year 1975 and later vehicles so that the advantage of knowing the chemical identity of an additive used in certification would be equalized. These and other commenters conceded that the publication of the identity of actual additives would probably constitute an unfair breach of confidentiality and suggested that a similar listing categorized by generic chemical structure would suffice. EPA agrees that the publication of such a list could expedite the determination of whether an additive package is substantially similar to one used in certification. Therefore, such a listing has been included in the rule.

EPA has removed the requirement that an additive be identical to one used in certification in order to increase its allowable concentration in unleaded gasoline by up to 50% by weight. One commenter stated that this requirement would exceed the statutory authority of EPA because the concentration of an additive that was not "identical" but in fact "substantially similar" to an additive used in certification could not be increased.

(6) *Right to Petition the Agency.* One commenter requested that the determination that a fuel or fuel additive is "substantially similar" should not lead to automatic acceptance of the fuel or fuel additive. The commenter stated that any person should be given the right to petition EPA for a finding that such a fuel or fuel additive is not "substantially similar."

It seems clear that Congress based the "substantially similar" exemption on the belief that fuels and fuel additives used in certification and those fuels and fuel additives substantially similar to them would not adversely affect emissions. Therefore, the underlying basis of this interpretation is that fuels and fuel additives herein determined to be "substantially similar" will not adversely affect emissions. However, a determination as to whether a fuel or fuel additive is "substantially similar" does not directly address the emissions effects of the use of the fuel or additive.

If a fuel or fuel additive is found at some later date to have emissions products which endanger public health or welfare, or impair to a significant degree the performance of any emission control device or system which is in general use, the Administrator is empowered to act under the authority of section 211(c) of the Act. If a fuel or fuel additive has been determined to be "substantially similar" according to the criteria published herein, but the emission products of the additive endanger public health, either directly, or indirectly by affecting emission control systems, then any person may petition the Administrator with supporting information to control the fuel or fuel additive under section 211(c) of the Act.

(7) *Protection from Liability.* One commenter requested that a fuel or fuel additive manufacturer who in good faith submits a fuel or fuel additive for registration under the "substantially similar" rule should be afforded a reasonable level of protection from liability if the fuel or fuel additive is at some date determined not to be "substantially similar."

In the event that a manufacturer has introduced a fuel or fuel additive through an incorrect use of the "substantially similar" criteria, the manufacturer is still subject to the prohibitions of section 211(f) unless it

obtains a waiver of such prohibitions through the waiver procedure outlined in section 211(f)(4) of the Act.

In the event that a manufacturer determines in good faith that a fuel or fuel additive is "substantially similar" according to the published criteria and at some later date the fuel or fuel additive is shown not to be "substantially similar," EPA expects that the fuel manufacturer would cease using, or lower the concentration in use of, the fuel additive in order to correct the problem. Nothing in this rule shall be construed as precluding any action by the Administrator under section 211(c) of the Act.[1] Additionally, the underlying assumption of this interpretation is that "substantially similar" fuels and additives will not adversely affect emissions. If the incident indicates that the definition of "substantially similar" was flawed EPA would take appropriate actions to correct the definition.

Methodology

Discounting trace impurities, most fuel additives are composed of carbon, hydrogen, oxygen, and/or nitrogen. A few additives contain carbon, hydrogen, oxygen, and/or sulfur. There is a wide disparity among fuel additive packages in the fraction of the package that represents active ingredients. Active ingredients are those chemical compounds that alter the fuel's characteristics in some beneficial manner such as by inhibiting corrosion of metallic fuel system parts or suspending dirt and particulates (i.e., detergency). The remainder of a package other than active ingredients consists of carrier oils, solubilizing agents, or impurities. EPA reviewed automobile certification records and obtained a list of those additives which actually were used in certification. From this list and the elemental compositions of each additive, which were obtained from EPA's Office of Fuels and Fuel Additives Registration in Research Triangle Park, North Carolina, we were able to determine the maximum change in oxygen and nitrogen content of a base fuel attributable to additive packages used in certification. Also, from the list of additives used in certification we developed a set of molecular structure families and maximum concentrations at which each was used. The maximum concentrations were then increased by 50% based on EPA's belief that an increase of up to 50% of these additives will not significantly alter emissions performance. Vehicles using fuels containing these additives were able to pass certification. Further, the additives, which contain only carbon, hydrogen, oxygen, nitrogen, or sulfur, should consist primarily of materials which are already present in the exhaust and should have no effect on catalyst performance.

Although high levels of sulfur may have an effect on catalyst efficiency, EPA believes that an immeasureable increase in the sulfur content of an unleaded gasoline should have no measurable effect on catalyst efficiency.[2] The sulfur limitation figure was derived from the fact that an incremental 15 parts per million (ppm) sulfur contributed to a gasoline by an additive would result in a finished fuel whose sulfur content would be indistinguishable from that of the base fuel itself. In particular, EPA based the sulfur limitation on the repeatability criterion of the most accurate sulfur measuring technique recognized by the ASTM for gasoline-type products, ASTM Standard D 2622, Sulfur in Petroleum Products (X-Ray Spectrographic Method). The repeatability of sulfur measurements made using this method, for gasolines containing on the order of 300 ppm sulfur, is a 15 ppm sulfur differential. Thus, two measurements of the sulfur content of a particular sample are considered reliable if they differ by less than 15 ppm sulfur. This increment represents less than 5% of the average sulfur content of unleaded gasolines as reported by the Motor Vehicle Manufacturers Association survey of January 15, 1980.

The interpretive rule treats within the definition of "substantially similar" aliphatic ethers and aliphatic alcohols other than methanol, used as blend components with unleaded gasolines, provided that the alcohol or ether does not raise the oxygen content above 2.0% by weight and the final fuel meets ASTM standards for unleaded gasoline. The Administrator has granted a 211(f)(4) waiver for one fuel which contains approximately 2% oxygen. Also, by operation of section 211(f) of the Act, a waiver was granted allowing the use of Gasohol (90% unleaded gasoline/10% anhydrous ethanol) which contains over 3% oxygen. Driveability problems related to stoichiometric enleanment in these fuels have not been reported. It is the conclusion of EPA that as long as the ASTM standards for unleaded gasoline are met, the stoichiometric enleanment caused by 2.0% extra oxygen should present no driveability problems.

Methanol, the lowest molecular weight and most highly polar alcohol, has been excluded because of unresolved questions concerning its compatibility with non-polar hydrocarbons (e.g., gasoline). Water separation and materials compatibility problems, which could present a problem with some methanol blends, should be lessened with the use of higher molecular weight alcohols because they are less polar and, consequently, more gasoline-like. Ethers are non-polar and are less soluble in water but more soluble in pure gasoline than alcohols. Therefore, they present fewer problems with regard to water tolerance, materials compatibility, and evaporative emissions than do alcohols.

Note.—Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by December 9, 1980. 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 judicial proceedings brought by EPA to enforce these requirements.

Pursuant to section 307(d)(1)(N) of the Clean Air Act, as amended, 42 U.S.C. 7607(d)(1)(N) and section 553(b)(A) of the Administrative Procedure Act, 5 U.S.C. 553(b)(A) this interpretive rule is being promulgated as a final rule. However, comments are invited on the final rule. Comments received within 90 days from the date of this notice will be considered and revisions to the rule will be made if they are found to be necessary.

Under EPA's *Final Report Implementing Executive Order 12044*, 44 Fed. Reg. 30988 (1979), 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 regulations of the latter type "specialized." I have reviewed this regulation and have determined that it is specialized and therefore not subject to the procedural requirements of Executive Order 12044.

Dated: September 22, 1980.

Douglas M. Costle,

Administrator.

Definition of "Substantially Similar"

EPA will treat a fuel or fuel additive for general use in light duty vehicles

[1] Likewise, nothing in this rule shall be construed as relieving any manufacturer from responsibilities incurred under sections 211 (a), (b), and (e) of the Act.

[2] Based on comments presented to the California Air Resources Board by General Motors Corporation and the Ford Motor Company on October 23, 1978, on the subject of Reconsideration of the Air Resources Board Regulation Limiting the Sulfur Content of Unleaded Gasoline Sold in California.

manufactures after model year 1974 as substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act (i.e., "substantially similar"), if the following criteria are met.

1. *Fuel Additive:*

(a) The fuel additive[3] contains only carbon, hydrogen, and any or all of the following elements: oxygen, nitrogen, or sulfur;

(b)(i) Each component chemical compound of the additive may be described under one or more of the following molecular structure families and is used at no more than the indicated weight content:

Structural family and maximum use

1. Aliphatic Alcohols/Glycols—2.0% oxygen in finished fuel.
2. Ethers/Polyethers—2.0% oxygen in finished fuel.
3. Carboxylic Acids/Esters—35 ppm in finished fuel.
4. Amines/Polyamines—530 ppm in finished fuel.
5. Alkylated Phenols—60 ppm in finished fuel.
6. Hydroxylated Amines—40 ppm in finished fuel.[4]

or; (ii) if one or more of the component chemical compounds of the additive may not be described under 1(b)(i) then the addition of the compound or compounds to the fuel does not increase the nitrogen, oxygen, or sulfur content of the base fuel by more than the following weight content: Nitrogen, 8 ppm; Oxygen, 6 ppm; Sulfur, 15 ppm.

(c) When the additive is added to a base fuel, the resulting finished fuel shall comply with the provisions of paragraph (2) below.

2. *Fuels:*

(a) The fuel, prior to the addition of any additive found to be "substantially similar" in paragraph (1) contains carbon, hydrogen, and/or oxygen exclusively, [5] in the form of some combination of hydrocarbons, non-methanol aliphatic alcohols,[6] and/or aliphatic ethers.

(b) The finished fuel, which may contain additives to the extent described in paragarph (1), will possess all of the physical and chemical characteristics of an unleaded gasoline as specified by ASTM Standard D 439-79, and contain no more than 2.0% oxygen by weight.[7]

Definitions of ther terms used in this interpretive rule are published at 40 CFR 79.2

Appendix

This appendix is included to assist fuel and fuel additive manufacturers in using the "substantially similar" interpretive guidelines. The algorithm consists of three basic steps: assessing the similarity of the desired additive package in terms of chemical composition and concentration; determining the similarity of the basic fuel (i.e., the fuel prior to the addition of those additives which are "substantially similar"); and ensuring that the final fuel contains less than 2.0% oxygen by weight and meets ASTM Standards for unleaded gasoline (ASTM D 439-79). If a fuel meets these criteria it will be considered substantially similar to one used in certification and would not be subject to the prohibitions of § 211(f)(1) and (3)of the Act.

1. *Fuel Additive:*

1(a): A fuel additive is herein defined as the sum of all the non-bulk chemical species added to a fuel and not removed prior to distribution or sale. The first criteria for a fuel additive is that it contain only carbon and hydrogen and one or more of the following elements: oxygen, nitrogen, or sulfur. Trace quantities of elements whose combustion products are gaseous at Standard Temperature and Pressure (STP)[8] are permissible.

Example: Additive Package A consists of the following components with the corresponding content of heterogeneous element(s):

	Percent
Alkylated phenol containing 10% oxygen	5
Alkylated diamine containing 10% nitrogen	30
Sulfonate containing 10% sulfur and 30% oxygen	2
Hydrocarbon oil containing 50 ppm Flourine	63
Total	100

Additive A is to be added to a fuel at a concentration of 252 pounds per thousand barrels (lbs/MBBLS) or 0.1%.

The additive package contains carbon and hydrogen (comprising the major portion of each of the four constituents), oxygen (from the alkylated phenol and the sulfonate), nitrogen (from the alkylated diamine), and sulfur (from the sulfonate). The combustion products of the trace flourine present in the additive may be assumed to be fluorine oxide (F_2O) and fluorine dioxide (F_2O_2) and these materials are gaseous at STP.[9] Therefore, this additive package satisfies the first criterion.

1(b)(i): The component chemical compounds of the additive package should be compared with the list included at paragraph 1(b)(i) of the rule. A component will satisfy criterion 1(b)(i) if it may be described by one or more of the structural families listed there and if its content in the finished fuel will be less than or equal to the maximum concentrations listed for that component. [10]

Example: Additive A above has four components, of which two are describable under paragraph 1(b)(i) of the rule. The contents of these components in the final fuel are calculated below:

alkylated phenol content:

$$= \text{weight fraction additive in fuel} \times \text{weight fraction phenol in additive}$$
$$= 0.001 \times 0.05 \times 10^6 = 50 \text{ ppm}$$

diamine content of fuel:

$$= 0.001 \times 0.30 \times 10^6 = 300 \text{ ppm}$$

Comparing these figures to the maxima described in paragraph 1(b)(i) one sees that for each of these components, this criterion is met. The sulfonate, however, is not included in that listing. Therefore, the second part of this criteria should be applied.

1(b)(ii): This portion of criterion 1(b) states that if one or more of the

[3] For the purposes of this interpretive rule, the term "fuel additive" refers to the entire additive package including carrier oils and solvents regardless of function, but excluding bulk components of the base fuel such as those described in paragraph 2(a) below.

[4] If a chemical compound may be described under more than one structural family, the maximum allowable concentration is the lowest concentration of the structural families which describe it.

[5] Residual sulfur may be present to the extent described in ASTM Standard D 439-79. The fuel shall contain not more than 0.05 gram of lead per gallon and not more than 0.005 gram of phosphorus per gallon. For the purposes of this interpretive rule, impurities which produce gaseous combustion products (e.g., products which exist as a gas at Standard Temperature and Pressure) may be present in the fuel at trace levels. An impurity is that substance which is present through contamination, or remains naturally, after processing of the fuel is completed.

[6] Methanol as part of a fuel or an an additive will not be considered substantially similar to any fuel or fuel additive used in the certification of a 1975 model year, or subsequent model year, vehicle or engine because insufficient data regarding the compatibility of methanol with emission control systems are available.

[7] See note 5.

[8] Standard Temperature and Pressure refer to conditions of 60° F and 1 atmosphere.

[9] The atmospheric boiling points of fluorine oxide and fluorine dioxide are −229°F and −71°F respectively. *Handbook of Chemistry and Physics*, 48th edition, 1967-1968.

[10] A component whose molecular structure contains two or more distinct substitutions will satisfy this criterion when its content in the finished fuel is less than or equal to the lower of the permissible limits for the two applicable structural categories. As an example, a component whose molecular structure is a carbon backbone with an amino group at one end and a carboxylate group at the other would be permissible at a level of 35 ppm or less.

component chemical compounds of the additive may not be described by the list at 1(b)(i) then the addition of the compounds or compounds to the fuel may not increase the nitrogen, oxygen, or sulfur content of the base fuel by more than 8 ppm, 6 ppm, and 15 ppm, by weight, respectively.

Example: There are two components of Addivite Package A which fall under this criterion: the sulfonate and the hydrocarbon oil. The incremental nitrogen, oxygen, and sulfur content of the fuel attributable to these two components is:

Oxygen content:

= the summation for each component of: weight fraction additive in fuel × weight fraction component in additive × weight fraction oxygen in component

$= (0.001 \times 0.02 \times 0.30 \times 10^6) + (0.001 \times 0.63 \times 0 \times 10^6)$

= 6 ppm

Likewise for sulfur and nitrogen:

Sulfur content:

$= (0.001 \times 0.02 \times 0.10 \times 10^6) + (0.001 \times 0.63 \times 0 \times 10^6)$

= 2 ppm

Nitrogen content:

= 0 ppm

The incremental nitrogen, oxygen, and sulfur contributed to the fuel by the components of Additive Package A which are not describable under criterion 1(b)(i), are equal to or less than the permissible maxima of criterion 1(b)(ii). Therefore, the additive package fulfills the requirements of this interpretive rule. Note, however, that this is the maximum rate at which this additive may be used and still satisfy these criteria unless the oxygen contribution of the sulfonate portion is reduced.

2. *Fuels:*

2(a): A fuel, prior to the addition of an additive package which satisfies criterion 1, must contain carbon, hydrogen, and oxygen exclusively, in the form of a mixture of hydrocarbons, nonmethanol aliphatic alcohols, and/or aliphatic ethers. Residual sulfur is permissible to the extent allowed in the ASTM Gasoline Standards, D 439–79. The maximum lead content is 0.05 grams per gallon (gpg) and the maximum phosphorus content is 0.005 gpg. Other impurities which exist as a gas at STP may be present at trace levels.

Example: Fuel B consists of the following materials by weight fraction:

94 percent—hydrocarbon fluid (95.4 percent by volume) containing 0 percent oxygen
4 percent—t-butyl ethyl ether (2.8 percent by volume) containing 15.7 percent oxygen
2 percent—ethanol (1.8 percent by volume) containing 34.8 percent oxygen
0.03 percent—sulfur (300 ppm)
0.01—gpg lead
0.001—gpg phosphorus

To this base fuel is added:

0.1 percent—Additive Package A (252 lbs/MBBLS)

Before Additive Package A is added to Fuel B the fuel is a mixture of hydrocarbons, an aliphatic ether, and non-methanol aliphatic alcohol in a 47/2/1 weight ratio. The fuel contains carbon, hydrogen, and oxygen exclusively, except for 0.03 percent sulfur, which lies within the ASTM D 439–79 standards (S 0.1 percent), and lead and phosphorus, which are contained at less than the EPA mandated maxima for unleaded gasolines which are 0.05 gpg and 0.005 gpg, respectively. This base fuel satisfies criterion 2(a).

2(b): The finished fuel, which may contain an additive package that has satisfied criteria 1(a) and (b), or may contain no additive package whatsoever, must meet all of the specifications for unleaded gasolines outlined in ASTM Standard D 439–79. Additionally, the fuel must contain no more than 2.0 percent oxygen by weight. If this finished fuel meets these requirements, it will be considered "substantially similar."

Example: The ASTM Standard D 439–79 specifies distillation curves, a distillate residue maximum, vapor/liquid ratios, Reid vapor pressure, lead content, corrosivity, gum content, sulfur, oxidation stability, and anti-knock index on a regional and seasonal basis. Fuel B with Additive Package A meets the ASTM (and EPA) requirements for lead and sulfur (0.05 gpg and 0.10 percent, respectively). If we may assume that through the proper blending of the bulk hydrocarbon portion of the fuel and the careful selection of an additive package, the fuel will comply with the other standards, then it will have met this requirement. The oxygen content of the finished fuel is:

Oxygen content:

= the summation (for each component) of: the component content in fuel x the oxygen content of component

$= (0.02 \times 0.348) + (0.04 \times 0.157) + (0.94 \times 0.00)$

$= 0.013 = 1.3$ percent [11]

Since the oxygen content of the fuel is no more than 2.0 percent by weight and all of the other requirements to which Fuel B and Fuel Additive Package A are subject have been met, the fuel and fuel additive combination is "substantially similar."

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BILLING CODE 6560-01-M

[11] Note that the oxygen contribution of the additive package is negligible: approximately 11 ppm or 0.0011 percent.

[PH-FRL1630-3; PP OG2298/T268]

Acephate; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite, *O,S*-dimethyl phosphormaidothioate in or on the raw agricultural commodity macadamia nuts at 0.05 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Rm. E–343, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202–426–9458).

SUPPLEMENTARY INFORMATION: The University of Hawaii-Manoa, Department of Agricultural Biochemstry, 1800 East West Rd., Honolulu, Hawaii 96822, has submitted a pesticide petition (PP OG2298) to the EPA. The petition requested that a temporary tolerance be established for the combined residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite, *O,S*-dimethyl phosphoramidothioate in or on the raw agricultural commodity macadamia nuts at 0.05 ppm.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other material have been evaluated, and it has been determined that establishment of the temporary tolerance will protect the public health. Therefore, the tolerance has been established on the following conditions.

1. The total amount of the insecticide to be used will not exceed the quantity authorized in the experimental use permit.

2. The University of Hawaii-Manoa will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The University will also keep records of production, distribution, and performance, and upon request, make these records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance will expire September 22, 1981. Residues not in excess of the temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit. This temproary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience indicate such revocation is necessary.

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 346(a)(j))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-31654 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-322-M

[TSH-FRL 1630-4; OPTS-51149]

Acryloxyethylheteromonocycle; 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 November 15, 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, (202-755-80050).

FOR FURTHER INFORMATION CONTACT: David Dull, Chemical Control 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 EPH at least 90 days before manufacturer 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. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 290, 1980 (45 FR 50444—Revised). 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) an 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, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before November 15, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, D.C. 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-51149]" 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: September 30, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-252.

Close of Review Period. December 15, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—West central U.S.

Standard Industrial Classification Code—286 "Industrial Inorganic Chemicals".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acryloxyethylheteromonocycle.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Claimed confidential business information. Generic information provided: The maufacturer states that the new substance will be used as an intermediate for captive use; that it will be handled by industrial workers in a contained use with very low potential for exposure.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.
Octanol/water coeff—0.32.
Vapor pressure—$<2 \times 10^{-6}$ torr; 20° C.
Melting points—53° C.
Density—1.2 g/ml; 25° C.
Flash point—315° F.
Toxicity Data.
Oral LD_{50} (rat)—1.4 g/kg.
Dermal LD^{50} (rabbit)—0.28 g/kg.
Skin irritation (rabbit)—7.3 (Draize).
Eye irritation (rabbit)—Corrosive.
10-Dose Repeat Dermal (rabbit)—An irritant.
Ames—Non-mutagenic.
Mouse lymphoma—Mutations produced.

Exposure. The manufacturer states that the substances will be handled by industrial workers in a contained use with very low potential for exposure.

Environmental Release/Disposal. The submitter claims that the manufacture of the PMN substance will involve essentially no environmental release.

[FR Doc. 80-31655 Filed 10-9-80; 8:45 am]
BILLING CODE 6560-01-M

[A-5-FRL 1631-8]

Brush Wellman, Inc.; Elmore, Ohio

In the matter of the applicability of Title 1, Part A, Section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR Part 61, Subpart A (38 FR 8826, April 6, 1973) for National Emission Standards for Hazardous Air Pollutants (NESHAPS), to Brush Wellman, Incorporated in Elmore, Ohio.

On February 5, 1980 and May 2, 1980, Brush Wellman, Incorporated submitted applications to the U.S. Environmental Protection Agency (U.S. EPA), Region V office, for approval to install three new beryllium oxide firing furnaces at their facility in Elmore, Ohio. The applications were submitted pursuant to 40 CFR Section 61.06.

On July 10, 1980, Brush Wellman, Incorporated was notified that the applications were complete and approval to install was granted. This approval to install does not relieve Brush Wellman, Incorporated of the responsibility to comply with any applicable Federal, State or local regulations.

This determination may not 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 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Patricia Reape, Air Compliance Section, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2090.

Dated: September 26, 1980.

John McGuire,
Regional Administrator.

[FR Doc. 80-31642 Filed 10-9-80; 8:45 am]
BILLING CODE 6560-26-M

[OPTS-51150; TSH-FRL 1630-1]

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.

DATE: Written comments by November 15, 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: Rick Green, Chemical Control 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. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 Fr 50444-Revised). 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 November 15, 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–51150]" 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: October 2, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–253.

Close of Review Period. December 15, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—Between $10 million and $99 millions.

Manufacturing site—West-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Coconut fatty acids, benzoic acid, isophthalic acid, neopentyl glycol, propylene glycol.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Baking enamel.

Production Estimates

[Pounds per year]

	Minimum	Maximum
First year	50,000	100,000
Second year	100,000	120,000
Third year	100,000	150,000

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1–10
Processing	Inhalation	1	1	251		1–10
Use	Inhalation	3	8	251		1–10
Disposal	Inhalation	2	8	251		1–10

Environmental Release/Disposal. The manufacturer states that: Less than 10 kilograms of the substance will be released to the environment per year; water of esterfication will be disposed of through a sanitary sewer from a settling tank; and none of the components of the resin will be released with the water.

PMN 80–254.

Close of Review Period. December 15, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.
Manufacturing site—East-north central U.S.
Standard Industrial Classification Code—2821 "Polyamide Resins".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Dimer fatty acid polyamide.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Hot melt adhesive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

	Typical range
Melting point, Ring and Ball, °C	95–155
Viscosity at 190° C, Centipoises	9,000–14,000
Gardner color, 40 percent solids in *n*-butanol	4–6
Acid number	<1
Amine number	3–6
Specific gravity 25° C/25° C	0.96

Toxicity Data. Claimed confidential business information.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (mg/m^3)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	62	0–1	

Environmental Release/Disposal.

Media—Amount/Duration of Chemical Release (kg/yr).
Air—Less than 10. 24 hr/da; 62 da/yr.
Water—Less than 10. 12 hr/da; 62 da/yr.
Land—10–100.

The manufacturer states that water of reaction is sent to the water treatment system before being discharged into the receiving stream.

[FR Doc. 80–31652 Filed 10–9–80; 8:45 am]

BILLING CODE 6560–31–M

[OOP-50503; PH FRL 1609-6]

Issuance of Experimental Use Permits for Pesticides; Elanco Products Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manage (PM) 25, Rm. E-359, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-755-2196).

1471-EUP-70. Elanco Products A Division of Eli Lilly and Co., PO Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 217 pounds of the herbicide oryzalin (3,6-dinitro-N^4-,N^4-dipropylsulfanilamide) in or on potatoes to evaluate the control of weeds. A total of 210 acres are involved.

1471-EUP-71. Elanco Products Co., A Division of Eli Lilly and Co., PO Box 1750, Indianapolis, IN 46206. This experimental use permit allows the use of 210 pounds of the herbicide oryzalin 3,6-dinitro-N^4-,N^4-dipropylsulfanilamide) in or on potatoes to evaluate the control of weeds. A total of 210 acres are involved. This program and the one above are authorized only in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Michigan, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Wisconsin. Both programs are effective from September 1, 1980 to September 1, 1981. A temporary tolerace for residues of the active ingredient in or on potatoes has been established and appears elsewhere in this issue of the **Federal Register.**

Persons wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460. Inquiries regarding these permits should be directed to the contact persons given above. It is suggested that interested persons call before visiting the EPA Headquarters office so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 92 Stat. 819 as amended, (7 U.S.C. 136))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-31649 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[PF 178B; PH FRL 1629-8]

Janseen, R&D Inc.; Filing of a Pesticide Petition; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a document that published in the **Federal Register** of April 22, 1980, (45 FR 27009). The proposed analytical method for determining residues of the fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxyethyl)ethyl]-1*H*-imidazole on the crop grouping citrus at 10 parts per million (ppm) in pesticide petition number OF2331 was incorrectly listed, as a result of an administrative oversight.

FOR FURTHER INFORMATION CONTACT: Eugene Wilson, Product Manager (PM) 21, Rm. E-349, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460, (202-755-1806).

SUPPLEMENTARY INFORMATION: The EPA issued a notice that published in the **Federal Register** of April 22, 1980 (45 FR 27009) that Janseen R&D, Inc., 501 George St., New Brunswick, NJ 08903 had filed a pesticide petition (OF2331) with the EPA. The pesticide petition proposed the establishment of a tolerance for fungicide 1-[2-(2,4-dichlorophenyl)-2-(2-propenyloxyethyl)ethyl]-1*H*-imidazole on the crop grouping citrus fruit at 10 ppm.

Due to an administrative overshight, the proposed analytical method given for determinating residues was "an ultraviolet detector". Change the 28th line in column one on page 27010 to read "proposed analytical method for determining residues is gas chromatography".

(Sec. 408 (d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-31651 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL 1630-5; OPP-42054C]

Commonwealth of Kentucky; Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973: 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section. This is a notice of approval of such a plan for the Commonwealth of Kentucky.

DATE: This approval became effective on August 27, 1980.

ADDRESS: Complete copies of the Kentuky State Plan are available for public inspection at:

Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Department for Natural Resources and Environmental Protection, Pine Hill Plaza, U.S. 60, Frankfort, Kentucky 40601; and

Document Control Office (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roy P. Clark, Chief, Pesticides & Toxic Substances Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365; Telephone No. 404/881-3222.

SUPPLEMENTARY INFORMATION: On May 7, 1979, notice was published in the **Federal Register** (44 FR 26791) of the intent of the Regional Administrator, EPA, Region IV, to approve, on a contingency basis, the Kentucky State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Kentucky State Plan). Contingent approval was requested by the Commonwealth of Kentucky pending promulgation of regulations pursuant to the Kentucky Pesticides Use and Application Act of 1972 and the Kentucky Pesticides Control Act of 1974. Contingent approval of the Plan was subsequently granted pending promulgation of final regulations for the enforcement of the Kentucky Acts. Notice of contingent approval was published in the **Federal Register** of August 20, 1979 (44 FR 48819).

Final regulations for the enforcement of the Kentucky Pesticide Control Act were published in the "Kentucky Administrative Record" on December 1, 1979. However, that publication contained an error of omission.

Therefore, contingent approval of the Kentucky State Plan was extended by EPA on May 16, 1980, in order to permit the State to correct this inadvertent error. Notice of this action was published in the Federal Register of June 4, 1980 (45 FR 37725).

The errors were corrected by amendments as published in the "Administrative Register of Kentucky," Thursday, May 1, 1980, and the regulations became effective June 4, 1980, when finalized by the Kentucky Administrative Review Subcommittee. Therefore, it has been determined that the Kentucky State Plan satisfies the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR Part 171, and the Kentucky State Plan is hereby approved.

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Kentucky State Plan shall be effective upon signature of this notice. This is because no comments were received opposing the earlier contingent approval, and only one change was necessary for this full approval. Accordingly, this approval shall become effective immediately.

Dated: August 27, 1980.

John A. Little,

Acting Regional Administrator, Region IV.

[FR Doc. 80-31656 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[WH FRL 1629-3]

National Drinking Water Advisory Council; Open Meeting

Under Section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.),* will be held at 8:00 a.m. on November 7, 1980, in Room 3037, Executive Legislation Building, State Capitol Grounds, Santa Fe, New Mexico.

The purpose of the meeting will be to update the Council on the Underground Injection Control Program. Other items will include a status report on the development of the Ground Water Protection Strategy and a discussion of waste water reuse protocols.

This one day meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements are generally limited to 15 minutes followed by a 15 minute discussion period. It is preferred that there be one presentor for each statement. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement, the petitioner's telephone number, and should be received by the Council before October 29, 1980.

Any person who wished to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact, Ms. Nancy Wentworth, Executive Secretary, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The telephone number is: Area Code 202/426-8877.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

[FR Doc. 80-31657 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-29-M

[OPP-180493; PH FRL 1631-3]

North Carolina Department of Agriculture; Issuance of Specific Exemption To Use Bentazon To Control Weeds in Chili Peppers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use 1,900 pounds of bentazon on 950 acres of Bohemian chili peppers to control broadleaf weeds and nutsedge in four counties in North Carolina. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-107, 401 M St. SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: The Applicant reports that the use of mechanical pepper harvestors dictates that chili pepper fields be maintained in a weed-free state throughout the growing season. The specific weeds of concern are yellow nutsedge (*Cyperus esculentus*), cocklebur (*Xanthium pensylvanicum*), common ragweed (*Ambrosia artemisifolia*), giant ragweed (*A. trifida*), prickly sida (*Sida spinosa*), and annual morningglory (*Ipomoea* spp.). Chopping has been the primary means by which weeds and grass have been controlled. The Applicant states that chopping is an expensive procedure and that there is a lack of available labor for chopping. Although Paraquat CL is registered for use on peppers, the Applicant states that it is not a suitable alternative because the use pattern, a post-directed spray, would kill the small pepper plants. There are a number of herbicides registered for use on peppers, but these products are for pre-emergence use and control only broadleaf weeds, not sedges. Without an adequate control program, the Applicant estimates that losses to the chili pepper growers could be severe.

The Applicant proposed to use Basagran, which contains the active ingredient (a.i.) bentazon on 950 acres of peppers in Bertie, Chowan, Tyrell, and Washington Counties. Application would be made with ground equipment, using a maximum of two pounds a.i. per acre.

EPA has determined that residues of bentazon and its 6- and 8-hydroxy metabolites are not expected to exceed 0.2 part per million (ppm) as a result of the proposed use. This level has been judged adequate to protect the public health. The proposed use is not expected to have an unreasonable adverse effect on non-target organisms.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Use of the product Basagran, EPA Reg. No. 7969-45, manufactured by BASF Wyandotte Corp., is authorized;

2. Basagran will be applied at a rate of 1.0 to 1.5 pounds a.i. per acre broadcast. Either single or split applications may be made; however, a maximum of two pounds a.i. per acre per crop may not be exceeded;

3. A maximum of 950 acres in the counties named above may be treated;

4. A maximum of 1,900 pounds a.i. may be applied;

5. All applications will be made by ground equipment using a minimum of 20 gallons of water per acre;

6. No application will be made within 105 days of any harvest;

7. All label directions, precautions, and restrictions on the product label must be followed;

8. Residues of bentazon and its 6- and 8-hydroxy metabolites are not expected to exceed 0.2 ppm from the above application. Bohemian chili peppers with residues of bentazon not in excess of this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

9. A full report summarizing the results of this program must be submitted to EPA by March 31, 1981;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of Basagran in connection with this exemption; and

11. The Applicant shall be responsible for ensuring that all of the provisions of this specific exemption are met.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 1, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-31648 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180502; PH FRL 1631-2]

Oregon Department of Agriculture; Issuance of Specific Exemption for Propham

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use propham on 30,000 acres of turnips in four counties in Oregon. The specific exemption is granted under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, volunteer grain (wheat, oats, and barley) infestations occur whenever turnips are planted following the harvest of a grain crop. Turnips have a much higher feed value than grain and when the volunteer grain is reduced, much greater total digestible nutrients per acre and dry matter can be produced from the turnip crop. The usual farm practice for grain growers in Oregon is to plant grains in the spring, harvest them in July, and let the land lie fallow through September.

The Applicant states that significant losses of forage have occurred due to the fallout from Mount St. Helens. Because of these losses, growers in the entire northwest region of the country are looking for alternative feed items for animals. Turnips offer an excellent alternative producing 35 to 50 tons of green weight per acre, according to the Applicant. Currently, there are no registered herbicides to control volunteer grain in turnips.

The Applicant proposes to apply 3 to 4 pounds of propham per acre to fields second cropped to turnips following small grains. Application will be made by ground equipment or aircraft, followed by irrigation, on 30,000 acres of turnips in Malheur, Morrow, and Umatilla Counties, Oregon. EPA has determined that residues of propham in or on turnips from the proposed use should not exceed 0.1 part per million (ppm) as long as a 30-day pre-harvest internal is observed. This level has been judged adequate to protect the public health. No detectable residues of propham are expected in meat and milk. The proposed use is not expected to present an undue hazard to the environment.

After reviewing the application and other available information, EPA has determined that the natural disaster of the Mount St. Helens eruption meets the criteria for an exemption. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1980, in the manner and to the extent set forth in the application. The specific exemption is also subject to the following conditions:

1. The Product Chem Hoe FL4, EPA Reg. No. 748-207, produced by PPG Industries, may be used;

2. Propham may be applied at a rate of 3 to 4 pounds per acre by sprinkler irrigation water, ground-applied with a minimum of 20 gallons of water per acre, or by aircraft with 5 to 10 gallons of water per acre. After application by any method, ½ to 1 inch of water per acre will be applied;

3. A maximum of 30,000 acres of turnips may be treated in the counties named above;

4. A maximum of 120,000 pounds active ingredient may be applied. A single application is authorized.

5. A 30-day pre-harvest interval is imposed;

6. Applications are to be made by State-licensed commercial applicators or qualified growers;

7. Applicable precautions, restrictions, and directions on the registered label are to be followed;

8. Residues of propham are not expected to exceed 0.1 ppm in or on turnips. Turnips with residues of 0.1 ppm or less may be used as feed items or enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action;

9. The EPA shall be immediately informed of any adverse effects resulting from the use of propham in connection with this exemption; and

10. The Applicant is responsible for ensuring that all provisions of the specific exemption are met and must submit a report summarizing the results of this program by December 31, 1980.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 1, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-31647 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[PP OG2291/T271; PH FRL 1629-7]

Oryzalin; Establishment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been established for residues of the herbicide oryzalin (3,5-dinitro-N^4-, N^4-dipropylsulfanilamide) in or on the raw agricultural commodity white potatoes at 0.1 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Rm. E-359, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-755-2196).

SUPPLEMENTARY INFORMATION: Elanco Products Co., P.O. Box 1750, Indianapolis, IN 46260, has submitted a pesticide petition (PP OG2291) to the EPA. The petition proposes that a

temporary tolerance be established for residues of the herbicide oryzalin (3,5-dinitro-N^4-, N^4-dipropylsulfanilamide) in or on the raw agricultural commodity white potatoes at 0.1 ppm. This temporary tolerance will permit the marketing of the raw agricultural commodity when treated in accordance the experimental use permits 1471-EUP-70 and 1471-EUP-71 which are concurrently being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended 92. Stat. 819, 7 U.S.C. 136 appear elsewhere in this issue of the **Federal Register.**

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerance is adequate to protect the public health.

The temporary tolerance is established on the condition that the temporary tolerance and experimental use permits be issued with the following provisions:

1. The total amount of the herbicide to be used must not exceed the quantity authorized in the experimental use permits.

2. Elanco Products Co. will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires September 1, 1981. Residues not in excess of this temporary tolerance remaining in or on the raw agricultural commodity after expiration of this temporary tolerance will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 561; (21 U.S.C. 346a(j))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-31650 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30043; PH FRL 1631-5]

Pesticide Registration Standards; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that Registration Standard Documents for six chemicals are now available to the public.

ADDRESS: A limited number of copies will be available from: Jane Ulrich, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-229, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jane Ulrich (202-755-9315).

SUPPLEMENTARY INFORMATION: A new system called "Registration Standards" has been established at EPA for the purpose of registering and reregistering pesticide products. Under the system EPA develops a document containing a comprehensive statement of the Agency's regulatory position on all pesticide products containing the same active ingredient(s). The document, or registration standard, describes the data (including limitations and deficiencies) upon which the regulatory position is based, the rationale for the position, and the conditions to be met to register a product under the standard. At this time, registration standards are now available for the following chemicals: o,o,o, o,-Tetrapropyl dithiopyro phosphate (Aspon®), 2-Chloro-N-(2-ethyl-6-methylphenyl-N(2-methylethyl) acetamide (Metolachlor), 3 (alpha-Acetonylfurfuryl)-4-hydroxycoumarin (Fumarin®), 5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole (Terrazole®), 4 Aminopyridine (4-Ap) and 1,4-Dichloro-2,5-dimethoxybenzene (Chloroneb).

Dated: September 30, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-31639 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[TSH-FRL-1630-2; OPTS-53017]

Premanufacture Notices, Monthly Status Report for August, 1980

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for August, 1980.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on a specific chemical substance.

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: Robert Smith, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-426-8816).

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** on May 15, 1979 (44 FR 28558) and the notice of availability of the Revised Inventory was published on July 29, 1980 (45 FR 50544). The requirement to submit PMN's for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979. EPA has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

The monthly status report published in the **Federal Register** as required under section 5(d)(3), will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the end of the month; (c) PMN's for which the notice review period has ended during the month; and (d) chemical substances that EPA has added to the Inventory during the month. Therefore, EPA is publishing the August, 1980 PMN Status Report.

Interested persons may submit written comments on the specific chemical

substances no later than 30 days before the applicable notice review period ends to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, D.C. 20460. 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–53017]" and the specific PMN number. Nonconfidential portions of the PMN's written comments received on individual PMN's and other documents in public record may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

Dated: September 30, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

Premanufacture Notices Status Report, August 1980

I. Premanufacture Notices Received during the Month:

PMN No.	Identity/generic name	FR citation	Expiration date
80–189	Bisphenol A-epoxy resin, 1,4-butanediol, para amino benzioc acid, and phthalic anhydride polymer	45 FR 54854 (8/18/80)	Nov. 2, 1980.
80–190	Copolymer from dimethyl terephthalate, alpha, omega-hydroxy terminated aliphatic hydro-carbons; and a polyalkylene glycol.	45 FR 56429 (8/25/80)	Nov. 2, 1980.
80–191	Polymer of: Methylene bis (4-4-cyclohexyl isocyanate), poly propylene glycol, hydroxy ethyl acrylate, and polyoxy propylene diamine.	45 FR 59196 (9/8/80)	Nov. 3, 1980.
80–192	Generic name: Very short oil non-oxidizing alkyd resin	45 FR 58201 (9/2/80)	Nov. 3, 1980.
80–193	Neopentyl glycol, 1,6-hexanediol, adipic acid, phthalic anhydride, and trimellitic anhydride	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–194	2,2,4-Trimethyl-1,3-pentanediol, 1,6-hexanediol phthalic anhydride	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–195	Generic name: Substituted alkyl oxamide	45 FR 58194 (9/2/80)	Nov. 3, 1980.
80–196	Generic name: Trimethyl monocyclic ethyl alkenal	45 FR 59196 (9/8/80)	Nov. 5, 1980.
80–197	Generic name: Trimethyl monocyclic ethyl alkenol	45 FR 59196 (9/8/80)	Nov. 5, 1980.
80–198	Generic name: Styrene acrylic terpolymer	45 FR 58194 (9/2/80)	Nov. 6, 1980.
80–199	Generic name: Methyl aminoheteropolycycle	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–200	Generic name: 1-Substituted-1-(*p*-substitutedphenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–201	Generic name: 1-Substituted-1-(4-(substitutedheteromonocyclic)phenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–202	Generic name: 1-Substituted-1-(4-(substitutedheteromonocyclic)phenyl)ethane	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–203	Generic name: *p*-(Methylsubstituted) (substitutedbenzene), triethylammonium salt	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–204	Generic name: 1-Substituted-4-(methylsubstituted)benzene	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–205	Generic name: 1-(Methylsubstituted)-4-(substitutedheteromonocyclic)benzene	45 FR 60003 (9/11/80)	Nov. 6, 1980.
80–208	2-Oxepanone, polymer with 1,4-butanediol, 1,3-diisocyanatomethyl benzene, and (2-hydroxyethyl)-2-propenoate	45 FR 59200 (9/8/80)	Nov. 9, 1980.
80–209	Generic name: Bis(1-polyamino-2-alkyl imidazoline)	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80–210	Generic name: Bis(1-polyamino-2-alkyl imidazolene)	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80–211	Generic name: Polytetramethylene glycol, aliphatic polyglycol, and alkyl diisocyanate	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80–212	Generic name: Adduct of polytetramethylene glycol, aliphatic polyglycol, aliphatic diisocyanate, and an alkyl diisocyanate.	45 FR 60006 (9/11/80)	Nov. 11, 1980.
80–213	Generic name: Halogenated copolyester resin	45 FR 60008 (9/11/80)	Nov. 16, 1980.
80–214	Generic name: Polyester of aliphatic polyols and aromatic diacids	45 FR 60009 (9/11/80)	Nov. 16, 1980.
80–215	Generic name: Styrene-acrylate copolymer	In preparation	Nov. 17, 1980.
80–216	Generic name: Methyl fatty acid ester	In preparation	Nov. 17, 1980.
80–217	Generic name: Aromatic trisazo dye	In preparation	Nov. 18, 1980.
80–218	Generic name: Aromatic trisazo diester dye	In preparation	Nov. 18, 1980.
80–219	Generic name: An aliphatic ester	In preparation	Nov. 18, 1980.
80–220	Generic name: Polybasic acid ester of mixed short alkyl mono alcohol and a polyol	In preparation	Nov. 19, 1980.
80–221	Cyclohexanecarbonitrile, 1,1'azobis	In preparation	Nov. 24, 1980.
80–222	Cyclohexanecarbonitrile, 1-amino	In preparation	Nov. 24, 1980.
80–223	Polymer of: 1,6-Hexanediol, terephthalic acid, neopentyl glycol, trimelletic anhydride, adipic acid, and isophthalic acid.	In preparation	Nov. 24, 1980.
80–224	Polymer of: Isophthalic acid, (tall fatty acid, trimelletic anhydride, terephthalic acid, neopentyl glycol, and trimethyl propane.	In preparation	Nov. 24, 1980.
80–225	Generic name: Mono di, and tri esters of polybasic acids	In preparation	Nov. 24, 1980.
80–226	Dimethyl 1,4-cyclohexanedicarboxylate, maleic anhydride, neopentyl glycol phthalic anhydride, trimethylol ethane polymer.	In preparation	Nov. 19, 1980.
80–227	Benzoic acid fatty acids C_{14-18} unsaturated, maleic anhydride, and pentaerythritol polymer	In preparation	Nov. 24, 1980.
80–228	Benzene propanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-(1,2-dioxo-1,2-ethanediyl) bis (imino-2,1-ethandiyl) ester.	In preparation	Nov. 24, 1980.
80–229	Generic name: Dichloro dimethoxy diethyl amino, azobenzene, sodium salt	In preparation	Nov. 24, 1980.
80–230	Generic name: Fatty acid ester	In preparation	Nov. 25, 1980.
80–231	Napthalene, 1,2,3,4-tetrahydro-1,2,4,4-tetramethyl	In preparation	Nov. 26, 1980.
80–232	2-Napthalene ethanol, 5,6,7,8-tetrahydrobeta, 5,5,8,8-penta methyl	In preparation	Nov. 26, 1980.
80–233	Polymer of adipic acid, benzoic acid, neopentyl glycol, phthalic anhydride, propylene glycol, trimethylol ethane, tall oil fatty acids.	In preparation	Nov. 26, 1980.
80–234	Adipic acid, dimethyl 1,4-cyclohexane dicarboxylate, maleic anhydride, neopentyl glycol, phthalic anhydride, trimellitic anhydride, trimethylol ethane polymer.	In preparation	Nov. 27, 1980.
80–235	2-Pyridinamine, *N, N*-dimethyl	In preparation	Nov. 27, 1980.
80–236	Generic name: Aliphatic polyurethane water borne dispersion	In preparation	Nov. 27, 1980.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month:

PMN No.	Identity/generic name	FR citation	Expiration date
80–129	Generic name: Poly(amide-ester) resin X2–669	45 FR 44394 (7/1/80)	Sept. 3, 1980.
80–130	Generic name: Poly(amide-ester) resin X2–600	45 FR 44394 (7/1/80)	Sept. 3, 1980.
80–131	2-[2-[4-(2-hydroxyethoxy)phenyl] ethenyl]-4,6-bis(trichloromethyl)-1,3,5-triazine	45 FR 43461 (6/27/80)	Sept. 10, 1980.
80–132	Generic name: Acidic phenyltetrazole derivative	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80–133	Generic name: Substituted nitroaromatic	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80–134	Generic name: Nitro acid	45 FR 43864 (6/30/80)	Sept. 10, 1980.
80–135	Generic name: Substituted propane	45 FR 43864 (6/30/80)	Sept. 15, 1980.
80–136	12-Molybdosilicic acid	45 FR 46207 (7/9/80)	Sept. 15, 1980.
80–137	Generic name: Benzeneamine, 4,4'-methylene bis [*N*-(1-methylhexylidene)	45 FR 48243 (7/18/80)	Sept. 15, 1980.
80–138	Generic name: Benzeneamine, 4,4'-methylene bis [*N*-(1-methylbutylidene]	45 FR 48243 (7/18/80)	Sept. 15, 1980.
80–139	Generic name: Epon 1004, soya fatty acid, styrene acrylic acid, and di-tertiary butyl peroxide	45 FR 46199 (7/9/80)	Sept. 15, 1980.
80–140	Generic name: Polymer of: Epoxy resin, styrene, diallyl amine, dimethyl amino propyl methacrylamide, 2-ethyl hexyl methacrylate, and isobutoxy methylacrylamide.	45 FR 46199 (7/9/80)	Sept. 15, 1980.

II. Premanufacture Notices Received Previously and Still Under Review at the End of the Month:

PMN No.	Identity/generic name	FR citation	Expiration date
80-141	Generic name: Substituted-(substituted-alkenyl)-heteropolycyclic salt	45 FR 49157 (7/23/80)	Sept. 17, 1980.
80-142	Neopentyl glycol, dimerized fatty acid polymer	45 FR 49150 (7/23/80)	Sept. 21, 1980.
80-143	Generic name: Complex of *p*-phenylphenol and an alkyl amine	45 FR 46202 (7/9/80)	Sept. 21, 1980.
80-144	Generic name: Amineextended alpha-*w*-hydroxypoly[oxy(methyl-1-1,2-ethanediyl)]polymer with 1,3-diisocyanatomethylbenzene.	45 FR 49149 (7/23/80)	Sept. 21, 1980.
80-145	Generic name: Methyl-(substituted)-(disubstituted)carbomonocycle	45 FR 49157 (7/23/80)	Sept. 21, 1980.
80-146	Phosphorodithioic acid, *O,O'*-di (isohexyl, isoheptyl, isooctyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	Sept. 23, 1980.
80-147	Phosphorodithioic acid *O,O'*-di (isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Sept. 23, 1980.
80-148	Supra castor fatty acid, tall oil fatty acid, trimethylopropane, pentaerythritol, phthalic anhydride, and para-tert butyl-benzoic acid alkyd polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-149	Generic name: Soya fatty acid, supra castor fatty acid, benzoic acid, phthalic anhydride, maleic anhydride, and pentaerythritol alkyl polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-150	Generic name: Safflower fatty acid type, phthalic anhydride, maleic anhydride, trimethylolpropane, pentaerythritol alkyd polymer.	45 FR 49155 (7/23/80)	Sept. 24, 1980.
80-151	Generic name: Substituted-(substitutedvinyl)-heteropolycyclic salt	45 FR 49152 (7/23/80)	Sept. 25, 1980.
80-152	Poly(vinylacetate-co-butyl acrylate, tertoctylacrylamide)	45 FR 49151 (7/23/80)	Sept. 25, 1980.
80-154	Generic name: Reaction products of [(aminodisubstitutedcarbomonocyclic) azo]carbomonocyclesulfonic acid and [(amino-monosubstitutedcarbomonocyclic)azo] carbomonocyclesulfonic acid with carbonic dichloride.	45 FR 51647 (8/4/80)	Sept. 30, 1980.
80-155	Cyclohexanehexacarboxylic acid, penta sodium salt	45 FR 51262 (8/1/80)	Sept. 30, 1980.
80-157	Generic name: Halogenated polyimide	45 FR 51264 (8/1/80)	Oct. 4, 1980.
80-158	Polymer of: Epoxy resin, maleic anhydride, butanol, styrene, methacrylic acid	45 FR 51264 (8/1/80)	Oct. 4, 1980.
80-159	Generic name: Resin from monocarboxylic acids, polyhydric alcohols, dibasic acid anhydride, polycarboxylic acid anhydride, and a silicone resin.	45 FR 56433 (8/25/80)	Nov. 3, 1980.
80-160	Generic name: Hydrolyzed starch-poly-(acrylonitrile) copolymer	45 FR 51262 (8/1/80)	Oct. 6, 1980.
80-161	Polymer of 2,2-dimethyl; 1,3-propanediol; 2,2,4-trimethyl, 1,3-pentanediol; butendioic acid	45 FR 51646 (8/4/80)	Oct. 6, 1980.
80-162	Generic name: Lignosulfonate reaction product with an alkenoic acid and an inorganic salt	45 FR 51274 (8/1/80)	Oct. 6, 1980.
80-163	Generic name: Monosubstituted dialkyl aniline	45 FR 51910 (8/5/80)	Oct. 13, 1980.
80-164	Generic name: Disubstituted indole	45 FR 51910 (8/5/80)	Oct. 13, 1980.
80-165	Ethanedioic acid, di-*N*-butyl ester	45 FR 51272 (8/1/80)	Oct. 13, 1980.
80-166	Generic name: Carbocyanine dye	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80-167	Generic name: Arylhydrazide	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80-168	Generic name: Disubstituted pyrazoloquinazolone	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80-169	Generic name: Disubstituted pyrazoloquinazolone carboxaldehyde	45 FR 51908 (8/5/80)	Oct. 13, 1980.
80-170	Zinc dibutyl dithiocarbamate dibutylamine complex	45 FR 54423 (8/15/80)	Oct. 14, 1980.
80-171	Generic name: Polyester plasticizer	45 FR 54422 (8/15/80)	Oct. 14, 1980.
80-172	Generic name: Polyisobutenyl succinic anhydride reaction products with substituted ethanol	45 FR 52241 (8/6/80)	Oct. 14, 1980.
80-173	Generic name: Polyester of: Adipic acid, phthalic anhydride, trimethylol propane, ethylene glycol, and diethylene glycol.	45 FR 54420 (8/15/80)	Oct. 15, 1980.
80-174	Generic name: Polyester reaction product with toluene diisocyanate acrylate terminated	45 FR 52243 (8/5/80)	Oct. 15, 1980.
80-175	Generic name: Alkyd resin polymer, fatty acid, and urethane modified	45 FR 54420 (8/15/80)	Oct. 16, 1980.
80-176	Generic name: Oxirane, polymner with methyl oxirane, 1,1'-methylenebis(4-isocyanatocyclohexane), and (2-hydroxyethyl)-2-propenoate.	45 FR 54422 (8/15/80)	Oct. 19, 1980.
80-177	Generic name: Oxirane, polymer with methyl oxirane, 1,3-diisocyanatomethylbenzene, and (2-hydroxyethyl)-2-propenoate.	45 FR 54422 (8/15/80)	Oct. 19, 1980.
80-178	Generic name: Isocyanate terminated urethane prepolymer	45 FR 52445 (8/7/80)	Oct. 19, 1980.
80-179	Generic name: Polymer of mixed alkyl acrylates	45 FR 53866 (8/13/80)	Oct. 19, 1980.
80-180	Generic name: Polymer of: Carbomonocyclic carboxylic acid, alkanediol, and 2,5-furandiol	45 FR 58200 (9/2/80)	Oct. 22, 1980.
80-181	Benzenemethanaminium, *ar*-bromoethenyl-*N,N,N*-trimethylchloride (or sulfate), polymer with diethenylbenzene, diisopropenylbenzene, and 2-methyl-1,3-butadiene.	45 FR 54423 (8/15/80)	Oct. 19, 1980.
80-182	Generic name: Alkanedioic acids mixed alkanolamines salt	45 FR 54425 (8/15/80)	Oct. 21, 1980.
80-183	Generic name: Dimethylaminopropyl fluoroalkyl adducts	45 FR 58677 (9/4/80)	Oct. 22, 1980.
80-184	Polymer of: Castor oil fatty acid, benzoic acid, epoxy resin, fumaric acid, styrene, and *N,N*-dimethyl ethanol amine	45 FR 56429 (8/25/80)	Oct. 28, 1980.
80-185	Generic name: Polymer of hydroxyethyl acrylate, styrene, 2-ethylhexyl acrylate, alkyl methacrylate, substituted alkyl acrylate, and alkyl mercaptan.	45 FR 58189 (9/2/80)	Oct. 28, 1980.
80-186	*N*-Methyl-2,4-dinitro-*N*-phenyl 6-(trifluoromethyl) benzeneamine	45 FR 54425 (8/15/80)	Oct. 28, 1980.
80-187	Generic name: 1-Amino-4-substituted-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid	45 FR 54854 (8/18/80)	Oct. 28, 1980.
80-188	Generic name: Primary amyl nitrates	45 FR 55268 (8/19/80)	Oct. 28, 1980.

III. Premanufacture Notices For Which the Notice Review Period has Ended During the Month: (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.	Identity/generic name	FR citation	Expiration date
80-26	Generic name: Substituted heteromonocycle derivative of 1,4-hexadiene, polymer with ethene and 1-propene	45 FR 44397 (7/1/80)	Aug. 4, 1980.
80-27	Generic name: Substituted heteromonocycle derivative of 1,4-hexadiene, polymer with ethene and 1-propene	45 FR 44397 (7/1/80)	Aug. 4, 1980.
80-93	4,7-Methano-1*H*-inden-5-ol-3a, 4,5,6,7,7a-hexahydro-dimethyl	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-94	Generic name: Monosubstitutedbenzene-sulfonamide	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-95	Generic name: Monosubstitutedbenzene sulfonyl chloride	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-96	Generic name: Monosubstitutedbenzenediazonium chloride	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-97	Generic name: Trisubstitutedtriazine	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-98	Generic name: Monosubstituted alkanimidic acid, alkyl ester	45 FR 34999 (5/23/80)	Aug. 3, 1980.
80-99	Generic name: Hydroxy functional acrylic	45 FR 37280 (6/2/80)	Aug. 5, 1980.
80-100	Dimethyl 1,4-benzenedicarboxylate, polymer with 1,6-hexanediol, 2,2-dimethyl-1,3-propanediol, 1,3-benzene dicarboxylic acid, and 1,6-hexanedioic acid.	45 FR 37280 (6/2/80)	Aug. 5, 1980.
80-101	1,3-Isobenzofurandione, polymer with 1,6-hexanediol, 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-hydroxymethyl-1,3-propanediol, and 2,2-dimethyl-3-hydroxypropyl-2,2-dimethyl-3-hydroxypropionate.	45 FR 37280 (6/2/80)	Aug. 5, 1980.
80-102	Generic name: 5-[6-(3-substituted phenylamino)-4-chloro-(1,3,5-triazin-2-yl)-amino]-3-(3-substituted-2-hydroxy-5-sulfophenylazo)-4-hydroxy-naphthalene-2,7-disulfonic acid, copper complex, salt.	45 FR 37279 (6/2/80)	Aug. 12, 1980.
80-103	Generic name: Styrene-maleic anhydride-methyl methacrylate polymer	45 FR 41058 (6/17/80)	Aug. 17, 1980.
80-104	Generic name: Polymer of cyclo aliphatic diisocyanate, 2-oxohexanethyleneimine, hydroxy alkyl alkyl alkanediol	45 FR 37727 (6/17/80)	Aug. 17, 1980.
80-105	Monoethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid	45 FR 37727 (6/17/80)	Aug. 19, 1980.
80-106	Diethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid	45 FR 37727 (6/17/80)	Aug. 19, 1980.
80-107	Triethanolamine salt of 1-hydroxyethylidene-1,1-diphosphonic acid	45 FR 37727 (6/17/80)	Aug. 19, 1980.
80-108	Hydrogenated petroleum hydrocarbon resin	45 FR 41060 (6/17/80)	Aug. 20, 1980.
80-109	Generic name: 3-(1-Amino-2-sulfo-4-anthraquinonylamino)-benzene sulfon-3-substituted anilide	45 FR 41063 (6/17/80)	Aug. 20, 1980.
80-110	Generic name: 2-((2-Methylsubstituted) ethyloxycarbonylsubstituted) phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-111	Generic name: 2-((2-Methylsubstituted) ethyloxycarbonylsubstituted) phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-112	Generic name: 2-((2-Methylsubstituted) ethyloxycarbonylsubstituted) phenyl, disulfo, diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Aug. 25, 1980.

III. Premanufacture Notices For Which the Notice Review Period has Ended During the Month: (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.	Identity/generic name	FR citation	Expiration date
80-113	Generic name: (2-(Methylsubstituted)phenyl) diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-114	Dioxo, (methylheteropolycyclic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-115	Generic name: (Dioxoheteropolycyclic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-116	Generic name: (2-Substitutedphenyl), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Aug. 25, 1980.
80-117	Generic name: Salt form of acrylic acid-acrylate copolymer	45 FR 41064 (6/17/80)	Aug. 26, 1980.
80-118	Generic name: A polymer of styrene, hydroxy functional monomers, esters of acrylic and methacylic acid	45 FR 42017 (6/23/80)	Aug. 27, 1980.
80-119	Generic name: 2-(di-(dimethyl, substituted-carbonomonocyclic)alkyl)(methyl, carboxysubstituted)benzene, (methylsubstituted)ethyl ester.	45 FR 42013 (6/23/80)	Aug. 27, 1980.
80-120	Generic name: Methyl, trisubstitutedheteropolycycle	45 FR 42013 (6/23/80)	Aug. 27, 1980.
80-121	Generic name: 1-Substituted-3,5-dimethyl-4-substitutedbenzene	45 FR 42013 (6/23/80)	Aug. 27, 1980.
80-122	Generic name: 2-(di-(3,5-dimethyl-4-substitutedphenyl)hydroxyalkyl)-(methyl, carboxysubstituted)benzene, (methylsubstituted)ethyl ester.	45 FR 42013 (6/23/80)	Aug. 27, 1980.
80-123	Generic name: 2-(di-(3,5-dimethyl-4-substitutedphenyl)hydroxyalkyl)-(methylsubstituted)benzene	45 FR 42013 (6/23/80)	Aug. 27, 1980.

IV. New Chemical Substances that EPA has Added to the Inventory During the Month:

PMN No.	Submitter	Chemical identification	FR citation
80-18	Confidential	Generic name: 1-p-nitrobenzolyl-1(4-carboxypyridyl)hydrazide	45 FR 13521 (2/29/80).
80-76	General Printing Ink Co	Generic name: Alkyd resin TV 79-0777	45 FR 30127 (5/7/80).
80-77	General Printing Ink Co	Generic name: Alkyd resin X4-779; alkyd polymer X4-449; polyester resin	45 FR 30127 (5/7/80).
80-83	Confidential	Generic name: Unsaturated polyester resin of maleic anhydride, phthalic anhydride alkylene glycol, and alkylene ether glycol.	45 FR 32772 (5/19/80).
80-87	Crosby Chemical Inc.	Generic name: Alkene dicarboxylic acids, alkene dicarboxylic acid resin, pentaerythritol diaminoalkene polyamide.	45 FR 30686 (5/9/80).
80-102	Confidential	Generic name: 5-[6-(3-substituted phenyl-amino)-4-chloro-(1,3,5-triazin-2-yl)-amino]-3-(3-substituted-2-hydroxy-5-sulfophenylazo)-4-hydroxy-naphthalene-2,7-disulfonic acid, copper complex salt.	45 FR 37278 (6/2/80).

[FR Doc. 80-31653 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-31-M

[SA FRL 1631-7]

Science Advisory Board, Executive Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Executive Committee of the Science Advisory Board. The meeting will be held October 29-30, 1980, starting at 9:15 am of each day in Room 1101, West Tower, EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460.

The agenda for the meeting will include: a review of the research committee process; a briefing on the activities of the Radiation Policy Council; a briefing/discussion of the Radiation Research Committee, the use of science in enforcement cases, overview of legislative developments, and a discussion of the ORD Authorization bill as it affects the Science Advisory Board.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Richard M. Dowd (202) 755-0263, or Terry F. Yosie (202) 755-6634 by close of business October 22, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

October 6, 1980.

[FR Doc. 80-31661 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-34-M

[SA FRL 1631-6]

Science Advisory Board, Subcommittee on Carbon Monoxide, Clean Air Scientific Advisory Committee; Open Meeting

October 27, 1980.

Under Pub. L. 92-463, notice is hereby given of a meeting of the Subcomittee on Carbon Monoxide of the Clean Air Scientific Advisory Committee of the Science Advisory Board. The meeting will be held October 27, 1980, starting at 10 am in Room 3906 in the Mall of EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460.

The agenda for the meeting will include a review by the Subcommittee of the proposed ambient air quality standard for carbon monoxide published by the Environmental Protection Agency in the **Federal Register** on August 18, 1980, page 55066.

The meeting is open to the public. Any members of the public wishing to attend or obtain information should contact Terry F. Yosie, Science Advisory Board Staff Officer on (202) 755-6634 before close of business October 20, 1980.

Richard M. Dowd,

Director, Science Advisory Board.

October 6, 1980.

[FR Doc. 80-31660 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-34-M

[SA FRL 1629-5]

Science Advisory Board, Technology Assessment and Pollution Control Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Technology Assessment and Pollution Control Committee (TAPCC) of the Science Advisory Board will be held in Conference Room 3906, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. on November 7-8, 1980. The meeting will begin at 9:00 a.m. each day and last until approximately 5:00 p.m.

This meeting is one of three or four routinely held each year. The primary purpose of this meeting is to review the results or status of several recent or ongoing studies of the Committee, including those on pollution control guidance documents for the synthetic fuels industry, incentives for technology utilization and development, and toxics and hazardous waste control technology research. Future TAPCC activities in this and other areas will also be discussed.

The meeting is open to the public. Any person wishing to attend or to obtain further information about the meeting should contact the TAPCC Executive

Secretary, Harry C. Torno, at (202) 472–9444 or 9457.

Richard M. Dowd,

Staff Director, Science Advisory Board.

September 30, 1980.

[FR Doc. 80-31659 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-34-M

[PF-54A; PH FRL 1630]

Union Carbide Corp.; Filing of a Pesticide Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Union Carbide Corp. has requested amendment to pesticide petition 7F1878 to increase the proposed tolerance for the residues of the insecticide carbaryl (1-naphtyl *N*-methyl-carbamate), including its hydrolysis product 1-naphthol, calculated as 1-naphtyl *N*/-methylcarbamate in the raw agricultural commodity milk from "0.2 part per million" (ppm) to "0.3 ppm."

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger, Product Manager (PM) 12, Rm. E–303, Office of Pesticide Programs, Registration Division (TS–767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–426–2635).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of November 18, 1976 (41 FR 50854) that Union Carbide Corp., 1730 Pa. Ave., NW., Washington, D.C. 20036, had filed a petition (PP 7F1878) proposing to amend 40 CFR 180.169 by establishing a tolerance for residues of the insecticide carbaryl (1–naphtyl *N*-methylcarbamate), including its hydroysis product 1-naphthol, calculated as 1-naphthyl *N*-methlcarbamate in the raw agricultural commodity milk at 0.2 ppm.

Union Carbide Corp. has submitted an amendment to the petition to increase the proposed tolerance in milk from "0.2 ppm" to "0.3 ppm".

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: October 3, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 31645 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180496; PH FRL 1631-1]

Washington State Department of Agriculture; Crisis Exemption for Use of Di-Syston on Asparagus

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Washington State Department of Agriculture (hereafter referred to as "Washington") has availed itself of a crisis exemption for the use of Di-Syston on asparagus to control the asparagus aphid on 26,000 acres of asparagus east of the crest of the Cascade Mountains, Washington.

DATE: The Crisis exemption became effective on August 15, 1980. Because treatment was expected to continue for more than 15 days, Washington has requested a specific exemption for the continuation of the program.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to Washington, the European asparagus aphid (*Brachycolus asparagi* Mordvilko), first identified in 1979, has spread industry-wide in Washington. It has been estimated that the damage to the Washington asparagus crop has been approximately $10–12 million, so far. Washington states that the full effects of the infestation in 1978 and 1979 seasons cannot be determined for years, since asparagus is a perennial crop. Washington reports that, unchecked, this pest would be likely to destroy the asparagus industry in Washington, as virtually all commercial acreage is susceptible to it.

Washington stated that there was not enough time to request a specific exemption for use of Di-Syston.

The European asparagus aphid attacks asparagus in the fern stage from mid-June to late October. A toxin in its saliva is injected through its stylet into the fern where it causes severe stunting and contortion. Death of affected young crowns occurs the following spring. Mature crowns are also affected the following spring. Preliminary studies indicate the aphid does not attack asparagus spears.

Materials registered for control of other apids on asparagus are pyrethins, rotenone, sulfur, and carbaryl. Washington states that none of these has shown adequate efficacy and residual an aphicide under eastern Washington field conditions. Earlier in the season, malathion was tried and it temporarily depressed populations but did not have the necessary residual activity, according to Washington. Of eight other materials tested with malathion as a standard, Washington reports, Di-Syston was the most effective with the best residual activity. There is no other EPA-registered material for this use.

Washington is using Di-Syston 8 EC, EPA Reg. No. 3125–307, or Di-Syston Liquid, EPA Reg. No. 3125–119, both manufactured by Mobay Chemical Co. The active ingredient is 0,0-diethyl *S*-(2-ethylthio) phosphorothioate. It is anticipated that 26,000 acres of asparagus will require as many as three treatments at two-week intervals, using a maximum of 78,000 pounds of the active ingredient. Application is being made by aerial equipment at a rate of one pound active ingredient in a minimum of 10 gallons of water per acre. All applications are expected to be completed by October 15, 1980. There will be a 6-month interval between the last permissible treatment date and harvest. Washington does not anticipate any significant residues of the active ingredient in or on asparagus from the program. Because of its toxicity to bees, application is being restricted to evening time only, after bees have ceased their flying for the day. Washington has requested a specific exemption for continuation of this program.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: October 1, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-31646 Filed 10-9-80; 8:45 am]

BILLING CODE 6560-32-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Privacy Act of 1974; Republication of Privacy Act Systems of Records

ACTION: Publication of Fifth Annual Compilation of Privacy Act Systems of Records maintained by the Equal Employment Opportunity Commission.

SUMMARY: Publication of the Commission's Annual Compilation is

required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) (Pub. L. 93–579).

EFFECTIVE DATE: Notice of this compilation is effective October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Anthony J. DeMarco ((202) 634–6595) or Clement L. Hyland ((202) 254–3036), Legal Counsel Division, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their system of records. The Equal Employment Opportunity Commission last published the full text of its systems of records at 44 FR 54024 (September 17, 1979). The full text of the Equal Employment Opportunity Commission's systems of records also appears in Privacy Act Issuances, 1979 Compilation, Volume IV, page 2640. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of the volume is $10.00.

Since the Commission's last publication of the full text of its systems of records, no further amendments have been made. The systems of records therefore remain in effect as published, with the following modifications:

1. Appendix A is hereby updated to reflect the following field offices and addresses:

Dallas District Office, 1900 Pacific Building, 13th Floor, Dallas, Texas 75201.
Detroit District Office, First National Building, Suite 600, Detroit, Michigan 48226.
Fresno Area Office, (San Francisco District), 1313 P Street, Suite 103, Fresno, California 93721.
Greensboro Area Office, (Charlotte District), 324 West Market Street, Room 132, Greensboro, North Carolina 27402.
Jackson Area Office, (Birmingham District), 100 West Capitol Street, Suite 721, Jackson, Mississippi 39201.
Norfolk Area Office, (Baltimore District), 200 Granby Mall, Room 412, Norfolk, Virginia 23510.
Philadelphia District Office, 127 North 4th Street, Suite 300, Philadelphia, Pennsylvania 19106.

2. The Office of Special Projects and Programs is hereby deleted from the list of headquarters offices in Appendix A.

3. Notice is hereby given that the Commission has voted to adopt, on an interim basis, those portions of CSC/GOVT–1 that pertain to equal employment opportunity complaint records and appeal records. Prior to the implementation of Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), the Civil Service Commission controlled records compiled pursuant to 5 CFR Part 713 for purposes of the Privacy Act and was therefore required to publish the system notice for those records. The system, "CSC/GOVT–1, Appeals, Grievances, and Complaints Records," appeared at 43 FR 40106 (Sept. 8, 1978). The Office of Personnel Management published a notice in 44 FR 30836 (May 29, 1979) which indicated that CSC/GOVT–1 would cover EEOC's discrimination complaint records until such time as the EEOC published its own system notice.

The Commission has voted to formally adopt the portions of CSC/GOVT–1 pertaining to equal employment opportunity complaint records and appeal records, with some modifications, in order to clarify the continuing applicability of that system until the Commission publishes a new system notice. Several minor changes have been made by the Commission in the CSC/GOVT–1 system. The new system has been entitled "EEOC/GOVT–1" and the system name has been revised to indicate coverage of equal employment opportunity complaint records and appeals records. The description of system location, categories of individuals, and catagories of records in the system has also been modified, and the system managers have been identified. The balance of CSC/GOVT–1 remains unchanged.

EEOC/GOVT–1 shall be effective as of the date of publication.

The systems of records of the Equal Employment Opportunity Commission published in 44 FR 54024 (September 17, 1979), as modified herein, are current as of October 10, 1980.

Signed in Washington, D.C., this 7th day of October, 1980.

For the Commission.

Eleanor Holmes Norton,

Chair.

EEOC/GOVT–1

SYSTEM NAME:

Equal Employment Opportunity Complaint Records and Appeal Records.

SYSTEM LOCATION:

Equal employment opportunity complaint files are maintained in an Office of Equal Employment Opportunity or other designated office of the agency or department with which the complaint is filed. Appeals of final decisions or orders of agencies or departments on complaints of discrimination, petitions for review of decisions of the Merit Systems Protection Board, and documents pertaining to review of final decisions in negotiated grievance actions are maintained in the Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for federal employment and current and former federal employees who file complaints of discrimination or reprisal, or who file appeals from agency decisions, petitions for review of decisions of the Merit Systems Protection Board, or requests for review of final decisions in negotiated grievance actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by an agency or the Commission affecting an individual. This system of records includes files of Fair Labor Standards Act complaints (Equal Pay Act), Age Discrimination in Employment Act complaints, handicap discrimination complaints, complaints filed under section 717 of Title VII (42 U.S.C. section 2000e-16), and all appeals.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

42 U.S.C. section 2000e–16(b) and (c); 5 U.S.C. section 552a; 29 U.S.C. sections 204(f) and 206(d); 29 U.S.C. section 633(a); 29 U.S.C. section 791; Reorg. Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978); Exec. Order No. 12106, 44 FR 1053 (Jan. 3, 1979).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

a. To respond to a request from a Member of Congress regarding the status of an appeal, complaint, or grievance.

b. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.

c. To respond to a court subpoena and/or refer to a district court in connection with a civil suit.

d. To adjudicate an appeal, complaint or grievance.

e. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies. The records may also be utilized to respond to general requests for statistical information (without personal identification of individuals)

under the Freedom of Information Act or to locate individuals for personnel research.

f. To refer pertinent information to the appropriatie Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

g. To request information from a Federal, State, or local agency maintaining civil, criminal, or other 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 issuance of a grant, license, or other benefit.

h. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

i. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

j. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

k. To disclose information to persons named as alleged discriminating officials in Equal Employment Opportunity (EEO) Discrimination Complaint cases, to allow such persons the opportunity to respond to allegations of discrimination which are made against them during the course of the discrimination complaint process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

See Storage, Retrievability, Safeguards, Access, Retention, and Disposal below.

STORAGE:

These records are maintained in file folders, binders and index cards.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are maintained up to two years from the closing of the case and are transferred to the GSA Regional Federal Records Centers. They are destroyed by the Federal Records Centers when the records are seven years old.

SYSTEM MANAGER(S) AND ADDRESS:

a. Within the agency or department where the complaint of discrimination or reprisal was filed, the system manager is the Director of the Office of Equal Employment Opportunity or other official designated as responsible for the administration and enforcement of equal employment opportunity laws and regulations within the agency or department.

b. Where an individual has appealed a final agency decision or order on an equal employment opportunity matter to the EEOC, petitioned the EEOC to review a decision of the Merit Systems Protection Board, or requested the EEOC to review a final decision in a negotiated grievance action, the system manager of the appeal or petition file is the Director of the Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

NOTIFICATION PROCEDURE:

Contact the appropriate system manager above. Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the record. They may, however, contact the appropriate system manager indicated above regarding the existence of such records pertaining to them. It is necessary to furnish the following information when making inquiries about records:

a. Full name.

b. Date of Birth.

c. Kind of action taken by the agency.

RECORD ACCESS PROCEDURES:

Individuals who have appealed or filed a grievance about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of an appeal or grievance record is permitted during the prosecution of an appeal, grievance, or complaint by the individual to whom the record pertains. However, after an appeal, grievance, or complaint case has been closed, an individual may gain access to, or contest the official copy of, an appeal, grievance, or complaint record by writing the appropriate system manager indicated above. Individuals should provide their name, date of birth, agency in which employed, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

CONTESTING RECORD PROCEDURES:

Same as record access procedures above.

RECORD SOURCE CATEGORIES:

The sources of these records are:

a. Individual to whom the record pertains.

b. Agency and/or Commission officials.

c. Affidavits or statements from employee.

d. Testimony of witnesses.

e. Official documents relating to the appeals, grievance, or complaint.

f. Correspondence from specific organizations or persons.

[FR Doc. 80–31709 Filed 10–9–80; 8:45 am]

BILLING CODE 6370–06–M

FEDERAL COMMUNICATIONS COMMISSION

[PR Dockets Nos. 80–587; 80–588]

David A. Langham; Designating Applications for Consolidated Hearing on Stated Issues

Order To Show Cause and Designation Order

Adopted: September 30, 1980.

Released: October 15, 1980.

In the Matter of Revocation of License of David A. Lanham, 19554 Castlepeak, Rowland Heights, California 91748, Licensee of Station KRU–9343 in the Citizens Band Radio Service and application of David A. Langham, 19554 Castlepeak, Rowland Heights, California 91748, For Amateur radio station and Novice Class Operator licenses.

The Chief, Private Radio Bureau, has under consideration the Citizens Band radio station license KRU–9343 of David A. Langham which was granted for a five year term to end on July 15, 1981. Also under consideration is an application by Langham for an Amateur radio station license and a Novice Class Operator license dated April 24, 1980.

1. Information before the Commission indicates that on July 10, 11, and 12, 1979, Langham made radio transmissions on the frequency 27.785 MHz. Additional information indicates that Langham transmitted on the frequency 27.805 MHz on January 30, 1980, and February 6, 1980. These frequencies are within the band of frequencies assigned for use by radio stations of the United States Government. Langham did not possess a

license authorizing the use of these frequencies. Thus, Langham's radio operations were in apparent violations of Section 301 of the Communications Act of 1934, as amended. Moreover, if these operations were under color of authority of Langham's Citizens Band radio station license (KRU–9343), they were in violation of the following CB Rules: 17(a) (unauthorized frequencies); 19(a) (use of non-type accepted transmitter), 20(a) (excessive transmitter output power), 23(a)(9) (communications with a station located more than 250 kilometers away; Portland, Oregon, July 10, 1979); and 30(a) (failure to identify by Commission call sign).[1]

2. The information before the Commission also indicates that on the above dates Langham did not identify his transmissions by his Commission call sign (KRU–9343), but instead identified by or reponded to the terms "UF 5319" or "UF 319". This indicates that Langham is a member of and has operated his radio station in accordance with procedures established by the "U.F. International Club", an organization that promotes out-of-band radio operation (on and between the frequencies 27.755 MHz and 28.000 MHz) and assigns "U.F. numbers" to its members to use for idenfication when transmitting on these unauthorized frequencies.

3. The above conduct was the subject of Official Notices of Violation mailed to Langham on July 31, 1979, and March 10, 1980. The conduct described above calls into question whether Langham possesses the requisite qualifications to be a licensee in any radio service.

4. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that a station license may be revoked for wilful or repeated violation of the Commission's Rules. In addition, based on the above, the Commission cannot conclude that a grant of Langham's application would serve the public interest, convenience, and necessity.

5. Accordingly, it is ordered, pursuant to Sections 312(a)(4) and (c) of the Communications Act of 1934, as amended, and Section 0.331 of the Commission's Rules, that David A. Langham show cause why the license for station KRU–9343 should not be revoked. It is further ordered, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Section 1.973(b) and 0.331 of the Commission's Rules, that Langham's application for an Amateur radio Station license and for a Novice Class Operator license is designated for hearing.

6. It is further ordered, That if Langham wants a hearing on the revocation or application matters he must file a written request for a hearing within 30 days.[2/ 3] If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent order.

7. It is further ordered, That if Langham waives his right to a hearing, this proceeding will be certified to the Commission for administrative disposition pursuant to Section 1.92(c) of the Rules and Langham's application for a Novice Class Amateur license will be dismissed with prejudice pursuant to Sections 1.221(c) and 1.961(b) of the Rules.

8. It is further ordered, That this proceeding will be resolved upon the following issues:

(a) To determine whether there were transmissions on July 10, 11, 12, 1979, January 30 or February 6, 1980, in wilful and/or repeated violation of Section 301 of the Communications Act of 1934, as amended; or in wilful and/or repeated violation of CB Rules 17(a), 19(a), 20(a), 23(a)(9), and/or 30(a).

(b) To determine whether Langham is a member of and has operated his Citizens Band radio station in accordance with procedures established by the "U.F. International Club".

(c) To determine, in light of the above, whether David A. Langham has the requisite qualifications to be or remain a Commission licensee.

(d) To determine whether granting David A. Langham's Amateur Novice application would be in the public interest, convenience and necessity.

(e) To determine whether the license for CB radio station KRU–9343 should be revoked.

9. It is further ordered, pursuant to the provisions of Section 1.227 of the Commission's Rules, that the revocation and application proceeding are consolidated for hearing.

10. It if further ordered, That a copy of this Order shall be sent by Certified Mail–Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Acting Chief, Compliance Division.

[FR Doc. 80-31701 Filed 10-9-90; 8:45 am]

BILLING CODE 6712-01-M

[1] The CB Rules are contained in Section 95.401 of the Commission's Rules.

[2] The attached form should be used to request or waive hearing. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope, within 30 days.

[3] Any contrary provisions of Section 1.221(c) of the Rules are waived.

[PR Dockets Nos. 80-489; 80-490]

Daniel C. Palazzini; Designating Applications for Consolidated Hearing on Stated Issues

Order To Show Cause and Designation Order

Adopted: September 29, 1980.

Released: October 14, 1980.

In the Matter of Revocation of License of Daniel C. Palazzini, 137 Smith Street, Cranston, Rhode Island 02905, Licensee of Station KLC–2328 in the Citizens Band Radio Service and application of Daniel C. Palazzini, 137 Smith Street, Cranston, Rhode Island 02905, For Amateur Radio Station and Novice Class Operator License.

The Chief, Private Radio Bureau, has under consideration the license of Daniel C. Palazzini for Citizens Band (CB) radio station KCL–2328. The license was issued on April 19, 1976, for a five year term. Also under consideration is Palazzini's application for an Amateur Radio station and Novice Operator license, dated November 26, 1979.

1. Information before the Commission indicates that on August 8, 1979, Palazzini made radio transmissions on the frequency 27.725 MHZ. That frequency was assigned for use by United States Government stations. Palazzini did not possess a license authorizing the use of that frequency. Thus, the operation was in apparent violation of Section 301 of the Communications Act of 1934, as amended. Moreover, if the apparent operation of August 8, 1979 was under the color of authority of Palazzini's CB license KLC–2328, the operation was in violation of the following CB Rules: 17(a) (authorized frequencies); 19(a) (use of non-type accepted transmitter); 20(a) (operation in excess of power output limitation); and 30(a) (station identification requirements).[1 2]

2. On November 26, 1979, Palazzini applied for an Amateur Novice Class Operator license in the Amateur Radio Service. The apparent operating violations by Palazzini in the Citizens Band Radio Service on August 8, 1979, call into question his qualifications to remain a Commission licensee and also preclude the Commission from determining that a grant of his application would serve the public interest, convenience and necessity.

3. Section 312(a)(4) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked for willful violation of the Communications Act or

[1] The CB Rules are contained in § 95.401 of the Commission's Rules.

the Commission's Rules. Section 309(e) of the Communications Act requires the Commission to designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience, and necessity.

4. Accordingly, it is ordered, That Palazzini show cause why the license for Citizens Band radio station KLC-2328 should not be revoked.

5. It is further ordered, that Palazzini's application for an Amateur station and Novice Class Operator's license is designated for hearing on the issues specified below.

6. It is further ordered, That if Palazzini wants a hearing on the revocation any/or application matters, he must file a written request for a hearing within 30 days. If a hearing is requested, the time, date, and Presiding Judge will be specified by a subsequent Order.[3 4]

7. It is further ordered, That if Palazzini waives his right to a hearing this proceeding will be certified to the Commission for administrative disposition pursuant to Section 1.92(c) of the Commission's Rules.

8. It is further ordered, That the matters at issue in this proceeding will be resolved upon the following issues:

(a) To determine whether there were transmissions on August 8, 1979, in violation of Section 301 of the Communications Act of 1934, as amended, or CB Rules 17(a), 19(a), 20(a), and/or 30(a).

(b) To determine whether Daniel C. Palazzini possesses the requisite qualifications to remain a Commission licensee.

(c) To determine whether the license of Daniel C. Palazzini for CB station KLC-2328 should be revoked.

(d) To determine whether grant of the application would serve the public interest, convenience and necessity.

9. It is further ordered, That pursuant to Section 1.227 of the Rules, the revocation and application proceedings are consolidated for hearing.

10. It is further ordered, That a copy of this Order shall be sent Certified Mail—Return Receipt Requested, and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Acting Chief, Compliance Division.

[FR Doc. 80-31700 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

[3] Any contrary provisions of § 1.221(c) of the Rules are waived.

[CC Docket No. 80-339, et al.]

ITT World Communications Inc. et al.; Memorandum Opinion and Order

In the Matter of ITT World Communications Inc., Transmittal Nos. 2258, 2259, 2260, 2280; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636; TRT Telecommunications Corporation, Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431, 1447; Western Union International Caribbean, Inc., Transmittal No. 224; and FTC Communications, Inc., Transmittal Nos. 69, 77. Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service (45 FR 58680).

Adopted: September 30, 1980.

Released: October 15, 1980.

By the Chief, Common Carrier Bureau:

1. ITT World Communications Inc. (ITT) and TRT Telecommunications Corporation (TRT) have each requested an extension of time from October 7, 1980 to November 6, 1980 to file their direct cases in Docket No. 80-339. The carriers explain that gathering the requested data as well as making the necessary analysis and projections are complex and time consuming tasks. For example, ITT states that gathering the data involves between 500 and 700 manhours of effort with additional time needed for analysis. Each carrier suggests that it will be able to present the Commission with better and more complete information if granted the additional time.

2. The Western Union Telegraph Company (Western Union) opposes ITT's and TRT's request. It argues that the carriers had a full month before the text of the order was released to begin to prepare their cases and that the information is not as complex as petitioners claim.

3. Although we are interested on the one hand in conducting the investigation quickly, we are also concerned that the information upon which the Commission will base its decision be as complete and accurate as possible. An additional 30 days' time should contribute to this latter goal without serious impairment to the former. Therefore, we find that the requested extension of time would not be contrary to the public interest.

4. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, That the requests for an extension of time filed by ITT World Communications, Inc. and TRT Telecommunications Corporation ARE GRANTED.

5. It is further ordered, That each of the International Record Carriers (IRCs) shall submit their direct cases on or before November 6, 1980. Other parties may file their reply cases or comments within 30 days thereafter. The IRCs may file their responses within 15 days thereafter.

6. It is further ordered, That this Order shall be published in the **Federal Register.**

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau

[FR Doc. 80-31702 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-339]

ITT World Communications, Inc., et al. Memorandum Opinion and Order

Adopted: September 29, 1980.

Released: October 15, 1980.

In the matter of ITT World Communications, Inc., Transmittal Nos. 2258, 2259, 2260, 2280; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636; TRT Telecommunications Corporation, Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431, 1447; Western Union International Caribbean, Inc., Transmittal No. 224 and FTC Communications, Inc., Transmittal Nos. 69, 77. Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service. (45 FR 58680.)

By the Chief, Common Carrier Bureau:

1. Before the Chief, Common Carrier Bureau, is FTC Communications, Inc.'s (FTCC's) tariff Transmittal No. 77 filed on September 10, 1980. FTCC proposes to offer international telex customers the option of renting international telex access lines within the Standard Metropolitan Statistical Area (SMSA) for each of its operating areas at the rate of $20 per month as an alternative to customers furnishing their own access lines at their own expense.

2. FTCC states that it has filed its tariff revisions for the purpose of matching earlier-filed revisions by the other International Record Carriers (IRCs). Similar revisions by TRT Telecommunications Corporation's

(TRT's) have already been set for hearing by the Commission in Docket No. 80–339, *ITT World Communications, Inc. (ITT)*, FCC 80–386, released August 8, 1980, and the revisions by the other carriers have been consolidated into the docket by the Chief, Common Carrier Bureau, see order released August 18, 1980, Mimeo No. 34904. In setting these matters for hearing, the Commission has expressed concern that the $20 TRT rate, which is derived, in part, from an averaging of the cost of traditional customer access line arrangements, fails to properly account for the likelihood that customers would lease local access lines at cost where the charge was less than $20 per month, but would lease access lines from TRT at $20 per month when the charge was greater than $20 per month. This would result in TRT's subsidizing many of the customer access lines. The Commission has also expressed concern that TRT's access line costs are based on traditional access arrangements rather than estimates of the costs of accessing the expanded points of operation, which include SMSAs rather than city boundaries.

3. Since the instant revision, which is identical to TRT's, raises the same questions of lawfulness found by the Commission with respect to TRT's, we will consolidate the tariff filing for consideration with the investigation already ordered in Docket No. 80–339. FTCC will be required to justify its $20 per month access line charge by providing expense and investment data as outlined in Part II of the Appendix to *ITT*. In our judgment, moreover, FTCC should have anticipated the addition of this issue. Thus, we do not see any reason for extending the procedural dates.

4. Accordingly, it is ordered, pursuant to delegated authority contained in § 0.291 of the Commission's Rules, 47 CFR 0.291, and pursuant to Sections (4)(i)–(j), 201–205, and 403 of the Communications Act, 47 U.S.C. 154(i)–(j), 201–205, and 403, that an investigation is instituted into the following issue:

Whether the local access charge proposed by FTCC in its Transmittal No. 77 as a revision to its Tariff F.C.C. Nos. 15 and 16 is just and reasonable and otherwise lawful.

5. It is further ordered, That this investigation shall be consolidated with the investigation ordered in *ITT World Communications, Inc.*, FCC 80–386 and subject to the procedures established in that order.

6. It is further ordered, That this order shall be printed in the **Federal Register.**

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-31703 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services (RTCM); Renewal

The Commission has voted to renew the charter of the RTCM for 18 months, ending 31 March 1982. The RTCM was found to be necessary and in the public interest in its capacity of Federal Advisory Committee.

The RTCM has acted as a coordinator for marine telecommunications since it was established in 1947. It has worked "to advance the art and science of marine telecommunications through study, investigation, appropriate recommendations to the Federal Government and Industry, and promotion of ideas and exchange of information".

The RTCM consists of an Executive Committee and seven Special Committees, each dealing with a specific area within marine telecommunications. For information contact the Executive Secretary, RTCM, at 634–6490.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-31699 Filed 10-9-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Interagency Policy Statement Regarding Advertising of Now Accounts

AGENCIES: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Office of the Comptroller of the Currency.

ACTION: Interagency policy statement regarding the advertising of Negotiable Order of Withdrawal (NOW) accounts prior to December 31, 1980.

SUMMARY: The policy statement adopted by the four agencies is aimed primarily at those financial institutions that will receive NOW account authority for the first time on December 31, 1980, and may wish to begin promoting this new service prior to that date. December 31, 1980, is the effective date of Section 303 of the Consumer Checking Account Equity Act of 1980 (Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221) which provides nationwide NOW account authority for depository institutions. Credit unions supervised by the National Credit Union Administration were given authority to offer share draft accounts by another provision of the same Act.

The policy recognizes that institutions may promote their future NOW account authority and may offer accounts prior to December 31, 1980, which will convert to NOW accounts on that date. Institutions are cautioned, however, that (except for institutions currently possessing NOW account authority in the six New England states, New York and New Jersey) NOW account services may not actually be offered until December 31.

The policy also reminds institutions that advertising of interest rates must comply with agency regulations regarding the advertising of interest on deposits. Institutions are asked to ensure that NOW account advertisements alert potential customers to the existence of special account conditions or charges, if such will be imposed. Customers should be fully informed of the details of any account conditions and charges not later than the time a new account is opened or an existing account is converted to a NOW account.

EFFECTIVE DATE: September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. David K. Schweitzer, Federal Financial Institutions Examination Council, 490 L'Enfant Plaza SW., Washington, D.C. 20219, (202) 287–4206.

Policy Statement Regarding Advertising of NOW Accounts

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the Office of the Comptroller of the Currency (hereafter "the agencies") wish to remind commercial banks and thrift institutions under their jurisdiction that any such institution offering or preparing to offer negotiable order of withdrawal (NOW) accounts must adhere to the advertising requirements applicable to all interest or dividend earning accounts when marketing NOW accounts. These basic advestising requirements appear in § 217.6 of the Federal Reserve's Regulation Q (12 CFR 217.6) with respect to all Federal Reserve System member banks, including all national banks; § 329.8 of the FDIC Rules and Regulations (12 CFR 329.8) for all FDIC insured nonmember institutions; and § 526.6 of the FHLBB's Regulations for the Federal Home Loan

Bank System (12 CFR 526.6) and § 563.27 of the Federal Savings and Loan Insurance Corporation's Regulations (12 CFR 563.27) with respect to all savings institutions chartered by the FHLBB, insured by the FSLIC, or which are otherwise members of the Federal Home Loan Bank system.

The agencies recognize that those institutions receiving NOW account authority for the first time on December 31, 1980,[1] may engage in advance NOW account promotional programs and may offer accounts that will be converted to NOW accounts on December 31, 1980. In this connection, the agencies draw special attention to the regulatory requirements that no representation (e.g., any advertisement, announcement, solicitation, etc.) made with respect to an interest or dividend earning account, such as a NOW account, may be inaccurate or misleading or misrepresent the account contract or service being offered. Consistent with these regulatory requirements, any advertisements or promotional materials issued before December 31, 1980 for NOW accounts or accounts that will be converted to NOW accounts, should prominently indicate that, under Federal law, NOW account services are not available before December 31, 1980.

Institutions receiving NOW account authority on December 31, 1980 should ensure that all advertisements or promotional materials accurately describe the nature of the service to be offered on or after December 31, 1980. In this regard, accounts that will be converted to NOW accounts should not be characterized, prior to their conversion, as NOW accounts or described in such a way as to imply that the accounts are interest-bearing accounts upon which negotiable or transferable orders of withdrawal may be drawn.

Institutions also are reminded that, if a specific rate of interest (or dividends) to be paid on a NOW account is advertised, such advertisements must comply with the provisions of the agencies' regulations regarding the advertising of interest on deposits. In addition, if conditions or charges will be imposed on the account, that fact should be disclosed in the advertisement or promotional material. Consistent with the agencies' regulations, an institution should inform its customer not later than the time a NOW account is opened, or an existing account is converted to a NOW account, of the method that will be used in computing and paying interest on the account, including conditions that must be satisfied to earn a stated return and charges that may be assessed against the account.

Dated: October 6, 1980.

Theodore E. Allison,

Secretary, Board of Governors of the Federal Reserve System.

Dated: October 6, 1980.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

Dated: October 6, 1980.

Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Office of the Comptroller of the Currency.

Dated: October 6, 1980.

Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 80-31536 Filed 10-9-80; 8:45 am]

BILLING CODE 6722-01-M

[1] NOW accounts are currently authorized only in the six New England states and in New York and New Jersey. Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221, 94 Stat. 146) provides nationwide NOW account authority, effective December 31, 1980.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Performance Review Boards; Notice of Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of the membership of the Federal Mediation and Conciliation Service Performance Review Board membership for fiscal year 1981. The members are as follows:

Bernard M. O'Keefe, Director, Region 5, Chicago, Illinois, Chair—Two Years.

Robert P. Gajdys, Director of Administration, Washington, D.C., One Year.

Richard D. Williams, Director, Region 7, San Francisco, California, Three Years.

Nicholas A. Fidandis, Director, Office of Mediation Services, Washington, D.C., Alternate.

The special one-year Performance Review Board for Deputy Director Kenneth E. Moffett is composed of the following members:

Peter Teighe, Commissioner, Federal Maritime Commission.

Ian Lanoff, Administrator, Department of Labor, LMSA, Pension Welfare Benefit Program.

John E. Higgins, Jr., Deputy General Counsel, National Labor Relations Board.

Wayne L. Horvitz,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 80-31636 Filed 10-9-80; 8:45 am]

BILLING CODE 6732-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-23]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Rhode Island Public Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Rhode Island Public Utilities Commission involving the application of the Newport Electric Corporation for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: September 30, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-31662 Filed 10-9-80; 8:45 am]

BILLING CODE 6820-AM-M

[F-80-19]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Maryland Public Service Commission

involving intrastate telecommunications service rates.

2. *Effective data.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Maryland Public Service Commission involving the application of the Chesapeake and Potomac Telephone Company of Maryland for increases in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: September 29, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-31663 Filed 10-9-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Filing of Annual Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act, annual reports of the various committees must be filed with the Library of Congress. These have been filed and the committees are listed in this notice.

ADDRESS: Copies are available from the Administrative Proceedings Staff (HFA-305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the annual reports required by the act for the following Food and Drug Administration advisory committees have been filed with the Library of Congress:

Office of the Commissioner:
- Board of Tea Experts

National Center for Toxicological Research:
- Science Advisory Board

Bureau of Drugs:
- Anesthetic and Life Support Drugs Advisory Committee
- Anti-Infective and Topical Drugs Advisory Committee
- Arthritis Advisory Committee
- Cardiovascular and Renal Drugs Advisory Committee
- Drug Abuse Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Fertility and Maternal Health Drugs Advisory Committee
- Gastrointestinal Drugs Advisory Committee
- Oncologic Drugs Advisory Committee
- Panel or Review of Antimicrobial Agents
- Panel on Review of Miscellaneous External Drug Products
- Panel on Review of Miscellaneous Internal Drug Products
- Peripheral and Central Nervous System Drugs Advisory Committee
- Psychopharmacologic Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee
- Radiopharmaceutical Drugs Advisory Committee

Bureau of Medical Devices:
- Circulatory System Devices Panel
- Clinical Chemistry and Hematology Devices Panel
- General Medical Devices Panel
- Immunology and Microbiology Devices Panel
- Obstetrics-Gynecology and Radiologic Devices Panel
- Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel
- Respiratory and Nervous System Devices Panel
- Surgical and Rehabilitation Devices Panel
- Device Good Manufacturing Practice Advisory Committee

Bureau of Radiological Health:
- Medical Radiation Advisory Committee
- Technical Electronic Product Radiation Safety Standards Committee

Annual reports are available for public inspection at (1) The Library of Congress, Newspaper and Current Periodical Reading Room, Rm. 1026, Thomas Jefferson Bldg., Second St. and Independence Ave. SE., Washington, DC; (2) the Department of Health and Human Services Library, Rm. 1436, 330 Independence Ave. SW., Washington, DC 20201, on weekdays between 9 a.m. and 4:30 p.m., and (3) the Administrative Proceedings Staff (HFA-305), Food and Drug Administration, Rm. 4062, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-31376 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-03-M

Antimicrobial Panel; Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The date of the meeting of the Antimicrobial Panel announced by notice in the **Federal Register** of September 19, 1980 (45 FR 62557) for October 17 and 18, 1980, has been changed. The meeting will be held on November 14, 1980, in Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, and on November 15, 1980, at the Bethesda Marriott Hotel, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Lee Geismar, Bureau of Drugs (HFD-512), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6057.

Dated: October 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-31371 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0386]

Becton, Dickinson & Co.; Premarket Approval of Becton, Dickinson Mini-Balloon Detachable Balloon Catheter System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Becton, Dickinson Mini-Balloon Detachable Balloon Catheter System sponsored by Becton, Dickinson & Co., Paramus, NJ. After reviewing the

recommendation of the Circulatory Systems Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 10, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Becton, Dickinson & Co., Paramus, NJ, submitted an application for premarket approval of the Becton, Dickinson Mini-Balloon Detachable Balloon Catheter System, to FDA on November 27, 1978. The application was reviewed by the Circulatory Systems Devices Panel, an FDA advisory committee, which recommended approval of the application. On August 17, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices. The letter withheld permission to market the device pending notification by FDA of the satisfactory completion of a Good Manufacturing Practice (GMP) inspection. The sponsor underwent such an inspection, with results satisfactory to FDA, on April 10, 1980, and permission to market was granted on May 15, 1980.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the office of the Hearing Clerk (address above) and is available upon request from that office. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 10, 1980, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 1, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–31375 Filed 10–9–80; 8:45 am]

BILLING CODE 4110–03–M

Physical Medicine Device Section; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Physical Medicine Device Section of the Surgical and Rehabilitation Devices Panel announced in the **Federal Register** of September 19, 1980 (45 FR 62558) for October 17, 1980, has been canceled.

FOR FURTHER INFORMATION CONTACT: Johnsie W. Baily, Bureau of Medical Devices (HFK–410), Food and Drug Administration, 8757 Georgia Ave., Silver Springs, MD 20910, 301–427–7156.

Dated: October 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–31372 Filed 10–9–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 78N–0081; DESI 5803]

Poorly Absorbed Sulfonamide for Oral Use Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for Cremothalidine Suspension and Sulfathalidine Tablets containing phthalylsulfathiazole. The basis for the withdrawal is that the drug products lack substantial evidence of effectiveness for their labeled indications.

EFFECTIVE DATE: October 20, 1980.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 5803 and directed to the Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of May 16, 1980 (45 FR 32431), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following new drug application. The proposed order was based on the lack of substantial evidence of effectiveness.

NDA 5–803; Cremothalidine Suspension and Sulfathalidine Tablets, containing phthalylsulfathiazole; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

Any drug product that is identical, related, or similar to the drug products named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Neither the holder of the new drug application nor any other person filed a written appearance of election as provided by the May 16, 1980 notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and

under the authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to these drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 5–803 and all amendments and supplements to it is withdrawn effective October 20, 1980.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 23, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80–31373 Filed 10–9–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0272]

Scherer Laboratories, Inc., et al.; New Drug Applications; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of 31 new drug applications (NDA's) and 1 abbreviated new drug application (ANDA) based on the written request of the applicants.

EFFECTIVE DATE: October 20, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert T. Behrens, Bureau of Drugs (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed herein have informed the Food and Drug Administration (FDA) that these drug products are no longer marketed and have requested that FDA withdraw approval of the NDA's. The applicants have also, by their request, waived their opportunity for hearing.

NDA	Drug name	Applicant's name and address
00–027	Private Formula Capsule	Scherer Laboratories, Inc., P.O. Drawer 400009, Dallas, TX 75240.
00–133	Anamatone B Liquid	Do.
00–141	Mycocide Powder	Philips Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216.
00–415	Vitamin A Powder	Eastman Kodak Co., Eastman Chemicals Division, Kingsport, TN 37662.
00–964	Nicotinic Acid Tablets	Scherer Laboratories.
01–374	Zinc Perxide 45% Powder	E. I. du Pont de Nemours & Co., Wilmington, DE 19898.
01–389	Mol-Iron Tablets	Marvell Pharmacal Co., Inc., 230 West 17th St., New York, NY 10011.
01–614	Private Formula Tablet (Stephens)	Scherer Laboratories.
01–655	Private Formula Tablets	Do.
02–576	Nicotinic Acid Amide	Penick Corp., 1050 Wall Street West, Lyndhurst, NJ 07071.
03–037	Estrogenic Substance in Oil, Injection	Dorsey Laboratories, Box 83288, Lincoln, NE 68501.
03–216	Mixed Tocopherols Liquid	Eastman Kodak Co.
03–251	Throat Lozenge	Dorsey Laboratories.
03–378	Menadione Capsules	McNeil Laboratories, 500 Office Center Drive, Fort Washington, PA 19034.
04–178	Private Formula Capsules	Scherer Laboratories.
04–182	Private Formula #1994 Tablets	Dorsey Laboratories.
05–185	Vitamin A Acetate Concentrate	Eastman Kodak Co.
06–463	Myvax Powder (Bulk)	Do.
07–357	Ocas Anti-histaminic Tablets	Otis Clapp & Sons, 143 Albany St., Cambridge, MA 02138.
07–919	Vadrin Tablets	Scherer Laboratories.
08–108	Pasara Calcium	Dorsey Laboratories.
09–004	Hexathricin Aerosol	Lincoln Laboratories, Inc., Laboratory Park, Box 1139, Decatur, IL 62525.
09–153	Stanozoid Tablets	Stanlabs Pharmaceutical Co., P.O. Box 3108, Portland, OR 97208.
10–191	Alkarau Elixir	Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220.
10–263	Reserpine Tablets	Heun-Norwood Laboratories, P.O. Box 28390, St. Louis, MO 63141.
10–413	Benzapas Tablets, Capsules, & Powder	Dorsey Laboratories.
10–913	Cobalamin Injection	Penick Corp.
11–038	Rauwolfia Tablets	Stanlabs Pharmaceutical Co.
14–772	Viobamate Tablets	Rowell Laboratories, Inc., 210 Main Street West, Baudette, MN 56623.
16–425	Pentaerythritol Tetranitrate Tablets	Phillips Roxane Laboratories, P.O. Box 16532, Columbus, OH 43216.
16–561	PETN Tablets	Stanlabs Pharmaceutical Co.
80–876	Bedoce Injection	Lincoln Laboratories.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))], and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order becomes effective on October 20, 1980.

Dated: August 29, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80–31374 Filed 10–9–80; 8:45 am]

BILLING CODE 4110–03–M

Office of Human Development Services

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 95–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Older Americans as a Growing National Resource will hold a meeting on October 20, 1980, in Room 5542, HHS, North Building, 330 Independence Avenue, SW, Washington, D.C., from 9:00 AM—3:30 PM.

At this meeting the committee will review and discuss a rough draft of the committee report prepared by Dr. Sara E. Rix.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence

Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914.

Technical Committee meetings are open for public observation. This announcement is being published with less than 15 days advance notice because of difficulties in securing Federal meeting space.

Dated: October 7, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-31704 Filed 10-9-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1031]

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/H–5, Single-family Homes Management Underwriting (CHUMS) System.

EFFECTIVE DATE: The amendment shall become effective without further notice on November 10, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–557–0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the Single-family Homes Management Underwriting (CHUMS) System (HUD/H–5). This system aids the Department in the processing of mortgagee applications for property appraisal and commitment for HUD/FHA mortgage insurance, and in the subsequent administration of HUD/FHA mortgage insurance programs. This system is being developed in planned phases. The original notice was intended to cover only the first part of the effort. This proposed amendment includes current implementation and planned implementation of the remaining phases of the system. The complete system is expected to be fully operational in 1983. Modifications included will be implemented incrementally prior to that date. This amendment adds fee appraisers, fee mortgage credit examiners, fee inspectors, mortgagors, and HUD employees involved in the single-family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks) to the categories of individuals covered by the system. The amendment deletes telephone number as a category of record in the system, adds Minority Business Enterprise (MBE) Code, and adds territory and workload as categories of records for fee appraisers, fee mortgage credit examiners and fee inspectors, and includes name and social security or other identifying number for HUD staff involved in the single-family underwriting process. The word "CHUMS" is added to the system name, identification number is substituted for tax identification number in the Retrievability section, Authority for maintenance of the system is added, a new system manager is identified, and Record source categories is amended by deleting the words "HUD Authorized Mortgagees" and substituting the words "Mortgagees, Appraisers, Inspectors, Mortgage Credit Examiners, Builders, and HUD employees". The notice is published below in its entirety, as amended. Previously, the system was published at 44 FR 72303 (December 13, 1979). The prefatory statement containing General Routine Uses was published at 44 FR 72288 (December 13, 1979) and amended at 45 FR 26825 (April 21, 1980). Appendix A, which lists the addresses of HUD's field offices was published at 44 FR 72307 (December 13, 1979), and supplemented at 45 FR 6479 (January 18, 1980). A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on August 21, 1980.

HUD/H–5

SYSTEM NAME:

Single-family Homes Management Underwriting (CHUMS) System.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in the HUD/FHA single-family underwriting process (builders, fee appraisers, fee mortgage credit examiners, fee inspectors, mortgagors) and HUD employees involved in the single-family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case binders and automated files contain name, address, social security number or other identification number, and minority data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex for statistical tracking purposes), of the builder and mortgagor. These records also contain the name, address, social security number or other identification number, territory, workload, and minority data (including racial/ethnic background, Minority Business Enterprise (MBE) Code, and sex, for statistical tracking purposes), of fee appraisers, fee mortgage credit examiners, and fee inspectors. Additionally, the automated files contain identification (name and social security or other identifying number) of HUD employees involved in the single-family underwriting process (Directors, Deputy Directors of Housing Divisions, Service Office Supervisors, staff appraisers, staff mortgage credit examiners, architectural employees, receiving clerks, assignment clerks, commitment clerks, records clerks, and closing clerks).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 203, National Housing Act, Pub. L. 73–479.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragaphs in prefatory statement. Other routine uses: none.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

In case binders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, social security number or other identification number.

SAFEGUARDS:

Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

RETENTION AND DISPOSAL:

Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Mortgagees, Appraisers, Inspectors, Mortgage Credit Examiners, Builders, and HUD Employees.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., October 1, 1980.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-31711 Filed 10-9-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-80-1032]

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT-24, Investigation Files.

EFFECTIVE DATE: The amendment shall become effective without further notice on November 10, 1980, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the Investigation Files System (HUD/DEPT-24). This system contains records concerning alleged irregularities in connection with HUD programs and includes initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials and recommendations and dispositions to be made.

The proposed amendment results from plans for the partial automation of the existing system. However, the automated portion of the system will be limited to the following information: Case file number, status and disposition, name and number of investigator assigned to the case, and staff hours expended on the case. No other information about an individual will be contained in the automated portion of the system. To reflect the partial automation of the Investigation Files, this amendment adds the words "the automated portion of the system is stored on magnetic tape/disc/drum" to Storage; adds the words "information in automated records can be retrieved by case file number, investigator name, investigator number" to Retrievability, and adds the words "computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated files is limited to authorized personnel who must use a password system to gain access" to Safeguards.

Additionally, this amendment adds HUD investigators to the categories of individuals covered by the system, and specifies that case file number, investigator name and number, and staff hour usage are included in the system. The prefatory statement containing General Routine Uses applicable to the Department's systems of records was published at 44 FR 72288 (December 13, 1979) and amended at 45 FR 26825 (April 21, 1980). Appendix A, which lists the addresses of HUD's field offices, was published at 44 FR 72307 (December 13, 1979) and supplemented at 45 FR 6479 (January 28, 1980). Previously, the system was published at 44 FR 72293 (December 13, 1979) and amended at 45 FR 49362 (July 24, 1980). The notice is published below in its entirety, as amended. A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on August 27, 1980.

HUD/DEPT-24

SYSTEM NAME:

Investigation Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD program participants and HUD employees involved in matters under Office of Inspector General cognizance, and HUD investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violation, reports of investigation, findings of HUD officials and recommendations and disposition to be made. Manual and automated files contain case file number, status and disposition, investigator name and number, and staff hour usage.

AUTHORITY FOR MAINTENACE OF THE SYSTEM:

Inspector General Act of 1978, Pub. L. 95-452.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Use paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related personnel management functions or manpower studies. Files may also be used to respond to general

requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders. The automated portion of the system is stored on magnetic tape/disc/drum.

RETRIEVABILITY:

Manual records can be retrieved by name, investigation file number, case number; manual records containing investigator time accounting information can be retrieved by investigator name, and investigator number. Information in automated records can be retrieved by case file number, investigator name, and investigator number.

SAFEGUARDS:

Manual Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose offical duties require access. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated files is limited to authorized personnel who must use a password system to gain access.

RETENTION AND DISPOSAL:

Records are primarily active; however, records are destroyed in conformance with Records Schedule 28 (Investigation Records) Appendix 28, HUD Handbook 2225.6.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Administrative Support Staff, Office of the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting (i) in relation to contesting contents of records, Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and content requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f)) of the agency regulations in order for the Department's legal staff to perform its functions properly.

(5 U.S.C. 552a 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., October 3, 1980.

Vincent J. Hearing,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-31712 Filed 10-9-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Parts 18 and 216).

1. Applicant Name: USSR Ministry of Fisheries.
   Address: All-Union Scientific Institute of Fisheries and Oceanography, Moscow, USSR.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals:
   Pacific walrus *(Odobenus rosmarus)*, 200
   Ribbon seal *(Phoca fasciata)*, 100
   Larga seal *(Phoca largha)*, 100
   Ringed seal *(Phoca hispida)*, 100
   Bearded seal *(Erignathus barbatus)*, 100
   Steller sea lion *(Eumetopias jubatus)*, 50
4. Type of Take: To collect from the wild for the purpose of studying the abundance, distribution, and dynamics of rookeries under ice conditions, as well as the age-sex composition and reproductive capacity of walrus and ice seals.
5. Location of Activity: Bering Sea.
6. Period of Activity: four (4) months.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on that portion of this application dealing with pinnipeds other than walrus should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. Comments, views or requests for a public hearing on that portion of the application dealing with walrus should be submitted to the Director, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All statements and opinions contained in ths application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service or the Fish Wildlife Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802; and

Director, Fish and Wildlife Service, Department of the Interior, 1000 Glebe Road, North Arlington, Virginia.

Dated: October 3, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals/ Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-31741 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona, Phoenix District; Kingman Resource Area Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on Wednesday, November 5, 1980.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Status of the Planning and Grazing Environmental Statement.
2. Allotment Management Plan preparation and implementation.
3. Review of proposed range improvement projects for F.Y. 1981.
4. Effects of the Wilderness Programs on Allotment Management Plans and Range Improvements.
5. Experimental Stewardship Program.
6. Arrangements for future meetings—timing and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 3, 1980.

Barry D. Stallings,

Acting District Manager.

[FR Doc. 80-31669 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., October 24, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was established by Public Law 95-625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.
2. New Business.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreatioal River, Drawer C, Narrowsburg, NY 12764, phone 914-252-3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

Dated: October 2, 1980.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 80-31729 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; 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. The name of the parent corporation is Akzona Incorporated, with its principal office located at One Pack Square, P.O. Box 2930, Asheville, North Carolina 28802.

2. The wholly owned subsidiaries which will participate in the operation, and the addresses of their respective principal offices are:

Abbott & Company, 1611 Cascade Drive, Marion, Ohio 43302
Armak Company, 300 South Wacker Drive, Chicago, Illinois 60606
Armira Corporation, 1113 Maryland Avenue, Sheboygan, Wisconsin 53081
International Salt Company, Clarks Summit, Pennsylvania 18411
Monotuck Manufacturing Company, Canal Street, South Hadley, Massachusetts 01075
Noury Chemical Corporation, 2153 Lockport & Olcott Road, Burt, New York 14028
Organon Inc., 43 Route 46, Pine Brook, New Jersey 07058
Teltronics, Inc., 5105 New Tampa Highway, Lakeland, Florida 33802

1. The name and address of the parent corporation is Aladdin Industries, Incoporated, 703 Murfreesboro Road, Nashville, Tennessee 37210.

2. The wholly-owned subsidiaries which will participate in the operations and the addresses of their respective principal offices are:

(a) Aladdin Synergetics, Inc., One Vantage Way, Nashville, Tennessee, 37228; and

(b) ALH, Inc., 703 Murfreesboro Road, Nashville, Tennessee 37210.

1. Parent corporation: Belden Corporation, 2000 S. Batavia Ave., Geneva, Illinois 60134.

2. Wholly owned subsidiaries which will participate in the operations and address of their respective principal offices:

(a) Complete Reading, 300 N. Mannheim, Hillside, Illinois 60162.

(b) Electrical Specialty Co., 345 Swift Ave., S. San Francisco, California 94080.

(c) Magnum Electric Corporation, 6385 Dixie Highway, Erie, Michigan 48133.

(d) Western Controls, 805 W. Madison St., Phoenix, Arizona 85007.

(e) MiliBride, Inc., Williston, Vermont 05495.

1. Parent corporation and address of principal office: Cargill, Incorporated, Box 9300, Minneapolis, Minnesota 55440.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Caprock Industries, Inc., P.O. Box 948, Gruver, Texas 79040.

(b) Cargo Carriers, Incorporated, Box 9300, Minneapolis, Minnesota 55440.

(c) C. Tennant, Sons & Co., of New York, Box 9300, Minneapolis, Minnesota 55440. Subsidiary of C. Tennant, Sons & Co. of New York: (1) Mid-State Metals, Inc., 15407 McGinty Road West, Wayzata, Minnesota 55391. Subsidiary

of Mid-State Metals, Inc.: (1) Mid-State Metal Processing, Inc., 321 Professional Building, Oak Brook, Illinois 60521.

(d) Farmers Elevator Co., Box 218, Elmore, Minnesota 56027.

(e) Hohenberg Bros. Company, 266 South Front Street, Memphis, Tennessee 38101. Subsidiaries of Hohenberg Bros. Company: (1) R. T. Hoover & Co., Inc., 817 Texas Avenue, El Paso, Texas 79999.

(f) Leslie Salt Co., 7200 Central Avenue, Newark, California 94560.

(g) MBPXL Corporation, P.O. Box 2519, Wichita, Kansas 67219.

(h) North Star Steel Company, 2901 Metro Drive, Suite 330, Minneapolis, Minnesota 55420. Subsidiary of North Star Steel Company: (1) Magnimet Corporation, P.O. Box 28, Monroe, Michigan 48161.

(i) Stevens Industries, Inc., P.O. Box 272, Dawson, Georgia 31742.

(j) Young's, Inc., Rural Route 1, Roaring Spring, Pennsylvania 16673.

(k) Zelrich Steel Company, Inc., P.O. Box 29667, Dallas, Texas 75229.

(1) Parent Corporation and Address of Principal Office: Custom Products of Litchfield, Inc., P.O. Box 718, Litchfield, MN 55355.

(2) Affiliated Corporations which will participate in the operations:

(a) Fabridyne, Inc., P.O. Box 1040, Litchfield, MN 55355.

(b) Lester Mills Fur Farm Supply Company, Eden Valley, MN 55329.

(3) Parent Corporation's Representative: William J. Gambucci, HOVLAND & GAMBUCCI, Suite M–20, 400 Marquette Avenue, Mineapolis, MN 55401.

1. Parent corporation and address of principal office: DENNY'S, INC., 14256 E. Firestone Boulevard, La Mirada, California 90637.

2. Directly or indirectly wholly-owned subsidiaries or divisions which will participate in the operations, and address of their respective principal offices:

(a) Proficient Food Company, 17872 Cartwright Rd., Irvine, CA 92714.

(b) DFC Trucking Co., 17872 Cartwright Rd., Irvine, CA 92714.

(c) Proficient Food Co., Inc., 17872 Cartwright Rd., Irvine, CA 92714.

(d) Portion Trol Foods, Inc., 812 South 5th Avenue, Mansfield, TX 76063.

(e) Winchell's Donut House, 16424 Valley View Ave., La Mirada, CA 90637.

Ex Parte No. MC–122 (Sub-No. 1).

1. Parent corporation and address of principal office: The Echlin Manufacturing Company, 175 North Branford Road, Branford, CT 06405.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Ace Electric Company, Inc., Highway 69 South, P.O. Box 151, Columbus, KS 66725.

(b) Automotive Controls Corp., Echlin Road and U.S. Route 1, Branford, CT 06405.

(c) Echlin International Sales, Inc., Echlin Road and U.S. Route 1, Branford, CT 06405.

(d) Echlin Canada Inc., 500 Carlingview Drive, Rexdale, Ontario, Canada M9W 5H1.

(e) Echlin of Puerto Rico, Inc., Industrial Park, El Tuque, Ponce, Puerto Rico 00731.

(f) The Echlin Sales Company, Echlin Road and U.S. Route 1, Branford, CT 06405.

(g) Kravex Manufacturing Corp., 3300 N.W. 114th Street, Miami, FL 33167.

(h) Lift Parts Mfg. Co., Inc., 333 East Touhy Avenue, Des Plaines, IL 60018.

(i) Peerless Instrument Co., 6101 Grosse Point Road, Chicago, (Niles), IL 60648.

(j) Roto-Master, Inc., 7101 Fair Avenue, North Hollywood, CA 91605.

(k) Sierra Supply Company, 725 McKinley Avenue, P.O. Box 444, Litchfield, IL 62056.

(l) Tekonsha Engineering Company, 537 Church Street, Tekonsha, MI 49092.

1. Parent Corporation: General Felt Industries, Inc., Park 80 Plaza West-One, Saddle Brook, NJ 07662

2. Wholly owned subsidiary: Knoll International, Inc., Water Street, East Greenville, PA 18041

1. Parent corporation and address of principal office: General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440.

2. Divisions of parent corporation and addresses of their principal offices:

a. David Crystal Division, 498 Seventh Avenue, New York, NY 10018.

b. Dunbar, 601 Fulton Street, Berne, IN 46711.

c. The Donruss Division, 975 Kansas Street, P.O. Box 2038, Memphis, TN 38106.

d. The Gorton Division, 327 Main Street, P.O. Box 361, Gloucester, MA 01930.

e. Kittinger, 1893 Elmwood Avenue, Buffalo, NY 14207.

f. O-Cel-O, 305 Sawyer Avenue, Tonawanda, NY 14150.

g. Pennsylvania House, 137 North Tenth Street, Lewisburg, PA 17837.

h. Ship'n Shore Division, Bridgewater at Aston, Aston, PA 19014.

3. Wholly-owned subsidiaries and addresses of their respective principal offices:

a. Casa Gallardo, Inc., 11715 Administrative Drive, St. Louis, MO 63141.

b. CPG Products Corp., P.O. Box 1113, Minneapolis, MN 55440.

c. Eddie Bauer, Inc., 15010 Northeast 36th Street, Redmond, WA 98052.

d. Fashion Flair, Inc., 498 Seventh Avenue, New York, NY 10018.

e. Foot joy, 144 Field Street, Brockton, MA 02403.

f. General Mills Apparel Corporation, 34th Floor, Rockefeller Center, 630 5th Avenue, New York, NY.

g. General Mills Products Corp., P.O. Box 1113, Minneapolis, MN 55440.

h. General Mills Restaurant Group, Inc., P.O. Box 1113, Orlando, FL 32802.

i. GoodMark Foods, Inc., P.O. Box 18300, Raleigh, NC 27619.

j. H.E. Harris & Company, Inc., 645 Summer Street, Boston, MA 02210.

k. LeeWards Creative Crafts, Inc., 1200 St. Charles Road, Elgin, IL 60120.

l. Lord Jeff Knitting Co., Inc., 10 Maple Street, Norwood, NJ 07648.

m. Louise's Home Style Ravioli Company, 370 Commercial Street, Malden, MA 02148.

n. Pioneer Products, Inc., 808 Southwest 12th Street, P.O. Box 279, Oscalo, FL 32670.

o. Saluto Foods Product Corp., P.O. Box 967, Benton Harbor, MI 49022.

p. Ship'n Shore Products Corp., Bridgewater at Aston, Aston, PA 19014.

q. The Talbots, Inc., 175 Beal Street, Hingham, MA 02043.

r. E.H. Thompson Company, P.O. Box 1005, Jacksonville, FL 32201.

s. Trans World Seafood, Inc., 600 Third Avenue, 14th Floor, New York, NY 10016.

t. Wallpapers Inc., P.O. Box 5016, Hayward, GC 94540.

u. Wallpapers To Go, Inc., P.O. Box 5016, Hayward, CA 94540.

v. York Steak House Systems, Inc., P.O. Box 27975, Columbus, OH 43227.

4. Divisions of wholly-owned subsidiaries and addresses of their principal offices:

a. Fundimensions Division of CPG Products Corp., 26750 23 Mile Road, Mt. Clemens, MI 48043.

b. Jessie Jones Division of GoodMark Foods, Inc., P.O. Box 18300, Raleigh, NC 27619.

c. Kenner Products Division of CPG Products Corp., 1014 Vine Street, Cincinnati, OH 45202.

d. Lark Luggage Division of CPG Products Corp., 350 Fifth Avenue, New York, NY 10001.

e. Monet Division of General Mills Products Corp., P.O. Box 376, Murray Hill Station, New York, NY 10016.

f. Parker Brothers Division of CPG Products Corp., P.O. Box 1000, Beverly, MA 01915.

g. Red Lobster Inns of America, a Division of General Mills Restaurant Group, Inc., P.O. Box 13330, Orlando, FL 32809.

h. R & R Stamp Division of H. E. Harris & Co., Inc., 645 Summer Street, Boston, MA 02210.

i. Slim Jim Division of GoodMark Foods, Inc., P.O. Box 18300, Raleigh, NC 27619.

j. Tom's Distribution, Inc. CPG Products Corp., P.O. Box 60, Columbus, GA 31902.

k. Tom's Foods Division CPG Products Corp., P.O. Box 60, Columbus, GA 31902.

l. Yoplait, USA of General Mills Product Corp., P.O. Box 9329, Minneapolis, MN 55440.

m. Yoplait USA Division of General Mills Products Corp., P.O. Box 9329, Minneapolis, MN 55440.

1. The parent corporation is: James River Corporation, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217.

2. The wholly-owned subsidiaries which will participate in the operations are as follows:

James River Paper Company, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217.

James River-Rochester, Inc., Adams Division, 115 Howland Avenue, Adams, Massachusetts 01220.

*James River-Rochester, Inc., Rochester Division, 340 Mill Street, Rochester, Michigan 48663.

*Riegel Products Corporation, Frenchtown Road, Milford, New Jersey 08848.

*Curtis Paper Company, Paper Mill Road, Newark, Delaware 19711.

Peninsular Paper Company, 100 North Huron Street, Ypsilanti, Michigan 48197.

James River-Fitchburg, Inc., Old Princeton Road, Fitchburg, Massachusetts 01220.

*James River-Massachusetts, Inc., 701 Westminster Street, Fitchburg, Massachusetts 01420.

*James River-Graphics, Inc., 28 Gaylord Street, South Hadley, Massachusetts 01075.

James River-Otis, Inc., P.O. Box 10, Jay, Maine 04239.

1. Parent corporation: Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

2. Wholly owned subsidiaries and their principal offices are as follows:

Kerr-McGee Chemical Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

Kerr-McGee Coal Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

Kerr-McGee Nuclear Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

Kerr-McGee Refining Corporation, P.O. Box 25861, Oklahoma City, OK 73125.

Transworld Drilling Co., P.O. Box 25861, Oklahoma City, OK 73125.

Cato Oil & Grease Co., 915 N. Eastern, Oklahoma City, OK 73126.

Southwestern Refining Company, Inc., P.O. Box 9217, Corpus Christi, TX 78408.

Triangle Refineries, Inc., P.O. Box 3367, Houston, TX 77005.

1. Parent corporation and address of principal office: Mohasco Corporation, 57 Lyon Street, Amsterdam, New York 12010.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Chromcraft Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(b) Futorian Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(c) Liberty Furniture Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(d) Monarch Furniture Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(e) Peters-Revington Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(f) Super Sagless Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(g) Trend Line Furniture Corporation, 57 Lyon Street, Amsterdam, New York 12010.

(h) William Volker & Company, 945 California Drive, Burlingame, California 94010.

(i) Kerr-Ban Furniture Manufacturing Co., Inc., Interstate Highway No. 35 South, San Marcos, Texas 78666.

(j) Belknap & McClain, Inc., 650 Pleasant Street, Watertown, Massachusetts 02172.

(k) Burnham Stoepel & Company, 8521 Lyndon Ave., Detroit, Michigan 48238.

(l) Lack Carpet Company, 7 Rewe Street, Brooklyn, New York 11211.

(m) Lott & Geckler, Inc., 4501 Willow Parkway, Cleveland, Ohio 44125.

(n) Neidhoefer & Company, 2525 W. Hampton Ave., Milwaukee, Wisconsin 53209.

(o) Rumsey Distributors, Inc., 6176 E. Molloy Road, E. Syracuse, New York 13057.

(p) Schmitt & Henry, Inc., 1824 Industrial Circle, West Des Moines, Iowa 50265.

(q) Shawnee East Corporation, 6633 Moravia Park Drive, Baltimore, Maryland 21237.

(r) Shawnee Southwest, Inc., 3660 Dallas Trade Mart, Dallas, Texas 75207.

(s) Cort Furniture Rental Corporation, 3015 Williams Drive, Fairfax, Virginia 22031.

1. Parent Corporation: Norton Company, One New Bond Street, Worcester, MA 01606.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Christensen, Inc., 365 Bugatti Street, Salt Lake City, Utah 84115.

(b) Boyles Bros. Drilling Co., 1624 Pioneer Rd., Salt Lake City, Utah 84125.

(c) Metals Processing, Inc., 2532 South 3270 West, Salt Lake City, Utah 84119.

(d) Christensen Diamond Products, U.S.A., 365 Bugatti Street, Salt Lake City, Utah 84115.

(e) Norton Canada, Inc., Hamilton, Ont., Canada.

(f) Air Space Devices, Inc., 16624 Edwards Rd., Cerritos, CA 90701.

(g) Norton Export, Inc., One New Bond Street, Worcester, MA 01606.

(h) Norton East Asia, Inc., One New Bond Street, Worcester, MA 01606.

1. Parent corporation and address of principal office: Pacco, Inc., P.O. Box 759, Tenino, WA 98589.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Pacific Motor Transport, Inc., P.O. Box 759, Tenino, WA 98589.

(b) Pacific Powder Company, P.O. Box 759, Tenino, WA 98589.

(c) Pacific Culvert & Fabricators, Inc., P.O. Box 759, Tenino, WA 98589.

(1) Parent corporation and address of principal office: Pechiney Ugine Kuhlmann Corporation, 825 Third Avenue, New York, New York 10022.

(2) Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Howmet Aluminum Corporation, 825 Third Avenue, New York, New York 10022.

(b) Eastalco Share Inc., 475 Steamboat Road, Greenwich, Connecticut 06830.

(c) Howmet Culvert Corporation, 425 Edrudo Road, Vineland, New Jersey 08360.

(d) Howmet Turbine Components Corporation, 825 Third Avenue, New York, New York 10022.

(e) The New England Aircraft Products Company, Spring Lane, Farmington, Connecticut 06032.

(f) Intsel Corporation, 825 Third Avenue, New York, New York 10022.

(g) Ugine Kuhlmann of America, Inc., 13 Sunflower Avenue, Paramus, New Jersey 07652.

(h) Guggenheim International Corporation, 215 Fourteenth Street, Jersey City, New Jersey 07304.

(i) Grove Transport, Inc., 215 Fourteenth Street, Jersey City, New Jersey 07304.

(j) Intsel of Canada, Ltd., 5185 General Road, Mississauga, Ontario L4W 2K4, Canada.

1. Parent corporation: Pentair, Inc., of Rosedale Towers, 1700 West Highway 36, St. Paul, Minnesota 55113.

2. Wholly-owned subsidiaries:

Conserve Industries, Inc., Arden Hills, Minnesota.

Flambeau Paper Corp., Park Falls, Wisconsin.

Miami Paper Company, West Carrollton, Ohio.

Niagara of Wisconsin Paper Corp., Niagara, Wisconsin.

1. Parent corporation and address of principal office: Quaker State Oil Refining Corporation, 255 Elm Street, Oil City, Pa 16301

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices.

(a) Quaker State Oil Refining Corp., 1701 Popular, Oakland, CA 94607.

(b) Quaker State Oil Refining Corp., 1982 Stone Ave., San Jose, CA 95155.

(c) Quaker State Oil Refining Corp., 1516 McCormack, Sacramento, CA 95813.

(d) Quaker State Oil Refining Corp., 4500 Broadway, Salida, CA 95368.

(e) Quaker State Oil Refining Corp., 1604 West 5th, Chico, CA 95926.

(f) Quaker State Oil Refining Corp., 231 West 135th Street, Los Angeles, CA 90061.

(g) Quaker State Oil Refining Corp., 7352 Ethel, North Hollywood, CA 90005.

(h) Quaker State Oil Refining Corp., 4910 Santa Anita Ave., El Monte, CA 90031.

(i) Quaker State Oil Refining Corp., 355 Harriett Street, Ventura, CA 93001.

(j) Quaker State Oil Refining Corp., 681 West Huff Street, San Bernadino, CA 92410.

(k) Quaker State Oil Refining Corp., 7343 Carroll Road, San Diego, CA 92121.

(l) Quaker State Oil Refining Corp., 2331 B N. 35th Ave., Phoenix, AZ 85009.

(m) Quaker State Oil Refining Corp., 828 East 17th Street, Tucson, AZ 85719.

(n) Texstar Automotive, Distribution Group, 9060 Latty Avenue, ST. Louis, MO 63134.

1. Parent Corporation: Quick Way, Inc., 4923 Old Midlothian Pike, Richmond, Virginia 23224.

2. Wholly-owned subsidiary, House of Yamaha, Inc., 1807 Broad Rock Road, Richmond, Virginia 23224.

1. Parent corporation and address of principal office: The J. M. Smucker Company, Strawberry Lane, Orrville, Ohio 44667.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) H. B. DeViney Company, 300 Keck Avenue, New Bethlehem, Pennsylvania 16242.

(b) A. F. Murch Company, Forsel Avenue, Grandview, Washington 98930.

(c) (1) The Dickinson Family, Inc., and (2) Mary Ellen, Inc., 1275 Hansen Street, Salinas, California 93901.

1. Parent corporation and address of principal office: Space Center, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

2. Wholly-owned subsidiaries which will participate in the operations:

(a) Distribution Services, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(b) Space Center Minnesota, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(c) Space Center Kansas City, Inc., a Missouri corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(d) Kanasa City Terminal Warehouse Company, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(e) Space Center Ohio, Inc., an Ohio corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(f) Space Center Dallas, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(g) Space Center Edina, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(h) Kolstad Company, a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(i) Space Center, Inc. (California), a California corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(j) Space Resources, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

(k) Transport Technicians, Inc., a Minnesota corporation, 444 Lafayette Road, St. Paul, Minnesota 55101.

1. Parent Corporation and address of principal office: The Thomas & Betts Corporation, 920 Route 202 South, Raritan, New Jersey 08869.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their respective principal offices:

Thomas & Betts (PA.) Inc., 32 Commerce Drive, Montgomeryville, Pennsylvania 18936.

Doylestown Manufacturing Corporation, Old Easton Road, Doylestown, Pennsylvania 18901.

Thomas & Betts Limited, 700 Thomas Boulevard, Iberville, Quebec, Canada.

Thomas & Betts Caribe, Inc., Road No. 2, Km. 19.6, Bayamon, Toa Baja, Puerto Rico 00759.

T&B/Cablescan, Inc., 145 E. Emerson Street, Orange, California 92665.

T&B/Ansley Corporation, 3208 Humboldt Street, Los Angeles, California 90031.

1. Parent corporation and address of principal office: UNR Industries, Inc., 332 S. Michigan Avenue, Chicago, Il. 60604.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Unarco-Midwest Corporation, Union Bldg., Charleston, W. Va. 25321.

(b) Midwest Steel Corporation, Union Bldg., Charleston, W. Va. 25321.

(c) Midwest International Corp., Union Bldg., Charleston, W. Va. 25321.

(d) Midwest Telecommunications Corp., Union Bldg., Charleston, W. Va. 25321.

(e) Midwest Corporation, Union Bldg., Charleston, W. Va. 25321.

(f) Midwest Texas Corp., Union Bldg., Charleston, W. Va. 25321.

(g) Buddy's Discount Centers, Inc., Union Bldg., Charleston, W.Va. 25321.

(h) Unarco-Rohn, Inc. (Texas), 6718 W. Plank Road, Peoria, Il. 61604.

(i) Unarco-Rohn, Inc. (Indiana), 6718 W. Plank Road, Peoria, Il. 61604.

(j) Unarco-Rohn, Inc. (Alabama), 6718 W. Plank Road, Peoria, Il. 61604.

(k) S.B.M. Corporation, 332 S. Michigan Avenue, Chicago, Il. 60604.

(l) UNR International, Inc., 332 S. Michigan Avenue, Chicago, Il. 60604.

(m) National Plastics, Inc., 5475 Northwest Highway, Chicago, Il. 60630.

(n) Dart, Inc., 5475 Northwest Highway, Chicago, Il. 60630.

(o) UNR Structural Tubing Works, Inc., 332 S. Michigan Avenue, Chicago, Il. 60604.

(p) Unarco Industries, Inc., 332 S. Michigan Avenue, Chicago, Il. 60604.

1. Parent corporation and address of principal office: USA Petroleum Corporation, 1633–26th Street, Santa Monica, CA 90404.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Trans World Oil Corporation, 1633–26th Street, Santa Monica, CA 90404.

(2) USA Gasoline Corporation, 1633–26th Street, Santa Monica, CA 90404.

(3) Supersave Petroleum Corporation, 1633–26th Street, Santa Monica, CA 90404.

(4) Colonial Oil Company, 1903 East Adams, Jacksonville, FL 33231.

(5) Colonial Service Stations, Inc., 1903 East Adams, Jacksonville, FL 33231.

(6) Houston Oil Company, 1542 Eastern Avenue, Cincinnati, OH 45202.

(7) USA Petrochem Corporation, 1633–26th Street, Santa Monica, CA 90404.

(8) M–K Oil Company, Inc., 1633–26th Street, Santa Monica, CA 90404.

(9) USA Colonial Corporation, 1633–26th Street, Santa Monica, CA 90404.

(10) USA Petrotex Corporation, 1633–26th Street, Santa Monica, CA 90404.

(11) USA Properties Corporation, 1633–26th Street, Santa Monica, CA 90404.

(12) USA Rockwood Corporation, 1633–26th Street, Santa Monica, CA 90404.

(13) Rockwood Oil Terminals, Incorporation, 1633–26th Street, Santa Monica, CA 90404.

(14) Ohio Transit, Inc., 1633–26th Street, Santa Monica, CA 90404.

(15) Oil Transit of Colorado, Inc., 1633–26th Street, Santa Monica, CA 90404.

(16) Tenderfoot Development Corp., 1633–26th Street, Santa Monica, CA 90404.

1. Parent Corporation and Address of Principal Office: United Technologies Corporation, One Financial Plaza, Hartford, Connecticut 06101.

2. Wholly-owned subsidiaries or sub-subsidiaries which will participate in the operations, and address of their respective principal offices:

Inmont Corporation, 1133 Avenue of the Americas, New York, New York.

The Ault & Wiborg Company, same as above.

Inmont International, Inc., same as above.

Inmont Overseas Corporation, same as above.

Long Island Oyster Farms, Inc., same as above.

New York Oyster Company, same as above.

Ideal Electric Company, 330 E. First Street, Mansfield, Ohio 44903.

Thousand Springs Trout Farms, Inc., 1133 Avenue of the Americas, New York, New York.

Jenn-Air Corporation, 3035 N. Shadeland Avenue, Indianapolis, Indiana.

Carrier Corporation, Carrier Tower, P.O. Box 4800, Syracuse, New York.

Caricor Ltd., same as above.

Carrier International Corporation, same as above.

Carrier Service Corporation, same as above.

Carrier Limited, same as above.

Dempster Southwest Company, same as above.

Elliott Overseas Corporation, same as above.

Power Services, Inc., same as above.

Power Services Caribe Co., same as above.

Spectrol Electronics Corp., same as above.

Spectrol Caribe Corp., same as above.

Ambac Industries Inc., 195 Farmington Avenue, Farmington, Connecticut

Ambac International Inc., same as above.

Packard Instrument Company, Inc., 2200 Warrenville Road, Downers Grove, Illinois.

Norden Systems Inc., Helen Street, Norwalk, Connecticut.

P&W Aircraft of West Virginia, Inc., Route 3, Box 16, Bridgeport, West Virginia.

Turbo Power and Marine Systems, Inc., 10 Farm Springs, Farmington, Connecticut.

Mostek Corporation, 1215 West Crosby Road, Carrollton, Texas.

Homogeneous Metals, Inc., P.O. Box 752, West Canada Blvd., Herkimer, New York.

Essex Group, Inc., 1601 Wall Street, Fort Wayne, Indiana.

Diamond Wire & Cable Co., same as above.

Autosense Equipment Inc., Bradley Field Road, Windsor Locks, CT.

Otis Elevator Company (N.J.), United Technologies Building, Hartford, Connecticut.

Otis Elevator Company, same as above.

Otis Elevator International, Inc., same as above.

Otis Elevator Export Corp., same as above.

Otis Group, Inc., same as above.

1. Parent corporation and address of principal office: Walls & Thrash Fuel Company, Inc., 1472½ Merrimon Avenue, Asheville, North Carolina 28804.

2. Wholly-owned subsidiaries which will participate in the operations and address of its respective principal office: Citizen Express Inc., 38 North French Broad Avenue, Asheville, North Carolina 28801.

Republication

1. Parent corporation: Zayre Corporation, 770 Cochituate Rd., Framingham, MA 01701.

2. Wholly-owned subsidiaries:

(a) Zayre Corp., 770 Cochituate Road, Framingham, MA 01701.

(b) Atlantic Zayre, Inc., 5300 Kennedy Road, Forest Park, GA 30050.

(c) Newton Buying Corp., d.b.a. T. J. Maxx, 770 Cochituate Road, Framingham, MA 01701.

(d) Commonwealth Trading Inc. d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.

(e) Miss Nova Inc. d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.

(f) H–O–M Corp. d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.

(g) Specialty Apparel Corp. d.b.a. Hit or Miss (or On Stage), 100 Campanelli Parkway, Stoughton, MA 02072.

(h) Avon Trading Corp. d.b.a. Hit or Miss, 100 Campanelli Parkway, Stoughton, MA 02072.

(i) NETCO Inc., 601 West 26th Street, New York, NY 10001.

(j) Clinton Trading Corp., 111 Adams Road, Clinton, MA 01510.

(k) New England Trading Corporation, 305 Forbes Boulevard, Mansfield, MA 02048.

(l) Chicago Trading Corp., 11535 South Central Avenue, Worth, IL 60482.

(m) Georgia Purchasing Inc., 5300 Kennedy Road, Forest Park, GA 30050.

(n) Zayre Fabrics Inc., 9A Strathmore Road, Natick, MA 01760.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 31539 Filed 10–9–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 80–30283, appearing at page 65056, in the issue of Wednesday, October 1, 1980, make the following correction:

On page 65057, third column, fourth paragraph, the docket number for "The B Line, Inc.", in the first line now reading "MC 1151473 (Sub-1F)" should read "MC 151473 (Sub-1F)".

BILLING CODE 1505–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–7933 appearing at page 16590 in the issue of Friday, March 14, 1980, on page 16631, third column, second complete paragraph, starting MC 95876 (Sub-317F), * * * Applicant: ANDERSON TRUCKING SERVICE, INC., line 8, "ME" should be corrected to read "NE".

BILLING CODE 1505–01–M

Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 80–22073 appearing at page 49371 in the issue of Thursday, July 24, 1980, on page 49387, second column, second complete paragraph starting MC 134387 (Sub-84F), * * * Applicant: BLACKBURN TRUCK LINES, INC., line 11, "VN" should be corrected to read "NV".

BILLING CODE 1505–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-27443 appearing on page 59226 in the issue of Monday, September 8, 1980, make the following correction:

On page 59227, first column, there were several printing errors appearing in MC 142672 (Sub-146F), David Beneux Produce and Trucking, Inc. For the convenience of the reader, the entire paragraph (with the original note at the end) is reprinted below:

MC 142672 (Sub-146F) filed June 23, 1980 (republication), published in the **Federal Register** issue of July 31, 1980 and republished this issue. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting (1) *electric motors, grinders, buffers, dental lathes, dust collectors and pedestals;* and, (2) *parts, accessories and attachments* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, (i) from the facilities of Baldor Electric Company, at or near St. Louis, MO, to the facilities of Baldor Electric Company, at or near Columbus, MS and Westville, OK, and (ii) from points in OH to the facilities of Baldor Electric Company, at or near Columbus, MS.

Note:—This republication corrects the territory description in (i) above.

BILLING CODE 1505-01-M

[Vol. No. 311]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80-25253, appearing at page 55848, in the issue of Thursday, August 21, 1980, on page 55865, in the second column, the second full paragraph, (designated as MC 141533 Sub-19F), the eighth line, insert the word *"tin"* before *"ingots."*

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-81]

Certain Hollow Fiber Artificial Kidneys; Cancellation of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference scheduled for October 10, 1980 and the hearing scheduled for October 13, 1980 (45 FR 65087 October 1, 1980) is cancelled.

The Secretary shall publish this in the **Federal Register.**

Issued: October 7, 1980.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 80-31929 Filed 10-9-80; 10:43 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 79-22]

Ivan Czornyj, M.D.; Denial of Registration

On October 23, 1979, the Administrator of the Drug Enforcement Administration [DEA] directed to Ivan Czornyj, M.D., [Respondent], an Order to Show Cause why the Drug Enforcement Administration should not deny his application for a DEA Certificate of Registration executed on August 22, 1979, for reason that Respondent pled guilty in the Cuyahoga County Court of Common Pleas, Cleveland, Ohio, to one (1) count of Deception to Obtain a Schedule II Drug, in violation of Section 2925.22 of the Ohio Revised Code. This offense is a controlled substance-related felony. Respondent, through counsel, requested a hearing on the Order to Show Cause. After preliminary procedures, including a Prehearing Conference in which the Administrative Law Judge and Counsel for the Government and Respondent participated, the Honorable Francis L. Young conducted a hearing in Cleveland on March 13, 1980. The hearing was continued in Cleveland on May 1, 1980.

On September 15, 1980, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65, the record of the proceedings in this matter, together with his recommended findings of fact, conclusions of law, and a recommended decision. Pursuant to 21 CFR 1316.67, the Administrator hereby publishes his Final Order in this proceeding, based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found that on November 1, 1978, Respondent pled guilty to one (1) count of Deception to Obtain a Schedule II Drug in violation of Section 2925.22 of the Ohio Revised Code. This is a lesser included offense of the offense charged in the fourth count of an eight (8) count indictment returned against Respondent by the Cuyahoga County Grand Jury on November 16, 1977, namely, illegal sale of Quaalude. The indictment charged Respondent Czornyj with three (3) counts of issuing a false prescription for Quaalude, a Schedule II drug, in violation of Section 4731.22 of the Ohio Revised Code; three (3) counts of illegal sales of Quaalude, in violation of Section 4731.22 of the Ohio Revised Code; one (1) count of issuing a false prescription for Preludin, in violation of Section 4731.22; and one (1) count of illegal sale of Preludin, in violation of Section 4731.22. Respondent was sentenced on March 28, 1979, to a term of one (1) to five (5) years in the Columbus Correctional Facility, Columbus, Ohio, sentence suspended. Respondent was placed on probation for six months and ordered to pay court costs.

An investigator for the Ohio State Medical Board, two Parma, Ohio police officers and one Cleveland officer testified at the hearing. The State Medical Board investigator testified that during the summer of 1977 he had received complaints from pharmacists that Dr. Czornyj was indiscriminately "administering" drugs. Young people in their late teens or early twenties were coming into local pharmacies with prescriptions of Schedule II substances to be filled. This aroused the investigator's suspicion, since most general practitioners would issue a variety of prescriptions, not just for Schedule II substances, to this age group. On August 16, 1977, the investigator went to Respondent's office in Parma, Ohio, in an undercover capacity. The decor of the office was sloppy and unkempt. Respondent arrived and called the investigator into an inner examining room; there were loose papers and boxes all over the room. Respondent asked the investigator what he wanted, and the investigator replied that he was there to get his pills. Respondent asked the investigator if he had ever been there before, and the investigator replied yes. In fact, he had never visited Respondent before. Dr. Czornyj searched for a record for the investigator and, finding none, took the investigator's name and address and medical history, checked his identification, and against asked the investigator what he wanted. The investigator replied, "Preludin." After

taking the investigator's blood pressure on an outdated looking blood pressure machine, and measuring his height on a doorframe with a piece of tape, Respondent weighed the investigator on a set of bathroom scales. He then gave the investigator a prescription for 35 Preludin 75 mg. The investigator paid him $20.00 and left. Judge Young found that the investigator neither described or exhibited any symptoms or physical condition tending to show a legitimate medical need for Preludin. Respondent did not give the investigator a calorie chart or other instructions regarding weight loss.

A detective for the Parma Police Department testified for the Government. During the summer of 1977, he, too, received complaints from several Parma pharmacists concerning Dr. Czornyj's prescription writing habits. The pharmacists mentioned that young people in their late teens and early twenties were presenting prescriptions written by Respondent to be filled at these pharmacies. After the Medical Board investigator's purchase, the detective decided to send a female informant for the Parma Police Department into Respondent's office to attempt to purchase a prescription. She went to Respondent's office on October 11, 1977. After waiting in Respondent's waiting room she went into an inner examining room where Respondent asked her the purpose of her visit. She replied she wanted Quaaludes to feel uninhibited at a party. Dr. Czornyj took her past medical history, and looked at her driver's license. He took her blood pressure, but performed no other medical procedure. He gave her a prescription for 30 Quaalude 300 mg. She paid $20.00 and left. Judge Young found that she neither described nor exhibited any symptoms or physical condition tending to show a legitimate medical need for Quaalude.

Judge Young further found that on October 18, 1977, the Parma detective sent another female informant to Respondent's office to purchase a prescription. She waited a short time, and Respondent called her into the examining room and asked why she was there. She replied she was a friend of the first women, and she came to get some Quaalude. Respondent took her medical history, and checked her blood pressure and pluse. He then wrote her a prescription for 30 Quaalude 300 mg. She paid $20.00 and left. Dr Czornyj pled guilty to the lesser included offense stemming from this visit.

Judge Young found further that on October 25, 1977, the Parma detective arranged for a Parma policewoman to make an undercover purchase of prescription from Respondent. The policewoman went to Respondent's office and was conducted to an office at the end of a hallway. She told Respondent that the second informant had referred her; that they were at a party Friday and had a good time, but they were planning a big Halloween party and wanted sixty (60) Quaalude for this party. Dr. Czornyj told her that he needed a sympton to prescribe anything. The policewoman said that everyone was nervous before a party and wanted to loosen up. Respondent asked for her medical background, to which she replied she was fine, and only wanted Quaaludes to loosen up for the party. The policewoman saw Respondent write "nervousness and trouble sleeping" as symptoms. He took her blood pressure and pulse, and wrote her a prescription for 30 Quaalude 300 mg. She paid $20.00 and left. Judge Young found that the policewoman had neither described nor exhibited any symptoms or physical condition tending to show a legitimate medical need for Quaalude.

A Cleveland police officer testified for the Government. In November, 1977 he was working part-time as a security guard at a pharmacy about five miles from Respondent's office. The pharmacists brought to the Cleveland officer's attention the fact that Respondent was writing an unusually large number of Schedule II prescriptions for a Cleveland area physician. Again, these prescriptions were being filled by young people in their late teens and early twenties, many of whom appeared to the officer to have the appearance of addicts. The Cleveland officer contacted the Parma detective and suggested the Cleveland officer attempt to make an undercover purchase of a prescription from Respondent.

Judge Young found that on November 11, 1977, the Cleveland officer went to Respondent's office. He went inside and produced identification. Again, the office was unkempt. Respondent asked him what he wanted, and the officer replied, "Preludin." Respondent weighed the officer on a set of bathroom scales and measured him on the doorframe, and found him at least seven pounds underweight. Nevertheless, Respondent wrote the officer a prescription for 30 Preludin 75 mg. after the officer said he would take a prescription for anything, and that his contact was out of town. Judge Young found that the officer did not threaten Respondent or act in a threatening way towards him.

Another Parma detective testified for the Government. During the summer of 1978, he received complaints from tenants in the medical building occupied by Dr. Czornyj. On August 15, 1978, the detective received a complaint from a man in his early twenties who complained that he paid Respondent $5.00, but did not get the prescription he wanted. On August 23, 1978, the cleaning lady was so terrified of the noisy, complaining scene in Respondent's office that she locked herself in another office. Other physician tenants in the building complained about Respondent's clientele, as did the answering service. These were young people who often brought food and waited outside Respondent's office for him to arrive. Judge Young found that there were no complaints since Respondent left the building.

The Administrative Law Judge concluded that Respondent was not entrapped, and that use of hidden transmitting devices worn by the informants and the Parma policewoman did not violate Respondent's Fourth Amendment rights under the decision in *United States* v. *White*, 401 U.S. 745, 91 S.Ct. 1122 (1971). Judge Young concluded that there is a lawful basis for denial of Respondent's application, and that the preponderence of the evidence indicates that Respondent's application for DEA registration should be denied. The Administrator hereby adopts the findings, conclusion and recommended decision of the Administrative Law Judge, as set forth above.

Judge Young further found that Dr. Czornyj came to the United States in 1950; that he practiced in Chicago until 1957; that he practiced in Cleveland from 1957 to 1959; and that he did not practice medicine from 1959 to 1972; that he returned to Cleveland in 1972 and practiced in small clinics until 1976; and he opened an office in Parma in December, 1976.

The Administrative Law Judge received a letter from Respondent, dated September 17, 1980, on September 23, 1980, eight days after the Administrative Law Judge transmitted his opinion and recommendations to the Administrator. This letter requested an extension of time during which Respondent could file exceptions to the opinion and recommendations under 21 CFR 1316.66. The regulation provides that a party may file exceptions within twenty (20) days of the date of service of the opinion and recommendations. The Administrative Law Judge served his opinion and recommendations to counsel for the Government, and mailed

a copy to Respondent's then counsel, on August 19, 1980. Dr. Czornyj has had ample time to file any exceptions he wished to make. 21 CFR 1316.66 does not permit the Administrative Law Judge to extend this period of time. The Administrator did not consider Respondent's letter, and will not enlarge the time in which exceptions can be filed.

Having reviewed the record of this proceeding in its entirety, except for Respondent's letter of September 17, 1980, and having concluded that Respondent's application should be denied for reason that Respondent Ivan Czornyj has been convicted of a felony offense relating to controlled substances, it is the decision of the Administrator that said application be denied. Accordingly, pursuant to the authority vested in the Attorney General by Section 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the application for registration, executed by Ivan Czornyj, M.D., on August 22, 1979, be, and is hereby, denied, effective November 10, 1980.

Peter B. Bensinger,

Administrator.

October 6, 1980.

[FR Doc. 80-31698 Filed 10-9-80; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Reallocation of Funds Under Titles II-D and VI of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Reallocation of funds under titles II-D and VI of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the redistribution of funds reallocated under Titles II-D and VI of CETA.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator Office of Comprehensive Employment Development, 601 D Street, NW., Room 5014, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The Department of Labor has determined to provide the following CETA prime sponsors the amounts indicated of reallocated Titles II-D and VI funds. The Department of Labor reviewed the operations of these prime sponsors and determined that the prime sponsors needed and will be able to effectively utilize the amounts indicated prior to the end of Fiscal Year 1980.

	Title II-D	Title VI
Region I: None		
Region II: None		
Region III: Montgomery County, Md.	$75,939	
Region IV: None		
Region V:		
Chicago, Ill	1,836,485	
Rockford, Ill	60,000	
Will-Grundy Consortium, Illinois	97,624	
Madison County, Ill	125,172	
St. Clair Consortium, Illinois	136,762	
Shawnee Consortium, Illinois	62,586	
Gary, Ind		$112,000
Region VI:		
Galveston County, Tex	200,000	
Oklahoma City, Okla		165,768
Region VII:		
Central Iowa Regional Association of Governments	50,000	
Davenport/Scott County, Iowa	20,000	
Region VIII: None		
Region IX: None		
Region X: None		

Signed at Washington, D.C., this 29 day of September 1980.

Charles B. Knapp,

Acting Assistant Secretary for Employment and Training.

[FR Doc. 80-31706 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-30-M

Reallocation of Funds Under Title II-D of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of Funds Reallocated Under Title II-D of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the reallocation of Title II-D funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room 5014, Washington, D.C. 20213, Telephone: 202-376-6254.

SUPPLEMENTARY INFORMATION: The Department of Labor determined, by reviewing actual enrollments with planned enrollments and rates of expenditures, that the CETA programs listed below were underutilizing available funds. The prime sponsors were provided with an opportunity to increase their performance before a final decision was made with respect to reallocation. The respective Governors, the general public and other prime sponsors were advised of the proposed reallocation of funds in the August 1, 1980, **Federal Register.**

At the end of 30 days from the date of notice to the prime sponsors, the Department again reviewed the prime sponsors' enrollments. The Department found, in the case of the prime sponsors listed below, that the amount of funds indicated for each prime sponsor could not effectively be utilized by the prime sponsor prior to the end of Fiscal Year 1980. As a result, the Department took final reallocation actions with respect to these prime sponsors. Prime sponsors which were listed in the August 1, 1980, **Federal Register,** and which are not listed below, were found to have improved their performance to the point where no reallocations were required.

	Title II-D
Region I: None	
Region II: None	
Region III:	
Montgomery County, Pa	$44,021
Northumberland County, Pa	31,918
Region IV:	
Seminole County, Fla	31,049
BOS—South Carolina	2,110,861
BOS—Tennessee	162,840
Region V: Region II Consortium, Michigan	35,000
Region VI: None	
Region VII:	
Linn County, Iowa	35,900
Woodbury County, Iowa	40,700
Johnson/Leavenworth Consortium, Kansas	26,600
Region VIII: None	
Region IX: None	
Region X: None	

Signed at Washington, D.C., this 26th day of September 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80-31708 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-30-M

Voluntary Reallocation of Funds Under Titles II-D and VI of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Notice of the VoluntaryReallocation of Funds Under Titles II-D and VI of the Comprehensive Employment and Training Act (CETA).

SUMMARY: Pursuant to 20 CFR 676.47, the Department of Labor announces the voluntary reallocation of Titles II-D and VI funds in the amounts and from the prime sponsors indicated below.

FOR FURTHER INFORMATION CONTACT: Robert Anderson, Administrator, Office of Comprehensive Employment Development, 601 D Street, N.W., Room

5014, Washington, D.C. 20213, Telephone: 202–376–6254.

SUPPLEMENTARY INFORMATION: The prime sponsors listed below advised the Department of Labor that they had excess funds available under Titles II–D and VI of their Fiscal Year 1980 CETA grants and that they would be unable to effectively utilize these funds prior to the end of Fiscal Year 1980. They further advised that they were agreeable to voluntary reallocation of these funds.

The Department of Labor Regional Offices determined that the prime sponsors listed below had made every effort to utilize the available funds. However, the prime sponsors have been unable to recruit a sufficient number of individuals which meet the required eligibility requirements. The Governor, the general public and other prime sponsors were provided with 30 days notice to provide comments to the Regional Offices regarding the reallocation of these funds.

	Title II–D	Title VI
Cook County, Ill	$2,000,000	
Lake County, Ill	318,629	
Vigo County, Ind		$112,000
Fort Worth Consortium, Tex	200,000	

Signed at Washington, D.C., this 26 day of September 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 80–31707 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1–5 of Executive Order 12196 of February 26, 1980 (Vol. 45, No. 40) the Federal Advisory Council on Occupational Safety and Health, will meet on October 28 starting at 10:00 a.m. in Room N4437 ABC, Francis Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order

II. Approval of Minutes of August 5, 1980

III. Announcements

IV. Election of FACOSH Vice Chairperson

V. Discussion 29 CFR 1960

VI. Committee Activities:

A. Noise Committee

B. Field Council Committee

C. Special OPM Standards Committee

VII. New Business

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 24, 1980, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business October 24, 1980. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Robert J. Broderick, Acting Director, Office of Federal Agency Safety and Health Programs, Department of Labor, OSHA, Suite 500, 600 "E" Street, NW., Washington, D.C. 20210, telephone (202) 376–3005.

Signed at Washington, D.C. this 7th day of October 1980.

Eula Bingham,

Assistant Secretary.

[FR Doc. 80–31731 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–26–M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80–71]

Exemption From the Prohibitions for Certain Transactions Involving the Building Trades United Pension Trust Fund, Milwaukee and Vicinity, Located in Milwaukee, Wis. (Exemption Application No. D–900)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the making of long-term mortgage loans by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Plan) in situations where the loans would be arranged by and purchased from mortgage bankers which are service providers to the Plan and, therefore, parties in interest.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of 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. (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 8, 1980, notice was published in the **Federal Register** (45 FR 52953) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the transactions described in an application filed on behalf of the trustees of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, 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 proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted 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 with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include 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 or her 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 the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is 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 or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 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 obligating the Plan to purchase mortgage loans on commercial real estate, where such commitments are made to financial institutions which are parties in interest or disqualified persons with respect to the Plan solely by reason of servicing mortgage loans for the Plan. The foregoing exemption will be applicable subject to the conditions as set forth in the notice of pendency.

The availability of this exemption is subject to the express condition 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 this exemption.

Signed at Washington, D.C., this 6th day of October 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, Department of Labor.

[FR Doc. 31516 Filed 10-9-80; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7881; Scouill, Inc., Dickson, TN

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8267 and 8268; Kaiser Steel Corp., Napa and Vallejo, CA

The investigation revealed that with respect to workers producing pipe, criterion (2) has not been met; and with respect to workers producing fabricated metal products, a survey of bids lost by Kaiser revealed that in cases in which Kaiser lost bids to foreign manufacturers, the firm was not the lowest domestic bidder.

TA–W–8299; Spartan Motors, Inc., Charlotte, MI

The investigation revealed that workers making design drawings produce an article as required for certification under Section 223 of the Act.

With respect to workers producing custom components and chassis, criterion (2) has not been met.

TA–W–8093 and 8356; Victor Business Products; New York, NY; Philadelphia, PA

The investigation revealed that criterion (3) has not been met. Workers of the subject facility are involved in the sale and service of imported as well as domestically produced calculators and cash registers; thus, imports could not have contributed importantly to worker separations.

TA–W–9598; Barry Steel Corp., Detroit, MI

The investigation revealed that workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8722; Motor Wheel Corp., Alamo, TN

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of air conditioners for recreational vehicles are negligible.

TA–W–7821; Admiral Machine Co., Weidsworth, OH

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tire molds are negligible.

TA–W–7968; Barry Steel Corp., Detroit, MI

The investigation revealed that workers' firm does not produce an article as required for certification under Section 223 of the Act.

TA–W–9504; Jones & Laughlin Steel Co., Specialty Div., Youngstown, OH

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of carbon, stainless, metallic coated, and alloy steel strip did not increase as required for certification.

TA–W–9773; Micinde Coal Co., 1A Mine, Randolph County, Monterville, WV

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–7749; Tractech, Inc., Warren, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of slip differentials are negligible.

TA–W–7446; Guardian Industries Corp., Automotive Div., Millbury, OH

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8094; Eaton Corp., Saginaw, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8131; Sealed Power Corp., Die Cast Div., Alma, MI

Investigation revealed that criterion (3) has not been met. A survey of customers

indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8291; Globe-Union, Inc., Owosso, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8590; Wasser & Fluhrer, Inc., Kalama, WA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–9103; the Standard Slag Co., Mingo Junction, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of scrap metal are negligible.

Ta–W–9484; Bassett Steel and Tube Co., Inc., King of Prussia, PA

Investigation revealed that the workers' firm does not produce an article as required for certificaion under Section 223 of the Act.

Ta–W–10,306; Avaneti Knitting Mill, Inc., Fayetteville, NC

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric are negligible.

Ta–W–10,279; Lanny Thiele Ford, Inc., Johnstown, PA

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the Trade Act of 1974.

TA-W-7469; Encore Shoe Corp., Rochester, NH

Investigation revealed that criterion (3) has not been met. Separations of workers from the subject firm resulted from a shift to a less labor intensive product. Sales by the firm increased in quality in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979.

TA-W-9187; AMF, Inc., Lawn and Garden Div., Des Moines, IA

Investigations revealed that criterion (3) has not been met. U.S. imports of riding lawn mowers and snow throwers are negligible.

TA-W-8649; Re-tool Machine Co., Detroit, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of tools and dies are negligible.

TA-W-8132; Sealed Power Corp., Die Cast Div., Dowagiac, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8902; Grow Group Inc., Plastisol and Adhesive Div., Troy, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of adhesives and plastisol are negligible.

TA-W-8742; Brazeway, Inc., Adrian, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of aluminum tubing are negligible.

TA-W-7547; A.O. Smith Corp., Automotive Div., Milwaukee, WI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,331; Shannon Pocahontas Mining Corp., Shannon Branch Mines, Capels, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-8798; National Standard Co., Athenia Steel Div., Clifton, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8892; Rueping Inc., Fond Du Lac, WI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-8998; A.O. Smith corp., Automotive Div., Granite City, IL

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-7535; Armour and Co., Eau Claire, WI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of frozen portion-controlled meat products are negligible.

TA-W-8397; Wilderness Industries of Indiana, Inc., Frankfort, IN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of travel trailers are negligible.

TA-W-8065; Wolverine Bolt Co., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-10,470; Garland Coal and Mining co., Bokoshe Mine, Bokoshe, OK

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-7492; Celanese Plastics and Specialties Co., Detrroit, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of automotive paints are negligible.

TA-W-8628; Fran Fashions, Lehighton, PA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7727; American Extrusion Corp., Troy, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8070; E.I. Dupont De Nemours and co., Inc., Rumford, RI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,181; Dyna-Kleen of Youngstown, Inc., Youngstown, OH

Investigation revealed that criterion (3) has not been met. The workers' firm does not produce an article as required for certification under Section 223 of the trade Act of 1974.

TA–W–8263; United Wire and Supply Corp., Cranston, RI

Investigation revealed that ciriterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8295; CO–LI Sportswear Inc., Brooklyn, NY

Investigation revealed that criterion (3) has not been met. A survery of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

Affirmative Determination

TA–W–9667; C&R Packaging Inc., Warren, MI

A certification was issued covering all workers of the firm separated on or after November 1, 1979.

TA–W–7620; Child's Mfg. Co., Centerdale, RI

A certification was issued covering all workers of the firm separated on or after May 6, 1979

TA–W–8800 and 8801; Vee Go Industries Inc., Athens, AL; Ardinore, AL

A certification was issued covering all workers of the firm separated on or after January 1, 1980.

TA–W–7712; The Muskin Shoe Co., Millersburg, PA

A certification was issued covering all

workers of the firm separated on or after March 24, 1979.

TA–W–7922 and 7923; Evart Products Co. Lauman Road Assembly Plant; Seventh Street Plant, Evart, MI

A certification was issued covering all workers of the firm separated on or after June 27, 1980.

TA–W–7920 and 7921; Coleman Products Co.; Iron River, MI; Coleman, WI

A certification was issued covering all workers of the firm separated on or after June 27, 1980.

TA–W–10,296; BIC/Avnet, Westbury, NY

A certification was issued applicable to all workers at the subject firm separated on or after August 8, 1979.

TA–W–7840; Hoover Universal, Inc., Metal Seating Div., Athens, TN

A certification was issued covering all workers of the firm separated on or after January 1, 1980 and before October 18, 1980.

TA–W–8788 and 8788A; Winrose, Inc., d/b/a Rosewin Coat Co.; Kansas City, MO; New York, NY

A certification was issued applicable to all workers at the subject firm separated on or after May 19, 1979.

I hereby certify that the aforementioned determinations were issued during the period of September 29–October 3, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W. Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: October 7, 1980.

Marvin M. Fooks,

Direcor, Office of Trade Adjustment Assistance.

[FR Doc. 80–31725 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–28–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 20, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 6th day of October 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alco Metal Stamping Corp., Alco Butler Corp., (Co.).	Brooklyn, NY	9-22-80	8-29-80	TA-W-11,145	Handbag frames.
Allis Chalmers Corp. (USWA)	Matteson, IL	9-25-80	9-22-80	TA-W-11,146	Lift trucks.
American Sunroof Corp. (workers)	Lansing, MI	9-25-80	9-22-80	TA-W-11,147	Interior and exterior auto trim.
ITT-Abrasive Products Co. (USWA)	Tiffin, OH	9-25-80	9-22-80		Grinding wheels.
James H. Beans Foundry Co. (USWA)	Martin Ferry, OH	9-25-80	9-18-80	TA-W-11,149	Ingot mould stools.
Porta Garments Inc. (Co.)	Brooklyn, NY	9-25-80	8-26-80	TA-W-11,150	Dress suits.
Sheller-Globe, Superior Division (UAW)	Limba, OH	9-25-80	9-22-80	TA-W-11,151	School buses, funeral cars and transit, vehicles.
Standard Steel Division of Titanium Metals Corp. (USWA).	Burnham, PA	9-25-80	9-22-80	TA-W-11,152	Railroad products.
Teledyne Ohio Steel (UAW)	Lima, OH	9-25-80	9-18-80	TA-W-11,153	Rolling mill rolls ferrous and nonferrous industries.
Cannelton Coal Co. (UMWA)	Cannelton, WV	9-25-80	9-23-80	TA-W-11,154	Metallurgical coal.
Cincinnati Dealer Development Office (Co.)	Cincinnati, OH	9-29-80	9-24-80	TA-W-11,155	Support service.
H. H. Robertson Co. (SMW)	Connersville, IN	9-25-80	8-26-80	TA-W-11,156	Metal wall panels and roof decking.
Mahon Ind. Corp. (workers)	Saginaw, MI	9-25-80	9-23-80	TA-W-11,157	Paint spray systems.
McGregor Sportswear Co. (workers)	Clearfield, PA	9-25-80	9-22-80	TA-W-11,158	Mens outerwear.
McGregor Sportswear Division	Philadelphia, PA	9-25-80	9-22-80	TA-W-11,159	Control manufacturing at McGregor's.
San Francisco Dealer Development Office (Co.).	Milpitas, CA	9-29-80	9-24-80	TA-W-11,160	Support service.
U.S. Steel Corp., Homestead Workers (USWA).	Mckees Rocks, PA	9-25-80	9-23-80	TA-W-11,161	Railroad wheels and axles.
Wheeling Pitts., Steel Corp. (USWA)	Beech Bottom, WV	9-23-80	9-17-80	TA-W-11,162	Carbon steel products.
Brighton Metal Pro. (workers)	Caseville, MI	9-24-80	7-22-80	TA-W-11,163	Small steel parts for trucks.
Champion Spark Plug Co. (union)	Cambridge, OH	7-23-80	7-11-80	TA-W-11,164	Ceramic insulators for spark plugs.
Chestnut Ridge Railroad Co. (United Trans. Workers).	Palmerton, PA	9-26-80	9-15-80	TA-W-11,165	Rail service for parent company.
Darco Corp. (Co.)	River Rouge, MI	9-26-80	9-24-80	TA-W-11,166	Specialty refactories used by auto steel.
Donaldson Co. Inc. (union)	Chillicothe, MS	9-25-80	9-22-80	TA-W-11,167	Air cleaner.
Gallant Fashions (Co.)	New York, NY	9-26-80	9-12-80	TA-W-11,168	Leather jackets.
Maui Divers of Hawaii, Ltd. (Co.)	Honolulu, HI	9-25-80	9-22-80	TA-W-11,169	Jewelry.
Romar Sportswear (workers)	New York, NY	9-24-80	9-22-80	TA-W-11,170	Contractor for sportswear.
Tele Dyne Steel Howell Penncraft Division (workers).	Howell, MI	9-25-80	9-22-80	TA-W-11,171	Stamping dies.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Tharshy Industries (ILGWU)	Tharshy, AL	9-25-80	9-22-80	TA-W-11,172	Ladies dresses.
Canklin Forging Co., Inc. (International Boilermakers).	Detroit, MI	9-29-80	9-24-80	TA-W-11,173	Forge parts and tools.
Crossville Rubber Products Inc. (URWA)	Crossville, TN	9-29-80	9-25-80	TA-W-11,174	Mechanical rubber goods.
Fabricators Division King Seeley Thermos Co. (United Papermakers).	Utica, MI	9-29-80	9-20-80	TA-W-11,175	Soft trim parts door foundations.
Forest City Foam Products (workers)	Wellington, OH	9-29-80	9-22-80	TA-W-11,176	Molded die cut sealing devices extruded gaskets.
Ideal Glove Co. (Co.)	Maben, MS	9-29-80	9-24-80	TA-W-11,177	Leather palm and work gloves.
Monte Glove Co. (workers)	Maben, MS	9-29-80	9-24-80	TA-W-11,178	Cloth work gloves.
Monte Glove Co (workers)	Mantee, MS	9-29-80	9-24-80	TA-W-11,179	Cloth work gloves.
Monte Glove Co. (workers)	Pheba, MS	9-29-80	9-24-80	TA-W-11,180	Cloth work gloves.
S. K. W. Alloys (UAW)	Calvert City, KY	9-30-80	9-26-80	TA-W-11,181	Chrome, silicone, and manganese.
Crown Fabricators (UAW)	Sterling Heights, MI	9-29-80	9-24-80	TA-W-11,182	Tractor cabs.
Dover Handbags Co. Inc. (International Leather Goods).	Netcong, NJ	9-29-80	9-24-80	TA-W-11,183	Vinyl plastics handbags.
G3 (workers)	New York City, NY	9-29-80	9-23-80	TA-W-11,184	Leather jackets.
High Q Ind., Ind. (workers)	Fennville, MI	9-29-80	9-24-80	TA-W-11,185	Electrical wire harness assemblies.
Millmaster Onyx (OCAW)	Berekeley Heights, NJ	9-29-80	9-23-80	TA-W-11,186	Meprobamate tranquiler.
Modern Ind. Plastics (MIP)	Dayton, OH	9-29-80	9-23-80	TA-W-11,187	General Motors parts.
Redwood City Knitting Mills (workers)	Redwood City, CA	9-25-80	9-06-80	TA-W-11,188	Sweaters.
Rockwell International (Co.)	Chelsea, MI	9-26-80	9-22-80	TA-W-11,189	Wireforms clips stamping.
TMX, L.T.D.—P.R. (workers)	Bayamon, Puerto Rico	9-23-80	9-16-80	TA-W-11,190	Mechanical watches.
Vessarette of Munsingwear Inc. (workers)	Eastland, TX	9-29-80	9-24-80	TA-W-11,191	Brassiere.
ASARCO Inc. Ground Hog Unit (USWA)	Vanaduim, NM	9-30-80	9-26-80	TA-W-11,192	Lead and zinc.
Eltra Corp. Division of Presto-lite (union)	Detroit, MI	9-29-80	9-18-80	TA-W-11,193	Distribution for parent company.
Hawthorne Metal Products (workers)	Royal Oak, MI	9-29-80	9-20-80	TA-W-11,194	Metal auto parts.
MacKentosh-Hemphill, Division of Gulf and Western (USWA).	Midland, PA	9-29-80	9-22-80	TA-W-11,195	Steel foundry, steel rolls.
Mr. Fine (workers)	Athens, TX	9-29-80	9-22-80	TA-W-11,196	Manufacture of ladies clothing.
Municipal Castings Inc. (workers)	Madison, MN	9-30-80	9-26-80	TA-W-11,197	Construction castings.
Pacific Pumping Co., Division of Baltimore Aircoil Co. (IAMA).	Oakland, CA	9-30-80	9-23-80	TA-W-11,198	Centrifugal pumps.
Patton Shirt Mfg. Co. Inc. (workers)	Patton, PA	9-23-80	9-18-80	TA-W-11,199	Ladies blouses mens shirts.
Weyerhaesuer Sawmill (IWA)	Raymond, WA		9-30-80	TA-W-11,200	Shakes.
Borg Textiles Corp. (ILGWU)	Delavan, WI	10-1-80	9-26-80	TA-W-11,201	Knitted pile fabrics.
Borg Consumer Products (ILGWU)	Delavan, WI	10-1-80	9-26-80	TA-W-11,202	Converter of knitting piles.
Chrysler Corp., Cape Canaveral Wire Products Plant (UAW).	Cape Canaveral, FL	9-30-80	9-26-80	TA-W-11,203	Electric wire harnesses for automobiles and trucks.
Ford Tractor Operators Albany Supply Department (Union).	Cohoes, NY	9-29-80	9-24-80	TA-W-11,204	Distribute tractor parts and components.
Gerald Mills Inc. (ILGWU)	Hazelton, PA	9-30-80	9-25-80	TA-W-11,205	Sportswear—blouses.
Lo-Mar Corp. (Workers)	Cincinnati, OH	10-1-80	9-23-80	TA-W-11,206	Stamping plant—truck mirrors and arms.
Metokote Corp. (UAW)	Rushville, IN	10-1-80	9-25-80	TA-W-11,207	Apply powder coatings for metal parts.
National Mines Corp. Beaver Creek Division (Workers).	Wayland, KY	10-1-80	9-1-80	TA-W-11,208	Metallurgical.
Power Electric Motor Service Co, (workers)	Lapeer, MI	9-29-80	9-9-80	TA-W-11,209	Rebuilt and reconditioned electric motors.
Tracor Marine, Inc. (workers)	Austin, TX	9-29-80	9-25-80	TA-W-11,210	Manufacture electronic equipment.
American Optical (workers)	So. Bridge, MA	10-1-80	9-29-80	TA-W-11,211	Metal and zyl frames.
Brown Shoe Co. (ACTWO)	Bernie, MO	10-1-80	9-22-80	TA-W-11,212	Ladies dress shoes.
Burkland Inc. (workers)	Goodrich,MI	9-30-80	9-26-80	TA-W-11,213	Fine blank stampings for the auto industry.
Clara Fashions (company)	Jersey City, NJ	10-1-80	9-28-80	TA-W-11,214	Ladies apparel.
Crown Division The Allen Group Inc.	Lorain, OH	10-1-80	9-29-80	TA-W-11,215	Van accessories, rust proofing.
Great Lakes Carbon Corp. Mo. Coke & Chemical Division (workers).	St. Louis, MO	9-4-80	8-5-80	TA-W-11,216	Metallurgical coke.
Jamison Corp. (workers)	Saginaw, MI	10-1-80	9-27-80	TA-W-11,217	Machine and contracing specialists.
National Gypsum Cement Division (workers)	Alpena, MI	10-1-80	9-26-80	TA-W-11,218	Cement.
Rockwell International Suspension Components Division (USWA).	New Castle, PA	9-30-80	9-26-80	TA-W-11,219	Multi-leaf springs taper leaf springs.
Tenna Corp. (AIW)	Cleveland, OH	10-1-80	9-18-80	TA-W-11,220	Car antennas.
The Gaines Co. (workers)	Gaines, PA	10-1-80	9-22-80	TA-W-11,221	Manufacture fishing tackle.
DST Industries (workers)	Romulus, MI	9-15-80	9-8-80	TA-W-11,222	Prototype and promotional items built specifically to order.
Dayton Scale (IUE)	Dayton, OH	10-1-80	9-26-80	TA-W-11,223	Food weighing scales.
Eaton Corp. (ACTWU)	Shelbyville, TN	10-2-80	9-28-80	TA-W-11,224	Truck transmissions.
Findley Industries (ACTWU)	Findley, OH	10-2-80	9-29-80	TA-W-11,225	Auto interior parts.
Galileo Electro-Optics Corp. (workers)	Wanamassa, NJ	10-2-80	10-1-80	TA-W-11,226	Semi conductor assembly.
Henry I. Siegel Co. Inc. (workers)	Johnson City	10-2-80	9-26-80	TA-W-11,227	Jeans.
Paktron (workers)	Vienna, VA	10-1-80	9-29-80	TA-W-11,228	Condensors for autos, TV's, and telephones.
Samoset Processing Co. (ACTWU)	Woonsocket, RI	10-2-80	9-29-80	TA-W-11,229	Sports apparel, outerwear.
Shez Mfg. Co. (company)	New York, NY	9-30-80	9-25-80	TA-W-11,230	Sportswear.
Varflex Corp. (AFL-CIO)	Rome, NY	10-1-80	9-27-80	TA-W-11,231	Electrical insulation.
Wheeling-Pittsburgh Steel Corp. (workers)	Wheeling, WV	10-2-80	9-24-80	TA-W-11,232	Cold rolled and hot rolled sheet steel.
Cumberland Blouse Company, Inc. (ILGWU)	Cumberland, MD	10-3-80	9-15-80	TA-W-11,233	Ladies' sportwear.
Top of All Manufacturing Co. (ILGWU)	Cumberland, MD	10-3-80	9-15-80	TA-W-11,234	Blouses, sportswear, jackets, slacks, children's wear.
Welpro, Inc. (workers)	Seabrook, NH	10-3-80	9-24-80	TA-W-11,235	Ladies' shoes.

[FR Doc. 80-31726 Filed 10-9-80; 8:45 am]

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Office of the Secretary

[TA-W-8576, 10,044-45, 10,047, 10,051-53, 10,057, 10,061, 10,064-65, 10,067, 10,069-70, 10,073-75, 10,078-79, 10,081, 10,083, 10,087-89, 10,091-92, 10,095-100, 10,102-09, 10,114, 10,121-23, 10,128, 10,131, 10,134-38, 10,141-44]

Chrysler Credit Corp.; Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally of partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigations were initiated on June 2, 1980 and August 18, 1980 in response to a petition which was filed on behalf of workers at the Tower Drive headquarters of Chrysler Credit Corporation, Troy, Michigan (TA-W-8576), and at the 110 branch offices of Chrysler Credit Corporation. Workers at all of the petitioning offices of Chrysler Credit Corporation are engaged in the provision of wholesale and retail automotive credit to Chrysler Corporation dealers and their customers.

The investigation revealed that criterion (1) has not been met with regard to workers at the offices of Chrysler Credit Corporation listed in the Appendix.

Average employment at 46 of the 55 offices of Chrysler Credit Corporation listed in the Appendix increased or remained stable from 1978 to 1979 and in the period January-May 1980 compared to the period January-May 1979. Average employment at eight other Chrysler Credit branch offices remained stable during 1979 and the first five months of 1980. At the Tower Drive headquarters of Chrysler Credit Corporation in Troy, Michigan (TA-W-8576), the number of workers affected by recent layoffs has been insignificant in comparison with total office employment.

Conclusion

After careful review, I determine that all workers of the offices of Chrysler Credit Corporation listed in the Appendix are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

Appendix

TA—W- and Location

8,576—Troy, MI (Tower Drive).
10,044—Charlotte, NC.
10,045—Charleston, WV.
10,047—Greensboro, NC.
10,051—Cherry Hill, NJ.
10,052—Wallingford, CT.
10,053—Hartsdale, NY.
10,057—Wilkes-Barre, PA.
10,061—Albany, NY.
10,064—Falmouth, ME.
10,065—Bedford, NH.
10,067—Jacksonville, FL.
10,069—Orlando, FL.
10,070—Tallahassee, FL.
10,073—Charleston, SC.
10,074—Fort Lauderdale, FL.
10,075—Southfield, MI.
10,078—Kentwood, MI.
10,079—Dayton, OH.
10,081—Toledo, OH.
10,083—Marquette, MI.
10,087—Calumet City, IL.
10,088—Brookfield, WI.
10,089—Arlington Heights, IL.
10,091—Edina, MN.
10,092—Fort Wayne, IN.
10,095—Mobile, AL.
10,096—Greenville, SC.
10,097—Huntsville, AL.
10,098—Savannah, GA.
10,099—Chattanooga, TN.
10,100—Macon, GA.
10,102—Metairie, LA.
10,103—Memphis, TN.
10,104—Baton Rouge, LA.
10,105—Jackson, MS.
10,106—Little Rock, AR.
10,107—Nashville, TN.
10,108—Knoxville, TN.
10,109—Shreveport, LA.
10,114—Oklahoma City, OK.
10,121—Sherman Oaks, CA.
10,122—Las Vegas, NV.
10,123—El Paso, TX.
10,128—Portland, OR.
10,131—Spokane, WA.
10,134—Boise, ID.
10,135—Kansas City, MO.
10,136—Englewood, CO.
10,137—St. Louis, MO.
10,138—Springfield, MO.
10,141—Omaha, NB.
10,142—Cape Giradeau, MO.
10,143—Bismarck, ND.
10,144—Casper, WY.

[FR Doc. 80-31713 Filed 10-9-80; 8:45 am]
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[TA-W-10,040-43, 10,046, 10,048-50, 10,054-56, 10,058-60, 10,062-63, 10,066, 10,068, 10,071-72, 10,076-77, 10,080, 10,082, 10,084-86, 10,090, 10,093-94, 10,101, 10,110-113, 10,115-20, 10,124-27, 10,129-30, 10,132-33, 10,139-40, 10,145-49]

Chrysler Credit Corp.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in these cases that all of the requirements have been met.

The investigations were initiated on August 18, 1980 in response to a petition which was filed on behalf of workers at the Tower Drive Headquarters of Chrysler Credit Corporation, Troy, Michigan (TA-W-8576), and at the 110 branch offices of Chrysler Credit Corporation.

Workers at all the petitioning offices of Chrysler Credit Corporation are engaged in the provision of wholesale and retail automotive credit to Chrysler Corporation dealers and their customers.

In order to determine if increased imports contributed importantly to employment declines at the petitioning auxiliary facilities of Chrysler Corporation, the Department sought to determine the degree to which each facility was integrated into the production of Chrysler car and/or truck lines which have been subject to import injury. Where it was established that an auxiliary facility was substantially integrated into the production of trade-impacted Chrysler car or truck lines, the Department considered imports of like or directly competitive cars and trucks in determining import injury to workers at the auxiliary facility.

The Department determined that all of the branch offices of Chrysler Credit Corporation listed in the Appendix were substantially integrated into the production of all of the Chrysler car and truck lines which have been subject to import injury.

Workers at these offices provide credit to Chrysler-Plymouth and Dodge dealers and to their retail customers to facilitate the sale of Chrysler-built automobiles and trucks. During the last several years, Chrysler Credit Corporation has been a major source of credit for dealers and retail customers who have purchased new Chrysler, Dodge, and Plymouth vehicles. Production and sales of trade-impacted Chrysler cars and trucks, which accounted for a substantial portion of Chrysler Corportion's total businesss, declined from MY 1978 to MY 1979. Certifications were issued on behalf of workers engaged in the production of these vehicles at seven Chrysler assembly plants on November 6, 1979 (TA-W-5979-83, 6037-38).

Because U.S. auto manufacturers redesigned most of their automobiles and/or introduced completely new models from MY 1979 to MY 1981, the composition and distinguishable features of each market class of vehicles has changed substantially. As a result, the continuation of the recent impact of import competition that existed in MY 1979 and 1980 may not continue in MY 1981.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Aspen, Volare, Diplomat, LeBaron, Newport, New Yorker and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans produced by Chrysler Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers at the 56 branch offices of Chrysler Credit Corporation listed in the Appendix.

In accordance with the provisions of the Act, I make the following certification:

All workers at the branch offices of Chrysler Credit Corporation listed in the Appendix who became totally or partially separated from employment on or after May 14, 1979 and before October 18, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

Appendix

TA-W-and Location

10,040—Pittsburgh, PA.
10,041—Lanham, MD.
10,042—Towson, MD.
10,043—Norfolk, VA.
10,046—Fayetteville, NC.
10,048—Wayne, NJ.
10,049—Jenkintown, PA.
10,050—Garden City, NY.
10,054—South Plainfield, NJ.
10,055—Dedham, MA.
10,056—Buffalo, NY.
10,058—Springfield, MA.
10,059—Rochester, NY.
10,060—Syracuse, NY.
10,062—Seekonk, MA.
10,063—North Andover, MA.
10,066—Coral Gables, FL.
10,068—Tampa, FL.
10,071—Pensacola, FL.
10,072—Columbia, SC.
10,076—Beachwood, OH.
10,077—Cincinnati, OH.
10,080—Troy, MI (Coolidge Rd.).
10,082—Saginaw, MI.
10,084—Hillside, IL.
10,085—Indianapolis, IN.
10,086—Louisville, KY.
10,090—Evansville, IN.
10,093—Atlanta, GA.
10,094—Birmingham, AL.
10,101—Montgomery, AL.
10,110—Dallas, TX.
10,111—Houston, TX. (Northchase Dr.).
10,112—San Antonio, TX.
10,113—Lubbock, TX.
10,115—Fort Worth, TX.
10,116—Corpus Christi, TX.
10,117—Houston, TX (North Loop West Office).
10,118—San Diego, CA.
10,119—Phoenix, AZ.
10,120—Santa Ana, CA.
10,124—Long Beach, CA.
10,125—West Covina, CA.
10,126—San Mateo, CA.
10,127—Sacramento, CA.
10,129—Bellevue, WA.
10,130—Salt Lake City, UT.
10,132—Albuquerque, NM.
10,133—Dublin, CA.
10,139—Des Moines, IA.
10,140—Wichita, KS.
10,145—New York, NY.
10,146—Chicago, IL.
10,147—Los Angeles, CA.
10,148—Stamford, CT.
10,149—Irvine, CA.

[FR Doc. 80-31714 Filed 10-9-80; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-8575, 8578, 8579]

Chrysler Financial Corp.; Troy, Mich., Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in these cases that all of the requirements have been met.

The investigations were initiated on June 2, 1980 in response to a petition which was filed on behalf of workers at Chrysler Financial Corporation, Chrysler Insurance Corporation, and Chrysler Life Insurance Company, all in Troy, Michigan. Workers of Chrysler Financial Corporation are engaged in the coordination fo retail and wholesale automotive credit and related insurance programs; workers of Chyrsler Insurance Corporation and Chrysler Life Insurance Company are respectively engaged in the sale and administration of automotive insurance for dealers and limited life (loan guaranty) insurance for retail customers of Chrysler Corporation.

In order to determine if increased imports contributed importantly to employment declines at the petitioning auxiliary facilities of Chrysler Corporation, the Department sought to determine the degree to which each facility was integrated into the production of Chrysler car and/or truck lines which have been subject to import injury. Where it was established that an auxiliary facility was substantially integrated into the production of trade-impacted Chrysler car or truck lines, the Department considered imports of like or directly competitive cars and trucks in determining import injury to workers at the auxiliary facility.

The Department determined that Chrysler Financial Corporation, Chrysler Insurance Corporation, and Chrysler Life Insurance Company were substantially integrated into the production of all of the Chrysler car and truck lines which have been subject to import injury. Workers of Chyrsler Insurance Corporation underwrite, sell and administer insurance policies which are designed to protect Chrysler-Plymouth and Dodge dealers against losses due to damage or theft while new vehicles are in transit or stored on their showrooms or lots. Chrysler Life Insurance Company underwrites, sells and administers life insurance policies which protect retail customers and their families against loss of their financed vehicle should the insured die before completing all automobile loan payments. Workers of Chrysler Financial Corporation manage and coordinate the automotive credit and insurance programs of Chyrsler Insurance Corporation, Chrysler Life Insurance Company, and a third subsidiary, Chrysler Credit Corporation (TA-W-8576). All of these companies perform functions which are designed to facilitate the sale of new Chyrsler cars and trucks to company dealers and their retail customers.

Production and sales of trade-impacted Chrysler cars and trucks, which accounted for a substantial portion of Chrysler Corporation's total business, declined from MY 1978 to MY 1979. Certifications were issued on behalf of workers engaged in the production of these vehicles at seven Chrysler assembly plants on November 6, 1979 (TA-W-5979-83, 6037-38).

Because U.S. auto manufacturers redesigned most of their automobiles and/or introduced completely new models from MY 1979 to MY 1981, the composition and distinguishable features of each market class of vehicles has changed substantially. As a result, the continuation of the recent impact of import competition that existed in MY 1979 and 1980 may not continue in MY 1981.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Aspen, Volare, Diplomat, LeBaron, Newport, New Yorker and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans produced by Chrysler Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of Chrysler Financial Corporation, Troy Michigan; of Chrysler Insurance Corporation, Troy, Michigan; and of Chrysler Life Insurance Company, Troy, Michigan. In accordance with the provisions of the Act, I make the following certification:

All workers of Chrysler Financial Corporation, Troy, Michigan (TA-W-8575), of Chyrsler Insurance Corporation, Troy, Michigan (TA-W-8578), and of Chyrsler Insurance Corporation, Troy, Michigan (TA-W-8579), who became totally or partially separated from employment on or after May 14, 1979 and before October 18, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-31715 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8577]

Chrysler Service Contract Co.; Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on June 2, 1980 in response to a petition which was filed on behalf of workers at Chrysler Service Contract Company, Troy, Michigan. Workers at Chrysler Service Contract Company promote and administer Chrysler's 5-year, 50,000-mile and other extended service warranty programs.

The investigation revealed that criterion (1) has not been met.

Employment at the Chrysler Service Contract Company remained stable during the January 1979-July 1980 period. No layoffs occurred at the company during 1979 or the first seven months of 1980, and none is anticipated in the foreseeable future.

Conclusion

After careful review, I determine that all workers of Chrysler Service Contract Company, Troy, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-31716 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8978]

Clarence A. Hackett, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 23, 1980 in response to a worker petition received on June 6, 1980 which was filed on behalf of workers and former workers of Clarence A. Hackett, Incorporated, Tonawanda, New York. The petition was actually filed on behalf of workers engaged in slag processing operations at a Clarence A. Hackett job site in Gary, Indiana. The workers process slag to reclaim scrap.

The same group of workers was denied eligibility to apply for adjustment assistance on August 28, 1980 as the result of an earlier investigation (see TA-W-8736). The denial was based on the finding that imports of scrap are negligible.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-8978) and since the current petition presents no additional information pursuant to the previous determination (TA-W-8736) that would change the previous determination, another investigation would serve no purpose. Therefore, this investigation is terminated.

Signed at Washington, D.C. this 29th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-31717 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,418]

Harman International Industries, Inc., Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 25, 1980 in response to a worker petition received on August 18, 1980 which was filed on behalf of workers and former workers producing outside rear view mirrors at Harman International Industries, Incorporated, Bolivar, Tennessee.

On August 1, 1980 a petition was filed on behalf of the same group of workers (TA-W-9996).

Since the identical group of workers is the subject of the ongoing investigation, TA-W-9996, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C. this 30th day of September 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-31718 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,703]

Motorola, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

initiated on September 15, 1980 in response to a worker petition received on August 25, 1980 which was filed on behalf of workers and former workers at the Arcade, New York plant of Motorola, Incorporated. The workers produce automobile ignition systems.

On September 2, 1980, an investigation (TA–W–10,490) was initiated on behalf of the same group of workers as TA–W–10,703.

Since the identical groups of workers is the subject of the ongoing investigation TA–W–10,490, a new investigation would serve no purpose. Consequently, the investigation (TA–W–10,703) has been terminated.

Signed at Washington, D.C. this 2nd day of October 1980.

Harold Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 31719 Filed 10–9–80; 8:45 am]

BILLING CODE 5410–28–M

[TA–W–10,771]

Olson Tool and Die Division, Ferro Manufacturing Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 4, 1980 which was filed on behalf of workers and former workers producing tools and dies at the Olson Tool and Die Division of Ferro Manufacturing Corporation, Detroit, Michigan.

On July 18, 1980 a petition was filed on behalf of the same group of workers (TA–W–9768).

Since the identical group of workers is the subject of the ongoing investigation, TA–W–9768, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C. this 29th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80–31720 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–8120]

Rockport Log & Shake; Affirmative Determination Regarding Application for Reconsideration

On September 4, 1980, two employees requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Rockport Log & Shake, Copalis Crossing, Washington. The determination was published in the **Federal Register** on August 4, 1980, (45 FR 45730).

The application for reconsideration claimed that imports of Canadian shakes at substantially lower prices made it impossible for Rockport Log & Shake to compete in the market without great losses to the firm. Claimants contend that this is the real cause for the decreased demand for their product.

Conclusion

After review of the application, I conclude that the owner's claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore granted.

Signed at Washington, D.C., this 2nd day of October 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80–31721 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–7984]

Scripto, Inc.; Negative Determination Regarding Application for Reconsideration

By an application dated July 30, 1980, the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing mechanical pencils at the Doraville, Georgia plant of Scripto, Inc. The determination was published in the **Federal Register** on July 25, 1980, (45 FR 49702).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The company claims that imports of mechanical pencils substantially increased in 1979 compared to 1978 and although such imports decreased in the first quarter of 1980, one reporting quarter does not reflect the trend for the remainder of the year.

The Department's review showed that workers at the Doraville, Georgia plant of Scripto, Inc., did not meet the increased import criterion of the Trade Act of 1974. U.S. imports of mechanical pencils decreased, in quantity, both absolutely and relative to domestic shipments in 1979 compared to 1978 and further decreased, in quantity, both absolutely and relative to domestic production in the first quarter of 1980 compared to the first quarter of 1979. Import data on mechanical pencils which the company provided are in value terms only and in a period of continuing high inflation such value data does not reflect the real import situation.

The Department notes that the Doraville, Georgia worker group of Scripto, Inc., was already certified for trade adjustment assistance in 1979 and through April 13, 1980 as a result of the Department's investigation in TA–W–2403. The Department certified all workers of the Atlanta Division of Scripto in Atlanta, Georgia for trade adjustment assistance with an impact date of September 23, 1976. This certification expired on April 13, 1980—two years from the date of issuance. The plant was moved in 1978 to Doraville, Georgia, a surburb of Atlanta.

The Department further notes that plant imports of mechanical pencils although they increased in 1979 when the workers were still covered under TA–W–2403, decreased in the first quarter of 1980 compared to the first quarter of 1979.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 2nd day of October 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80–31722 Filed 10–9–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–10,435]

Teledyne Industries, Inc., Teledyne Howell Penncraft Division, Lincoln Park Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 25, 1980 in response to a worker petition received on August 15, 1980 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers at Teledyne Industries, Incorporated, Teledyne Howell Penncraft Division,

Lincoln Park Division, Lincoln Park, Michigan.

On July 21, 1980, an investigation (TA-W-9406) was initiated on behalf of the same group of workers as TA-W-10,435.

Since the identical group of workers is the subject of the ongoing investigation TA-W-9406, a new investigation would serve no purpose. Consequently, the investigation (TA-W-10,435) has been terminated.

Signed at Washington, D.C. this 29th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-31723 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,281]

Tyghem Tool & Die Co., Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a worker petition received on August 8, 1980 which was filed on behalf of workers and former workers producing automotive tooling at Tyghem Tool and Die Company, Incorporated, Detroit, Michigan.

On July 15, 1980 a petition was filed on behalf of the same group of workers (TA-W-9561).

Since the identical group of workers is the subject of the ongoing investigation TA-W-9561, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

Signed at Washington, D.C. this 29th day of September 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-31724 Filed 10-9-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Waste Management Panel; Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Waste Management Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Wednesday, October 22, 1980. The Panel will meet in the B-100 conference room of Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The panel session, which will be open to the public, will convene at 1:30 p.m. and adjourn at 5:00 p.m. The panel will work on the waste management report.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Waste Management Panel. Dr. John Knauss, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653-7818.

Stephanie M. Jones,

Acting Executive Director.

[FR Doc. 80-31730 Filed 10-9-80; 8:45 am]

BILLING CODE 3510-22-M

NATIONAL SCIENCE FOUNDATION

Atmospheric Sciences Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences

Date: October 29, 30, and 31, 1980

Time: 9:00 a.m.-5:00 p.m.

Place: Rooms 642 and 643, National Science Foundation, 1800 G. Street, NW., Washington, D.C. 20550

Type of meeting: Closed—October 29 (all day) and October 30 (9:00 a.m.-12:00 Noon); Open—October 30 (1:00 p.m.-6:00 p.m.) and October 31 (9 to 2)

Contact: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357-9874.

Purpose of committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance and selection of awards.

Agenda:

October 29—9:00 a.m. to 5:00 p.m. and October 30—9:00 a.m. to 12:00 Noon (Closed) Rooms 642 and 643

Committee review of the Meteorology Program and the Solar Terrestrial Research Program, including examination of proposal jackets, reviewer comments and other privileged material.

October 30, 1980 (Open 1:00 p.m.-6:00 p.m.) Room 642

1:00 p.m.—Opening Remarks and Introductions
1:10 p.m.—Approval of Minutes of April 10-11, 1980 Meeting
1:15 p.m.—Reports of Working Groups on Program Reviews
1:45 p.m.—Remarks by Chairman, ACAS and ACAS Members
2:00 p.m.—FY 81 Allocation and LRP, Reorganization of ATM; Report on Solar Terrestrial Research in the 80s; Status of FCCSET Committee on Atmosphere and Oceans (CAO) Five Year Plan for Weather Modifications; Status of National Climate Program Office (NCPO) Five Year Climate Plan; Status of Subcommittee on Atmospheric Research of CAO; Search for Director of National Astronomy and Ionosphere Center (Arecibo); Procedures for Recommending an Atmospheric Scientist to the National Science Board; UCAR/Activities; NCAR Activities; UCAR/NCAR/NSF Interactions
4:00 p.m.—Need for development of a Global Atmospheric Chemistry Program
4:30 p.m.—NSF Role in Middle Atmosphere Program (MAP)
5:00 p.m.—Manpower Needs in Atmospheric Sciences
6:00 p.m.—Adjourn

October 31, 1980 (Open 9:00-2:00 p.m.) Room 642

8:45 a.m.—Master Grant Experiment
9:15 a.m.—Chemistry Proposal Experiment
9:45 a.m.—Proposal Processing Improvments
10:30 a.m.—Need for Information for LRP (84-88)
11:00 a.m.—Allocation of Computing Resources at NCAR
11:45 a.m.—Support of PRC Scientists in the U.S.
12:15 p.m.—Suggested Program for April
1:00 p.m.—Discussions
2:00 p.m.—Adjourn meeting

Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to

applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–31728 Filed 10–9–80; 8:45 am]

BILLING CODE 7555–01–M

Engineering and Applied Science Advisory Committee, Subcommittee on Electrical, Computer, and Systems Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Electrical, Computer, and Systems Engineering of the Advisory Committee for Engineering and Applied Science.

Date and time: November 2, 1980—3 p.m. to 10 p.m.

Place: Room 413/414, Marvin Center, George Washington University, 800 H Street NW, Washington, D.C.

Type of meeting: Open.

Contact person: Dr. Stephen Kahne, Director, Division of Electrical, Computer, and Systems Engineering, Room 416, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357–9618.

Summary of minutes: May be obtained from Dr. Stephen Kahne, Director, Division of Electrical, Computer, and Systems Engineering, Room 416, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357–9618.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the area of Electrical, Computer, and Systems Engineering.

Agenda:

Sunday, November 2, 1980, Open

3:00–10:00—ECSE Support of Research

M. Rebecca Winkler,

Committee Management Coordinator.

October 7, 1980.

[FR Doc. 80–31727 Filed 10–9–80; 8:45 am]

BILLING CODE 7555–01–M

Minority Programs in Science Education Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Minority Programs in Science Education.

Date and time:

October 30, 1980—9 a.m. to 5 p.m.

October 31, 1980—9 a.m. to Noon.

Place: National Science Foundation—Room 651, 5225 Wisconsin Avenue, NW., Washington, D.C.

Type of meeting: Open.

Contact person: Dr. Alphonse Buccino, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550 (202) 282–7947.

Summary minutes: May be obtained from the Contact Person, Dr. Alphonse Buccino, at the above stated address.

Purpose of meeting: To provide advice regarding minority programs in science education.

Agenda: Planning for oversight activities and coordination with the Education Department's MISIP program.

M. Rebecca Winkler,

Committee Management Coordinator.

October 7, 1980.

[FR Doc. 80–31683 Filed 10–9–80; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Restructuring of a Notice of a System of Records and Addition of Two Subsystems.

AGENCY: Office of Personnel Management.

ACTION: Notice; Restructuring of a notice of a system of records and addition of two subsystems.

SUMMARY: The purpose of this notice is to restructure the Office's system of records identified as OPM/CENTRAL–12, Survey Information Records, and to identify two new surveys, where records maintained during thr surveys will be part of this system, as Subsystem B and Subsystem C.

COMMENT DATE: Interested parties may submit written comments concerning the proposed new surveys. To be considered, comments must be received on or before November 10, 1980.

ADDRESS: Comments should be addressed to: Deputy Assistant Director for Work Force Information (ACE), Office of Personnel Management (Room 6429), 1900 E Street, NW., Washington, D.C. 20415. 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: William H. Lynch, Work Force Records Management Branch (ACE), 202–254–9790/9793.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published notice of its Survey Information Records system (OPM/CENTRAL–12) on March 28, 1980 (45 FR 20601). This notice also identified the first survey to be conducted where the system of records established by the survey would be part of this system. The notice indicated that the system would be effective and the survey begun on May 27, 1980, unless comments received necessitated othewise. The Office received only one comment, from the Office of Management and Budget (OMB), which did not warrant delay to the effective date of the system or the survey. The comment requested that the Office clarify a statement contained in the preamble and re-structure the system notice. The Office agreed to comply with this request when announcing the next survey where individually identifiable data were to be included in the system.

The statement to be clarified was: "Where the Office enters into a contract for the conduct of the survey, it is OPM's policy that data used by the contractor as the basis for reports issued, remains under the control and dominion of the contractor and such data, is not considered the property of the Office." The meaning and effect of this statement are threefold:

(1) Recognition that, in this survey but not necessarily in all surveys done under contract, the contractor's working papers and documents (e.g., questionnaires), where no link to the respondent's identify is possible, are not part of this system and are not subject to OPM control.

(2) Assurance of respondent confidentiality. This increases the number of respondents and the candidness of their responses by ensuring that individually identifiable documents and responses will be, at all times, in the physical possession and under the control of these contractors (not necessarily the case in other surveys), and that neither the Office nor the respondent's employing agency will have access to these documents unless necessary to respond to questions raised by the respondent.

(3) Retention of OPM's responsibility to insure the Privacy Act rights of respondents because individually identifiable records are part of an OPM system of records, even if the link between individuals and the responses exists for only a limited period of time, and by being prepared to intervene in any dispute over the respondent's

Privacy Act rights, at the request of that individual.

We are adopting OMB's suggestion to restructure the system notice format; therefore, the two new surveys announced here will become subsystems of the generic system (OPM/CENTRAL–12). The survey on the impact of the Civil Service Reform Act, announced in the May 27, 1980, notice will be designated Subsystem A. The two new surveys, Subsystem B and Subsystem C, will be the Federal Employee Attitude Survey and the Comparative Assessment of Upward Mobility Programs, respectively. As the previous announcement stipulated, it is OPM's policy to publish an announcement of each survey to be conducted, where records are part of this system, at least 30 days prior to the start of the survey and to invite public comment. This notice describes below the two surveys being added to the system and reproduces the entire restructured system notice with subsystems specifically designated. As previously announced, surveys are periodically added and deleted, but the system will remain relatively free of substantive changes. Therefore, addition of these surveys does not fall within the meaning of 5 U.S.C. 552a(o) regarding "Report on New Systems" and no such report will be made to OMB.

Federal Employee Attitude Survey (Subsystem B): Pursuant to section 4702 of title 5, U.S. Code, the Office of Personnel Management shall "(1) establish and maintain . . . research programs to study . . . Federal personnel management . . . (3) . . . for the collection and public dissemination of information relating to personnel management research . . . and (4) carry out the preceding functions directly or through agreement or contract." The Office has negotiated a contract with the "Westinghouse Learning Corporation" of Iowa City, Iowa, under this authority for the purpose of surveying selected Federal employees. Participants will be selected through a random sample of employees in grades GS–13 through GS–15 and in the Senior Executive Service. Participation in completing the questionnaire is voluntary. This survey is a follow-up survey designed to measure the effects of recent civil service reforms on personnel managment.

No data beyond that shown in the "categories of records" section in the system notice will be collected and no additional routine uses of the data are proposed. The survey will be conducted over an 80-day period beginning in November 1980. The contractor will be furnished a list of employees, randomly selected, and their work addresses. The contractor will also have each individual's Social Security Number, the name of the employing agency, and the work location (submitting office number) to insure an accurate mailing of the questionnaire and to assess returns to ensure that enough responses are received for each level or group of employees requested to participate. Individuals failing to respond to the first request will receive a second request asking that they reconsider. A random selection of employees who fail to respond after two mailings may be contacted to ascertain their reasons for declining.

All responses will be linked to the respondent's identity only at the contractor's work site. This link will remain for a period of approximately 4 months (February 1981), after the contractor submits a computer tape to the Office, at which time, under the terms of the contract, the contractor will destroy all data furnished by the Office or obtained from respondents. The contractors recognizes that the records in its possession are subject to the Privacy Act of 1974 and has stipulated that it will adhere to all Office Privacy Act regulations and requirements. Individual responses will be furnished to the Office, but only in the form of a computer tape which will not contain names, Social Security Numbers, or any other personal identifiers. Responses will be made public only in the form of a report containing aggregate statistics. Copies of the report will be available through the Government Printing Office. To obtain the details on ordering copies of the report (available approximately July 1981) contact the system manager listed in the system notice.

Comparative Assessment of Upward Mobility Programs (Subsystem C): Pursuant to section 4702 of title 5, U.S. Code (detailed above) the Office has negotiated a contract with "The Granville Corporation" of Washington, D.C., to conduct a survey of certain Federal employees. Participants will be selected from among individuals who were in upward mobility programs between 1974 and 1979 in agencies in the Washington, D.C. area. Additionally, supervisors/managers of these individuals will also be requested to participate. The survey will be conducted in two phases. Phase I involves record searches and tabulation of data concerning program participants. During this phase, a sample of participants will be identified and requested to voluntarily participate in phase II which will be the actual surveying of individuals. Phase II is designed to capture data reflecting the attitudes and perceptions of the individual participants and their supervisors/managers on the agency's upward mobility program. During both phases the contractor will be maintaining individually identifiable data as a system of records within the meaning of the Privacy Act.

The purpose of Phase I is to determine and compare the effectiveness of Upward Mobility Programs and strategies in moving participants into positions at the targeted grade level and above, then tabulate data describing the population served by such programs, and to identify individuals to be surveyed in Phase II. The purpose of Phase II of the study is to supplement the statistical assessment of Upward Mobility Program effectiveness with data indicating the perceptions of program participants and their supervisors/managers. The data collected during both phases and possible routine uses of the data are as stated in the system notice below.

The entire survey is expected to last no longer than 18 months, and will begin approximately October 1980. Phase I, record examination and data collection, will begin 1 month after the project begins (about November 1980) and continue for 4 months. Phase II, the actual survey of participants and their supervisors/managers, is scheduled to begin around 8/1/81, pending approval of the Phase I final report which is due on 6/30/81. Phase II, including submission of final reports, is expected to be completed by 2/28/82. Office analysis of and final reports on the survey will be finalized, within 2 months thereafter. Information concerning the availability of the report can then be obtained from the system manager for this survey.

The contract has been negotiated under provisions that will insure protection of an individual's privacy and with the contractor's full recognition that individual records furnished by the Office or information collected directly by interview or use of a questionnaire are subject to the Privacy Act. The contract recognizes the Office's ownership of and control over all individually identifiable records in the possession of the contractor. Further, as is also the case with the Westinghouse Learning Corporation, the contractor agrees: (1) Not to use such records for any other purpose than to meet the terms of the contract; (2) to safeguard such records while in the possession of the contractor by keeping them in locked cabinets when not in use and by

limiting disclosure of the records to only those contractor staff working directly on the contract; and (3) to turn over to the Office or destroy all individually identifiable records upon completion of the contract. Upon issuance of findings by the Office, all individually identifiable records will be destroyed by shredding or burning.

The complete text of the restructured OPM/CENTRAL–12, Survey Information Records system, including both of these proposed surveys, appears below. These proposed surveys will become part of this system at the completion of the comment period, without further notice, unless comments received necessitate otherwise.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

OPM/Central-12

SYSTEM NAME:

Survey information records.

Subsystem A: Assessment of the Impact of the Civil Service Reform Act.

Subsystem B: Federal Employee Attitude Survey.

Subsystem C: Comparative Assessment of Upward Mobility Programs.

SYSTEM LOCATION:

Records in this sytem may be located at any of the Office of Personnel Management's central or regional offices or with private sector contractors participating in the conduct of the survey.

Subsystem A: Records are retained by the contractors, i.e., University of California at Irvine, University of Michigan, and Case Western Reserve University.

Subsystem B: Records are retained by the contractor, Westinghouse Learning Corporation Division, Iowa City, iowa.

Subsystem C: Records are retained by the contractor, the Granville Corporation, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subsystem A: Current and former Federal employees and members of the public who are recipients of Federal services or products.

Subsystem B: Current Federal employees.

Subsystem C: Current and former Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system, both manual and automated, includes:

a. Demographic data, e.g., including but not limited to name, home or business address, age, sex, employment and educational history data, description of present assignment and duties (current Federal employees), and a description of the nature of association with a Federal agency (non-Federal recipients of Federal services and products).

b. Responses to questionnaires that call for specific details regarding the implementation of agency programs and their impact on the respondents' duties, work environment, performance, or other work related issues (current Federal employees) or on the actual manner and method by which services or products are provided as well as any improvement or deterioration in these areas (recipient of services/products).

c. Responses that call for opinions or judgments on the part of responsdents concerning their perception on how new procedures have affected agency performance, employee morale, mission accomplishment, and service to the public.

d. Self-identification as to race, sex, ethnicity, or handicap where appropriate.

Although it is not possible to foresee all information to be collected, these data elements would constitute what is sought for the majority of surveys conducted. Where the survey seeks significant additional data, the **Federal Register** notice for the survey will identify the specific information to be maintained beyond that identified here.

Subsystem A: This subsystem will contain no additional records beyond those listed in the "Categories of records" section.

Subsystem B: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

Subsystem C: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Office of Personnel Management is authorized to regulate (and thus to survey the impact of those regulations) various aspects of the personnel management practices and policies of Federal agencies under various sections of title 5 of the U.S. Code, including sections 1104, 1302, 3136, 3502, 3595, 4118, 4305, 4315, 4702, 4706, 5115, 5338, 5385, 5405, 6311, 7504, 7514, 8347, 8716, and 8913. Additionally sections, 7105, 7118, and 7132 provide for an Office role in the functions described therein.

Subsystem A: One or more of the authorities cited, above.

Subsystem B: 5 U.S.C. 4702.

Subsystem C: 5 U.S.C. 4702.

PURPOSE(S):

Information in this system will be used to develop statistical reports on agency personnel management practices and policies. Information will also be used to determine the impact of Office regulations in those areas, as well as the impact of changes in the Federal civil service mandated by statute or Executive order. Maintenance of a system of records as defined by the Privacy Act is necessary so that longitudinal surveys of Federal employees and non-Federal recipients of Federal services/products can be made.

Subsystem A: The purpose of this subsystem is to assess the impact of the Civil Service Reform Act on personnel management.

Subsystem B: The purpose of this subsystem is to assess the attitudes of supervisors/managers and senior level executives toward the recent reforms in the civil service system.

Subsystem C: The purpose of this subsystem is to determine and compare the effectiveness of Upward Mobility Programs and to ascertain the perceptions of the value of these programs by participants and their supervisors/managers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Office of Personnel Management or the contractor 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 individually identifiable by inference.

Subsystem A: None, other than as shown above.

Subsystem B: None, other than as shown above.

Subsystem C: None, other than as shown above.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

For all subsystems, records will be stored as a manual, automated, or hybrid system.

Manual records are maintained in file folders, on questionnaires, lists, and forms. Automated records in computer processible storage media.

Subsystem A: A hybrid system.
Subsystem B: A hybrid system.
Subsystem C: A hybrid system.

SAFEGUARDS:

For all subsystems, records are to be stored in locked file cabinets or secured rooms. Access to manual or automated records is limited to specially designated OPM or contractor personnel.

Subsystem A: These survey records are available for review only by OPM and contractor personnel.

Subsystem B: These survey records are available for review only by contractor personnel.

Subsystem C: These survey records are available for review only by contractor personnel.

RETENTION AND DISPOSAL:

In each subsystem, individually identifiable information may be destroyed in a relatively short period of time, e.g., as soon as practicable after aggregate statistics are compiled or after any followup request for an individual's voluntary participation in the survey.

Computerized records and statistical reports based on the data collected with all identifiers removed may be retained indefinitely. Other records are retained up to one year after completion of the survey.

Manual records are burned or shredded while automated records are erased.

Subsystem A: This subsystem will continue for a period of 4 years and some records will last the duration of the survey.

Subsystem B: The records in this subsystem will be destroyed at the completion of the survey, approximately July 1981.

Subsystem C: The records in this subsystem will be destroyed at the completion of the survey, approximately March 1982.

Note.—Where the Office, in conducting a survey, contracts with non-Federal parties, the contracts shall stipulate agreement to the above procedures on the part of the contractor.

SYSTEM MANAGER(S) AND ADDRESS:

For all subsystems, the system manager is (unless changed in the notice for the subsystem) the Chief, CSRA Evaluation Management Division, Office of Planning and Evaluation, Office of Personnel Management (Room 3305), 1900 E Street NW., Washington, D.C. 20415.

Subsystem A: As shown above.
Subsystem B: As shown above.
Subsystem C: As shown above.

NOTIFICATION PROCEDURE:

For all subsystems, individuals wishing to inquire whether this system of records contains information about them should contact:

a. The OPM office conducting the survey, if known, or the system manager;

b. When the survey is being conducted by a non-Federal contractor, the specific contractor involved; or

c. The office specified in the **Federal Register** notice announcing the subsystem if different from "a." or "b." of this section.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

e. Any additional identifiers as shown in the **Federal Register** announcement of the subsystem.

RECORD ACCESS PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the subsystem, any individuals wishing to request access to their records should contact the OPM sponsoring office, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Unless otherwise specified in the **Federal Register** notice for the subsystem, individuals wishing to request amendment to their records should contact the OPM sponsoring office conducting the survey, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Unless specified in the **Federal Register** notice announcing the subsystem, all subsystems obtain information from individual participants of the survey, from Office or agency personnel records, and from labor organizations.

[FR Doc. 80-31710 Filed 10-9-80; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 17191; SR-Amex-79-21]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 3, 1980.

On December 4, 1979, the American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which extends, in certain instances, the time before a business restriction is imposed.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–16575, February 14, 1980) and by publication in the **Federal Register** (45 FR 11636, February 21, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-31736 Filed 10-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17186; File No. SR-NYSE-80-37]

New York Stock Exchange, Inc.; Proposed Rule Change Self-Regulatory Organizations

Pursuant to Section 19b(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 26, 1980, the above-mentioned self-regulatory organization filed with with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is (deleted language in brackets []):

Every member shall register with the Secretary of the Exchange an address and subsequent changes thereof where notices may be served. [The registered address of every member who personally transacts business on the Floor must be in the vicinity of the Exchange.]

The Exchange's Statement of Purposes of Proposed Rule Change

The purpose of the proposed rule change is to eliminate the requirement that the registered address of every member who personally transacts business on the Floor must be in the vincinity of the Exchange. This part of Rule 341 was originally intended to facilitate expeditious clearance and settlement of transactions on the Floor. The creation of modern clearance and settlement facilities (e.g., the National Securities Clearing Corporation and the Depository Trust Company) have obviated the need to require all members to be in close proximity to the Exchange and one another to finalize transactions.

Basis Under the Act

The proposed rule change is consistent with Section 6(b)(2) in that it enhances the ability of any registered broker or dealer, or natural person associated with a registered broker or dealer, to become a member of the Exchange, by removing geographical impediments for members who wish to personally transact business on the Floor.

The proposed rule change is consistent with Section 6(b)(5) in that it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, by making Exchange requirement consistent with the geographical location requirements for members of the National Securities Clearing Corporation.

In addition, the proposed rule change would remove impediments to and enhance the perfection of the mechanism of a free and open market and a national market system by removing this geographical impediment thus allowing members who personally transact business on the Floor to have out of town addresses.

Comments Received From Members Participants or Others

No comments were solicited or received on the proposed rule change.

Burden on Competition

None.

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 Exchnage Commission, Washington, D.C. 20540. 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 an copying at the principal office of the above-mentioned self-regulatory orgainization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 31, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 2, 1980.

[FR Doc. 80-31740 Filed 10-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17194; File Nos. SR-BSE-80-6, SR-MSE-80-15, SR-NYSE-80-38]

Boston Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc.; Proposed Rule Change; Self-Regulatory Organizations

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 in September 1980,[1] the above-mentioned self-regulatory organizations filed with the Securities and Exchange Commission proposed rule changes as follows:

Summary of Terms of Substance of Proposed Rule Changes

The proposed rule changes would facilitate the start-up by the NYSE, BSE and MSE of an experimental pilot system which would operate as a component of the Intermarket Trading System (ITS), and which is intended to enhance the protection of "away from the market" public limit orders represented in any ITS participating market center against inferior priced executions in any other ITS participating market center. The experimental facility would be known as the Limit Order Information System (LOIS).

As the major terms of the rules proposed by the three exchanges are virually identical, they are summarized together as follows:[2]

(1) Inputting Information—For each LOIS designated stock, only the specialist may input all or any portion of his shares to buy or sell (both for limit orders he holds as agent and for his own account) at one-eighth of a point intervals, at prices away from the inside market on his exchange. If a specialist holds limit orders and does not represent them in LOIS and a block order (10,000 shares or more) is traded at a price which would have permitted those orders to be executed, the specialist would be responsible for executing those limit orders at the block price.

(2) Responsibility of Member Executing Block Order—If a member intends to execute a block order at a price ("clean-up price") below the best bid for the stock displayed by any participating market center, the executing member is required to (i)

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[1] The rule filings were submitted on September 19, 23 and 29 by the Boston Stock Exchange (BSE), New York Stock Exchange (NYSE) and Midwest Stock Exchange (MSE), respectively.

[2] The filings propose to amend Chapter XXXI of the BSE Rules, MSE Article XX, Rule 36 and NYSE Rule 15, all relating to the ITS. In addition, the NYSE proposes to make conforming amendments to the provisions of its Rules 104.10(7) and 127 regarding the execution of block transactions.

obtain a hard copy print-out which depicts the aggregate number of shares of the related stock which is represented by limit orders to buy in each participating market center at each price higher than the clean-up price (shares to be protected); and (ii) send, through the ITS, to each market center listed on the printout, a LOIS commitment to sell, at the clean-up price, the exact number of shares to be protected on such other market center as depicted on the hard copy printout.

The executing member would also send to each participating market center displaying a bid at a price higher than the clean-up price, a ITS commitment to sell, at the clean-up price, the number of shares displayed in that market center's bid. Such commitments would be treated in the same manner as all other ITS commitments.

The same procedure would be followed where the clean-up price of a block order is to be above the best offer for the stock displayed by any participating market center, with the executing member sending LOIS and ITS commitments to buy, at the clean-up price, all the shares entitled to protection.

(3) LOIS Commitments Received on the Exchange—LOIS commitments would be firm, requiring a specialist who receives one to execute it in its entirety, at the clean-up price. A specialist who receives a LOIS commitment to sell may take stock covered thereby for his own account at the clean-up price, provided that he does not hold any limit orders to buy such stock at that price which will not be provided with an execution as a result of such LOIS commitment. The NYSE and BSE proposed rules provide that, in such situations, the specialist may take shares covered by the commitment for his own account by paying a price one-eighth above the clean-up price. The same principle would apply in the event of a LOIS commitment to buy received by a specialist and any sale by such specialist for his own account.

The Exchanges Statement of Basis and Purpose

The Commission has identified the achievement of inter-market protection against executions at inferior prices as a fundamental element of the national market system. The exchanges stated that the LOIS pilot and the proposed rule changes are designed as a means of providing such protection with respect to certain block transactions for a limited number of multiply-traded securities.

The proposed rule changes relate specifically to Section 11A(a)(1)(D) in that they would increase the information available to brokers, dealers and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders.

In addition, the proposed rule changes respond to the Commission's request for the development of a system that is designed to achieve inter-market price protection.

Comments Received From Members, Participants or Others on Proposed Rule Change

The exchanges have not solicited nor have they received any comments regarding the proposed rule changes.

Burden on Competition

The exchanges do not believe that the proposed rule changes will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

On or before November 14, 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 six 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 organizations. All submissions should refer to the file numbers referenced in the caption above and should be submmitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 6, 1980.

[FR Doc. 80-31739 Filed 10-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 17196; SR-MSE-80-14]

Midwest Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

October 6, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on September 19, 1980, the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle, Chicago, Illinois 60603, filed with the Commission copies of a proposed rule change which would reinstate certain rules pertaining to allocation of exercise notices and to stock transfer taxes which were inadvertently deleted by a previous MSE rule filing.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSE-80-14.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that it would reinstate certain MSE rules which were inadevertently deleted by a previous MSE rule filing (SR-MSE-80-11) in which MSE rules regarding options trading were deleted but those rules pertaining to customer accounts were retained.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulations pursuant to delegated authority

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-31737 Filed 10-9-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21739; 70-5750]

New England Electric System; Proposed Extension of and Increase in Short-Term Borrowing Authorization

October 6, 1980.

Notice is hereby given that New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By orders dated December 1, 1975, May 23, 1977, December 18, 1978, and December 6, 1979 (HCAR Nos. 19272, 20047, 20834 and 21330), NEES was authorized to issue short-term notes to banks through December 31, 1980, in an aggregate amount not to exceed $25,000,000 outstanding at any one time.

By post-effective amendment filed in this proceeding, NEES now proposes that such borrowing authority be extended through the December 31, 1981, and that the maximum permitted borrowings be increased to $50,000,000.

Although no formal commitments have been made, NEES expects such borrowings will be made from among 34 commercial banks set forth in the post-effective amendment. The proposed borrowings will be evidenced by notes maturing in less than one year from date of issuance and bearing interest at a rate not in excess of the prime rate. NEES may either maintain compensating balances of 10% of the line of credit made available and 10% of any borrowings thereunder, or pay fees equivalent to such requirements. Based on a prime rate of 14%, the effective interest cost would be 17.5%.

Concerning the proposed increase in the maximum permitting borrowings, it is stated that NEES needs such increase to give it greater flexibility in the timing of its next common share issue in light of plans to make capital contributions to its subsidiary New England Power Company of $20,000,000 in October of 1980 (which contribution is the subject of the pending filing with this Commission) and $40,000,000 in 1981 (which contribution will be the subject of a future filing), and to make further funds available to its fuel subsidiary New England Energy Incorporated in 1980 and 1981 (which funding will also be the subject of a future filing).

The are no additional fees or expenses to be incurred in connection with the proposed transaction. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 4, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said appliction-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-31738 Filed 10-9-80; 8:45]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

Availability of Final Report; Myths and Realities: A Study of Attitudes Toward Vietnam Era Veterans

Notice is hereby given that the final report entitled, *Myths and Realities: A Study of Attitudes Toward Vietnam Era Veterans* has been completed by Louis Harris and Associates, Inc. The report contains information gathered from surveys of the general public, Vietnam era veterans, educators and employers concerning their attitudes toward Vietnam era veterans.

Copies of the report can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The stock number of the report is 052-070-05377-1. The cost is $10.00 per copy, which includes postage.

Dated: October 3, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-31640 Filed 10-9-80; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Boards for Health Services Research and Development and Rehabilitative Engineering Research and Development; Charter Renewals

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that charters for the above named committees have been renewed by the Administrator of Veterans Affairs for a two year period beginning September 5, 1980 through September 5, 1982.

Dated: October 3, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-31641 Filed 10-9-80; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 199
Friday, October 10, 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

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, October 13, 1980, 9 a.m.–12 noon; 1:30–4:30 p.m. Tuesday, October 14, 1:30–5 p.m. Wednesday, October 15, 9 a.m.–12 noon.

PLACE:

(October 13) Holiday Inn, Massachusetts Ave., N.W., at Thomas Circle, Washington, D.C. 20005.

(October 14–15) 1121 Vermont Ave., N.W., Washington, D.C. 20425.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: Monday, October 13.

I. Approval of Agenda.
II. Approval of Minutes of Last Meeting.
III. Memorandum on Six-Month Operating Plan.
IV. Review of affirmative Action Statement.
V. Review of Statement of the 96th Congress and Civil Rights.

Tuesday, October 14.

VI. SAC Actions.
A. Texas Re-charter.
B. Interim Appointments:
1. Florida.
2. Michigan.
VII. Transmittal of California Advisory Committee Report on State Employment.
VIII. Transmittal of Kansas Advisory Committee Report on Police-Community Relations in Wichita.
IX. Action re: Washington Advisory Committee Report on Equal Employment Opportunity in Tacoma.
X. Action Re: Rocky Mountain State's Report on Energy and Civil Rights.
XI. Action re: Alaska advisory Committee Report Entitled Employment in Alaska.
XII. Review of Proposed Rules and Regulations re: Civil Rights of Language Minority Students.
XIII. Action re: Proposal for Miami Hearing.

Wednesday, October 15.

XIV. Review of Child Care Report.
XV. Staff Director's Report:
A. Status of Funds.
B. Personnel Report.
C. Office Directors' Reports.

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division 254–6697.

[S-1870-80 Filed 10-8-80; 11:32 am]

BILLING CODE 6335-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 15, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth Floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed regulations on the sponsorship of associated persons and fingerprinting.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1866-80 Filed 10-8-80; 9:52 am]

BILLING CODE 6351-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

October 7, 1980.

TIME AND DATE: 10 a.m., Wednesday, October 15, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Cowin and Company, Docket Nos. HOPE 76–210–P, etc. (Petition for Discretionary Review; issues include whether 30 CFR § 77.1903(b) is a mandatory safety standard, and whether enforcement against an independent contractor was barred by an "owner only" enforcement policy of the Secretary of Labor.)
2. Kaiser Steel Corporation, Docket No. DENV 78–512–P. (Petition for Discretionary Review: issues include whether the penalty assessed for a violation of 30 CFR § 75.301 was excessive.)
3. C F & I Steel Corporation, Docket No. DENV 76–46, IBMA 77–10 (Issues include what constitutes a "clean" inspection under section 104(c)(2) of the 1969 Coal Act.)
4. Everett Propst and Robert Stemple, Docket No. MORG 76–28–P. (Issues include whether section 109(c) of the 1969 Coal Act violates the constitutional right to equal protection.)
5. Kenny Richardson, Docket No. BARB 78–600–P (Issues same as #4.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202–653–5632.

[S-1872-80 Filed 10-8-80; 3:17 pm]

BILLING CODE 6820-12-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 45, Issue No. 194, Page No. 65764, Date of Publication—October 3, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., October 8, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting:

Increase in Accounts of an Insurable Type (Merger) and Cancellation of Membership and Insurance and Transfer of Stock Willamette Savings and Loan Association Milwaukie, Oregon into American Savings and Loan Association, Salt Lake City, Utah. No. 403, October 8, 1980.

[S-1889-80 Filed 10-8-80; 10:29 am]

BILLING CODE 6720-01-M

5

FEDERAL RESERVE SYSTEM.

(Board of Governors).

TIME AND DATE: 9:30 a.m., Tuesday, October 7, 1980.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on October 6, 1980.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 7, 1980.

Theodore E. Allison,

Secretary of the Board.

[S–1876–80 Filed 10–8–80; 8:53 am]

BILLING CODE 6210–01–M

6

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND PLACE: 9:30 a.m., October 17, 1980.

PLACE: Board for International Broadcasting conference room, suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, suite 430, 1030 15th Street NW., Washington, D.C. 20005, 202–254–8040.

[S–1871–80 Filed 10–8–80; 12:05 pm]

BILLING CODE 6155–01–M

7

NATIONAL SCIENCE BOARD.

DATE AND TIME:

October 16, 1980, 1 p.m. (open session); 4 p.m. (closed session).

October 17, 1980, 8:30 a.m. (open session); 11 a.m. (closed session).

PLACE: 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Thursday, October 16,

1 p.m.:

1. Minutes—Open Session—219th Meeting.
2. Chairman's Items.
3. Director's Report:
   a. Report on Grant & Contract Activity—> 9/17–10/15/80.
   b. Organizational and Staff Changes.
   c. Congressional and Legislative Matters.
   d. NSF Budget for Fiscal Year 1981.
   e. Other Items.
4. Board Committees—Reports on Meetings.
5. NSF Advisory Groups and Other Events:
   a. Reports on Meetings.
   b. Representation at Future Meetings.
6. Reports on Site Visits to Materials Research Laboratories.
7. Review of Budgetary Process.
8. Grants, Contracts, and Programs.
9. Swearing-in of New Members of National Science Board by Dr. Frank Press, Science and Technology Adviser to the President.

Friday, October 17, 8:30 a.m.:

10. Proposed Reorganization of NSF.
11. Program Review—Science Resources Studies.
12. Other Business.
13. Next Meeting: National Science Board—221st Meeting—November 20–21.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSIONS:

Thursday, October 16, 4 p.m.

A. Discussion with Dr. Frank Press, Science and Technology Adviser to the President, on Future Budgets of the U.S. Government and the President's Future Economic Program.

Friday, October 17, 11 a.m.:

B. Minutes—Closed Session—219th Meeting.
C. Grants, Contracts, and Programs.
D. NSF Budgets for Fiscal Year 1982 and Subsequent Years.
E. NSB and NSF Staff Nominees.
F. NSB Annual Reports.
G. Personnel Implications of Proposed Reorganization of NSF.

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 357–9582.

[S–1868–80 Filed 10–8–80; 10:20 am]

BILLING CODE 7555–01–M

8

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 45, No. 197, Page 66943, Wednesday, October 8, 1980.

TIME AND DATE: 9 a.m., October 16, 1980.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois 60611.

CHANGES IN THE MEETING: Additional item to be considered at the portion of the meeting which will be open to the public:

(4) Procedure for handling of routine correspondence.

Additional item to be considered at the portion of the meeting which will be closed to the public:

(G) Appeal from referee's denial of disability annuity, Rosine D. Luna.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board; COM No. 312–751–4920, FTS No. 387–4920.

[S–1874–80 Filed 10–8–80; 3:35 pm]

BILLING CODE 7905–01–M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, October 2, 1980.

CHANGES IN THE MEETING: Rescheduling/additional items. The following items were not considered at a closed meeting scheduled on Tuesday, October 7, 1980, following the 10 a.m. open meeting:

Regulatory matters bearing enforcement implications.

Proposed order of administrative proceeding of an enforcement nature.

The closed meeting scheduled for Thursday, October 9, 1980, at 8:30 a.m. has been rescheduled for 8 a.m. to include the following additional items:

Regulatory matters bearing enforcement implications:

The following additional item will be considered at an open meeting scheduled for Thursday, October 9, 1980, at 10 a.m.:

Consideration of whether to extend the deadline for public comments concerning proposed amendments to Form X–17A–5, the Financial and Operational Combined Uniform Single ("FOCUS") Report and Rule 17a–5 under the Securities Exchange Act of 1934. For further information, please contact James G. Moody at (202) 272–2370 or William J. Atkinson at (202) 523–5493.

The following additional items will be considered at a closed meeting scheduled for Thursday, October 9, 1980, following the 10 a.m. open meeting:

Subpoena enforcement action.

Institution of administrative proceeding of an enforcement nature.

Freedom of Information Act appeal.

Referral and access to investigative files by Federal, State, or Self-Regulatory authorities.

Access to investigative files by Federal, State, or Self-Regulatory authorities.

Proposed orders of administrative proceedings of an enforcement nature.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

October 8, 1980.

[S–1873–80 Filed 10–8–80; 3:36 pm]

BILLING CODE 8010–01–M

federal register

Friday
October 10, 1980

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Interim Regulatory Program

DEPARTMENT OF THE INTERIOR

30 CFR Part 722

Interim Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining (OSM) proposed rules on July 1, 1980 (45 FR 44326), to clarify OSM's authority to impose administrative sanctions against permittees found to be in violation of any requirement of the Surface Mining Control and Reclamation Act of 1977 (Act) or the regulations promulgated thereunder and in effect during the interim regulatory program. The Office requested written comments and requested interested persons to testify at a public hearing held in Washington, D.C. on July 22, 1980. These final rules are the result of all comments received.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Neil Stoloff, OSM, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–4352.

SUPPLEMENTARY INFORMATION:

Background

These revisions amend OSM's interim program regulations, which implement sections 521(a)(2) and (3) of the Act, to make clear OSM's authority to take enforcement action against any permittee who has violated or is violating "any requirement of this Act," 30 USC 1271. Prior to this rulemaking, the regulations required issuance of a cessation order in every instance where OSM finds "conditions or practices, or violations of applicable performance standards which create an imminent danger to the health and safety of the public" (30 CFR 722.11), and the issuance of a notice of violation in every instance where the agency finds a violation "which is not covered by § 722.11" (30 CFR 722.12).

The Interior Board of Surface Mining Appeals (Board) construed §§ 722.11 and 722.12 in *Eastover Mining Co.* v. *OSM* (Eastover), 2 IBSMA 70 (May 16, 1980). The Board ruled that these two sections must be construed in relation to one another; thus, the word "violations" in § 722.12 referred to "violations of applicable performance standards" as set out in § 722.11. In *Eastover*, an inspector issued a notice of violation to a permittee when she was prohibited from taking photographs of an apparent violation at the site, due to an alleged company policy limiting picture-taking to company employees. She subsequently issued a cessation order to the company when it failed to abate the violation (interference with a Federal inspection) within the 24-hour abatement period set in the notice of violation. By virtue of its construction of §§ 722.11 and 722.12, the Board held in *Eastover* that interference with a Federal inspection, which is not a "performance standard" violation, is not administratively sanctionable. The Board's holding implies that OSM's authority to issue notices of violation and cessation orders may be limited to those instances where OSM finds violations of applicable performance standards. Other requirements and obligations of operators, not governed by performance standards, would be outside the scope of OSM's enforcement authority.

Since, as noted above, sections 521(a)(2) and (3) of the Act mandate the taking of enforcement action whenever an inspector finds a permittee in violation of "any requirement of this Act," 30 USC 1271, OSM believes the intent of Congress to be that the administrative sanctions and procedures of the Act apply more broadly than is implied in *Eastover*. This is reflected in 30 CFR 843.11 and 843.12, which are the permanent program regulations implementing sections 521(a)(2) and (3) of the Act, and which were published at 44 FR 15458–59 (March 13, 1979). Sections 843.11 and 843.12 make clear OSM's authority to take enforcement action against a permittee whenever OSM finds *any* violation of requirements of the Act or applicable regulations. OSM is amending the language "violations of applicable performance standards" (30 CFR 722.11(a) and (b)), and "a violation which is not covered by § 722.11 of this part" (30 CFR 722.12(a)) to read, in all instances, "a violation of any requirement of the Act, or any requirement of this Chapter applicable during the interim regulatory program."

It should be noted that the rules as promulgated here differ from those proposed at 45 FR 44326 (July 1, 1980) in that OSM is revising 30 CFR 722.11(b) in addition to 30 CFR 722.11(a) and 722.12(a). The phrase "violation of applicable performance standards" from 30 CFR 722.11(b) is revised to read "violations of any requirement of the Act, or any requirement of this Chapter applicable during the interim regulatory program." Furthermore, minor typographical errors have been corrected. These additional revisions simply ensure that the regulations will remain internally consistent.

In the preamble to the proposed rules, OSM requested written and oral comments from all interested persons. Although no person submitted oral comments, those written comments received and the disposition of each are described below.

Comments on the Proposed Rules

1. Several comments were received which fully supported OSM's decision to clarify its enforcement authority for non-performance standard violations. These commenters generally asserted that OSM has no alternative but to fulfill the congressional mandate contained in sections 521(a)(2) and (3) of the Act, and that these amendments to the agency's regulations accomplish this.

2. One commenter objected to the proposed amendments on the grounds that OSM has authority to impose administrative sanctions only where there is a violation of a performance standard. The commenter argued that section 521(a)(3) of the Act provides that an inspection must take place before a notice of violation can be issued by OSM. Where an inspection is prevented, the commenter argued, an administrative sanction is not proper because section 521(c) of the Act provides OSM with a civil remedy for immediate relief in the case of interference with an inspection. Another commenter similarly noted that section 704 of the Act provides OSM with an appropriate criminal remedy in the case of interference with a Federal inspection.

OSM disagrees with these comments. As was pointed out in the preamble to the proposed rules, 45 FR 44326, Congress, through sections 521(a)(2) and (3) of the Act, required OSM to take enforcement action when it finds a violation of any requirement of the Act. The phrase "any requirement" comprehends more than violations directly related to performance standards. Interference with an inspection need not totally prevent that inspection from taking place, but may only hamper a certain aspect of the inspection (e.g., as in *Eastover*, the gathering of photographic evidence) from peacefully proceeding. A notice of violation in such an instance can be deemed to have its basis in an inspection accomplished to the fullest degree possible. While the Act does provide OSM with criminal and civil relief from interference with an inspection, such provisions do not conflict with the congressional mandate that OSM issue a citation when it finds any violation of the Act or regulations. The proposed amendments are complementary to, and do not

supersede, the civil and criminal remedies contained in sections 521(c) and 704 of the Act.

3. One commenter suggested that OSM take this opportunity to specifically detail all obligations and standards to be met by coal mine operators. The commenter pointed out that, by seeming to broaden the discretionary authority of its inspectors, OSM would antagonize and alienate the coal mining industry. The commenter additionally expressed concern that the proposed amendments would engender abuse of discretion by inspectors.

OSM disagrees with these comments. The scope of activities which take place at an active minesite is so broad that to delineate the specific obligations of operators with regard to each type of activity at every moment of operation would be an impossible undertaking. OSM believes that the decision as to appropriate enforcement action must be left to the reasoned judgment of the Secretary's authorized representative. OSM inspectors are hired on the basis of their professional education and experience, and are further trained by the agency to exercise their best professional judgment in enforcing the specific standards and environmental concerns addressed in the Act and the regulations. Since these amendments serve to clarify, rather than to widen or otherwise change, the ways in which OSM may implement the enforcement authority granted it in sections 521(a)(2) and (3) of the Act, OSM has no reason to anticipate that the adoption of these rules will encourage inspectors to abuse the discretion they have necessarily been given for the effective performance of their duties.

The Department of the Interior has determined that this document is not a significant rule and does not require a Regulatory Analysis under Executive Order 12044 and 43 CFR Part 14.

Section 501(a) of the Surface Mining Reclamation and Control Act of 1977 exempts this action from the Environmental Impact Statement requirement of the National Environmental Policy Act of 1969.

Drafting Information

These regulations were drafted primarily by Neil Stoloff, Enforcement Specialist, Division of Enforcement.

Dated: October 6, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Accordingly, §§ 722.11(a) and (b), and 722.12(a) of 30 CFR are revised to read as follows:

[Secs. 201, 501, and 502, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201)]

§ 722.11 Imminent dangers and harms.

(a) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this Chapter applicable during the interim regulatory program, which create an imminent danger to the health or safety of the public, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

(b) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or any requirement of this Chapter applicable during the interim regulatory program, which are causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion of the operation relevant to the condition, practice, or violation.

* * * * *

§ 722.12 Non-imminent dangers or harms.

(a) If an authorized representative of the Secretary finds conditions or practices, or violations of any requirement of the Act, or of any requirement of this Chapter applicable during the interim regulatory program, but such violations do not create an imminent danger to the health or safety of the public, or are not causing and cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the authorized representative shall issue a notice of violation fixing a reasonable time for abatement.

* * * * *

[FR Doc. 80-31768 Filed 10-9-80; 8:45 am]

BILLING CODE 4310-05-M

federal register

Friday
October 10, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

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 Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado: CO79–5117	June 15, 1979.
Hawaii: HI80–5134	Oct. 3, 1980.
Louisiana: LA80–4026	June 13, 1980.
Michigan:	
MI80–2042	July 18, 1980.
MI80–2062	Aug. 15, 1980.
MI80–2066	Aug. 22, 1980.
MI80–2068	Aug. 22, 1980.
New Jersey: NJ80–3024	May 2, 1980.
New York:	
NY80–3045	July 25, 1980.
NY80–3046	July 25, 1980.
NY80–3048	July 25, 1980.
NY80–3050	Aug. 29, 1980.
Pennsylvania:	
PA79–3001	Feb. 2, 1979.
PA80–3025	Apr. 11, 1980.
PA80–3026	Apr. 11, 1980.
PA80–3027	Apr. 18, 1980.
PA80–3028	Apr. 11, 1980.
PA80–3029	Apr. 25, 1980.
PA80–3031	Aug. 29, 1980.
PA80–3032	May 30, 1980.
PA80–3037	May 2, 1980.
PA80–3038	May 23, 1980.
PA80–3043	July 7, 1980.
PA78–3078	Oct. 20, 1978.
Texas:	
TX79–4035	Sep. 28, 1979.
TX80–4031	June 6, 1980.
TX80–4032	June 6, 1980.
TX80–4035	June 20, 1980.
TX80–4037	May 16, 1980.
Wisconsin:	
WI80–2079	Sept. 5, 1980.
WI80–2083	Sept. 19, 1980.
Wyoming: WY80–5129	Sept. 19, 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.

North Dakota: ND80-5103(ND80-5132)..... Feb. 1, 1980.
Pennsylvania: PA79-3005(PA80-3060)..... Mar. 16, 1979.
Texas:
TX80-4003(TX80-4073)..... Jan. 4, 1980.
TX80-4004(TX80-4076)..... Jan. 4, 1980.
TX80-4006(TX80-4078)..... Jan. 4, 1980.
TX80-4028(TX80-4077)..... Apr. 25, 1980.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 3rd day of October 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. CO79-5117 - Mod. #9 (44 FR 43719 - June 15, 1979) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$ 13.64	.75	1.37		
Boilermakers	13.87	1.375	1.15		.05
Drywall Installers	11.72	1.00	.85	1.00	.07
Elevator Constructors:					
Elevator Constructors	13.26	1.195	.82	a	.035
Elevator Constructors' Helpers	9.28	1.195	.82	a	.035
Lathers	12.94				.01
Marble Setters:					
Elbert, Lake and Park Counties	11.79	.85	.70		
Sheet Metal Workers	13.20	3%+.73	1.51		.01
Tile Layers:					
Elbert, Lake and Park Counties	11.79	.85	.70		
OMIT:					
Roofers (Mod. #8)	12.57	.80	.25		.08
Terrazzo Workers	10.89	1.00	1.00		.04
ADD:					
Roofers:					
Eagle and Southern portions of Lake, Jefferson, Park, Douglas & Elbert Counties	11.41	.59	.40		
Remaining Counties including Northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	13.17	.90	1.25	.90	.08
Terrazzo Workers:					
Elbert, Lake and Park Counties	11.79	.85	.70		
Remaining Counties	12.40	1.10	1.15		.04

MODIFICATION PAGE 2

DECISION NO. HI80-5134 - Mod. #1
(FR dated October 3, 1980)

STATEWIDE HAWAII	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Change "Supersedeas Decision No. HI78-5130 dated November 24, 1980" to read "Supersedeas Decision No. HI78-5130 dated November 24, 1978."					

DECISION NO. LA80-4026 - MOD. #4
(45 FR 40438 - June 13,1980)
Statewide Louisiana

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boilermakers	$12.70	1.275	1.00		.03
Asbestos workers - Zone 3	11.70	.65	1.30		.07
Bricklayers & stonemasons:					
Zone 3	13.50	.53	.67		.05
Zone 5	12.25				
Carpenters:					
Zone 10:					
Carpenters & soft floor layers	11.10	.70	.45		.10
Millwrights	12.00	.70	.45		.10
Piledrivermen	11.60	.70	.45		.10
Zone 2 - Millwrights	14.13				.07
Cement masons - Zone 5	11.35				
Electricians:					
Zone 4 - Electricians	14.00	.70	3%		2/10%
Cable splicers	14.25	.70	3%		2/10%
Zone 6 - Electricians	12.75	.85	3%		1/2%
Cable splicers	13.25	.85	3%		1/2%
Glaziers - Zone 1	12.25			a + b	.02
Footnote:					
a - 5 days paid vacation					
b - 6 paid Holidays: New Years' Day; Good Friday; 4th of July; Labor Day; Thanksgiving Day; Christmas Day					
Line construction:					
Lineman, equipment ops.	14.00	.70	3%		
Cable splicers	14.25	.70	3%		
Groundmen	50%JR	.70	3%		
Marble, tile & terrazzo workers & finishers:					
Zone 2:					
Marble & terrazzo worker	13.50	.53	.67		.05
Zone 9:					
Tile setters	12.25				
Plasterers - Zone 1	11.70				

DECISION NO. LA80-4026(CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Zone 6:					
Group 1	$12.36	.65	1.00		.10
Group 2	12.61	.65	1.00		.10
Group 3	12.86	.65	1.00		.10
Group 4	13.11	.65	1.00		.10
Group 5	13.36	.65	1.00		.10
Group 6	13.61	.65	1.00		.10
Group 7	12.11	.65	1.00		.10
Group 8	10.80	.65	1.00		.10
Group 9	9.44	.65	1.00		.10
Group 10	8.58	.65	1.00		.10
Group 11	7.99	.65	1.00		.10
Group 12	8.93	.65	1.00		.10

GROUP 1 - Crane 60 tons & over; Crane op. boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.
GROUP 2 - Crane 100 tons up to 125 tons; Crane op. boom 150 ft. but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.
GROUP 3 - Crane 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.
GROUP 4 - Crane 200 tons up to 300 tons
GROUP 5 - Crane op. boom 300 ft. & over
GROUP 6 - Crane 300 tons
GROUP 7 - Crane; Backhoe; Cableway; Concrete Mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on Asphalt or Brick (5 tons or over); Shovel; Sideboom Cat; Bulldozer; Motor Patrol;Scraper; Hydrolift Crane, Hydrolift Truck, Yard Crane, Cherry Picker, etc.; Foundation Boring & Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator & similar front end loading equipment with Scoop or bucket of one (1) cubic yard or more capacity; Tug Boat Op.; Turnapull, Euclid, DW-10 & other similar self-loading earth moving equipment; Concrete Pump (not Pump Crete)
GROUP 8 - A-Frame Truck; Crew Boat Op.; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile & similar front-end loading equipment with Scoop or bucket under one (1) cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist-1 drum, 4 stories & over
GROUP 9 - Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist-1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street & Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole Digger; Tractor Operated Bush Hog & similar grass or bush cutting equipment
GROUP 10 - Batch Plant Operator
GROUP 11 - Oiler
GROUP 12 - Pumps over 3 inch suction; snatch cat

MODIFICATION PAGE 5

DECISION NO. LA80-4026(CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Op.(Cont'd):					
Zone 7 - Group 1	$11.38	.65	1.00		.10
Group 2	9.85	.65	1.00		.10
Group 3	11.03	.65	1.00		.10
Group 4	10.98	.65	1.00		.10
Group 5	8.84	.65	1.00		.10
Group 6	8.17	.65	1.00		.10
Group 7	11.63	.65	1.00		.10
Group 8	11.88	.65	1.00		.10
Group 9	12.13	.65	1.00		.10
Group 10	12.38	.65	1.00		.10
Group 11	12.88	.65	1.00		.10
Group 12	13.38	.65	1.00		.10

GROUP 1 - A-Frame Truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete Mixers (over 16S), paving machines, cranes, derricks, draglines & clamshells; Concrete Pump/Boom Combinations; Deck Winches (2); Economobile Model No. 620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro Cranes; Mechanic; Motor Patrols; Piledrivers; Rollers on brick & asphalt; Rubber tired front end loader, with or without blade attachment, 1 cubic yard capacity or more; Scrapers; Shovels, backhoes (all types); Side Boom Cats; Stabilizers, 3 drums or more; Traxcavators; Trenching Machines; Welder Journeyman; Work Boats requiring licensed operators

GROUP 2 - A-Frame Truck except when working with ironworkers or pipefitters; Air Compressor; Asphalt Plant Engineers; Asphalt Finisher, screed men; Blade Graders; Small Boat Op.; Bull Floats; Concrete joining machines; Concrete Mixers, 16S & under; Concrete Spreader; Crusher op.; Deck Winch (1); Distributors, asphalt; "Ditch Witch" & similar equipment; Electric Elevators (inside); Finishing Machine; Firemen; Form Graders; Fork Lifts; Hoist, 1 drum, under 4 stories; Power Subgraders; Pug Mill; Pull Tractors; Pump; Pump Crete; Rollers, except on brick & asphalt; Rubber Tired Front end loader (with or without blade attachment) less than one (1) cubic yard capacity; Scale Op.; Scoopmobile; Snatch Cats; Spray Machines; Stabilizers, less than 3 drums; Straddle-buggy; Track Machines & equivalent machines

GROUP 3 - Unit & Wellpoint Operators

GROUP 4 - Outside electric elevator op.

GROUP 5 - Batch Plant Operator; Oilers (Driver)

GROUP 6 - Oiler

GROUP 7 - Crane, 60 tons & above; Crane Op. Boom 100 ft. & over but less than 150 ft.; Tower crane boom height 100 ft. & over but less than 150 ft.

GROUP 8 - Crane 100 tons & up to 125 tons; Crane Op. Boom 150 ft. & over but less than 225 ft.; Tower Crane boom height 150 ft. & over but less than 225 ft.

GROUP 9 - Crane 125 tons & up to 200 tons

GROUP 10 - Crane 200 tons up to 300 tons; Crane Op. Boom 225 ft. & over but less than 300 ft.; Tower Crane boom height 225 ft. & over up to 30 floors

GROUP 11 - Crane 300 ton & up to 400 tons; Crane Op. Boom 300 ft. & over but less than 400 ft.; Tower cranes over 30 floor;

GROUP 12 - Crane over 400 tons; Crane Op. Boom 40 ft. & over

MODIFICATION PAGE 6

DECISION NO. MI80-2042
MOD # 3
(45 FR 48417 July 18,1980)

STATEWIDE, MICHIGAN

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Structural & Reinforcing					
ZONE 1	$12.20	.80	1.15	2.00	.04
ZONE 3					
Structural	13.90	9%	17%	18%	.09
Reinforcing	12.08	1.48	19%	19%	.12

DECISION NO. MI80-2062 MOD #1 (45 FR 54615 August 15, 1980)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda & Presque Isle Cos., Michigan					
CHANGE:					
BOILERMAKERS	$14.67	1.38	1.45	2.00	.05
CARPENTERS:					
Mason, Muskegon, & Oceana Cos.					
Piledrivers	12.99	.75	.90		.10
ELECTRICIANS:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatan Township) Cos. & (Grant, Freesoil, and Meade Townships) in Mason County	12.85	.75	3% + .65		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Ocscoda & Presque Isle:					
Constructor	14.02	1.195	.95	a	.035
Helper	70%JR	1.195	.95	a	.035
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda & Presque Isle:					
Fence Erectors	12.80	9%	17%	18%	.09
PAINTERS:					
Mason County	10.75				
PLUMBERS & STEAMFITTERS:					
Alcona & Oscoda Cos.	15.12	1.12	.70		.05
Mason, Muskegon & Oceana Cos.	13.36	1.25	1.87		
ROOFERS:					
Remainder of Counties:					
Composition, Damp & Waterproofers	12.00				

DECISION NO. MI80-2062 MOD # 1 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Mason, Muskegon & Oceana Cos.	$12.40	.92	1.20	1.00	.04
Remaining Counties	14.39	.80	1.00		.05
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION					
CLASS A	14.80	1.05	*1.80		.10
CLASS B	14.45	1.05	*1.80		.10
CLASS C	14.05	1.05	*1.80		.10
CLASS D	12.70	1.05	*1.80		.10
CLASS E	12.45	1.05	*1.80		.10
CLASS F	11.15	1.05	*1.80		.10
CLASS G	10.40	1.05	*1.80		.10
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
ALCONA, ALPENA, MONTMORENCY OSCODA & PRESQUE ISLE COS.					
CLASS A	15.88	1.05	*1.80	12%	.10
CLASS B	15.63	1.05	*1.80	12%	.10
CLASS C	14.75	1.05	*1.80	12%	.10
CLASS D	14.54	1.05	*1.80	12%	.10
CLASS E	11.98	1.05	*1.80	12%	.10
CLASS F	10.81	1.05	*1.80	12%	.10

DECISION NO. MI80-2062
MOD # 1 (Cont.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
REMAINING COUNTIES					
CLASS A	$15.15	1.05	*1.80		.10
CLASS B	14.90	1.05	*1.80		.10
CLASS C	14.40	1.05	*1.80		.10
CLASS D	13.05	1.05	*1.80		.10
CLASS E	11.75	1.05	*1.80		.10
CLASS F	10.50	1.05	*1.80		.10
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION					
CLASS I	11.35	1.05	*1.80	12%	.10
CLASS II	10.96	1.05	*1.80	12%	.10
CLASS III	10.51	1.05	*1.80	12%	.10
CLASS IV	10.26	1.05	*1.80	12%	.10

* Retiree Benefit Fund Included in Pension Fund

DECISION NO. MI80-2066 MOD # 1
(45 FR 56290 August 22, 1980)

Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Cos., Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$14.67	1.38	1.45	2.00	.05
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.					
Bricklayers & Stonemasons	13.45	.90	1.65		
Marble-Tile-Terrazzo Workers	12.00	.90	1.65		
St. Clair & Sanilac Cos.					
Marble Setters	14.61	1.00	1.75		
Tile Setters	14.13	1.00	1.75		
CARPENTERS:					
Sanilac (Except the West 5 Miles) & St. Clair Cos.					
Soft Floor Layers	12.15	1.10	8%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac Co.					
Carpenters & Piledrivermen	13.15	.75	.90		.02
Soft Floor Layers	11.82	.75	.90		.01
CEMENT MASONS:					
Lapeer County	12.10	.90	1.65		
ELEVATOR CONSTUCTORS:					
St. Clair County:					
Constructors	15.29	1.20	.82	a	.035
Helpers	70%JR	1.20	.82	a	.035
Remainder of Counties:					
Constructors	14.02	1.195	.95	a	.035
Helpers	70%JR	1.195	.95	a	.035
IRONWORKERS:					
Fence Erectors	12.80	9%	17%	18%	.09
PAINTERS:					
Saginaw Co. & the Remainder of Tuscola Co.					
Brush	11.20		1.05		.02
Spray	11.95		1.05		.02

DECISION NO. MI80-2066 MOD #1 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Lapeer County	12.35	.90	1.65		
Bay, Huron, Iosco, Saginaw & Tuscola Cos.	13.13	.88	.20		
PLUMBERS & STEAMFITTERS					
Genesee, Lapeer & Shiawassee Cos.	14.64	1.17	1.70		.03
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.					
Composition	13.68	.80	1.00		.02
Slate & Tile	14.03	.80	1.00		.02
St. Clair, Sanilac & Huron Cos.	10.20				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Cos.	14.39	.80	1.00		.05
St. Clair & Sanilac Cos.	13.205	2.33	2.49	1.45	.12
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	10.24	.75	.50		.04
CLASS B	10.36	.75	.50		.04
CLASS C	10.44	.75	.50		.04
CLASS D	11.01	.75	.50		.04
St. Clair & Sanilac Counties					
CLASS 1	12.18	.75	.50		.04
CLASS 2	12.30	.75	.50		.04
CLASS 3	12.43	.75	.50		.04
CLASS 4	12.35	.75	.50		.04
CLASS 5	12.53	.75	.50		.04

DECISION NO. MI80-2066 MOD #1 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION					
ST.CLAIR COUNTY					
CLASS A	$14.98	1.05	*1.80	12%	.10
CLASS B	14.76	1.05	*1.80	12%	.10
CLASS C	14.27	1.05	*1.80	12%	.10
CLASS D	13.92	1.05	*1.80	12%	.10
CLASS E	13.54	1.05	*1.80	12%	.10
CLASS F	11.61	1.05	*1.80	12%	.10
CLASS G	10.78	1.05	*1.80	12%	.10
POWER EQUIPMENT OPERATOR: STEEL ERECTION					
CLASS A	15.88	1.05	*1.80	12%	.10
CLASS B	15.63	1.05	*1.80	12%	.10
CLASS C	14.75	1.05	*1.80	12%	.10
CLASS D	14.54	1.05	*1.80	12%	.10
CLASS E	11.98	1.05	*1.80	12%	.10
CLASS F	10.81	1.05	*1.80	12%	.10
POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION					
REMAINDER OF COUNTIES					
CLASS A	14.80	1.05	*1.80		.10
CLASS B	14.45	1.05	*1.80		.10
CLASS C	14.05	1.05	*1.80		.10
CLASS D	12.70	1.05	*1.80		.10
CLASS E	12.45	1.05	*1.80		.10
CLASS F	11.15	1.05	*1.80		.10
CLASS G	10.40	1.05	*1.80		.10

DECISION NO. MI80-2066
MOD # 1 (Cont.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION					
IOSCO COUNTY					
CLASS I	$11.35	1.05	*1.80	12%	.10
CLASS II	10.96	1.05	*1.80	12%	.10
CLASS III	10.51	1.05	*1.80	12%	.10
CLASS IV	10.26	1.05	*1.80	12%	.10
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION					
REMAINDER OF COUNTIES					
CLASS I	12.88	1.05	*1.80	12%	.10
CLASS II	12.63	1.05	*1.80	12%	.10
CLASS III	11.97	1.05	*1.80	12%	.10
CLASS IV	11.46	1.05	*1.80	12%	.10

* Retiree Benefit Fund Included in Pension

DECISION NO. MI80-2068
MOD # 1
(45 FR 56296 August 22,1980)

Macomb, Monroe, Oakland, Washtenaw, & Wayne Cos., Michigan

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$15.64	.60	1.55		.03
BOILERMAKERS:					
Remainder of Counties	14.67	1.38	1.45	2.00	.05
CARPENTERS & PILDRIVERMEN:					
Washtenaw County	14.14	.75	.90		.05
CEMENT MASONS:					
South of Hwy. #151 in Monroe Co.	13.05	.70	1.10		.02
Remainder of Counties & North of Hwy #151 in Monroe CO.	14.10	1.28	1.87		.02
ELECTRICIANS:					
Remainder of Counties:					
Building	14.40	1.65	3%+1.20		.05
Residential	14.40	1.65	3%+1.20		.05
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Constructors	15.29	1.20	.82	a	.035
Helpers	70%JR	1.20	.82	a	.035
IRONWORKERS:					
Remainder of Counties:					
Fence Erectors	12.80	9%	17%	18%	.08
MILLWRIGHTS:					
Washtenaw Co.	14.14	.75	.90		.05
PLUMBERS & STEAMFITTERS:					
Monroe Co.	15.62	1.06	1.30		.12
ROOFERS:					
Monroe Co.	12.98	1.06	1.50		.02
Washtenaw Co.:					
Composition	13.57	1.20	.75	1.25	.10
Slate	14.88	1.20	.75	1.25	.10
SHEET METAL WORKERS:					
Remainder of Counties	13.205	2.33	2.49	1.45	.12

DECISION NO. MI80-2068
MOD # 1 (Cont.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$14.14	.75	.90		.05
Remainder of Counties	12.15	1.10	8%	8%	.03
SPRINKLER FITTERS:					
Monroe Co.	14.61	.85	1.20		.08
TILE & TERRAZZO WORKERS:					
Washtenaw Co.	15.47		1.30		
Remainder of Counties:					
Tile Setters	14.13	1.00	1.75		
LABORERS:					
BUILDING, RESIDENTIAL, & HEAVY					
Wayne, Oakland & Macomb Cos.					
GROUP 1	10.05	1.00	.95	1.10	.04
POWER EQUIPMENT OPERATORS: BUILDING, RESIDENTIAL, & HEAVY CONSTRUCTION					
CLASS A	14.98	1.05	*1.80	12%	.10
CLASS B	14.76	1.05	*1.80	12%	.10
CLASS C	14.27	1.05	*1.80	12%	.10
CLASS D	13.92	1.05	*1.80	12%	.10
CLASS E	13.54	1.05	*1.80	12%	.10
CLASS F	11.61	1.05	*1.80	12%	.10
CLASS G	10.78	1.05	1.80	12%	.10
POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS A	15.88	1.05	*1.80	12%	.10
CLASS B	15.63	1.05	*1.80	12%	.10
CLASS C	14.75	1.05	*1.80	12%	.10
CLASS D	14.54	1.05	*1.80	12%	.10
CLASS E	11.98	1.05	*1.80	12%	.10
CLASS F	10.81	1.05	*1.80	12%	.10

DECISION NO. MI80-2068
MOD # 1 (Cont.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION					
CLASS I	$12.88	1.05	*1.80	12%	.10
CLASS II	12.63	1.05	*1.80	12%	.10
CLASS III	11.97	1.05	*1.80	12%	.10
CLASS IV	11.46	1.05	*1.80	12%	.10

* Retiree Benefit Fund Included in Pension

DECISION NO. NJ80-3024 - MOD. #2 (45 FR 29515 - May 2, 1980) Bergen, Essex, Hudson and Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13.34	8%	20%+.25	10%	.02
Boilermakers Helpers	12.81	8%	20%+.25	10%	.02
Bricklayers, Stonemasons, Cementmasons & Plasterers:					
Zone 1	13.17	.92	1.60		.05
Zone 2	12.60	.84	.90		.02
Zone 3	12.25	1.22	1.70		.03
Zone 4					
Bricklayers & Stonemason	13.66	1.02	.75		
Cement Masons	12.85	.75	1.35		
Plasterers	12.85	.75	1.35		
Zone 5	12.20	1.00	.95		
Carpenters, Insulators & Millwrights:					
Zone 3	11.60	1.27	1.55		.06
Zone 4					
Carpenters & Insulators	12.57	8%	7%		½%
Millwrights	12.82	8%	7%		½%
Electricians & Cable Splicers:					
Essex County	13.75	9%	12%		¼%
Passaic County					
Wiremen	15.70	7%	10%		
Cable Splicers	16.77	7%	10%		
Laborers:					
Zone 1					
Group 1	8.80	.85	.85		.10
Zone 2					
Group 1	8.55	1.10	.85		.10
Zone 3					
Group 1	9.35	.65	.65		.10
Group 2	9.60	.65	.65		.10
Zone 4					
Unskilled Laborers	9.20	.80	.50		.10
Zone 5					
Unskilled Laborers	8.90	.75	.85		.10
Zone 7					
Unskilled Laborers	8.45	.85	1.25		.10

DECISION NO. NJ80-3024 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Essex & Hudson (West half of County) Counties					
Painters on New Construction and Major Alterations	$11.77	.70	.85	.50	.06
Painters on Repaint Work	10.82	.70	.85	.50	.06
Spraying or application of hazardous or dangerous materials on repaint work	11.42	.70	.85	.50	.06
Exterior work exceeding 3 stories in height for painting of open structural steel and on interior work which requires painting higher than 20' above the ground or floor	11.92	.70	.85	.50	.06
Repaint work as described above	10.97	.70	.85	.50	.06
Spraying or application of hazardous or dangerous materials	12.37	.70	.85	.50	.06
Hudson (Remainder of County):					
Painters, paperhangers, tapers, coverers, spacklers, preparation and cleaning work	11.35	.90	1.75	.50	
Extension ladder work (36 feet or over), scaffold work (except one or two family homes), and boatswain chair	12.50	.90	1.75	.50	
Spraying and Sandblasting	13.00	.90	1.75	.50	

DECISION NO. NJ80-3024 - CONT'D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Pipefitters:					
Essex County	$13.52	.94	1.76	1.35	.07
Plumbers:					
Bergen, Hudson (excluding East Newark, Harrison and Kearney), and Passaic	15.08	1.00	1.35		.25
Hudson (East Newark, Harrison, and Kearney only), and Essex Counties	14.555	1.40	1.52		.25
Roofers:					
Bergen & Passaic Counties:					
Composition	14.35	1.34	1.00		
Slate & Tile	13.45	1.00	1.30		
Essex County & Hudson (West of the Hackensack) Composition, Damp, Waterproofing, Slate and Tile	14.97	1.00	1.00		
Sheetmetal Workers:					
Essex and Passaic Counties	12.64	1.27	1.34	1.01	.01
Sprinkler Fitters	14.53	.85	2.20		.07

DECISION NO. NY80-3045 - Mod #1
(45 FR 49817 - July 25, 1980)
Essex County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.45	1.07	.66		.02
Bricklayers, Cement Masons, Marble Masons, Plasterers, Stone Masons, Tile & Terrazzo Workers	12.12	.70	.70	a	.02
Carpenters:					
Carpenters & Soft Floor Layers	11.70	.55	.90	b	.005
Millwrights	11.95	.55	.90	b	.005
Piledrivermen	11.85	.55	.90	b	.005
Electricians					
Portion East of State Highway 28N and South of a line following the Tahwus-Schroon River Road from State Highway 73, East on 73 to State Highway 22 near Ticonderoga, North on 22 to and including Crown Point	13.80	.80	3%+.80	c	.05
Remainder of County					
Zone I - 20 mile radius from Plattsburg and Saranac Lake:					
Electricians	12.20	.80	3%+.65	d	1%
Cable Splicers	12.50	.80	3%+.65	d	1%
Zone II - Remainder of County					
Electricians	12.40	.80	3%+.65	d	1%
Cable Splicers	12.70	.80	3%+.65	d	1%
Ironworkers:					
Structural, Ornamental, Reinforcing, Machinery Mover, Rodman, Rigger, Fence Erector, & Stone Derrickman	12.55	.75	1.45		.08
Sheeter	12.80	.75	1.45		.08
Sheeter, Bucker-up	12.675	.75	1.45		.08
Laborers, Building					
Common Laborers & Self-propelled Equipment Operators	9.20	.70	.80	f	
Concrete or Plaster Pump Operator, All men on building demolition and wrecking	9.35	.70	.80	f	
Sandblasters & Construction clean up, Driller, Wagon Jack or Wagon Drill Operator, Metal Form and Curb Setter, Asphalt Raker, Tail or Screw man on paving Machine	9.50	.70	.80	f	
Acetylene Torch Op. on Demolition and Pipe cutters, Blasters	9.65	.70	.80	f	

DECISION NO. NY80-3045 - Mod #1

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

DECISION NO. NY80-3045 - Mod. #1

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe Type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holdays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

DECISION NO. NY80-3046 - Mod. #1
(45 FR 49822 - July 25, 1980)
Clinton County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.45	1.07	.66		.02
Bricklayers, Cement Masons, Marble Masons, Plasterers, Tile and Terrazzo Workers	12.12	.70	.70	a	.02
Carpenters & Soft Floor Layers	11.70	.55	.90	a	.005
Piledriverman	11.85	.55	.90	a	.005
Millwrights	11.95	.55	.90	a	.005
Electricians					
Zone I - City of Plattsburg and 5 mile Radius:					
Electricians	12.00	.80	3%+.65	b	1%
Cable Splicers	12.30	.80	3%+.65	b	1%
Zone II - From Zone I to a 20 mile radius of Plattsburg:					
Electricians	12.20	.80	3%+.65	b	1%
Cable Splicers	12.50	.80	3%+.65	b	1%
Zone III - Beyond Zone II:					
Electricians	12.40	.80	3%+.65	b	1%
Cable Splicers	12.70	.80	3%+.65	b	1%
Elevator Constructors	12.36	1.195	.95	c+d	.035
Elevator Constructor's Helpers	8.65	1.195	.95	c+d	.035
Ironworkers					
Structural, Ornamental, Reinforcing, Rodmen, Machinery Mover, Riggers, Fence Erectors, Stone Derrickman	12.55	.75	1.45		.08
Sheeter	12.80	.75	1.45		.08
Sheeter Bucker-up	12.675	.75	1.45		.08
Laborers, Building					
Common Laborers and self-propelled Equipment Operators	9.20	.70	.80	f	
Concrete or Plaster Pump Operator, All men on building demolition and wrecking	9.35	.70	.80	f	
Sandblasters and Construction clean up, Driller, Wagon Jack or Wagon Drill Operator, Metal Form and Curb Setter, Asphalt Raker, Tail or Screw man on paving Machine	9.50	.70	.80	f	
Acetylene Torch Operator on Demolition Work and Cutting of Pipes, Blasters	9.65	.70	.80	f	
Sprinkler Fitters	14.52	.85	1.20		.08

DECISION NO. NY80-3046 - Mod. #1

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

DECISION NO. NY80-3046 - Mod. #1

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe Type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

DECISION NO. NY80-3048 - Mod. #1
(45 FR 49827 - July 25, 1980)
Niagara County, New York

Change:

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.35	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.215	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.08	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.6475	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.5121	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.00	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.70	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.40	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.05	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.75	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.70	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.33	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.96	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.275	1.40	3%+1.00	a	

DECISION NO. NY80-3048 - Mod. #1

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Instrallations Maintenance Jobs or Projects					
Journeyman Lineman	13.70	1.40	3%+1.00	a	
Certified Lineman Welder	14.385	1.40	3%+1.00	a	
Cable Splicer	15.07	1.40	3%+1.00	a	
Groundman Equipment Operator	13.70	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.645	1.40	3%+1.00	a	
Groundman Truck Drivers	10.96	1.40	3%+1.00	a	
Groundman	10.275	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

DECISION NO. NY80-3050 - Mod. #1
(45 FR 57939 - August 29, 1980)
Albany, Rensselaer, Saratoga, & Schenectady Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	13.45	1.07	.66		.02
Bricklayers, Cement Masons, Marble Masons, Plasterers, Pointers, Caulkers & Cleaners Building	12.32	.80	1.00		.05
Carpenters Saratoga County (Twps. of Day Hadley, Edinburg, Corinth & Moreau)					
Carpenters & Soft Floor Layers	11.70	.55	.90	a	.005
Millwrights	11.95	.55	.90	a	.005
Piledrivers	11.85	.55	.90	a	.005
Elevator Constructors	12.36	1.195	.95	d+e	.035
Elevator Constructors' Helpers	8.65	1.195	.95	d+e	.035
Plumbers & Steamfitters Saratoga County (Twps. of Clifton Park, Galway, Milton, Malta, West Milton), Schenectady County, Saratoga County (Twps. of Halfmoon and Stillwater), Albany County, and Rensselaer County Building	13.35	1.00	1.02		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA79-3001 - MOD. #5 (44 FR 6886 - February 2, 1979) Northampton County, Pennsylvania					
CHANGE:					
Carpenters	$11.60	.87	.84		.05
Plumbers	13.23	.85	1.40		.14
Steamfitters	13.26	.80	1.45		.11
DECISION NO. PA80-3025 - MOD. #5 (45 FR 25015 - April 11, 1980) Adams and York Counties, Pennsylvania					
CHANGE:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Electricians:					
Remainder of County	12.95	.55	3%+.25		.01
Elevators Constructors	11.70	1.195	.95	a+b	.035
Elevators Constructors Helpers	8.19	1.195	.95	a+b	.035
Elevators Constructors (Prob.)	5.85				
Painters:					
Brush	8.80	.45	.15		
Steel	9.55	.45	.15		
Spray	9.65	.45	.15		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3026 - MOD. #4 (45 FR 25017 - April 11, 1980) Lehigh County, Pennsylvania					
Change:					
Elevator Constructors	$12.31	1.195	.95	a+b	.035
Elevator Constructors Helpers	70%JR	1.195	.95	a+b	.035
Steamfitters	13.26	.80	1.45		.11
DECISION NO. PA80-3027 MOD. NO. 4 (45 FR 26654 - April 18, 1980) Schuylkill County, Pennsylvania					
CHANGE:					
Electricians: North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	$13.39	.78	3%+.30		.03

DECISION NO. PA80-3028 - MOD. #3 (45 FR 25019 -April 11, 1980) Berks County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Electricians:					
Remainder of County	13.39	.78	3%+.30		.03
Elevator Constructors	12.31	1.195	.95	b+c	.035
Elevator Constructors Helpers	70% JR	1.195	.95	b+c	.035
Steamfitters	13.26	.80	1.45		.11
DECISION NO. PA80-3029 - MOD. #4 (45 FR 28069 - April 25, 1980) Lebanon County, Pennsylvania					
Change:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Bricklayers & Stonemasons	11.07	.60	.57		.02
Elevator Constructors	11.70	1.195	.95	a+b	.035
Elevator Constructors Helpers	8.19	1.195	.95	a+b	.035
Elevator Constructors (Prob.)	5.85				
Marble Setters	11.07	.60	.70		.02

DECISION NO. PA80-3031 MOD. NO. 1 (45 FR 57947 - August 29, 1980) Bradford, Tioga, Union Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.225	.80	.90		.01
Elevator Constructors	11.70	1.195	.95	a+b	.035
Elevator Constructors Helpers	70%JR	1.195	.95	a+b	.035
DECISION NO. PA80-3032 MOD. NO. 4 (45 FR 36767 - May 30, 1980) Columbia, Montour, & Snyder Counties, Pennsylvania					
CHANGE:					
Asbestos Workers					
Zone I	$12.225	.80	.90		.01
Zone II	12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Electricians					
Zone II	12.52	.65	3%+.50	a	.05
DECISION NO. PA80-3037 - MOD. #4 (45 FR 29522 - May 2, 1980) Sullivan County, Pennsylvania					
Change:					
Asbestos Workers	$12.225	.80	.90		.01
Bricklayers	11.35	.55	.70		.01
Stonemasons	11.35	.55	.70		.01
Terrazzo Workers	10.95	.55	.70		.01

DECISION NO. PA80-3038 - MOD. #3 (45 FR 35148 - May 23, 1980) Lancaster County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Electricians: W. Calico, E. Calico, Brecknock, E. Carl and Caernarvon Twps.	13.39	.78	3%+.30		.03
Elevator Constructors	11.70	1.195	.95	a+b	.035
Elevator Constructors Helpers	8.19	1.195	.95	a+b	.035
Elevator Constructors Helpers (Prob.)	5.85				

DECISION NO. PA80-3043 MOD. NO. 3 (45 FR 45849 - July 7, 1980) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.26	1.12	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Elevator Constructors	11.70	1.195	.95	b+c	.035
Elevator Constructors Helpers	70%JR	1.195	.95	b+c	.035

DECISION NO. PA78-3078 - Mod. No. 6 (43 FR 49205 - October 20, 1978) Allegheny County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
(3 story walk-up with no elevator)	$9.25	7 %	5%	5%	½%
Residential 4 story walk-up or with elevator	12.80	6%	8%	10%	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4035 - MOD. #7 (44 FR 56108 - September 28, 1979) Gregg County, Texas					
CHANGE:					
Boilermakers	$12.70	1.275	1.00		.03
Electricians:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
DECISION NO. TX80-4031 - MOD. #5 (45 FR 38250 - June 6, 1980) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
CHANGE:					
Building Construction:					
Boilermakers	12.70	1.275	1.00		.03
Asbestos workers-Zone 1	13.70	.70	.90		.08
Cement masons	11.29	.60	.55		
Plasterers	12.24	.60	.55		.01
DECISION NO. TX80-4032 - MOD. #5 (45 FR 38254 - June 6, 1980) Bexar County, Texas					
CHANGE:					
Asbestos workers	13.70	.70	.90		.08
Boilermakers	12.70	1.275	1.00		.03
Carpenters:					
Carpenters	11.19	.48	.60	.40	.05
Millwrights	11.49	.48	.60	.40	.05
Ironworkers	10.75	.55	1.30	.50	.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4035 - MOD. #3 (45 FR 41832 - June 20, 1980) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Boilermakers	$12.70	1.275	1.00		.03
OMIT:					
Roofers:					
Zone 1 - Group 1	9.905				
Group 2	9.755				
Zone 2 - Group 1	9.855				.05
Group 2	9.705				.05
ADD:					
Roofers:					
Group 1 - Slate & tile	10.155				
Group 2 - Composition & built-up roofing, dampproofing & bituminous	10.005				
DECISION NO. TX80-4037 - MOD. #4 (45 FR 32545 - May 16, 1980) Lubbock County, Texas					
CHANGE:					
Boilermakers	12.70	1.275	1.00		.03
Power Equipment Ops.:					
Group 1	10.025	.65	.625		.15
Group 2	10.925	.65	.625		.15
Group 3	11.325	.65	.625		.15

MODIFICATION PAGE 37

DECISION NO. WI80-2079 - MOD. #2 (45 FR 59112 - September 5, 1980) Kenosha County, Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Building Construction					
Laborers:					
General Laborers	$10.02	.75	.85	1.00	.03
Plaster Laborer, Bldg. Wrecker and Torchman Welder	10.17	.75	.85	1.00	.03
Vibrator Air Spade and all other pneumatic tools	10.32	.75	.85	1.00	.03
Jackhammer, Buster, Concrete Pump Nozzleman, Caisson Worker, Mechanical Concrete Buggies and Fork Lift	10.72	.75	.85	1.00	.03

MODIFICATION PAGE 38

DECISION NO. WI80-2083 - Mod. #1 (45 FR 62687 - Sept. 19, 1980) Racine, Wisconsin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE					
Boilermakers	$13.87	1.375	1.10		.05
Laborers:					
General	10.67	.60	.85	.50	.03
Mason Tender, Mortar Mixer, & Plaster Tender	10.80	.60	.85	.50	.03
Air Tool Operator, Jack Hammer Operator, Vibrator Operator, Power Concrete Buggies	10.99	.60	.85	.50	.03

DECISION NO. WY80-5129 - Mod. #1
(45 FR 62689 - September 19, 1980)
Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$ 13.49	.75	1.52		.02
Carpenters:					
Carpenters	11.52	.75	.75	.75	.17
Piledrivermen	11.77	.75	.75	.75	.17
Elevator Constructors:					
Elevator constructors	13.26	1.195	.82	a	.035
Elevator constructors' helpers	9.28	1.195	.82	a	.035
Millwrights	12.41	1.00	.85		.19

STATE: North Dakota

COUNTIES: Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Traill, Walsh, and Ward

DECISION NUMBER: ND80-5132

DATE: Date of Publication

Supersedes Decision No. ND80-5103 dated February 1, 1980, in 45 FR 7465

DESCRIPTION OF WORK: Building Projects (does not include 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	$14.40	.60	.76		.01
BOILERMAKERS	13.87	1.375	1.15		.05
BRICKLAYERS; Stonemasons:*					
Area 1	11.95		.30		
Area 2	13.15		.30		
Area 3	12.70	.60	.40		
Area 4	11.05		.30		
CARPENTERS:*					
Area 1:					
Carpenters	10.92	.65			.02
Piledrivermen	11.27	.65			.02
Area 2:					
Carpenters	11.18		.50		.02
Piledrivermen	11.44		.50		.02
Millwrights	11.91	.80	.60		.02
Area 3:					
Carpenters	11.34	.18	.50		.03
Area 4:					
Carpenters	9.83		.20		.02
Piledrivermen	10.08		.20		.02
Millwrights	9.86	.50	.50	.50	.02
CEMENT MASONS:*					
Area 1	11.00				
Area 2	10.10		.30		
Area 3	9.86				
Area 4	9.50				
DRYWALL TAPERS:*					
Area 1	10.08	.45			
ELECTRICIANS:*					
Area 1:					
Zone A:					
Electricians	10.90	.50	3%+.50	6%	1/2%
Cable Splicers	11.45	.50	3%+.50	6%	1/2%
Zone B:					
Electricians	11.52	.50	3%+.50	6%	1/2%
Cable Splicers	12.07	.50	3%+.50	6%	1/2%
Zone C:					
Electricians	12.40	.50	3%+.50	6%	1/2%
Cable Splicers	12.95	.50	3%+.50	6%	1/2%

*See AREA and ZONE Descriptions - Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 2:					
Electricians	$12.00	.50	3%+1.00	6%	1%
Cable Splicers	12.40	.50	3%+1.00	6%	1%
ELEVATOR CONSTRUCTORS	10.87	.895	.69	a	.035
GLAZIERS:*					
Area 1	8.03	.30			
IRONWORKERS:					
Ornamental; Structural; Reinforcing	12.95	.71	.88		.10
MILLWRIGHTS	11.26	.65	.55		.02
PAINTERS:*					
Area 1:					
Brush; Roller; Paperhangers	9.30				.02
Sandblasting; Structural Steel Spray	10.30				.02
Area 2:					
Brush; Roller; Paper and Vinyl Hanging	9.75				
Spray Painting	10.25				
Sandblast, Swing Stage, or Chair work, Structural Steel and Bridges, Stacks, Water Towers, Storage Tanks	10.75				
Area 3:					
Brush	8.55				
Spray	8.90				
PLASTERERS:*					
Area 1	11.00				
Area 2	10.84		.30		
Area 3	9.50				
Area 4	11.00				
PLUMBERS:*					
Area 1	12.03	1.02	.89		.03
Area 2	14.55	.75	.65		.02
Area 3	13.36	.75	.55		.04
ROOFERS	10.65				
*See AREA Descriptions - Page 5					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:*					
Area 1	$11.00		.25	.61	.04
Area 2	13.08	.60	.57		.035
SOFT FLOOR LAYERS:*					
Area 1	8.80				
Area 2	8.95				
SPRINKLER FITTERS	13.83	.85	1.20		.08
TRUCK DRIVERS:					
Site Preparation Excavation and Incidental Paving:					
Single Axle	7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yds. and under; Tandem Semi, Lowboy	7.73	.65	.35		
Euclid, over 20 yards	8.41	.65	.35		
*See AREA Descriptions - Page 5					

AREA and ZONE DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Burleigh and Morton Counties
Area 2: Grand Forks, Steele, and Walsh Counties
Area 3: Cass, Richland, and Traill Counties
Area 4: Ward County

CARPENTERS:
Area 1: Burleigh and Morton Counties
Area 2: Grand Forks County; Northern parts of Steele and Traill Counties; and Walsh County
Area 3: Cass and Richland Counties; Southern parts of Steele and Traill Counties
Area 4: Ward County

CEMENT MASONS:
Area 1: Burleigh and Morton Counties
Area 2: Grand Forks, Steele, Traill, and Walsh Counties
Area 3: Cass and Richland Counties
Area 4: Ward county

DRYWALL TAPERS:
Area 1: Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties

ELECTRICIANS:
Area 1: Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties:

Zone mileage from Main Post Office in the Cities of Grand Forks, Valley City, Fargo, and West Fargo
Zone A: Within 0-15 miles from each Main Post Office
Zone B: 15-30 miles from each Main Post Office
Zone C: Over 30 miles from each Main Post Office

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 2: Burleigh, Morton, and Ward Counties

GLAZIERS:
Area 1: Burleigh County

PAINTERS:
Area 1: Cass, Grand Forks, Richland, Steele, and Traill Counties
Area 2: Burleigh and Morton Counties
Area 3: Ward County

PLASTERERS:
Area 1: Burleigh and Morton Counties
Area 2: Grand Forks, Steele, Traill, and Walsh Counties
Area 3: Ward County
Area 4: Cass and Richland Counties

PLUMBERS:
Area 1: Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties
Area 2: Burleigh and Morton Counties
Area 3: Ward County

SHEET METAL WORKERS:
Area 1: Burleigh, Grand Forks, Morton, Steele, Traill, and Ward Counties
Area 2: Cass and Richland Counties

SOFT FLOOR LAYERS:
Area 1: Burleigh County
Area 2: Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties

FOOTNOTE:
a. Employer credits 6% basic hourly rate for employee with 6 months' to 5 years' service; 8% basic hourly rate with over 5 years' service as Vacation Credit Plain. Six 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 Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Building Construction					
Grand Forks, Steele, and Traill Counties:					
Group 1	$7.87	.35	.45		
Group 2	8.02	.35	.45		
Group 3	8.22	.35	.45		
Burleigh and Morton Counties:					
Group 1	7.40	.35	.45		
Group 2	7.50	.35	.45		
Group 3	7.60	.35	.45		
Cass and Richland Counties:					
Group 1	7.49	.35	.45		
Group 2	7.59	.35	.45		
Group 3	7.64	.35	.45		
Ward County:					
Group 1	7.49	.35	.45		
Group 2	7.59	.35	.45		
Group 3	7.74	.35	.45		
Site Preparation Excavation and Incidental Paving:					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

LABORERS
Building Construction

Grand Forks and Steele Counties

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tools (air, gas, and electric); Operators of tools that come under the Laborers' jurisdiction; Brick, Plaster and Finisher Tender; Sandblaster and Gunnite Pot Tender; Hose Tender where under the Laborers' jurisdiction

Group 3: Hod Carriers; Non-metallic Pipelayers; Gas Line Wrapping or Taping; Sand Blaster and Gunnite Nozzleman where under Laborers' jurisdiction; Cutting Torch for demolition

Burleigh and Morton Counties

Group 1: Laborers, Concrete Bucket Man

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Mortar Mixer; Brick and Plasterer Tenders

Group 3: Hod Carriers, Non-metallic Pipelayers; Gas Line Wrapping or Taping; Cutting Torch for demolition

Cass and Richland Counties

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of tools that come under the Laborers' jurisdiction; Brick and Plasterer Tender; Mortar Mixer

Group 3: Hod Carriers; Non-metallic Pipe Layer; Gas Line Wrapping and Taping (distribution ONLY); Cutting Torch for demolition

LABORERS (Cont'd)
Building Construction (Cont'd)

Ward County

Group 1: Laborers; Concrete Bucket Dumpman

Group 2: All power tool Operators of all tools that come under the Laborers' jurisdiction; Mortar Mixer; Plasterer Tender

Group 3; Non-metallic Pipe Layer; Gas Line Wrapping or Taping (distribution ONLY); Cutting Torch for demolition

Site Preparation Excavation and Incidental Paving

Group 1: General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker, Pump Operator (pre-water) Tunnel Worker; Sign Erector); Reinforce Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Salamander Heater and Blower Tender

Group 2: Semi-skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer (telephone or electrical); Form Setter (pavement); Gas, electric or pneumatic tool Operator (Chipping Hammer, Grinders and Paving Breakers, Tamper (dirt); Concrete Vibrator Operator; Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper, Raker and Floater); Kettlemen (bituminous of lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multi-plate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man (sanitary sewer, storm sewer, water and gas line); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm water and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Gunite and Sandblaster, Nozzleman

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building Construction					
Group 1	$11.19	.75	.60		
Group 2	10.17	.75	.60		
Group 3	9.52	.75	.60		
Group 4	8.44	.75	.60		
Site Preparation Excavation and Incidental Paving					
Group 1	10.32	.75	.60		
Group 2	10.16	.75	.60		
Group 3	10.00	.75	.60		
Group 4	9.95	.75	.60		
Group 5	9.68	.75	.60		
Group 6	9.43	.75	.60		
Group 7	8.44	.75	.60		
Group 8	8.28	.75	.60		
Group 9	8.17	.75	.60		
Group 10	7.80	.75	.60		

Building Construction

Group 1: Helicopter Operator, hoisting material; Truck and Crawler Cranes over 150 ft. boom, excluding jib; Traveling Tower Cranes

Group 2: Derrick, Guy or Stiff Leg; Tower Cranes; Overhead Cranes; Hoist Operator - 2 drums or more; All-Terrain Vehicle Cranes (Cherry Picker, etc.); Tractors with boom attachments; Drill Rigs - Rotary or Churn; Locomotive Operators; Hydraulic and Cable-type Backhoes 3/4 yards and over; Truck and Crawler Cranes 150 ft. boom and under, excluding jibs

Group 3: Mechanic Welder; Hoist Operator 1 drum; Boom Truck Operators; Tractor over 75 HP; Straddle Carrier or Forklift, 3,000 lbs. or over; Concrete Batch Plant Operator; Concrete Batch Mixer or Concrete Pump Operator; Boiler Operator; R/T Tractor Backhoe, 3/8 or 3/4 yards; Front End Loader Operator over 1½ yards; Any air compressor operation over 300; Well Points; Power Plant Engineer, Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 4: Greaser; Forklift under 3,000 lbs., Self-propelled Scissor Jax; Front End Loader 1½ yards and under; Self-propelled Compactors; Tractor 75 HP and under; Pickup Sweeper; Pump Operator over 3"; Gunite Operator; Brakeman; Air Compressor 300 and under

Site Preparation Excavation and Incidental Paving

Group 1: Cableway Operator; Crane Operator with over 135' boom, all types; Derrick (Guy and Stiff Leg)(power)(skids and stationary); Front End Loader, over 10 cu. yds.; Gantry Crane Operator; Helicopter Operator; Mole Operator, including power supply or Tunnel Mucking Machine; Power Shovel and/or other equipment with shovel type controls 3½ cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator or Engineer; Dredge Operator (power and engineer); Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving); Concrete Paving Operator, road; Power Shovel and/or other equipment with Shovels, and/or other equipment with shovel type controls up to 3½ cu. yds.; Scraper Tandem; Tandem Pusher, Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Hydrocrane Operator, 15 ton and over

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning, and bending Machine Operator; Power actuated Horizontal Boring Machine, over 6" Operator (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven)(paving); Tandem Scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator, Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber-tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper Operator; Tractor type or rubber tired Dozer, D-6 and over; Trenching Machine Operator, sewer and water (except Ditch Witch or similar, use Oiler rates); Turnapull Operator (or similar type)

POWER EQUIPMENT OPERATORS (Cont'd)
Site Preparation Excavation and Incidental Paving (Cont'd)

Group 5: Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator, Concrete Mixer Operator on job site 16S or over, Paving Breaker or Tamping Machine Operation including Machine with power shovel attachment (power driven), power actuated Jack Operator, Power Plant Engineer 10 K.W.H. and over (when an Engineer is in charge of crushing or blacktop plant with the operation of these plants no power plant engineer shall be required); Push Tractor, self-propelled Traveling Soil Cement Stabilizer, Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Machine; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Raker with Dozer attachment tractor type or rubber tired Dozer under D-6 HP

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand); Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (Motor Patrol)(hauling road); Gravel Screening Plant Operator (portable unit, crushing or washing); Greaser (truck or tractor); Gunnite Operator, gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over Hopper capacity; Shouldering Sand Chip Spreader; Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

Group 8: Boom Truck Operator, Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment, farm type rubber tired tractor with Backhoe attachment, off-road self-propelled rubber, on other than hot mix asphalt paving, self-propelled Vibrating Packer Operator, pad type 35 HP and over)

Group 9: Concrete Batch Operator (cement, rock and sand)(manual); Form Trench Digger (power); Front end Loader Operator, up to 1 cu. yd.; Hyster Carrier or Forklift, Leverman; Oiler (power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck, hand; Farm Tractors, rubber-tired for compacting and areating; Front End Loader (Farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

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: Pennsylvania COUNTY: Lycoming
DECISION NO.: PA80-3060 DATE: Date of Publication
Supersedes Decision No. PA79-3005 dated March 16, 1979, in 44 FR 16320.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	12.225	.80	.90		.01
Boilermakers	15.57	1.275	1.00		.02
Bricklayers & Stonemasons	10.80	1.15	.90		.015
Carpenters	11.86	.60	.70		.05
Cement Masons	10.60				
Electricians	10.58	.65	3%+.95	.75	.02
Elevator Constructors	11.70	1.195	.95	b+c	.035
Elevator Constructors' Helpers	70%ofJR	1.195	.95	b+c	.035
Elevator Constructors' Helpers (Prob.)	50%ofJR				
Ironworkers	12.905	1.34	1.36		.03
Laborers:					
General Laborers	7.95	.65	.55		
Operator of Jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra citta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same, wagon drill operator, cofferdam (below 10'). tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders, mason tenders, scaffold builders and removal of power buggies	8.10	.65	.55		
Lathers	11.53		.20		.01
Lead Burners	10.75	.40	.25	a	.01
Line Construction:					
Linemen & cable splicers	12.37	.55	3%		3/8%
Winch truck drivers	8.68	.55	3%		3/8%
Groundmen	8.30	.55	3%		3/8%
Millwrights	13.52	.60	.70		.05
Painters:					
Brush	10.35	.75	.60		.10
Tapers	11.61	.75	.60		.10
Hazardous	10.61	.75	.60		.10
Plasterers	10.69				
Piledrivermen	11.97	2.63	1.40	d	.13
Plumbers	12.01	.84	.80	1.00	.05
Roofers & Kettlemen	11.15	.90	.85		
Sheet Metal Workers	11.95	.75	.81		.02
Soft Floor Layers	10.35	.60	.70		.05
Sprinkler Fitters	14.53	.85	1.20		.08
Steamfitters	12.01	.84	.80	1.00	.05
Truck Drivers	7.95				
WELDER - Rate for craft					

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer.

b. 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.

c. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

d. Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day; Veterans' Day and Thanksgiving Day.

"Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

DECISION NO. PA80-3060

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.19	7.9%	10.3%	a	1.8%
GROUP 2	12.90	7.9%	10.3%	a	1.8%
GROUP 3	12.03	7.9%	10.3%	a	1.8%
GROUP 4	11.26	7.9%	10.3%	a	1.8%
GROUP 5	10.79	7.9%	10.3%	a	1.8%
GROUP 6	9.88	7.9%	10.3%	a	1.8%
GROUP 7	13.44	7.9%	10.3%	a	1.8%
GROUP 7-A	13.69	7.9%	10.3%	a	1.8%
GROUP 7-B	13.93	7.9%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Jefferson and Orange

DECISION NUMBER: TX80-4073 DATE: Date of Publication

Supersedes Decision No. TX80-4003 dated January 4, 1980 in 45 FR 1380

DESCRIPTION OF WORK: Building (including Residential) Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Jefferson County	$13.12	1.00	1.08		.05
Orange County	13.32	.775	.90		.04
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	13.65	.89	.80		.04
CARPENTERS:					
Carpenters:					
Commercial	12.57	.55	.45		.065
Residential construction of not more than 2 units & condominium townhouses of not more than 6 units, excluding all apartment construction & multiple buildings for rental purposes	11.99	.55	.45		
Millwrights	12.905	.55	.45		.02
Piledrivermen	12.76	.55	.45		
CEMENT MASONS:					
North ½ of Jefferson Co. bounded on the south side by Nederland Ave in Nederland, Texas	12.70				
South ½ of Jefferson Co. & all of Orange Co.	12.62				
ELECTRICIANS	15.55	.75	3%+.285		.08
ELEVATOR CONSTRUCTORS:					
Mechanics	12.56	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
GLAZIERS:					
Northern ½ of Jefferson Co.	11.98	.60			
Southern ½ of Jefferson Co. & all of Orange County:					
Commercial	12.10	.60			.05
Residential	11.95	.60			.05
IRONWORKERS	11.90	.55	1.45		.10
LABORERS:					
Group 1:Common Laborers, Asphalt ironer & raker; Sand blaster;exclusive of preparation for painters, Dumpter, spotter & wagon drill; Powderman blaster; Well driller	8.20	.57	.60		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Group 2: Carpenter tender	$ 8.25	.57	.60		.04
Group 3: Cement masons tender; Air tool operator (jackhammer-vibrator)	8.30	.57	.60		.04
Group 4: Plaster and lather tender; Pipe layers, non-metallic pipe, including handling and laying pumpcrete pipe	8.40	.57	.60		.04
Group 5: Mortar mixers, hod carriers and mason tender	8.45	.57	.60		.04
LATHERS	13.485	.55			.01
LINE CONSTRUCTION:					
Linemen	13.635	.50	3%		1/2%
Groundmen	9.95	.50	3%		1/2%
PAINTERS:					
Southern ½ of Jefferson County and all of Orange County:					
Group 1: Brush					
Commercial	12.10	.60			.05
Residential	11.95	.60			.05
Group 2: Paperhanger:					
Commercial	12.35	.60			.05
Residential	12.20	.60			.05
Group 3: Spray:					
Commercial	12.60	.60			.05
Residential	12.47	.60			.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Group 4: Sandblaster, power cleaning					
Commercial	$12.42	.60			.05
Residential	12.21	.60			.05
Group 5: hot paint					
Commercial	12.85	.60			.05
Twenty-five cents (25¢) per hour premium on all work from stage, chair, window jack or ledge in all classifications					
Northern ½ of Jefferson County:					
Group 1: Brush:					
Commercial	12.08	.60			
Residential	11.83	.60			
Group 2: Paper & Vinyl hanger:					
Commercial	12.33	.60			
Residential	12.08	.60			
Group 3; Brush, steel:					
Commercial	12.25	.60			
Group 4: Spray;					
Commercial	12.50	.60			
Residential	12.25	.60			
Twenty-five cents (25¢) per hour above the prevailing wage rate when working on window jacks or ledge, swing stage, bosun chair, cat walks, spider and skates in all classifications					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS	$12.72	.87	.75		.10
PLASTERERS	13.50	.92	.45		.02
PLUMBERS	13.26	.65	.75		.03
ROOFERS:					
Composition	11.71	.57	.50	.35	.06
Slate and Tile	12.45	.57	.50	.35	.06
Kettlemen	10.89	.57	.50	.35	.06
SHEET METAL WORKERS:					
Commercial	12.67	3%+.58	.55		.14
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apartment is individually conditioned by a separate and independent unit or system	8.24	3%+.58	.55		.13
SPRINKLER FITTERS	13.71	.85	1.20		.08
TILE SETTERS	12.14	.89	.80		.04
TRUCK DRIVERS:					
Group 1: under 1½ tons and wash, grease, tireman, fuel pump operators when used on construction	9.91	.53			
Group 2: 1½ tons thru 2½ tons, dump truck less than 7 yds.	10.50	.53			
Group 3: Over 2½ tons, farm tractors (when used to transport personnel or material), fork lifts (when used in warehouses, storage yards and when used to transport material), floats, hydraulic tail gate lifts	10.69	.53			
Group 4: Euclids (not self-loading)	10.79	.53			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
Group 5: Warehousemen - material checker; Town driver	$10.87	.53			

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mons. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS:					
Group 1	13.485		.25		
Group 2	11.21		.25		
Group 3	10.39		.25		
Group 4	10.14		.25		

POWER EQUIPMENT OPERATORS (Cont'd)

Group 1: Heavy Duty Mechanic; Blade Grade, self-propelled; Bull Clam; Back Filler; Derrick - power operated, all types; Draglines; Push Cat; Bulldozer and all types of Cat Tractors; Cableway; Backhoe; Shovel; Crane-power operated, all types; Elevating Grader, self-propelled; Hoist - motor driven, two drums or more; Mix Mobile; Winch Truck; Locomotive Crane; Mixer, 14 cu. ft. or more; Paving Mixer, all sizes; Pile-drivers; Scraper - heavy type, over 3 cu.yds.; Trench Machine, all sizes; Gradeall; High-lift; Foundation Boring Machines; Gasoline or diesel driven welding machines - 7 to 12 machines; Pumpcrete Machine; Drill Operator - Water Well; DW-10 Euclid; Tournapulls; Asphalt Plants; Crushing Machines and Batch Plants; Scoopmobiles; Fingerlift Operator; Elevator when used to haul men or material on construction work; Well Point System and operation of similar dewatering devices

Group 2: Air Compressor; Blade Grade - towed: Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pump, Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines, 3 to 6 machines; Hoist - single drum; Scraper, 3 cu. yds. or less; Conveyors - power operated

Group 3: Fireman

Group 4: Oiler

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)).

STATE: Texas COUNTY: Wichita
DECISION NUMBER: TX80-4076 DATE: Date of Publication
Supersedes Decision No. TX80-4004, dated January 4, 1980, in 45 FR 1383.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to and including 4 stories).
(Use current heavy and highway general wage determination for Paving and Utilities Incidental to Building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.86	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS and STONEMASONS	11.70		.60		.05
CARPENTERS:					
Carpenters	11.85	.48	.60		.10
Millwrights	12.35	.48	.60		.10
CEMENT MASONS	10.94				
ELECTRICIANS:					
Electricians	12.10	.60	3%		1/10%
Cable Splicers	12.35	.60	3%		1/10%
ELEVATORS CONSTRUCTORS:					
Mechanics	11.14	1.195	.82	4%+a+b	.035
Helpers	70%JR	1.195	.82	4%+a+b	.035
GLAZIERS	4.97				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	10.70	.55	1.40		.10
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	10.825	.55	1.40		.10
LABORERS:					
Group 1: General Laborer	6.65	.30	.27		
Group 2: Pipelayer (concrete and clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers)	6.78	.30	.27		
Group 3: Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer; Gunite over 1½" thick; Nozzlemen & machine operator	6.90	.30	.27		
Group 4: Powderman, blaster	7.15	.30	.27		
LATHERS	7.65				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman; Lineman Operator	12.10	.60	3%		1/2%
Cable Splicers	12.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
MARBLE SETTERS	8.61				
PAINTERS:					
Brush	7.50				
Spray	8.50				
PLASTERERS	11.75				.01
PLUMBERS and PIPEFITTERS:					
Zone 1 - within 25 miles of Wichita Falls City limits	12.10	.50	.85		.05
Zone 2 - over 25 miles of Wichita Falls City limits	12.60	.50	.85		.05
ROOFERS	5.42				
SHEET METAL WORKERS	12.29				.09
SOFT FLOOR LAYERS	5.50				
TERRAZZO WORKERS	7.50				
TILE SETTERS	6.50				
TRUCK DRIVERS	3.10				
WELDERS - receive rate prescribed for craft performed operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$10.025	.65	.625		.15
Group 2	10.925	.65	.625		.15
Group 3	11.325	.65	.625		.15

Group 1: Oiler - Fireman

Group 2: Air Compressors, Pumps, Welding Machine, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators, building; Form Graders; Hoist, single drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plant; Fork Lifts (short, under 25 ft.); Concrete Pumps (all types); Bobcat type equipment; Ford Tractor or like with any attachments (except blade and mower on rear)

Group 3: Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Trucks; Six wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-to; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor and Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

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)).

STATE: Texas COUNTY: Travis
DECISION No. TX80-4078 DATE: Date of Publication
Supersedes Decision No. TX80-4006, dated January 4, 1980, in 45 FR 1388
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.70	.70	.90		.08
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	12.12	.70	.65		.05
CARPENTERS:					
Carpenters	12.26	.48	.60		.04
Millwrights	12.51	.48	.60		.04
CEMENT MASONS	11.29	.60	.55		
ELECTRICIANS & CABLE SPLICERS	12.60	.60	8%		.8%
ELEVATORS CONSTRUCTORS:					
Mechanics	11.71	1.195	.95	4%+a+b	.035
Helpers	70%JR	1.195	.95	4%+a+b	.035
GLAZIERS	10.26		.50		.01
IRONWORKERS	11.65	.55	1.45		.12
LABORERS:					
GROUP 1 - General laborer and pier hole men	7.43	.30	.40		.02
GROUP 2 - Mason tender; Pipelayer (concrete & clay); cement finisher tender; scaffold builder; gunnite & cement work mixer & power tool operator	7.58	.30	.40		.02
GROUP 3 Plaster tender; hod carrier; mortar mixers lather tender	7.755	.30	.40		.02
GROUP 4 - Gunnite over 1½" thick; nozzlemen; machine operator; powderman & blaster	7.83	.30	.40		.02
LATHERS	11.525				.01
LINE CONSTRUCTION:					
Linemen	13.24	.60	3%		1/2%
Groundman	7.28	.60	3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS	10.00	.60			.05
MARBLE, TILE & TERRAZZO FINISHERS:					
Marble, tile & terrazzo finisher	6.87				
Terrazzo floor machine ops.	7.07				
Terrazzo base machine ops.	7.22				

DECISION No. TX80-4078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
GROUP 1 - Brush; taping & floating of sheetrock	$10.30				
GROUP 2 - Paperhangers; chipper, burner, torch; skeleton steelwork erected	10.55				
GROUP 3 - Spray; steam cleaning;, sand blast & other powered equipment	10.80				
Swinging stage, bosun chair, window jack or scaffold (above 2nd floor) -25¢ per hour above all base rates					
PLASTERERS	12.24	.60	.55		.01
PLUMBERS & PIPEFITTERS	12.30	.45	.40		.05
ROOFERS:					
Roofers; deckmen	8.21	.50			
Kettlemen	7.27	.50			
Waterproofer	7.72	.50			
SHEET METAL WORKERS	11.93	3%.45	.96		.09
SOFT FLOOR LAYERS	12.42	.60	.55		.14
SPRINKLER FITTERS	13.71	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a- 1st 6 months - none; 6 months to 5 years - 2% ; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

DECISION NO. TX80-4078

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.04		.40		
GROUP 2	9.97		.40		
GROUP 3	8.75		.40		
GROUP 4	8.64		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; bull clam; back filler; derricks, power operated (all types); dragline; push cat operator; euclid operator; bull dozer and all types of cat tractors; cable-way; back hoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts & loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machine (all sizes); gradall; foundation boring machine; scoopmobile; shovel, power operated; pump crete machine; clam shell operator; rock crusher, operated on job; welding machine, 6 to 12, two 125 cu. ft. compressors; well points, including installations

GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; truck crane driver & oiler, combination man; gasoline or diesel driven welding machine, 3 to 6; hoist, single drum; pump, 2½ in. or larger; pneumatic roller; high-lifts & loader, 1/3 cu. yd. or less; forklift, 1500 lbs. capacity or less; air compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION No.: TX80-4077 DATE: Date of Publication
Supersedes Decision NO. TX80-4028, dated April 25, 1980 in 45 FR 28013
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction for Galveston (excluding Galveston Island) & Harris Counties)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.12	1.00	1.08		.05
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	13.60	.89	.90		.06
CARPENTERS:					
Carpenters & Piledrivermen	13.15	1.00	.95		.07
Millwrights	13.535	1.00	.95		.07
CEMENT MASONS:					
Galveston County	12.90	.68	.97		
Harris County	12.90	.68	.97		.08
ELECTRICIANS:					
Galveston County	14.44	.75	3%+1.40		.08
Harris County	14.25	1.00	10%		.08
ELEVATOR CONSTRUCTORS:					
Mechanics	12.56	1.195	.82	4%+a+b	.035
Helpers	70%JR	1.195	.82	4%+a+b	.035
GLAZIERS	13.39	.67	.875		.03
IRONWORKERS	13.26	.55	1.70		.10
LABORERS:					
GROUP 1 - Common	9.72	.57	.80		.02
GROUP 2 - Air tool operator (jackhammer-vibrator); mason tenders; pipelayers (concrete & clay); sand Blasterers; power buggy operator	9.905	.57	.80		.02
GROUP 3 - Lather tender; mortar mixers; plaster tenders & hod carriers	10.015	.57	.80		.02
GROUP 4 - Well driller	10.31	.57	.80		.02
GROUP 5 - Well driller tender	9.855	.57	.80		.02
GROUP 6 - Blaster, powderman	10.175	.57	.80		.02
LATHERS (Harris County only)	13.92	.60	.35		.03
LINE CONSTRUCTION: Zone 1 - Galveston Co. & that part of Harris Co. from Loop 610 east to State Highway 59, north on State Highway 59, Highway 1960, West on Highway 1960 to Highway 6, south on Highway 6 to State Highway 59, southeast on State Highway 59 to Loop 610,					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line construction (Cont'd):					
around Loop 610 to State Highway 59 North:					
Lineman & Cable Splicer	$14.65	.60	3%		½%
Groundman	8.50	.60	3%		½%
Zone 2 - Remainder of Harris Co:					
Lineman & Cable splicer	14.25	.60	3%		½%
Groundman	8.27	.60	3%		½%
MARBLE MASONS:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06
MARBLE MASONS' FINISHERS	9.30				
PAINTERS:					
East Harris County:					
GROUP 1 - All brush painting, hand rolling and all other work other than that below	13.33				
GROUP 2 - All pneumatic & electric tools & steam cleaning	13.685				
GROUP 3 - All tape and float on drywall	13.425				
GROUP 4 - All paper & vinyl hanging	13.58				
GROUP 5 - All spray painting, Sandblasting & waterblasting	13.725				
GROUP 6 - Steeple jack work, hot materials	13.99				
Remainder of Harris County:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	12.955	.715	.55	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	13.33	.715	.55	.40	.04
GROUP 3 - Tape, float & drywall	13.08	.715	.55	.40	.04
GROUP 4 - Steeple jack work, hot materials	13.58	.715	.55	.40	.04
Galveston County:					
GROUP 1 - Painters on new work	12.345	.80	.75	1.00	.05
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	12.595	.80	.75	1.00	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
GROUP 3 - Painters on rework & repaint	11.59	.80	.75	1.00	.05
PIPEFITTERS	13.70	.70	.80		.06
PLASTERERS	13.50	.92	.45		.02
PLUMBERS	13.22	.75	.80		.12
ROOFERS:					
Composition	11.71	.57	.50	.35	.06
Slate & tile	12.45	.57	.50	.35	.06
Kettlemen	10.89	.57	.50	.35	.06
SHEET METAL WORKERS	12.86	3%+.45	.74	.42	.10
SOFT FLOOR LAYERS	12.42	.60	.55		.14
SPRINKLER FITTERS	13.71	.85	1.20		.08
TERRAZZO WORKERS:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06
TERRAZZO WORKERS' FINISHERS:					
Terrazzo workers' finishers	9.30				
Terrazzo floor machinemen	9.45				
Terrazzo base machinemen	9.60				
TILE SETTERS:					
Galveston County	12.26				
Harris County	12.42	.89	.30		.06
TILE SETTERS' FINISHERS	9.30				
TRUCK DRIVERS:					
GROUP 1 - Under 1½ tons; wash grease, tireman, fuel pump operator when used on construction jobs	7.84				
GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds.	8.23				
GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats	8.45				
GROUP 4 - Euclids (not self-loading)	8.61				
GROUP 5 - Pickup drivers	9.14				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$13.34	.75	1.25		.07
GROUP 2	11.48	.75	1.25		.07
GROUP 3	10.85	.75	1.25		.07
GROUP 4	10.64	.75	1.25		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick-power operated (all types); clam shell; draglines; push cat operator; bull dozer & all types cat tractors; cable-way; backhoe; shovel, power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cubic feet or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cubic yards; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine operator; turnapulls; DW-10 Caterpillar, S-18 euclid and similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant operator; pneumatic rollers, self-propelled;

GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cubic feet; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cubic yards or less; wagon drill operator; conveyor; generator gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors

GROUP 3 - Fireman
GROUP 4 - Oiler

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BILLING CODE 4510-27-C

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)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day' F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates
b - Paid Holidays A thru G

federal register

Friday
October 10, 1980

Part IV

Health and Human Services Department

Health Care Financing Administration

Professional Standards Review Organizations (PSROs), Financing of Hospital Review Activities

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 466

PSRO Hospital Review; Financing of Activities

AGENCY: Health Care Financing Administration (HCFA), HHS.
ACTION: Final regulation.

SUMMARY: This regulation establishes a new method for reimbursing the cost of hospital review conducted under the authority of Professional Standards Review Organizations (PSROs). It applies to review of hospital care provided to patients eligible under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children's (MCH–CC) programs. It further implements Sections 1152 (b), 1155 (e), 1155 (f), 1168, 1815 (b), and 1861(w)(2) of the Social Security Act.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Martha Pouderoyen, (301) 594–1322.

SUPPLEMENTARY INFORMATION:

Background

Congress mandated establishment of PSROs in the 1972 Amendments to the Social Security Act (Pub. L. 92–603). The primary responsibilities of PSROs are to assure that health care services and items provided and paid for under Medicare, Medicaid, and the MCH-CC Services Program (Title XVIII, XIX, and V of the Social Security Act, respectively), are medically necessary, meet professionally recognized standards of care, and are provided at the most economical level possible consistent with quality care. The Act requires that PSROs perform their functions at reasonable cost and that these reasonable costs be paid by HHS.

PSROs are required to review institutional care (hospitals and long term care facilities) and, eventually, ambulatory care. To date, however, PSRO efforts have focused primarily on inpatient care provided in acute care hospitals. By statute (Section 1155(e) of the Social Security Act), the PSRO may carry out its review responsibility for hospital care in two ways: delegated or nondelegated review. The PSRO can delegate its review responsibilities to the hospitals in its area that are capable and willing to perform such review activities (delegated review). If the PSRO finds that a hospital is not qualified or is not willing to perform certain or all review activities, the PSRO must conduct those review functions directly (nondelegated review).

PSRO review of long term care facilities may also be either delegated or nondelegated; however, review may be delegated only if the long term care facility (skilled nursing facility or intermediate care facility) is certified as a "distinct part" of an acute care hospital (Section 1155(e)(1) of the Social Security Act).

The direct costs of performing review for Medicare, Medicaid and MCH–CC hospital patients in delegated and nondelegated hospitals and in delegated long term care facilities are funded from the Medicare Trust Fund. The Trust Fund is then reimbursed from appropriated general revenues for the costs of review of Medicaid and MCH–CC patients. Although the monies come from the Trust Fund, the mechanisms for reimbursement of these direct costs vary according to the type of organization performing review. Reimbursement for the cost of delegated review to hospitals participating in the Medicare program is made through the hospital's fiscal intermediary. The review costs of delegated hospitals that do not participate in the Medicare program but do participate in the Medicaid or MCH–CC program are reimbursed by the PSRO. These costs as well as the PSRO's own costs for performing nondelegated review are reimbursed through the PSRO's grant with HHS with funds from the Trust Fund. PSRO administrative costs as well as the PSRO's cost for performing nondelegated long term care review are also reimbursed through its grant with HHS.

As indicated above, delegated hospitals that participate in the Medicare program are reimbursed by the fiscal intermediary. Reimbursement for the direct costs of delegated PSRO hospital review is now made to the delegated hospitals on the basis of an estimated unit cost rate which the PSRO and hospital negotiate for direct costs. Indirect costs of delegated review are reported on the hospital's Medicare cost report as administrative and general or other overhead expenses and are reimbursed through the regular cost allocation system. At the end of the year the hospital submits a report of its actual costs to the medicare fiscal intermediary. The fiscal intermediary makes a final determination of the allowability of these costs when a final cost settlement is completed. Hence, although a PSRO does control its grant funds, it does not have final control over the delegated review costs which usually constitute the majority of a PSRO's review costs.

Concern regarding the cost of PSRO hospital review has been raised by a number of sources, including this Department and the Congress. In its report on the fiscal year 1980 budget, the House Appropriations Committee expressed an interest in limiting total expenditures for PSRO hospital review. We have addressed these concerns by developing a regulation designed to control the costs of hospital review by establishing a unit cost rate spent on each Federal admission. Reductions in cost will also be achieved by concentrating review efforts on those patients where data and experience indicate review is most needed. As discussed below these regulations provide PSROs and HCFA with a method for controlling the costs of delegated and nondelegated review costs.

Summary of the Regulation

These regulations provide PSROs and HCFA with additional controls over the cost of PSRO review through the imposition of a limit on the costs of review of each hospital and delegated long term care admission. This limit is in the form of an areawide unit cost rate established by HCFA. The areawide unit cost rate is the reasonable cost of review performed by a PSRO in its area. This areawide unit cost rate will reflect regional variances, review priorities, and review procedures to be used in the PSRO area. HCFA will then multiply the unit cost rate by the estimated number of Federal admissions under review in the PSRO area to determine the total available funds for hospital review in the PSRO area.

The PSRO and each delegated hospital will then develop a review plan as described in Subpart C of this part and negotiate a unit cost rate which is reasonable and which maintains the PSRO area unit cost rate limit. During the negotiation of the delegated review plan between the PSRO and the hospital, specific review objectives must be developed and an estimate made of the workload necessary to meet these objectives. The review plan must contain the estimated number of Federal admissions to the hospital, the number of admissions to be reviewed and the manner in which they will be reviewed. A unit cost rate will be negotiated which reflects the anticipated scope and level of review outlined in the review plan. The PSRO will consult the fiscal intermediary during this process regarding the hospital's costs of review.

We do not expect that every admission will undergo concurrent

review as defined in 42 CFR 466.2. Any admissions exempted from concurrent review in accordance with 42 CFR 466.15 must still be included in the total number of admissions for reimbursement purposes because other review costs are still incurred (e.g. quality review costs) even though concurrent review is not performed. Furthermore, long term care review that is delegated to a skilled nursing facility (SNF) or intermediate care facility (ICF) certified as a "distinct part" of an acute care-hospital must be included as part of the hospital's review plan and reimbursement provided if the SNF's or ICF's costs are included with the hospital's acute care costs on a single Medicare cost report.

As a part of the negotiation process, a PSRO and hospital may agree to a series of rate changes and review plan modification which would be implemented automatically whenever certain conditions existed. The PSRO and hospital shall agree to the specific conditions that would effect a change in rates or modifications in the review plan.

With such an agreement, the PSRO and hospital will be able to avoid renegotiations at a later date. There may be several reasons for seeking such agreements. For example, a PSRO may wish to limit total spending at a particular delegated hospital. The PSRO and hospital could agree to increase the percent of automatic admission certifications after a certain number of concurrent reviews have been performed. There would then be a corresponding decrease in the unit cost rate for the review of every Federal patient admitted beyond that point. An agreement might permit an increase in the rate if, for example, a new patient care unit is opened at the hospital necessitating more intense review. Under these circumstances, the PSRO could authorize the hospital to receive a higher unit cost rate after the new unit was opened. A third reason for establishing automatic rate changes may be to take advantage of economies of scale or assist when diseconomies occur. Rates could automatically be adjusted downward after a certain number of reviews had been performed, or increased if admissions did not reach a specified level by a certain date. In these cases the rate would be adjusted without corresponding changes in the review plan.

Once the review plan and the unit cost rate(s) have been negotiated, hospitals will receive reimbursement for delegated review on the basis of their unit cost rate(s) multiplied by the total number of Federal admissions. The PSRO is responsible for monitoring the level of review activity to assure conformance with the review plan. Payment of the unit cost rate per admission is contingent on the hospital executing the approved review.

If there is a need for a change in the scope or type of review in the hospital during the cost reporting year, the PSRO may, on its own initiative or at the request of the hospital, renegotiate with the hospital the review plan and unit cost rate(s) within the constraints of the PSRO's areawide unit cost rate. The PSRO will inform both the hospital and the hospital's Medicare fiscal intermediary of the change in a reasonable amount of time before the effective date of the change. The renegotiated unit cost rate may become effective either on a certain date or when a certain volume of review is achieved. Any adjustments to the review plan and unit cost rate(s) must be made as they occur during the cost reporting year. There will be no retroactive adjustments to the unit cost rate(s).

These regulations also provide that each PSRO will establish a unit cost rate for nondelegated review in its area. The PSRO must work within the limits of this unit cost rate in order to assure its areawide unit cost limit is not exceeded.

The basis on which hospitals will be reimbursed for delegated review activities described above is different from the method proposed in the Notice of Proposed Rule Making published on May 9, 1979 at 44 FR 26769. The Notice proposed that the PSRO and its hospitals operate within a total review budget ceiling which could only be adjusted through renegotiations. Under the budget ceiling, the costs of review for extra admissions would not be automatically reimbursed if the resulting increase would exceed the budget ceiling negotiated between the hospital and the PSRO. Conversely, decreased admissions would not have automatically resulted in decreased review expenditures. There are certain costs for every Federal admission, whether or not it is subject to admission or concurrent review. A fixed budget ceiling would place an unfair financial burden on the hospital if admissions increased, and could produce a windfall if admissions decreased. Since total annual admissions cannot be predicted with complete accuracy, we will not subject hospitals to a budget ceiling. In this final version of the rule, hospitals will be reimbursed on a unit cost basis. This method provides the needed flexibility to respond to changes in the number of admissions without resorting to new negotiations between the hospital and PSRO. The unit cost approach automatically adjusts reimbursement to number of admissions whether the number of admissions increases or decreases.

As indicated in the preamble to the final PSRO hospital review regulations published in the **Federal Register** on June 4, 1979 (44 FR32074, 32076), the requirements for Medical Care Evaluation (MCE) studies are to be reviewed periodically. After analysis of PSRO quality review activities and discussions with the National Professional Standards Review Council, the Joint Commission on Accreditation of Hospitals, and PSROs, a revised quality review study policy was developed and will be issued as a PSRO transmittal in the near future. PSROs may now implement the new requirements voluntarily through approved alternative review methodologies as provided for in 42 CFR 466.22. Consequently, all references to quality review in this and other PSRO regulations are being modified to provide for quality review studies that include MCE studies.

Hospitals delegated only the quality review study function, including MCEs, will remain subject to a budget ceiling. This is because the total number of admissions does not directly influence the cost of a quality review study and thus a total budget can be accurately determined. Nevertheless, the budget ceiling may be renegotiated during the hospital's cost reporting year. These renegotiations will be carried out in a manner similar to unit cost rate renegotiations and for similar reasons.

Although these regulations are effective 30 days after issuance, a PSRO may wait until the initiation of the hospital's next cost reporting year to implement them.

Under these regulations the fiscal intermediary will continue to reimburse hospitals for their activities but reimbursement for the direct costs of review will now be on the basis of the unit cost rate(s) agreed upon between the PSRO and the hospital. The fiscal intermediaries will also continue to audit review costs for those hospitals which participate in the Medicare program. Medicaid State Agencies are responsible for audits of review costs for Medicaid hospitals which do not participate in the Medicare program. State MCH–CC programs are responsible for audits of review costs for MCH–CC hospitals which do not participate in the Medicare program.

Summary of Public Comments

On May 7, 1979, a Notice of Proposed Rule Making was published in the Federal Register (44 FR 26769). It proposed to amend 42 CFR Chapter IV by adding a new Part 466, Subpart E—Financing of Review Activities. During the public comment period provided, we received one hundred seven written comments from PSROs, professional and other organizations, hospitals, hospital associations, government agencies, and individuals. Most comments concerned the negotiation process between PSROs and delegated hospitals, and, in particular, the issue of "reasonable cost" and the actual costs of review.

Comment. The majority of comments concerned the issue of reasonable costs. Some felt that, contrary to congressional intent, hospitals would not receive reimbursement for the reasonable costs to which they are entitled under the proposed financing system. Two commenters thought that imposition of an annual hospital budget ceiling on the amount a hospital may receive for performing PSRO review had to be in the form of a statute. Two comments requested that reasonable costs be defined in terms of actual review activity and its costs.

Response. The regulation has been changed so that reasonable costs will be determined by the type and amount of review activity. The unit cost rate(s) permits funds to be allocated according to review priorities, the nature of the review activity and the level of review in the total PSRO area. As described above and in the regulation, HCFA first establishes an areawide unit cost rate which reflects regional variations, review priorities and review procedures to be used in the PSRO area. The PSRO and the hospital will then negotiate a unit cost rate(s) that corresponds to the scope and level of review and permits the PSRO to comply with the areawide unit cost rate.

Comment. Several commenters were opposed to the "annual hospital budget ceiling" concept contained in the proposed regulations. Some thought that the number of admissions should not be subject to a budget ceiling. In their opinion this might require a reduction in the amount of review activities or the cost of review might be borne by the non-Federal patient.

Response. The regulation has been changed and the provision for an annual hospital budget ceiling has been deleted. Instead of controlling the cost of delegated hospital review activities through the use of an annual budget ceiling, we have established controls based on a unit cost rate. As a result, changes in the number of admissions may occur without having to renegotiate budgets.

Comment. Another major area of concern was the negotiation process between the PSRO and the hospital. Some felt there was an incentive for PSROs to underfund their delegated hospitals in order to preserve funds for nondelegated review. Others felt that the regulation would create a financial disincentive for delegated hospitals.

Response. We disagree. The PSRO is responsible for ensuring that the total costs of review in its area, both delegated and nondelegated, do not exceed the limits set by HCFA. If hospitals decline delegated status because of a too low unit cost rate, the PSRO would be forced to assume the review activities. The possibility of this happening will deter PSRO underfunding of delegated hospitals.

Comment. Several commenters felt that PSROs do not have the expertise needed for the negotiation process with hospitals.

Response. We disagree. The regulation does not require any more expertise or information than the PSROs must have now to deal with hospitals or to negotiate their grants with HCFA. PSROs have been involved in negotiating unit cost rates with their hospitals since the unit cost rate system was implemented in March 1977. PSROs also have had access to the information obtained by the fiscal intermediaries and, in particular, their cost data to assist them in this effort. We have in this final regulation included the requirement that PSROs consult with fiscal intermediaries on hospital cost data in negotiating unit cost rates.

We also recognize that changes may need to occur in the review process at a hospital during the cost reporting year. Thus, the regulation now permits both automatic changes and renegotiation of the review plan and unit cost rate(s).

Comment. Another commenter asked what would merit a modification to the annual budget ceiling.

Response. The establishment of an annual budget ceiling has been deleted from the final regulation except for hospitals delegated the quality review study function only. The budget ceiling has been replaced by the unit cost rate. The following are examples of what might constitute an acceptable reason for modifications to the review plan and in turn the unit cost rate: a change in the intensity of review at a hospital; a change in collective bargaining agreements with nurses and other personnel in local hospitals which increases staff salaries; a change in the staffing pattern of a hospital; an unusual nonrecurring event; a reduction or increase in the PSRO's areawide unit cost rate; or, preadmission review which results in a screening out of possible admissions. Similar circumstances may warrant changes in the unit cost rate for nondelegated review. Any modifications must be negotiated within the current areawide PSRO unit cost rate limits.

Comment. Some commenters asked how indirect costs of delegated hospitals will be reimbursed.

Response. The indirect costs of review will continue to be included in administrative and general or other appropriate overhead expense accounts. These costs will be reimbursed through the hospital's regular cost allocation system. Nondelegated hospitals which provide the PSRO with space or other services will continue to include these costs in administrative and general or other appropriate overhead expense accounts in their cost reports.

Comment. A few commenters suggested we make some provision for an appeals process.

Response. If a PSRO and a hospital are unable to reach an agreement and the hospital is unwilling to perform review at the proposed hospital unit cost rate(s), the PSRO shall withdraw delegation from the hospital in accordance with 42 CFR 463.6 and 42 CFR 466.36. If it wishes, the hospital may request a reconsideration of the PSRO's determination in accordance with 42 CFR 466.37.

Comment. Several commenters suggested that we provide some type of incentive for delegated hospitals to operate below the negotiated cost. Some thought we should reward hospitals who have a good record of performance.

Response. As long as a hospital is assured of reimbursement for its reasonable review costs, additional incentives in the form of increased funds to the hospital are unnecessary. The PSRO program is intended to benefit delegated hospitals by enabling them to utilize their facilities and services more effectively and efficiently and to improve patient care. These benefits should be sufficient incentive to a hospital to conduct an effective utilization review program. However, where a hospital can meet the review objectives negotiated with the PSRO for less than the negotiated unit cost rate the hospital may expand the level or scope of its review activities with PSRO approval so long as it does not exceed its negotiated unit cost rate. Similarly, if a PSRO determines that it can achieve its areawide objectives with less funds than it had anticipated, it may consider as one of its options, expanding the level or scope of review activities in a

hospital and, correspondingly, increasing the hospital's unit cost rate.

Comment. Some commenters suggested that there be an annual budget ceiling for nondelegated review.

Response. Although the use of an annual budget ceiling has been deleted from the final regulation, we have added a provision to the regulation requiring the PSRO to develop a unit cost rate for all nondelegated review in its area.

Comment. Several commenters requested that we delete the option that nondelegated hospitals have been given to pay the PSRO for its review activities in the hospital and receive reimbursement from the fiscal intermediary.

Response. We did not accept this request because Sections 1815(b) and 1861(w)(2) of the Social Security Act require that all hospitals participating in the Medicare program be given this option.

42 CFR Part 466 is amended as follows:

1. Section 466.2 is amended by adding the following terms in alphabetical order:

§ 466.2 Definitions.

* * * * *

"Federal Admission" means: the admission of a patient who is or may be eligible to receive health care services for which payment may be made (in whole or in part) under the Social Security Act.

* * * * *

"Quality Review Study" means: a problem oriented assessment of the nature of health care services, including outcomes, for the improvement of patient care through the identification of potential problems, peer analysis, intervention, resolution and followup.

* * * * *

2. The Table of Contents to Part 466 is amended by adding the following at the end:

PART 466—PSRO HOSPITAL REVIEW

* * * * *

Subpart E—Financing of Review Activities

Sec.

466.60 Applicability and scope.
466.61 Areawide budget.
466.62 Reimbursement to delegated hospitals.
466.63 Reimbursement for nondelegated hospitals.

3. A new Subpart E is added to read as follows:

Subpart E—Financing of Review Activities

§ 466. 60 Applicability and scope.

This subpart establishes requirements and procedures for financing PSRO review activities in delegated and nondelegated hospitals and in delegated long term care facilities. It further implements Sections 1152(b), 1155(e), 1155(f), 1168, 1815(b), and 1861(w)(2) of the Act.

§ 466.61 Areawide budget.

(a) *Rate setting.* HCFA will determine a unit cost rate for individual budget periods of PSROs. The unit cost rate will be the reasonable cost of review per Federal admission in the PSRO area. The unit cost rate will reflect regional variances and review priorities and procedures to be used in the PSRO area. This unit cost rate will be multiplied by the estimated number of Federal admissions in the PSRO area to determine the total funds available for hospital review in the PSRO area.

(b) *HCFA monitoring.* HCFA is responsible for monitoring the total cost of review activity and the level of review activity to assure conformance with the PSRO's review plan and unit cost rate. A PSRO's failure to conform with the review plan and unit cost rate may lead to actions taken in accordance with 42 CFR 462.11 and 463.11.

§ 466.62 Reimbursement to delegated hospitals.

(a) *Hospital unit cost rate.* The unit cost rate(s) for each hospital will be determined in the following manner:

(1) The PSRO and each hospital will negotiate a review plan in accordance with Subpart C of this part. The review plan must include any review activities that are to be modified by the hospital in accordance with § 466.15.

(2) Prior to the cost reporting year, the PSRO and the hospital will negotiate a unit cost rate(s) based on the review plan and functions delegated to the hospital. The unit cost rate must be reasonable and consistent with the review plan and must permit the PSRO to remain within its area unit cost rate. The PSRO will consult with the hospital's Medicare fiscal intermediary during this process in order to obtain hospital cost data to assist it in negotiating unit cost rates. As part of the negotiations, the PSRO and the hospital may agree to automatically increase or decrease the unit cost rate or modify the review whenever certain specified conditions described in the review plan exist.

(3) A hospital shall provide appropriate financial and statistical records to the PSRO at least annually to enable the PSRO to negotiate a reasonable unit cost rate(s). These records shall also be available to the fiscal intermediary so it may assist the PSRO in negotiations.

(4) A hospital that is delegated only the quality review study function, including MCEs, shall negotiate with the PSRO the quality review study plan to be performed and a fixed amount of money the hospital will receive for performing this activity. The quality review plan or the amount of money may be renegotiated at any time during the hospital's cost reporting year. Renegotiations shall be conducted in a manner similar to that for unit cost rate renegotiations as described in this section.

(5) Long term care review which is delegated to a SNF or an ICF that is certified as a distinct part of an acute care hospital must be included as part of the hospital's review plan and unit cost rate if the costs of the SNF or the ICF are included with the hospital's acute care costs on a single Medicare cost report.

(b) *Failure to reach agreement.* If the PSRO and the delegated hospital are unable to reach an agreement on the review plan and the unit cost rate(s), the PSRO shall determine a unit cost rate(s). This will reflect what the PSRO believes the reasonable cost of delegated review activities will be in that hospital for the next cost reporting year. If the hospital is unwilling to accept the proposed unit cost rate(s) or the scope and level of review, the PSRO shall withdraw or refuse to grant delegated status to the hospital in accordance with §§ 463.6 and 466.36.

The hospital may request a reconsideration of the PSRO's decision in accordance with § 466.37.

(c) *Reimbursement.*(1) Except in the case of hospitals delegated only quality review studies, including MCEs, each hospital will be reimbursed either on a monthly or quarterly basis for the direct costs of performing the delegated review functions, based on its unit cost rate multiplied by the number of Federal admissions. Hospitals delegated only the quality review study function, including MCEs, will be reimbursed an appropriate portion of these costs on a monthly or quarterly basis. A hospital's indirect costs associated with PSRO review shall be included in administrative and general or other appropriate overhead expense accounts.

(2) In order for a hospital to receive its monthly or quarterly reimbursement, a hospital participating in the Medicare Program shall submit simultaneously to

its PSRO and fiscal intermediary all information necessary to support its claim for reimbursement for that month or quarter. The PSRO shall submit its approval of the costs claimed to the fiscal intermediary in a timely manner. The fiscal intermediary shall reimburse a hospital only for the amount approved by the PSRO.

(3) A hospital that does not participate in the Medicare program, but has been delegated authority to review Medicade and MCH–CC patients shall be reimbursed by the PSRO. The hospital shall submit all reports required by the PSRO. The PSRO shall then reimburse the hospital for the cost of review based on the negotiated unit cost rate(s) with each hospital and the number of admissions reported by the hospital. HCFA will provide grant funds to the PSRO for reimbursement made to the hospital.

(d) *PSRO Monitoring.* The PSRO is responsible for monitoring the total cost of delegated review and the delegated review activity to assure the hospital's conformance with the review plan. Payment of the unit cost rate per admission is contingent on the hospital executing the approved review plan. The PSRO may withdraw delegation if the hospital does not perform review consistent with the plan.

(2) The hospital must maintain records, and submit reports regarding its review activities and costs to the PSRO or to HCFA, as required by HCFA. Fiscal intermediaries are responsible for audits of review costs for hospitals participating in the Medicare Program. Medicaid State Agencies are responsible for audits of review costs for Medicaid hospitals which do not participate in the Medicare Program. State MCH–CC programs are responsible for audits of review costs for MCH–CC hospitals which do not participate in the Medicare Program.

(3) *Rate changes.* (e) If there is need for a change in the scope, type, or cost of review at the hospital during the cost reporting year, the PSRO may, on its own initiative or at the request of the hospital, renegotiate with the hospital the unit cost rate(s) for direct review costs to allow for such changes, provided the renegotiated rate(s) does not cause the PSRO to exceed its areawide unit cost.

(2) Adjustments to the review plan or unit cost rate(s) shall be made as they occur during the cost reporting year. There shall be no retroactive adjustments in the unit cost rate.

(3) The PSRO shall be responsible for giving adequate notice to the hospital and the hospital's fiscal intermediary of any changes in the unit rate(s) that result from negotiations at the beginning of a hospital's reporting year; renegotiations during the year, or an agreement to automatically change the rate when certain conditions described in the review plan exist.

§ 466.63 Reimbursement for nondelegated hospitals.

(a) *Unit cost rate for nondelegated review.* A PSRO shall be reimbursed for the direct cost of all review functions it performs that are not delegated to a hospital. A PSRO is required to develop a unit cost rate for nondelegated review which does not result in the PSRO exceeding its areawide unit cost rate. The PSRO must develop a review plan which specifies the estimated number of Federal admissions to the hospital, the number of admissions to be reviewed and the manner in which they will be reviewed.

(b) *Option available to nondelegated hospitals.* A nondelegated hospital which participates in the Medicare program may elect to pay the PSRO for its review activities in the hospital and receive reimbursement from the fiscal intermediary. If the hospital elects to pay the PSRO:

(1) The hospital must notify the PSRO in writing of its election 30 days prior to the PSRO's grant application submission deadlines.

(2) This method may be implemented only at the beginning of the PSRO's budget year.

(3) The hospital must make monthly prospective payments to the PSRO in amounts based on the PSRO's areawide nondelegated unit cost rate. The hospital must assure that the PSRO receives the payment by the first working day of each month in which review activities are to be performed. The hospital will be reimbursed for such payments monthly via separate payment from its intermediary. This payment will be made at the end of each month for which the hospital has already made its payments to the PSRO.

(4) The hospital's election to pay the PSRO directly shall be cancelled by HCFA if the hospital does not make timely payments as required under paragraph (b)(3) of this section.

(c) *Funded through award.* If the hospital does not elect to pay the PSRO, the PSRO will be funded by HCFA, as part of the PSRO's award under Part 462 of this subchapter, based on the nondelegated unit cost rate.

(d) *Indirect costs.* Nondelegated hospitals which provide the PSRO with space or other services will include these costs in administrative and general or other appropriate overhead expense accounts.

(Secs. 1102, 1155, 1156, 1165, 1168, 1815(b), and 1861(w) of the Social Security Act (42 U.S.C. 1302, 1320c–4, 1320c–5, 132oc–14, 1320c–17, 1395g(b), and 1395(w))

(Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program No. 13.773 Medicare-Hospital Insurance)

Dated: June 18, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

Dated: July 21, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80–31138 Filed 10–9–80; 8:45 am]

BILLING CODE 4110–35–M

federal register

Friday
October 10, 1980

Part V

Department of Labor

Occupational Safety and Health Administration

Potential Occupational Carcinogens; List of Substances Which May Be Candidates for Further Scientific Review and Possible Identification, Classification, and Regulation; Extension of Comment Period and Corrections

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

List of Substances Which May Be Candidates for Further Scientific Review and Possible Identification, Classification, and Regulation as Potential Occupational Carcinogens; Extension of Comment Period and Corrections

AGENCY: Occupational Safety and Health Administration of the Department of Labor (OSHA).

ACTION: Extension of the comment period and announcement of corrections.

SUMMARY: This notice allows an additional forty-five days for the submission of written comments on the List of Substances Which May Be Candidates for Further Scientific Review and Possible Identification, Classification, and Regulation as Potential Occupational Carcinogens which appeared in the **Federal Register** on August 12, 1980 (45 FR 53672).

In addition, this notice announces certain editorial corrections to the list.

EFFECTIVE DATE: All comments must be received in the Docket Office by December 1, 1980.

ADDRESS: Written comments, as well as requests for data, should be submitted to the Docket Office, Docket No. H–090A, Room S6212, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Department of Labor, OSHA Office of Public Affairs, Room N3641, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202–523–8151).

SUPPLEMENTARY INFORMATION:

Extension of Comment Period

OSHA published its list of substances which were candidates for further scientific review on August 12, 1980 in the **Federal Register** (45 FR 53672). In that publication, OSHA stated that all comments must be received in the Docket Office by October 14, 1980, which permitted a comment period of sixty days. Interested parties have requested that OSHA extend the comment period for an additional sixty days. OSHA believes that a sixty-day extension is unwarranted. However, in consideration of those engaged in the review of substances and preparation of comments, OSHA is extending the comment period for an additional forty-five days. The new closing date for the receipt of comments is December 1, 1980.

OSHA recognizes that new information and data can become available at any time on one or all of the substances listed on the candidate list and will obviously welcome new submissions at any time. For the purpose of developing the priority lists from the candidate list, however, the agency must establish an administrative cutoff date beyond which we cannot guarantee we will be able to consider such data in connection with the current candidate and forthcoming priority lists. Clearly, however, the agency will consider the data submitted after the cutoff date in arriving at the next revision of the candidate list and the future priority lists.

Editorial Corrections

The following corrections are made in FR Doc. 80–29340 appearing on page 53672 in the issue of August 12, 1980:

1. On page 53673, second column, line 24 is corrected to read, "and co-operation,".

2. On page 53673, third column, line 30 is corrected to read "Cancer Standard".

3. On page 53675, third column, line 20 is changed to read "Syn: Mineral pitch".

Signed at Washington, D.C., this 7th day of October, 1980.

Eula Brigham,

Assistant Secretary of Labor.

[FR Doc. 80–31635 Filed 10–9–80; 8:45 am]

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federal register

Friday
October 10, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Electric and Gas Utilities Covered in 1981 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Titles II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-43A]

Electric and Gas Utilities Covered in 1981 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Titles II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA and Titles II and VII of NECPA apply during such calendar year. This Notice contains the list for 1981. Each State regulatory authority is required, pursuant to sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA, to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. Written comments are requested on the accuracy of the list of electric utilities and gas utilities.

DATE: Notifications by State regulatory authorities and written comments must be received by November 10, 1980.

ADDRESS: Notifications and written comments should be forwarded to: Department of Energy, Office of Public Hearings Management, 2000 M Street, N.W. (Room B-210), Docket No. ERA-R-79-43A, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Nancy E. Tate, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street (Room 4306), Washington, D.C. 20461, 202/653-3920.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*, hereinafter referred to as the "Acts," the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Titles II and VII of NECPA apply in 1981. State regulatory authorities are required by the above cited Acts to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible State regulatory authority under the Acts.

The term "State regulatory authority" means any State, including the District of Columbia and Puerto Rico, political subdivision thereof, and any agency or instrumentality of either which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency), and in the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term "State regulatory authority" means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency or Federal agency, which sells electric energy. An electric utility is covered by Title I for any calendar year if the electric utility had total sales of electric energy for purposes other than resale in excess of 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. An electric utility is covered in 1981 if it exceeded the threshold in 1976, 1977, 1978, or 1979.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III for any calendar year if the gas utility had total sales of natural gas for purposes other than resale in excess of 10 billion cubic feet during any calendar year begining after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1981 if it exceeded the threshold in 1976, 1977, 1978, or 1979.

Title II, Part 1, of NECPA addresses residential conservation programs, and Title VII of NECPA, recently enacted as part of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 *et seq.* (42 U.S.C. 8701 *et seq.*), addresses commercial building and multi-family dwelling conservation programs. Section 211(b) contains a requirement, similar to that of PURPA, that the Secretary of Energy publish a list of electric and gas utilities to which Titles II and VII apply. The NECPA requirements for coverage of electric utilities and gas utilities differ from the PURPA requirements in only three respects:

(1) The threshold for electric utilities is 750 million kilowatt-hours for purposes other than resale;

(2) A utility is covered for any calendar year if it exceeded the threshold during the second preceding calendar year. A utility is covered in 1981 if it exceeded the threshold in 1979; and

(3) Only utilities which have residential sales are covered by Title II and only utilities which have sales to commercial buildings or multi-family dwellings are covered by Title VII.

II. Notification and Comment Procedures

No later than November 10, 1980, each State regulatory authority must notify the Department of Energy in writing of each utility on the list over which it has ratemaking authority. Fifteen copies of such notification should be submitted to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43A." Such notification should include: (1) a complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority, (2) legal citations pertaining to the ratemaking authority of the State regulatory authority, and (3) for any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing on any errors or omissions with respect to the list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43A." Written comments should include

the commenter's name, address and telephone number.

All notifications and comments received by DOE will be available for public inspection in the DOE Reading Room, Room 5B–180, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

III. List of Electric Utilities and Gas Utilities

DOE is publishing, in Appendix A and Appendix B, two different tabulations of the list of utilities which meet both PURPA and NEPCA coverage requirements. In both appendices, the listed utilities not covered by NECPA are noted.

Appendix A is a tabulation of utilities which separately identifies, by State, each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to DOE by State regulatory authorities in response to the October 1, 1979 **Federal Register** Notice requiring State regulatory authorities to notify DOE of each utility on the list over which it has ratemaking authority, and subsequent information available to DOE.

The utilities classified in Appendix A as not regulated by the State regulatory authority may in fact be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

The changes to the 1980 list of electric and gas utilities are minor and are as follows:

Investor-Owned Electric Utilities

Added to the 1980 List:
*Central Kansas Power Company (KS)

Publicly-Owned Electric Utilities

Added to the 1980 List:
*Anchorage Municipal Light and Power Department (AK)
*North Little Rock Electric Department (AR)
*Owensboro Municipal Utilities (KY)

Asterisk Removed:
Burbank Public Service Department (CA)
Lafayette Utilities System (LA)

Removed from the 1980 List:
Richmond Department of Public Utilities (VA)

Rural Electric Cooperatives

Added to the 1980 List:
*Dixie Electric Membership Corporation (LA)
*Public Utility District No. 1 of Douglas County (WA)
*Tri-County Electric Association (WY)

Asterisk Removed:
Clay County Electric Cooperative (FL)
Lee County Electric Cooperative (FL)

Investor-Owned Gas Utilities

Added to the 1980 List:
Associated Natural Gas Company (AR)
Tucson Gas and Electric Company (AZ)

Removed from the 1980 List:
Florida Gas Company (FL)

Publicly-Owned Gas Utilities

No change to the 1980 list.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.*) (42 U.S.C. 8211 *et seq.*))

Issued in Washington, D.C. on October 6, 1980.

Howard Perry,

Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

Appendix A

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978 or 1979 and are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) do not have residential or commercial sales, and therefore, are not covered by NECPA Titles II and VII.

All electric utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978 or 1979. All, except those marked (*), are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1979, for purposes other than resale, or do not have residential or commercial sales, and therefore, are not covered by NECPA Titles II or VII.

Alabama

Regulatory Authority: Alabama Public Service Commission

Gas Utilities

Investor-Owned:
Alabama Gas Corporation
Mobile Gas Service Corporation

Electric Utilities

Investor-Owned:
Alabama Power Company

The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:

Electric Utilities

Publicly-Owned:
Decatur Electric Department
*Dothan Electric Department
Florence Electricity Department
Huntsville Utilities

Alaska

Regulatory Authority: Alaska Public Utilities Commission

Gas Utilities

Investor-Owned:
Alaska Gas and Service Company

Electric Utilities

Rural Electric Cooperatives:
Chugach Electric Association
Publicly-Owned:
*Anchorage Municipal Light & Power Department

Arizona

Regulatory Authority: Arizona Corporation Commission

Gas Utilities

Investor-Owned:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation
Tucson Gas and Electric Company

Electric Utilities

Investor-Owned:
Arizona Public Service Company
Tucson Electric Power Company

The following covered utility within the State of Arizona is not regulated by the Arizona Corporation Commission:

Electric Utilities

Publicly-Owned:
Salt River Project Agricultural Improvement and Power District

Arkansas

Regulatory Authority: Arkansas Public Service Commission

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas-Western Gas Company

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Arkansas Power and Light Company
Empire District Electric Company

Oklahoma Gas and Electric Company
Southwestern Electric and Power Company
Rural Electric Cooperatives:
*First Electric Cooperative Corporation
Publicly-Owned:
*North Little Rock Electric Department

California

Regulatory Authority: California Public Utilities Commission

Gas Utilities

Investor-Owned:
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company

The following covered utilities within the State of California are not regulated by the California Public Utilities Commission:

Electric Utilities

Publicly-Owned:
Anaheim Electric Division
Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department

Gas Utilities

Publicly-Owned:
Long Beach Gas Department

Colorado

Regulatory Authority: Colorado Public Utilities Commission

Gas Utilities

Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Public Service Company of Colorado
Publicly-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

Electric Utilities

Investor-Owned:
Central Telephone and Utilities Corporation
Public Service Company of Colorado
Publicly-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

Gas Utilities

Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)

Electric Utilities

Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)

Connecticut

Regulatory Authority: Connecticut Division of Public Utility Control

Gas Utilities

Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Southern Connecticut Gas Company

Electric Utilities

Investor-Owned:
Connecticut Light and Power Company
Hartford Electric Light Company
United Illuminating Company

Delaware

Regulatory Authority: Delaware Public Service Commission

Gas Utilities

Investor-Owned:
Delmarva Power and Light Company

Electric Utilities

Investor-Owned:
Delmarva Power and Light Company

District of Columbia

Regulatory Authority: Public Service Commission of the District of Columbia

Gas Utilities

Investor-Owned:
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Potomac Electric Power Company

Florida

Regulatory Authority: Florida Public Service Commission

Gas Utilities

Investor-Owned:
City Gas Company of Florida
Peoples Gas System

Electric Utilities

Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company
Tampa Electric Company
Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Gainesville-Aluchua County Regional Electric, Water and Sewer Utilities Board
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
Orlando Utilities Commission
Tallahassee, City of
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Clay Electric Cooperative
Lee County Electric Cooperative
*Withlachoochee River Electric Cooperative

Georgia

Regulatory Authority: Georgia Public Service Commission

Gas Utilities

Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus
United Cities Gas Company

Electric Utilities

Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company

The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission:

Electric Utilities

Publicly-Owned:
*Albany Water, Gas & Light Commission
Rural Electric Cooperatives:
*Flint Electrical Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation

Hawaii

Regulatory Authority: Hawaii Public Utilities Commission

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Hawaiian Electric Company, Inc.

Idaho

Regulatory Authority: Idaho Public Utilities Commission

Gas Utilities

Investor-Owned:
Intermountain Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company

Illinois

Regulatory Authority: Illinois Commerce Commission

Gas Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company

Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company
United Cities Gas Company

Electric Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
Union Electric Company

The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

Electric Utilities

Publicly-Owned:
Springfield Water, Light and Power Department

Indiana

Regulatory Authority: Indiana Public Service Commission

Gas Utilities

Investor-Owned:
Indiana Gas Company
Kokomo Gas and Fuel Company
Northern Indiana Public Service Company
Panhandle Eastern Pipeline Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned:
Citizens Gas and Coke Utility

Electric Utilities

Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company
Publicly-Owned:
*Richmond Power and Light

Iowa

Regulatory Authority: Iowa Commerce Commission

Gas Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Minnesota Gas Company
North Central Public Service Company
Peoples Natural Gas Division of Northern Natural Gas Company

Electric Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company

Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
*Muscatine Power and Light Omaha Public Power District

Kansas

Regulatory Authority: Kansas State Corporation Commission

Gas Utilities

Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Division of Northern Natural Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:
*Central Kansas Power Company
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company
Southwestern Public Service Company
Western Power Division Central Telephone and Utilities Corporation

The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

Electric Utilities

Publicly-Owned:
Kansas City Board of Public Utilities

Kentucky

Regulatory Authority: Kentucky Energy Regulatory Commission

Gas Utilities

Investor-Owned:
Columbia Gas of Kentucky, Inc.
Equitable Gas Company
Inland Gas Company
Louisville Gas and Electric Company
Panhandle Eastern Pipeline Company
Union Light, Heat and Power Company
Western Kentucky Gas Company

Electric Utilities

Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation

The following covered utilities within the State of Kentucky are not regulated by the Kentucky Energy Regulatory Commission:

*Owensboro Municipal Utilities
*Pennyrile Rural Electric Cooperative Corporation
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

Louisiana

Regulatory Authority: Louisiana Public Service Commission

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Gulf States Utilities Company
Louisiana Gas Service Company
Panhandle Eastern Pipeline Company

Electric Utilities

Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company

The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

Gas Utilities

Investor-Owned:
New Orleans Public Service, Inc.

Electric Utilities

Investor-Owned:
New Orleans Public Service, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned:
Lafayette Utilities System
Rural Electric Cooperatives:
Southwest Louisiana Electric Membership Corporation

Maine

Regulatory Authority: Maine Public Utilities Commission

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Bangor Hydro-Electric Company
Central Maine Power Company
Public Service Company of New Hampshire

Maryland

Regulatory Authority: Maryland Public Service Commission

Gas Utilities

Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Baltimore Gas and Electric Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company
Rural Electric Cooperatives:
Southern Maryland Electric Cooperative, Inc.

Massachusetts

Regulatory Authority: Massachusetts Department of Public Utilities

Gas Utilities

Investor-Owned:
- Bay State Gas Company
- Boston Gas Company
- Commonwealth Gas Company
- Lowell Gas Company
- New Bedford Gas and Edison Light Company

Electric Utilities

Investor-Owned:
- Boston Edison Company
- Cambridge Electric Light Company
- Eastern Edison Company
- Massachusetts Electric Company
- New Bedford Gas and Edison Light Company
- Western Massachusetts Electric Company

Michigan

Regulatory Authority: Michigan Public Service Commission

Gas Utilities

Investor-Owned:
- Consumers Power Company
- Michigan Consolidated Gas Company
- Michigan Gas Utilities Company
- Michigan Power Company
- Panhandle Eastern Pipeline Company
- Peoples Natural Gas Division of Northern Natural Gas Company
- Southeastern Michigan Gas Company
- Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
- Consumers Power Company
- Detroit Edison Company
- Indiana and Michigan Electric Company
- *Lake Superior District Power Company
- *Michigan Power Company
- *Upper Peninsula Power Company
- Wisconsin Electric Power Company
- Wisconsin Public Service Corporation

The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:

Electric Utilities

Publicly-Owned:
- Lansing Board of Water and Light

Minnesota

Regulatory Authority: Minnesota Public Utility Commission

Gas Utilities

Investor-Owned:
- Greeley Gas Company
- Inter City Gas Limited
- Interstate Power Company
- Iowa Electric Light and Power Company
- Minnesota Gas Company
- Montana-Dakota Utilities Company
- North Central Public Service Company
- Northern States Power Company
- Peoples Natural Gas Division of Northern Natural Gas Company

Electric Utilities

Investor-Owned:
- Interstate Power Company
- Minnesota Power and Light Company
- Northern States Power Company
- Otter Tail Power Company

The following covered utilities within the State of Minnesota is not regulated by the Minnesota Public Service Commission:

Electric Utilities

Rural Electric Cooperatives:
- *Anoka Electric Cooperative

Mississippi

Regulatory Authority: Mississippi Public Service Commission

Gas Utilities

Investor-Owned:
- Entex, Incorporated
- Mississippi Valley Gas Company

Electric Utilities

Investor-Owned:
- Mississippi Power and Light Company
- Mississippi Power Company

The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission:

Electric Utilities

Rural Electric Cooperatives:
- *4-County Electric Power Association
- *Singing River Electric Power Association
- *Southern Pine Electric Power Association

Missouri

Regulatory Authority: Missouri Public Service Commission

Gas Utilities

Investor-Owned:
- Associated Natural Gas Company
- Gas Service Company
- Laclede Gas Company Consolidated
- Missouri Public Service Company
- Panhandle Eastern Pipeline Company
- Peoples Natural Gas Division of Northern Natural Gas Company

Electric Utilities

Investor-Owned:
- Arkansas-Missouri Power Company
- Empire District Electric Company
- Kansas City Power and Light Company
- Missouri Edison Company
- Missouri Power and Light Company
- Missouri Public Service Company
- Missouri Utilities Company
- St. Joseph Light and Power Company
- Union Electric Company

The following covered utilities within the State of Missouri are not regulated by the Missouri Public Service Commission:

Gas Utilities

Investor-Owned:
- Cities Service Gas Company

Publicly-Owned:
- Springfield City Utilities

Electric Utilities

Publicly-Owned:
- *Independence Power and Light Department
- Springfield City Utilities

Montana

Regulatory Authority: Montana Public Service Commission

Gas Utilities

Investor-Owned:
- Montana-Dakota Utilities Company
- Montana Power Company

Electric Utilities

Investor-Owned:
- Black Hills Power and Light Company
- Montana-Dakota Utilities Company
- Montana Power Company
- Pacific Power and Light Company
- Washington Water Power Company

Nebraska

Regulation Authority: Nebraska Public Service Commission

The Commission does not regulate the rates and services of the gas and electric utilities of the State of Nebraska.

The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission:

Electric Utilities

Publicly-Owned:
- Lincoln Electric System
- Nebraska Public Power District

Omaha Public Power District

Gas Utilities:
- Gas Service Company
- Iowa Electric Light and Power Company
- Iowa Public Service Company
- Kansas-Nebraska Natural Gas Company
- Minnesota Gas Company
- Northern Natural Gas Company
- Northwestern Public Service Company
- Peoples Natural Gas Division of Northern Natural Gas Company

The governing body of each Nebraska municipality exercises ratemaking jurisdiction over gas utility rates, operations and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

Publicly-Owned:
- Metropolitan Utilities District of Omaha

Nevada

Regulatory Authority: Nevada Public Service Commission

Gas Utilities

Investor-Owned:
- Southwest Gas Corporation

Electric Utilities

Investor-Owned:
- Idaho Power Company
- Nevada Power Company
- Sierra Pacific Power Company

New Hampshire

Regulatory Authority: New Hampshire Public Utilities Commission

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Public Service Company of New Hampshire

New Jersey

Regulatory Authority: New Jersey Department of Energy, Board of Public Utilities

Gas Utilities

Investor-Owned:
Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Gas Company
South Jersey Gas Company

Electric Utilities

Investor-Owned:
Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company

New Mexico

Regulatory Authority: New Mexico Public Service Commission

Gas Utilities

Gas Company of New Mexico

Electric Utilities

Investor-Owned:
Community Public Service Company
El Paso Electric Company
*New Mexico Electric Service Company
Public Service Company of New Mexico
Southwestern Public Service Company

New York

Regulatory Authority: New York Public Service Commission

Gas Utilities

Investor-Owned:
Brooklyn Union Gas Company
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

Electric Utilities

Investor-Owned:
Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

The following covered utility within the State of New York is not regulated by the New York Public Service Commission:

Electric Utilities

Publicly-Owned:
*Power Authority of New York

North Carolina

Regulatory Authority: North Carolina Utilities Commission

Gas Utilities:

Investor-Owned:
North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina
United Cities Gas Company

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

Electric Utilities

Publicly-Owned:
Fayetteville Public Works Commission
*Greenville Utilities Commission
*Rocky Mount Public Utilities
*Wilson Utilities Department

North Dakota

Regulatory Authority: North Dakota Public Service Commission

Gas Utilities

Investor-Owned:
Montana-Dakota Utilities Company
Northern States Power Company

Electric Utilities

Investor-Owned:
Montana-Dakota Utilities Company
Northern States Power Company
Otter Tail Power Company

Ohio

Regulatory Authority: Ohio Public Utilities Commission

Gas Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company

Electric Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

Electric Utilities

Publicly-Owned:
*Cleveland Division of Light and Power
Rural Electric Cooperatives:
*South Central Power Company

Oklahoma

Regulatory Authority: Oklahoma Corporation Commission

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Company
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Panhandle Eastern Pipeline Company
Southern Union Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company

The following covered utility within the State of Oklahoma is not regulated by the Oklahoma Corporation Commission:

Gas Utilities

Investor-Owned:
Cities Service Gas Company

Oregon

Regulatory Authority: Public Utility Commissioner of Oregon

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Portland General Electric Company

The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner of Oregon:

Electric Utilities

Publicly-Owned:
Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board
*Springfield Utilities Board
Rural Electric Cooperatives:
*Umatilla Electric Cooperative Association

Pennsylvania

Regulatory Authority: Pennsylvania Public Utility Commission

Gas Utilites

Investor-Owned:
Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distribution Corporation
North Penn Gas Company
Penn Fuel Gas, Inc.
Pennsylvania Gas and Water Company
Peoples Natural Gas Company
Philadelphia Electric Company
T. W. Phillips Gas and Oil Company
UGI Corporation

Electric Utilities

Investor-Owned:
Duquesne Light Company

Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI-Luzerne Electric Division
West Penn Power Company

The following covered utility within the State of Pennsylvania is not regulated by the Pennsylvania Public Utility Commission:

Gas Utilities

Publicly-Owned:
Philadelphia Gas Works

Puerto Rico

Regulatory Authority: Puerto Rico Public Service Commission

Gas Utilities

None.

Electric Utilities

None.

The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Service Commission:

Electric Utilities

Publicly-Owned:
Puerto Rico Electric Power Authority

Rhode Island

Regulatory Authority: Rhode Island Public Utilities Commission

Gas Utilities

Investor-Owned:
Providence Gas Company

Electric Utilities

Investor-Owned:
Blackstone Valley Electric Company
Narragansett Electric Company

South Carolina

Regulatory Authority: South Carolina Public Service Commission

Gas Utilities

Investor-Owned:
*Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company
United Cities Gas Company

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company

The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

Electric Utilities

Publicly-Owned:
South Carolina Public Service Authority

South Dakota

Regulatory Authority: South Dakota Public Utilities Commission

Gas Utilities

Investor-Owned:
Iowa Public Service Company
Minnesota Gas Company
Montana-Dakota Utilities Company
Northwestern Public Service Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
*Northwestern Public Service Company
Otter Tail Power Company

The following covered utility within the State of South Dakota is not regulated by the South Dakota Public Service Commission:

Electric Utilities

Publicly-Owned:
Nebraska Public Power District

Tennessee

Regulatory Authority: Tennessee Public Service Commission

Gas Utilities

Investor-Owned:
Alabama-Tennessee Natural Gas Company
Chattanooga Gas Company
East Tennessee Natural Gas Company
Nashville Gas Company
Panhandle Eastern Pipeline Company
United Cities Gas Company

Electric Utilities

Investor-Owned:
Arkansas Power and Light Company
Kentucky Utilities Company
Kingsport Power Company

The following covered utility within the State of Tennessee are not regulated by the Tennessee Public Service Commission:

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
*Greenville Light and Power System
*Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
Nashville Electric Service
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Gibson County Electric Membership Corporation
*Meriwether Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative

Gas Utilities

Publicly-Owned:
Memphis Light, Gas and Water Division

Tennessee

Regulatory Authority: Tennessee Valley Authority

Gas Utilities

None.

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
Decatur Electric Department
Florence Electricity Department
*Greenville Light and Power System
Huntsville Utilities
Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis, Light, Gas and Water Division
Nashville Electric Service
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Cooperative
*Duck River Electric Membership Cooperative
*Four-County Electric Power Association
*Gibson County Electric Membership Corporation
*Meriwether Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
North Georgia Electric Membership Corporation
*Pennyrile Rural Electric Cooperative Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

Texas

Regulatory Authority: Railroad Commission of Texas

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Lone Star Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Pioneer Natural Gas Company
Southern Union Gas Company

The Railroad Commission of Texas has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned gas utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over gas utility rates, operations, and services provided by a gas utility within its city or

town limits. These municipal authorities would be state agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:

Gas Utilities

Investor-Owned:
Cities Service Gas Company
Publicly-Owned:
City Public Service Board (San Antonio)

Texas

Regulatory Authority: Texas Public Utility Commission

Gas Utilities

Investor-Owned:
None.

Electric Utilities

Investor-Owned:
Central Power and Light Company
Community Public Service Company
Dallas Power and Light Company
El Paso Electric Company
Gulf States Utilities
Houston Lighting and Power Company
Southwestern Electric Power Company
*Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas Power and Light Company
West Texas Utilities Company
Publicly-Owned:
*Lower Colorado River Authority
Rural Electric Cooperatives:
*Pedernales Electric Cooperative

The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over electric utility rates, operations and services provided by an investor-owned electric utility within its city or town limits. The municipally-owned electric utilities listed below are not under the commission's original ratemaking jurisdiction. The Texas Public Utility Commission has a very limited, special appellate jurisdiction over ratemaking decisions of the governing body of any municipality for ratepayers living outside the city limits and served by a municipally-owned electric utility. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

The following municipally-owned electric utilities are *not* under the Commission's original ratemaking jurisdiction. The Commission's jurisdiction over these utilities is limited to appeal de novo.

Electric Utilities

Publicly-Owned:
Austin Electric Department
Garland Electric Department
*Lubbock Power and Light
San Antonio Public Service Board

Utah

Regulatory Authority: Utah Public Service Commission

Gas Utilities

Investor-Owned:
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Utah Power and Light Company
Rural Electric Cooperatives:
*Moon Lake Electric Association

State: Vermont

Regulatory Authority: Vermont Public Service Board

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Central Vermont Public Service Corporation
Green Mountain Power Corporation
Public Service Company of New Hampshire

Virginia

Regulatory Authority: Virginia State Corporation Commission

Gas Utilities

Investor-Owned:
Columbia Gas of Virginia, Inc.
Virginia Electric and Power Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Delmarva Power and Light Company of Virginia
*Old Dominion Power Company
Potomac Edison Company
Potomac Electric Power Company
Virginia Electric and Power Company

Rural Electric Cooperatives

*Prince William Electric Cooperative

The following covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission:

Gas Utilities

Publicly-Owned:
City of Richmond, Virginia, Department of Public Utilities

Washington

Regulatory Authority: Washington Utilities and Transportation Commission

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Washington Natural Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Pacific Power and Light Company
Puget Sound Power and Light Company
Washington Water Power Company

The following covered utility within the State of Washington are not regulated by the Washington Utilities and Transportation Commission.

Electric Utilities

Publicly-Owned:
*Port Angeles Light and Water Department
Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clark County
Public Utility District No. 1 of Cowlitz County
*Public Utility District No. 1 of Douglas County
*Public Utility District No. 1 of Franklin County
Public Utility District No. 1 of Grant County
Public Utility District No. 1 of Grays Harbor County
*Public Utility District No. 1 of Lewis County
Public Utility District No. 1 of Snohomish County
*Richland Energy Services Department
Seattle City Light Department
Tacoma Public Utilities—Light Division

West Virginia

Regulatory Authority: West Virginia Public Service Commission

Gas Utilities

Investor-Owned:
Cabot Corporation Utility Division
Columbia Gas of West Virginia, Inc.
Consolidated Gas Supply Corporation
Equitable Gas Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Monongahela Power Company
Potomac Edison Company
Virginia Electric and Power Company
Wheeling Electric Company

Wisconsin

Regulatory Authority: Wisconsin Public Service Commission

Gas Utilities

Investor-Owned:
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Fuel and Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
*Lake Superior District Power Company
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Electric Power Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

Wyoming

Regulatory Authority: Wyoming Public Service Commission

Gas Utilities

Investor-Owned:

Cheyenne Light, Fuel and Power Company
Kansas-Nebraska Natural Gas Company
Montana-Dakota Utilities Company
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Pacific Power and Light Company
Utah Power and Light Company
Rural Electric Cooperative:
*Tri-County Electric Association, Inc.

Appendix B

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978 or 1979. All, except those marked (*), are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) either did not exceed the NECPA threshold of 750 million kilowatt-hours in 1979, for purposes other than resale, or do not have residential or commercial sales and, therefore, are not covered by NECPA Titles II and VII. The utilities listed more than once have sales in more than one State, and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Power Company
Appalachian Power Company (VA)
Appalachian Power Company (WV)
Arizona Public Service Company
Arkansas-Missouri Power Company (AR)
Arkansas-Missouri Power Company (MO)
Arkansas Power & Light Company (AR)
Arkansas Power & Light Company (LA)
Arkansas Power & Light Company (TN)
Atlantic City Electric Company
Baltimore Gas & Electric Company
Bangor Hydro-Electric Company
Black Hills Power & Light Company (MT)
Black Hills Power & Light Company (SD)
Black Hills Power & Light Company (WY)
Blackstone Valley Electric Company
Boston Edison Company
Cambridge Electric Light Company
Carolina Power & Light Company (NC)
Carolina Power & Light Company (SC)
Central Hudson Gas & Electric Corporation
Central Illinois Light Company
Central Illinois Public Service Company
*Central Kansas Power Company
Central Louisiana Electric Company
Central Maine Power Company
Central Power & Light Company
Central Vermont Public Service Corporation
Cincinnati Gas & Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Community Public Service Company (NM)
Community Public Service Company (TX)
Connecticut Light & Power Company
Consolidated Edison Company of New York
Consumers Power Company
Dallas Power & Light Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
Delmarva Power & Light Company of Maryland
Delmarva Power & Light Company of Virginia
Detroit Edison Company
Duke Power Company (NC)
Duke Power Company (SC)
Duquesne Light Company
Eastern Edison Company
El Paso Electric Company (NM)
El Paso Electric Company (TX)
Empire District Electric Company (AR)
Empire District Electric Company (KS)
Empire District Electric Company (MO)
Empire District Electric Company (OK)
Florida Power Corporation
Florida Power & Light Company
Georgia Power Company
Green Mountain Power Corporation
Gulf Power Company
Gulf States Utilities Company (LA)
Gulf States Utilities Company (TX)
Hartford Electric Light Company
Hawaiian Electric Company, Inc.
Houston Lighting & Power Company
Idaho Power Company (ID)
Idaho Power Company (NV)
Idaho Power Company (OR)
Illinois Power Company
Indiana & Michigan Electric Company (IN)
Indiana & Michigan Electric Company (MI)
Indianapolis Power & Light Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Jersey Central Power & Light Company
Kansas City Power & Light Company (KS)
Kansas City Power & Light Company (MO)
Kansas Gas & Electric Company
Kansas Power & Light Company
Kentucky Power Company
Kentucky Utilities Company (KY)
Kentucky Utilities Company (TN)
Kingsport Power Company
*Lake Superior District Power Company (MI)
*Lake Superior District Power Company (WI)
Long Island Lighting Company
Louisiana Power & Light Company
Louisville Gas & Electric Company
Madison Gas & Electric Company
Massachusetts Electric Company
Metropolitan Edison Company
*Michigan Power Company
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Missouri Utilities Company
Monongahela Power Company (OH)
Monongahela Power Company (WV)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Narragansett Electric Company
Nevada Power Company
New Bedford Gas & Edison Light Company
*New Mexico Electric Service Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
Northern Indiana Public Service Company
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (SD)
Northern States Power Company (WI)
Northwestern Public Service Company
Ohio Edison Company
Ohio Power Company
Oklahoma Gas & Electric Company (AR)
Oklahoma Gas & Electric Company (OK)
*Old Dominion Power Company
Orange & Rockland Utilities
Otter Tail Power Company (MN)
Otter Tail Power Company (ND)
Otter Tail Power Company (SD)
Pacific Gas & Electric Company
Pacific Power & Light Company (CA)
Pacific Power & Light Company (ID)
Pacific Power & Light Company (MT)
Pacific Power & Light Company (OR)
Pacific Power & Light Company (WA)
Pacific Power & Light Company (WY)
Pennsylvania Electric Company (NY)
Pennsylvania Electric Company (PA)
Pennsylvania Power & Light Company
Pennsylvania Power Company
Philadelphia Electric Company
Portland General Electric Company
Potomac Edison Company (MD)
Potomac Edison Company (VA)
Potomac Edison Company (WV)
Potomac Electric Power Company (DC)
Potomac Electric Power Company (MD)
Potomac Electric Power Company (VA)
Public Service Company of Colorado
Public Service Company of Indiana
Public Service Company of New Hamsphire (ME)
Public Service Company of New Hamsphire (NH)
Public Service Company of New Hamsphire (VT)
Public Service Company of New Mexico
Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)
Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI-Luzerne Electric Division

Union Electric Company (IA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Western Power Division of Central Telephone & Utilities Corporation (CO)
Western Power Division of Central Telephone & Utilities Corporation (KS)
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned

*Albany Water, Gas & Light Commission (GA)
Anaheim—Electrical Division (CA)
*Anchorage Municipal Light & Power Department (AK)
Austin Electric Department (TX)
*Bristol Tennessee Electric System (TN)
*Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Electric Board (OR)
Fayetteville Public Works Commission (NC)
Florence Electricity Department (AL)
*Gainesville-Alachua County Regional Electric, Water, and Sewer Utilities Board (FL)
Garland Electric Department (TX)
*Glendale Public Service Department (CA)
*Greeneville Light & Power System (TN)
*Greenville Utilities Commission (NC)
Huntsville Utilities (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (FL)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
Lafayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
Los Angeles Department of Water and Power (CA)
*Lower Colorado River Authority (TX)
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
Modesto Irrigation District (CA)
*Muscatine Power & Water (IA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
*North Little Rock Electric Department (AR)
Omaha Public Power District (IA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
*Owensboro Municipal Utilities (KY)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District No. 1 of Douglas County (WA)
*Public Utility District of Franklin County (WA)
Public Utility District of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
*Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Electric Authority (PR)
*Richland Energy Services Department (WA)
Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority (SC)
Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities—Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperatives (MN)
*Appalachian Electric Cooperative (TN)
Chugach Electric Association (AK)
Clay Electric Cooperative (FL)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*First Electric Cooperative Corporation (AR)
*Flint Electrical Membership Corporation (GA)
*4-County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)
Lee County Electric Cooperative (FL)
*Meriwether Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
*Pedernales Electric Cooperative (TX)
*Pennyrile Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
*Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978 or 1979 and are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) do not have residential or commercial sales and, therefore, are not covered by NECPA Title II or VII. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Gas Corporation
Alabama-Tennessee Natural Gas Company
Alaska Gas & Service Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Associated Natural Gas Company (AR)
Associated Natural Gas Company (MO)
Atlanta Gas Light Company
Baltimore Gas & Electric Company

Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Cabot Corporation Utility Division
Carnegie Natural Gas Company
*Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)
Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
East Tennessee Natural Gas Company
Elizabethtown Gas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (TX)
Equitable Gas Company (KY)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Greeley Gas Company (MN)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Limited
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WY)
Kansas Power & Light Company
Kokomo Gas & Fuel Company
Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Minnesota Gas Company (IA)
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Mobile Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company
New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Corporation
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northern Illinois Gas Company
Northern Indiana Public Service Company
Northern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (IN)
Panhandle Eastern Pipeline Company (KY)
Panhandle Eastern Pipeline Company (KS)
Panhandle Eastern Pipeline Company (LA)
Panhandle Eastern Pipeline Company (MI)
Panhandle Eastern Pipeline Company (MO)
Panhandle Eastern Pipeline Company (OK)
Panhandle Eastern Pipeline Company (TN)
Pennsylvania Gas & Water Company
Peoples Gas, Light and Coke Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company (CO)
Peoples Natural Gas Division of Northern Natural Gas Company (IA)
Peoples Natural Gas Division of Northern Natural Gas Company (KS)
Peoples Natural Gas Division of Northern Natural Gas Company (MI)
Peoples Natural Gas Division of Northern Natural Gas Company (MN)
Peoples Natural Gas Division of Northern Natural Gas Company (MO)
Peoples Natural Gas Division of Northern Natural Gas Company (NE)
Peoples Natural Gas Division of Northern Natural Gas Company (TX)
Penn Fuel Gas, Inc.
Philadelphia Electric Company
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Pioneer Natural Gas Company
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Electric & Gas Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Connecticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southwest Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
T. W. Phillips Gas and Oil Company
UGI Corporation
Union Gas System, Inc. (KS)
Union Gas System, Inc. (OK)
Union Light, Heat & Power Company (KY)
United Cities Gas Company (GA)
United Cities Gas Company (IL)
United Cities Gas Company (NC)
United Cities Gas Company (SC)
United Cities Gas Company (TN)
Virginia Electric & Power Company
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company
Western Kentucky Gas Company
Wisconsin Fuel & Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned

Citizens Gas & Coke Utility (IN)
City of Richmond, Virginia, Department of Public Utilities (VA)
City Public Service Board (San Antonio) (TX)
Colorado Springs Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

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Friday
October 10, 1980

Part VII

Environmental Protection Agency

Air Programs; Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for Lead

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 51 and 58

[A-FRL 1553-7]

Air Programs; Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed revisions to Part 58 would establish ambient air monitoring and data reporting requirements for lead comparable to those already established for the other criteria pollutants. Included within these regulations are newly developed requirements for reporting and for assuring the quality of ambient lead data. Also included are requirements for the design of lead monitoring networks and the siting of lead monitors which will supersede less complete requirements on these subjects currently contained in § 51.17b, which are being revoked in this action, and in EPA's "Supplementary Guidelines for Lead Implementation Plans" (EPA/450/2-78/038, 8/78). Revisions are also proposed which would allow State or local agencies to operate special purpose ambient air quality monitors according to specifications approved by the Regional Administrator where the data is to be used for SIP related functions other than a demonstration of attainment or non-attainment. Appendix G of Part 50 is also being revised to incorporate requirements currently included in § 51.17b.

DATES: Comments must be received on or before December 9, 1980.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to Central Docket Section (a-130), U.S. Environemntal Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket No. A/80/33.

DOCKET: Docket Number A-80-33, containing information used by EPA in development of the proposed rules, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Sleva, Chief, Monitoring Section, Monitoring and Data Analysis Division (MD-14), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5351.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978 (43 FR 46269) the Administrator of the Environmental Protection Agency promulgated national ambient air quality standards for lead and regulations for the preparation, adoption and submittal of implementation plans for attaining and maintaining the lead air quality standards.

Within these regulations, a new § 51.17b was established to set forth requirements for air quality surveillance relative to plans for attaining and maintaining the lead air quality standard. § 51.71b called for the States to establish and operate networks for monitoring ambient lead and to report the resulting data to EPA. The data were to be used, among other things, for developing control strategies, tracking attainment and maintenance of the national ambient air quality standard (NAAQS), and in analyzing air quality trends. At the time these regulations were promulgated, EPA was actively involved in a major revision to the ambient air quality monitoring and data reporting requirements for all of the other criteria pollutants (proposed on August 7, 1978, 43 FR 34892).

In addition to presenting far more comprehensive requirements than had been in effect since 1971, a key portion of the August 1978 action proposed the creation of a new Part 58 to include most of the regulatory requirements dealing with air quality monitoring. EPA had not proposed comprehensive requirements for ambient lead monitoring in either the August 1978 action or in the earlier action proposing the Part 51 requirements for lead implementation plans. Furthermore, complete requirements for quality assurance and certain aspects of monitor siting had not yet been developed by October 1978; only those minimum requirements related to plan development and surveillance of ambient levels were contained in the October 1978 action. Additional guidance on monitor siting was presented in the "Supplementary Guidelines for Lead Implementation Plans". On May 10,1979 (44 FR 27558) final rules were promulgated to establish Part 58 and provide complete and detailed requirements for air quality monitoring, data reporting and surveillance for all of the criteria pollutants except lead.

Today's notice carries out the intent expressed in the October 5, 1978, and May 10, 1979 actions by proposing requirements for lead that are closely patterned after the requirements for the other criteria pollutants. In addition to the requirements dealing solely with lead, a minor revision is being proposed to § 58.14 to give State and local agencies additional flexibility in conducting special ambient monitoring studies. As explained further below, the change would allow stations that are not part of a State and Local Air Monitoring Stations (SLAMS) network or within a network operated for the Prevention of Significant Deterioration (PSD) program, to operated in accordance with the monitoring schedule, methodology, quality assurance procedures, and probe and instrument siting specifications approved by the Regional Administrator.

Regulatory Revisions

Addition to Part 50, Appendix G

On June 29, 1979 (44 FR 37916) § 51.17b(h) was revised to explain the procedures required if compositing of individual lead samples is to be done in lieu of analyzing individual samples. Today's action proposes to revoke all of § 51.17b and to present in Parts 50 and 58 requirements for lead in a form that is comparable to those for the other criteria pollutants. Since the essence of § 51.17b(h) is pertinent to the proper application of the reference method and to the accuracy of the data produced via the SIP networks, today's action would amend Appendix G to Part 50 which describes the reference method for the determination of lead in the atmosphere by adding to it the substance of § 51.17b(h). Although the wording proposed for addition to Appendix G differs slightly from that appearing in § 51.17b(h), EPA is proposing no change to the substance of what now appears in § 51.17b(h). As indicated above, today's action proposes the revocation of all of § 51.17b. The explanation of how the requirements to be added to Part 58 relate to the subjects covered in the balance of § 51.17b is in the Discussion of Revisions—Parts 51 and 58.

Discussion of Revisions—Parts 51 and 58

The regulatory revisions to Parts 51 and 58 being proposed today revoke § 51.17b and amend § 58.14, 58.20, 58.23, 58.30, 58.34, and 58.35, and Appendices A, B, D, E, and F of 40 CFR 58.

As a point of clarification, Appendices C and G of 40 CFR 58 do not require revisions, and thus are not included in today's action. The current provision of Appendix C—Ambient Air Quailty Monitoring Methodology—specifies that a monitoring method used in a SLAMS must be a reference or equivalent method as defined in § 50.1 of this chapter. This provision is essentially the same provision as previously required

for lead under § 51.17b(k). Appendix G—Uniform Air Quality Index and Daily Reporting—contains requirements for the daily analysis and daily reporting of air quality based on a uniform air quality index. With regard to lead, the national primary and secondary standard is a maximum arithmetic mean averaged over a calendar quarter. Since there is not short term daily NAAQS or specified significant harm level for lead, it is not included as a pollutant requiring daily reporting under Appendix G.

Section 58.14—Special Purpose Monitors

Today's action proposes to amend this section to allow a state to use the data collected from special purpose monitors (SPM) for purposes other than demonstrating attainment or nonattainment or computing a design value for control purposes without meeting the SLAMS requirements, provided the monitors are located and operated according to procedures approved by the Regional Administrator. Such procedures would include a monitoring schedule, instrument methodology, quality assurance procedures, and probe-siting criteria for each instruent.

Under the existing Part 58 regulations, for SIP monitoring purposes, each State must establish and operate a network of SLAMS monitoring stations which meets the requirements of Appendices A, C, D and E on quality assurance, monitoring methodology and network design and siting criteria. The existing regulations also allow states to operate SPMs. Section 58.14, however, requires that any SPM from which the State intends to use the data as part of a SIP control strategy or as support for a plan revision must meet the requirements for SLAMS described above.

In practice, however, the existing § 58.14 has not provided the States with enough flexibility in the use of data collected from SPMs. The amendment proposed today would provide greater flexibility by allowing the Regional Administrator to approve exceptions to the SLAMS requirements for a SPM where data from the SPM was not to be used for the purposes of demonstrating attainment or nonattainment or not to be used in computing a design value for SIP control purposes. Other uses of data for which an exception could be approved include: (1) meausrement of pollutants for which NAAQS have not been established, (2) measurement of criteria pollutants for non-SIP purposes, such as initial response to a complaint of a possible air quality problem, and (3) measurement of criteria pollutants for SIP purposes other than demonstrating attainment/nonattainment or computing a design value for control purposes. The Regional Administrator could approve, where appropriate, the use of analytical techniques that have not formally been designated reference or equivalent, special sampling schedules, quality assurance procedures, and instrument and probe placements not conforming to Appendix C, Section 58.13, Appendix A, and Appendix E, respectively.

Where data from SPMs is intended to be used for the purposes of demonstrating attainment or nonattainment, or for computing a design value for SIP control purposes, and a criteria pollutant is involved, proposed § 58.14(a) would continue to require reference or equivalent instruments to be used and the requirements of Appendices A, C and E to be met.

Today's changes are not designed to allow the use or purchase of non-reference or non-equivalent instruments although the Administrator recognizes that such instruments may be less costly than those conforming to EPA requirements.

Section 58.20—Air Quality Surveillance: Plan Content

The revisions proposed today would add the words "with the exception of Pb, which shall be by April 1, 1981" after "January 1, 1980" in the introductory sentence, and would add "except Pb," after "per pollutant" in subparagraph (c). The purpose of these revisions is to require the States to revise their air quality surveillance plans in order to include an approvable network of ambient lead monitors within their overall network of State and Local Air Monitoring Stations (SLAMS). The network requirements being proposed today differ little from those referred to in § 51.17b (and described in the "Supplementary Guidelines for Lead Implementation Plans"). Given the substantial period which State and local agencies have had to plan for the implementation of these requirements and develop surveillance plans, EPA believes it is reasonable to require submission of revised surveillance plans by April 1, 1981.

Section 58.23—Monitoring Network Completion

The revision proposed today would add the words "with the exception of Pb, which shall be by January 1, 1982" after "January 1, 1983" in the introductory sentence. The purpose of this revision is to establish a date by which each ambient lead monitor within the approved SLAMS network must be in operation, be sited in accordance with Appendix E, be located as described on the station's SAROAD identification form, and meet all of the quality assurance requirements pertinent to lead within Appendix A. The network design and probe requirements being proposed today (as revisions to Appendices D and E respectively) are little changed from those referred to in § 51.17b and thus the time and resources needed to comply with Appendices D and E should not be substantial. The requirements being proposed within Appendix A are analogous to those for the other criteria pollutants and closely parallel those for TSP. Given the similarities of the proposed rules to existing requirements and the generally small size of the lead networks, EPA believes that completion of the SLAMS networks can reasonably be accomplished by January 1, 1982, or about one year after the final rules are issued. The January 1, 1983 compliance date for completion of the SLAMS network for the other pollutants would not be changed.

Section 58.30—NAMS Network Establishment

The revision proposed today would add "with the exception of Pb, which shall be by April 1, 1981" after "January 1, 1980" in paragraph (a). The purpose of this revision is to set a date by which the NAMS portion of each State's SLAMS network must be established. As noted in the discussion of changes to Appendix D, the NAMS design criteria for lead being proposed today would require two NAMS within each urbanized area with a population greater than 500,000. One would be a microscale station located adjacent to a roadway with the second to be located in a neighborhood having a high population density. These two categories conform very closely to the siting categories described in EPA's "Supplementary Guidelines for Lead Implementation Plans". Given the high similarity of the proposed rules for NAMS networks to guidance previously issued by the Agency, EPA believes that establishment of NAMS networks can reasonably be accomplished by April 1, 1981.

Section 58.34—NAMS Network Completion

The revision proposed today would add "with the exception of Pb, which shall be by January 1, 1982," after "January 1, 1981" in the introductory sentence. The purpose of this revision is to set a date by which the States must have all lead NAMS in operation. Specifically, each lead NAMS would have to be sited in accordance with the

criteria in Appendix E, be located as described in the station's SAROAD site identification form, and be operated under the quality assurance requirements of Appendix A. It should be noted that today's changes propose a uniform effective date for §§ 58.23 and 58.34. This means that both the SLAMS and NAMS portions of each State's network must be established and be operating in accordance with all criteria contained in Part 58 by January 1, 1982.

Section 58.35—NAMS Data Submittal

Today's revision would delete the current wording in paragraph (d) and replace it with the following: "For TSP, SO_2, CO, O_3, and NO_2 the first quarterly report will be due on or before June 30, 1981, for data collected during the first quarter of 1981. For Pb, the first quarterly report will be due on June 30, 1982, for data collected during the first quarter of 1982." The purpose of this revision is to establish a date for submission of the first quarterly reports of data from Pb NAMS and to make it clear that the June 30, 1981 data applies only to TSP, SO_2, CO, O_3, and NO_2. States having one or more Pb NAMS operating according to all Part 58 criteria prior to January 1, 1982, are encouraged to submit data from those monitors in accordance with the reporting requirements of this section for other pollutants.

Appendix A—Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)

The overall purpose of today's revisions to Appendix A is to propose requirements for assuring the quality of ambient lead data produced by the SLAMS networks which are comparable to the requirements for the other criteria pollutants already in Appendix A. Today's revisions, therefore, present procedures for calculating the precision and accuracy of samples and generally require quarterly submissions of calculated precision and accuracy data to EPA similar to that required for the other pollutants.

It should be noted that many of the requirements already contained in Appendix A will also apply to lead. In general, the sections relating to manual methods will pertain to lead as well as to TSP. An example is section 3.2.1 which will require lead samplers to be collocated at a minimum of two sites within each reporting organization in connection with determining the precision of data produced. Persons reviewing today's revisions to Appendix A are urged to refer to the materials already in this Appendix and to the pertinent references contained in the Appendix.

As noted in the discussion of revisions to §§ 58.23 and 58.34, EPA is proposing that the quality assurance program for lead be fully implemented by January 1, 1982, for both NAMS and SLAMS. EPA recognizes that some agencies may not presently be operating as many monitors as will be required by Appendix D or be operating any lead monitors under procedures similar to those proposed within Appendix A. The Agency believes that implementation of the proposed requirements will not require State and local agencies to make large resource commitments for personnel training or require large capital expenditures for new analysis or sampling equipment. In addition, the incremental manpower to perform quality assurance for lead in addition to that for the other pollutants should be small. Given these considerations, EPA believes that implementation of the proposed quality assurance program by January 1, 1982 is reasonable.

Appendix B—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring

The overall purpose of the revisions to Appendix B being proposed today is to modify Appendix B in order to include specific quality assurance procedures for the monitoring of ambient lead for PSD purposes as required by §§ 51.24m and 52.21m. As noted in the foregoing discussion concerning Appendix A, a substantial amount of the requirements already contained in Appendix B will apply to Pb as well as to TSP. Thus, reviewers of today's proposal should refer to the balance of Appendix B and to the references cited at the end of the Appendix to fully evaluate the total scope of the requirements for lead. The requirements for lead closely parallel those for TSP and are not expected to require large resources for personnel training or equipment. In light of this situation, EPA believes it is appropriate that today's changes to Appendix B be made effective upon promulgation.

Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS)

The changes to Appendix D being proposed today closely parallel the limited requirements on monitor location contained within § 51.17b and also reflect criteria that are changed little from the more detailed material on network design presented in the "Supplementary Guidelines for Lead Implementation Plans".

A new section 2.7 is being added to present the detailed requirements for the lead monitors which will be part of the SLAMS network. It should be noted that no criteria for determining the total number of stations in a State's SLAMS network is being proposed; however, a minimum number of two monitors is prescribed in any urbanized area where lead concentrations currently exceed or have exceeded the standard since January 1, 1974. To ensure that the SLAMS networks are adequate, EPA is proposing that the Regional Administrator be authorized to require that more than two monitors be operated in urban areas having a population of 500,000 or more and to require that stations should be located outside of urbanized areas. EPA believes that it is preferable to give the Regional Administrators authority and discretion rather than to set up additional criteria that may have little relevance to unique situations.

The categories of stations proposed today conform closely to those discussed in the "Supplementary Guidelines for Lead Implementation Plans". In regard to the ADT (average daily traffic) criteria for the roadway type station, however, the criteria calls for such a station where ADT is 30,000 or higher, whereas 50,000 ADT was used in the "Supplementary Guidelines." This change reflects a re-evaluation of the results of several studies. Particular support for the appropriateness of this somewhat lower ADT figure is contained in references 7 and 8. In situations where there are no roadways exceeding 30,000 ADT, the station should be located near the roadway with the largest traffic volume.

Section 3.6 is also a new section being added. It addresses NAMS design criteria and includes the requirement that two of the SLAMs located in urbanized areas greater than 500,000 population be designated as NAMS. Consistent with the criteria for other pollutants, one of the NAMS must be a category (a) micro station and the other a category (b) neighborhood scale station.

Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

Today's revisions to Appendix E add a new section 7 to cover the specific siting requirements for SLAMS and NAMS. The provisions of this section replace the siting criteria previously contained in the "Supplementary Guidelines for Lead Implementation Plans" referred to in § 51.17b(d). One of the proposed changes would require that a lead monitor for a micro or middle scale station be no greater than 7 meters

above ground and a lead monitor for a neighborhood, urban or regional scale monitor must be no greater than 15 meters above ground. The previous vertical placement criteria in the supplemental guideline specified a distance of less than 5 meters above ground level for each scale of representativeness.

The proposed change to 7 meters was made because in many large metropolitan areas it is extremely difficult, if not impossible, to find sampling site locations that are less than 5 meters above ground as well as near major roadways that would survive the problems of vandalism. In an attempt to further define the effect of this change, the Agency is presently conducting a short term project to more precisely determine the change in lead concentration as a function of vertical and horizontal distances from a roadway. Results of this project will be included in the docket and will be considered in the final promulgation of these regulations. The Agency welcomes further public comments on this subject. In the case of neighborhood or larger spatial scale stations, the required horizontal spacing from roadways provides sufficient dilution and vertical distribution of the ambient lead concentration to allow uniform vertical gradients up to 15 meters above ground level. Other siting provisions for ambient lead monitoring being proposed in Appendix E are consistent with the current criteria for the other pollutants addressed in this Appendix.

Appendix F—Annual SLAMS Air Quality Information

The proposed changes to Appendix F add lead to the information that must be compiled annually and submitted to EPA for each monitor in the SLAMS network. The compliance date for the annual reporting of SLAMS lead monitors remains the same as that prescribed in § 58.27 namely, it applies to all data collected after December 31, 1980. As required by § 58.26, the annual report must be submitted by July 1 of each year for data collected from January 1 to December 31 of the previous year.

Resources and Reporting Requirements

Under 40 CFR § 58.26 and § 58.35, State agencies are required to submit ambient data to EPA for all criteria pollutant monitors comprising their approved air quality surveillance system. Thus, today's changes do not alter the annual reporting required by § 58.26; however, it should be noted that a State will not be required to include lead data in their SLAMS Annual Summary Reports until after the State's network of State and Local Air Monitoring Stations (including NAMS) has been designated. As discussed previously, today's changes to § 58.35 establish a date (June 30, 1982) for the submission of the first quarterly reports of data from lead NAMS. Until a State has designated lead monitors as part of its SLAMS network, it will continue to report data quarterly from the entire lead network rather than report only NAMS data quarterly, and will not include data on lead in its Annual Summary Report.

When implemented, the reporting changes proposed today should slightly reduce the data reporting burden of State and local agencies. The amount of data to be reported quarterly will decrease substantially; however, precision and accuracy information for lead will have to be reported quarterly and summarized data on ambient lead concentrations and annual precision and accuracy compilations will have to be included in the Annual SLAMS Summary Report.

The additional resources necessary to implement the network design, probe siting and quality assurance requirements are not estimated to be significant since only the procedures for quality assurance represent new requirements; today's changes to the network and probe criteria represent only minor revisions to the requirements in § 51.17b and the criteria in EPA's "Supplementary Guidelines for Lead Implementation Plans."

Comments

This rulemaking is proposed under authority of Sections 110, 301(a) and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7619). EPA solicits written comments on the proposals in this notice. The period for comment ends (60 days after publication). Comments should be sent, in duplicate if possible, to the Central Docket Section, EPA, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, DC, 20460, Attention: Docket A–80–33.

A review of the impact of today's notice has been performed. 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.

Dated: October 6, 1980.

Douglas M. Costle,

Administrator.

EPA proposes to amend Chapter I, Title 40, *Code of Federal Regulations*, as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

1. Appendix G to Part 50 is amended by adding new sentences after the first sentence in Section 1.1 as follows:

1. *Principle and Applicability.*

1.1 * * * The analysis of the 24-hour samples may be performed for either individual samples or composites of the samples collected over a calendar month or quarter, provided that the compositing procedure has been approved in accordance with section 2.8 of Appendix C to Part 58 of this chapter—*Modifications of methods by users.* (Guidance or assistance in requesting approval under Section 2.8 can be obtained from the address given in section 2.7 of Appendix C to Part 58 of this chapter.)

(Sections 110, 301(a) and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7619))

PART 51—PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

§ 51.17b [Revoked]

1. Section 51.17b is revoked.

(Sections 110, 301(a) and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7619))

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

1. Section 58.14 is revised to read as follows:

§ 58.14 Special purpose monitors.

(a) Any ambient air quality monitoring station other than a SLAMS or PSD station from which the State intends to use the data as part of a demonstration of attainment or nonattainment or in computing a design value for control purposes of the National Ambient Air Quality Standards (NAAQS) must meet the requirements for SLAMS described in § 58.22 and, after January 1, 1983, must also meet the requirements for SLAMS as described in § 58.13 and Appendices A and E to this part.

(b) Any ambient air quality monitoring station other than a SLAMS or PSD station from which the State intends to use the data for SIP-related functions other than as described in paragraph (a) of this section is not necessarily required to comply with the requirements for a SLAMS station under paragraph (a) but must be operated in accordance with a monitoring schedule, methodology, quality assurance procedures, and probe or instrument-

siting specifications approved by the Regional Administrator.

* * * * *

§ 58.20 [Amended]

2. Section 58.20 is amended by adding "with the exception of Pb, which shall be by April 1, 1981," after "January 1, 1980," in the introductory sentence, and by adding "except Pb," after "per pollutant" in paragraph (c).

§ 58.23 [Amended]

3. Section 58.23 is amended by adding "with the exception of Pb, which shall be by January 1, 1982" after "January 1, 1983," in the introductory sentence.

§ 58.30 [Amended]

4. Section 58.30 is amended by adding "with the exception of Pb, which shall be by April 1, 1981," after "January 1, 1980," in paragraph (a).

§ 58.34 [Amended]

5. Section 58.34 is amended by adding "with the exception of Pb, which shall be by January 1, 1982" after "January 1, 1981," in the introductory sentence.

6. Section 58.35, paragraph (d), is revised to read as follows:

§ 58.35 NAMS data submittal.

* * * * *

(d) For TSP, CO, SO_2, O_3, and NO_2, the first quarterly report will be due on or before June 30, 1981, for data collected during the first quarter of 1981. For Pb, the first quarterly report will be due on June 30, 1982, for data collected during the first quarter of 1982.

Appendix A [Amended]

7. Appendix A is amended as follows:

a. In section 2.2, a new sentence is inserted after the first sentence as follows:

2. *Quality Control Requirements*

* * * * *

2.2 * * * Section 2.09 of Reference 2 describes specific guidance for the development of a quality control program for SLAMS automated analyzers and manual methods. * * *

* * * * *

B. In section 3, the introductory text of section 3.2.2 is revised and paragraph (d) is added as set forth below:

3. *Data Quality Assessment Requirements*

* * * * *

3.2.2. *Accuracy.* The accuracy of manual sampling methods is assessed by auditing a portion of the measurement process. For TSP flow rate during sample collection is audited. The audit should be scheduled so as to avoid interference with a scheduled sampling period. For SO_2, NO_2, methods, the analytical measurement is audited. For Pb, the flow rate and analytical measurement are audited.

* * * * *

(d) *Pb Methods.* For the reference method (Appendix G of Part 50 of this chapter), each calendar quarter, audit the flow rate of at least 25 percent of the high-volume Pb samplers such that each sampler is audited at least once per year. If there are fewer than four high-volume Pb samplers within a reporting organization, randomly re-audit one or more samplers so that one sampler is audited each calendar quarter.

Audit the flow rate at one flow rate using a reference flow device described in section 2.2.8, page 35, of Reference 2, or a similar flow transfer standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sampler being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator is used to calculate sampling accuracy as described in section 4.2.2.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. For this reason, the orifice of the flow audit device should be used with a normal glass fiber filter in place and without resistance plates to audit flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

Each calendar quarter, audit the Pb analysis using glass fiber filter strips containing a known quantity of Pb. Audit samples are prepared by depositing a lead solution on 1.9 cm by 2.3 cm (¾ inch by 8 inch) unexposed glass fiber filter strips, and allowing to dry thoroughly. The audit samples must be prepared using reagents different from those used to calibrate the lead analytical equipment being audited. Prepare audit samples in the following concentration ranges:

Range	Conc. μg Pb/strip	Equivalent ambient conc. μg Pb/m^3 [1]
1	100–300	0.5–1.5
2	600–1000	3.0–5.0

[1] Equivalent ambient Pb concentration in μg/m^3 is based on sampling at 1.7 m^3/min for 24 hours on 20.3 cm×25.4 cm (8 inch×10 inch) glass fiber filter.

Audit samples must be extracted using the same extraction procedure used for exposed filters.

Analyze at least one audit sample in each of the two ranges each day that samples are analyzed. If samples are analyzed only once per quarter, analyze at least two audit samples in each of the two ranges. The present difference between the audit concentration (in μg Pb/strip) and the analyst's measured concentration (in μg Pb/strip) are used to calculate analysis accuracy as described in section 4.2.2.

The accuracy of an equivalent method is assessed in the same manner as the reference method. The flow auditing device and Pb analysis audit samples must be compatible with the specific requirements of the equivalent method.

* * * * *

c. In section 4, the list of pollutants in paragraph (a) of section 4.2.1. is amended and paragraphs (e), (f), (g), and (h) of section 4.2.2 are added as follows:

4. *Calculation for Data Quality Assessment*

* * * * *

4.2.1 *Precision.* * * *

(a) *Single Instrument Precision.* * * *

TSP less than 20 μg/m^3
SO_2 less than 40 μg/m^3
NO_2 less than 30 μg/m^3
Pb less than 0.15 μg/m^3

* * * * *

4.2.2 *Accuracy.* * * *

* * * * *

(e) *Single Sampler Accuracy (Pb).* For the flow rate audit described in section 3.2.2(d), let X_i represent the known flow rate and Y_i represent the indicated flow rate. Calculate the percentage difference (d_i) for each audit using equation 1.

(f) *Sampling Accuracy for Reporting Organization (Pb).* Using equation 8, calculate the average (D) of the individual percent differences for all high-volume samplers audited during the calendar quarter. Compute the standard deviation (S_a) of all the percentage differences for all of the instruments audited during the calendar quarter using equation 9.

Calculate the 95 Percent Probability Limits for the accuracy of a reporting organization using equations 6 and 7, and record these limits on the back of Form 1 under columns 52–57. Note that since the audit is conducted at only one level, columns 40–45 and 46–51 are not used for reporting accuracy during sampling; however, these columns will be used for reporting accuracy during analyses as described in (h). For reporting organizations having four or fewer high-volume samplers for Pb which will be the usual case, only one audit is required each quarter. For such reporting organizations, the audit results of two consecutive quarters are required to calculate an average and a standard deviation using equations 8 and 9. Therefore, semi-annual reporting (instead of quarterly) of probability limits is required.

(g) *Single-Analysis-Day Accuracy (Pb).* For

each analysis audit for Pb described in section 3.2.2(d), let X_i represent the known value of the audit sample and Y_i the indicated value of Pb. Calculate the percentage difference (d_i) for each audit at each concentration level using equation 1.

(h) *Analysis Accuracy for Reporting Organization (Pb).* Calculate the average (D) of the percent differences at each of the two concentration levels for all analysis days during the quarter using equation 8. Compute the standard deviation (S_a) of the individual percentage differences using equation 9. Calculate the 95 Percent Probability Limits for the accuracy for the reporting organization using equations 6 and 7 and record these limits on the back of Form 1 for each concentration level under columns 40–45 and 46–51 for the Range 1 and 2 Pb concentrations, respectively.

* * * * *

d. In section 5, the instructions in section 5.3 are amended as follows:

(*1*). By revising the instructions for Automated Analyzers, blocks 34 and 35, and adding instructions for new blocks 63–65 as follows:

5. *Reporting Requirements*

* * * * *

5.3 Instructions for Form 1

* * * * *

Block No.	Automated analyzers (form 1, front)—continued
25 to 27	* * *
34	*Traceability.* If audit gases were traced to NBS by the reporting organization, put 1 in block 34. If audit gases were traced to NBS by someone outside the reporting organization, put 2 in block 34.
35	*Source of Local Primary Standard:* For accuracy determination, refer to code listed in Note 2.
*	* * * * *
63 to 65	*Number of Audits at Level 4:* Report the total number of audits performed at level 4.

* * * * *

(*2*). By revising the instructions for manual methods for blocks 20–23, block 36, and the Table of Information for blocks 40–57, and by adding instructions for new blocks 58–60 as follows:

	Manual methods (form 1, back)
*	* * * * *
20 to 23	*Number of Collocated samples below the limit:* * * * TSP—20 μg TSP/m³ SO_2—40 μg SO_2/m³ NO_2—30 μg NO_2/m³ Pb—0.15 μg Pb/m³
*	* * * * *
36	Not applicable.
*	* * * * *
40 to 57	*Probability Limits, Accuracy:* * * *

Blocks	Levels	TSP cfm	Pb cfm [1]	Audit concentrations	
				Pb μg/strip [1]	SO_2, NO_2, μg/ml
40–45	1	.....	.....	100 to 300	0.2 to 0.3.
46–51	2	One within 40–60 cfm.	.....	600 to 1,000	0.5 to 0.6.
52–57	3	.....	One withing 40–60 cfm.	.....	0.8 to 0.9.
*	*	*	*	*	* *
58–60			*Number of Valid Collocated Data Pairs:* Enter the total number of date *pairs* from all the collocated sites.		
*	*	*	*	*	* *

[1] Audit ranges apply only to the Pb reference method. Audit ranges for an equivalent Pb method must be compatible with the specific requirements of the equivalent method.

e. The Data Assessment Report Form front and back, is revised to read as follows:

BILLING CODE 6560-01-M

OMB No. 158-R0012
Expires

DATA ASSESSMENT REPORT

STATE	REPORTING ORGANIZATION	YEAR	QUARTER	SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP
1 2	3 4 5	6 7	8	

NAME OF REPORTING ORGANIZATION _____

AUTOMATED ANALYZERS

PRECISION

		NO. OF ANALYZERS [1] (15-17)	NO OF PRECISION CHECKS (18-21)	PROBABILITY LIMITS LOWER (22-27)	PROBABILITY LIMITS UPPER (22-27)
A. CO	C 4 2 1 0 1 (9-14)			+/-	+/-
B. NO_2	C 4 2 6 0 2 (9-14)			+/-	+/-
C. O_3	C 4 4 2 0 1 (9-14)			+/-	+/-
D. SO_2	C 4 2 4 0 1 (9-14)			+/-	+/-
E. ___	C (9-14)			+/-	+/-

ACCURACY

	TRACEABILITY (28-33)	(34)	SOURCE OF LOCAL PRIMARY STANDARD [2] (35)	NO. OF AUDITS (36-38)	PROBABILITY LIMITS LEVEL 1 LOWER (39-44)	LEVEL 1 UPPER (39-44)	LEVEL 2 LOWER (45-50)	LEVEL 2 UPPER (45-50)	LEVEL 3 LOWER (51-56)	LEVEL 3 UPPER (51-56)	LEVEL 4 LOWER (57-62)	LEVEL 4 UPPER (57-62)	NO. OF AUDITS AT LEVEL 4 (63-65)
A. CO	C 4 2 1 0 1				+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-	
B. NO_2	C 4 2 6 0 2				+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-	
C. O_3	C 4 4 2 0 1				+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-	
D. SO_2	C 4 2 4 0 1				+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-	
E. ___	C				+/-	+/-	+/-	+/-	+/-	+/-	+/-	+/-	

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS

[2] Identify according to the following code

A. NBS SRM
B. EMSL REFERENCE GAS
C. VENDER CRM
D. PHOTOMETER
E. BAKI
F. OTHER, SPECIFY _____

FIGURE 1 FORM 1 (FRONT)

DATA ASSESSMENT REPORT

OMB No. 158-R0012
Expires

STATE | REPORTING ORGANIZATION | YEAR | QUARTER

1 2 | 3 4 5 | 6 7 | 8

SEND COMPLETED FORM TO REGIONAL OFFICE WITH COPY TO EMSL/RTP

NAME OF REPORTING ORGANIZATION ____

MANUAL METHODS

PRECISION

		NO. OF SAMPLERS [1] (15–17)	NO. OF COLLOCATED SITES (18–19)	NO. OF COLLOCATED SAMPLES < LIMIT (20–23)	PROBABILITY LIMITS LOWER (24–29)	PROBABILITY LIMITS UPPER (24–29)
A. TSP	1 1 1 1 0 1 (9–14)				+/-	+/-
B. SO_2	1 4 2 4 0 1 (9–14)				+/-	+/-
C. NO_2	1 4 2 6 0 2 (9–14)				+/-	+/-
D. Pb	1 1 2 1 2 8 (9–14)				+/-	+/-

LIMITS APPLICABLE TO BLOCKS 20–23

TSP: 20 μg TSP/m^3

SO_2: 40 μg SO_2/m^3

NO_2: 30 μg NO_2/m^3

Pb: 0.15 μg Pb/m^3

NO. OF VALID COLLOCATED DATA PAIRS (58–60)

ACCURACY

			NO. OF AUDITS (37–39)	LEVEL 1 LOWER (40–45)	LEVEL 1 UPPER (40–45)	LEVEL 2 LOWER (46–51)	LEVEL 2 UPPER (46–51)	LEVEL 3 LOWER (52–57)	LEVEL 3 UPPER (52–57)
A. TSP	1 1 1 1 0 1 (30–35)	A (36)		+/-	+/-	+/-	+/-	+/-	+/-
B. SO_2	1 4 2 4 0 1 (30–35)	B (36)		+/-	+/-	+/-	+/-	+/-	+/-
C. NO_2	1 4 2 6 0 2 (30–35)	C (36)		+/-	+/-	+/-	+/-	+/-	+/-
D. Pb	1 1 2 1 2 8 (30–35)	D (36)		+/-	+/-	+/-	+/-	+/-	+/-

[1] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING METHODS.

FIGURE 1 FORM 1 (BACK)

BILLING CODE 6560-01-C

Appendix B [Amended]

8. Appendix B is amended as follows:

a. In section 2, a new sentence is inserted after the first sentence of section 2.2 to read as follows:

2. *Quality Control Requirements.*

* * * * *

2.2 * * * Section 2.09 of Reference 2 describes specific guidance for the development of a quality control program for PSD automated analyzers and manual methods. * * *

* * * * *

b. In section 2.2, the second sentence is amended by deleting the word "Method" and inserting the word "Many".

c. In section 3, sections 3.3.2 and 3.4.2 are added in the appropriate places as set forth below:

3. *Data quality assessment requirements.*

* * * * *

3.3.2 *Pb Method.* The operation of collocated samplers at one sampling site must be used to assess the precision of the reference or an equivalent Pb method. The procedure to be followed for Pb methods is the same as described in 3.3.1 for the TSP method.

* * * * *

3.4.2 *Pb Method.* For the reference method (Appendix G of Part 50 of this chapter) each sampling quarter audits the flow rate of each high-volume Pb sampler at least once. Audit the flow rate at one flow rate using a reference flow device described in section 2.2.8, pages 3–5, of Reference 2, or a similar flow transfer standard. The device used for auditing must be different from the one used to calibrate the flow of the high-volume sampler being audited. The auditing device and the calibration device may both be referenced to the same primary flow standard. With the audit device in place, operate the high-volume sampler at its normal flow rate. The difference in flow rate (in m^3/min) between the audit flow measurement and the flow indicated by the sampler's normal flow indicator is used to calculate accuracy as described in section 5.3.

Great care must be used in auditing high-volume samplers having flow regulators because the introduction of resistance plates in the audit device can cause abnormal flow patterns at the point of flow sensing. For this reason, the orifice of the flow audit device should be used with a normal glass fiber filter in place and without resistance plates to audit flow regulated high-volume samplers, or other steps should be taken to assure that flow patterns are not perturbed at the point of flow sensing.

For each sampling quarter, audit the Pb analysis using glass fiber filter strips containing a known quantity of lead. Audit samples are prepared by depositing a Pb solution on 1.9 cm by 20.3 cm (3/4 inch by 8 inch) unexposed glass fiber filter strips and allowing to dry thoroughly. The audit samples must be prepared using reagents different from those used to calibrate the Pb analytical equipment being audited. Prepare audit samples in the following concentration ranges:

Ranges	Concentration µg Pb/strip	Equivalent ambient concentration µg Pb/m^3*
1	100 to 300	0.5 to 1.5
2	600 to 1000	3.0 to 5.0

*Equivalent ambient Pb concentration in µg/m^3 is based on sampling at 1.7 m ^{3}/min for 24 hours on 20.3 cm x 25.4 cm (8 inch x 10 inch) glass fiber filter.

Audit samples must be extracted using the same extraction procedure used for exposed filters.

Analyze at least one audit sample in each of the two ranges each day that samples are analyzed. The difference between the audit concentration (in µg Pb/strip) and the analyst's measured concentration (in µg Pb/strip is used to calculate accuracy as described in section 5.4.

The accuracy of an equivalent method is assessed in the same manner as the reference method. The flow auditing device and Pb analysis audit samples must be compatible with the specific requirements of the equivalent method.

d. In section 5, section 5.1 is revised and sections 5.3 and 5.4 are added as set forth below:

5. Calculations for Manual Methods.

5.1 *Single Instrument Precision for TSP and Pb.* Estimates of precision for ambient air quality measurements from the TSP and Pb methods are calculated from results obtained from the collocation of two samplers at one sampling site as described in section 3.3.1 for TSP and 3.3.2 for Pb. At the end of each sampling quarter, calculate and report a precision probability interval using weekly collocation sampler results. Directions for calculation are given below and directions for reporting are given in section 6.

For the paired measurements described in section 3.3.1 or 3.3.2, calculate the percentage difference (d_i) using equation 1 where Y_i is the TSP or Pb concentration measured by the duplicate sampler and X_i is the TSP or Pb concentration measured by the sampler reporting air quality for the site. Calculate the quarterly average percentage difference (d_j), equation 2, standard deviation (S_j), equation 3, and upper and lower 95 percent probability limits for precision (equations 6 and 7).

$$\text{Upper 95 Percent Probability Limit} = d_j + 1.96S_j\sqrt{2} \quad (6)$$

$$\text{Lower 95 Percent Probability Limit} = d_j - 1.96S_j\sqrt{2} \quad (7)$$

* * * * *

5.3 *Single Instrument Accuracy for Pb.* Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each high-volume lead sampler audited during the quarter. Directions for calculation are given in 5.2 and directions for reporting are given in section 6.

5.4 *Single-Analysis-Day Accuracy for Pb.* Each organization, at the end of each sampling quarter, shall calculate and report the percentage difference for each Pb analysis audit during the quarter. Directions for calculations are given below and directions for reporting are given in section 6.

For each analysis audit for Pb described in section 3.4.2, let X_i represent the known value of the audit sample and Y_i the indicated value of Pb. Calculate the percentage difference (d_i) for each audit at each concentration level using equation 1.

6. *Organization Reporting Requirements [Amended]*

e. In section 6, the first paragraph is amended by deleting the words "section 5.2" and inserting in their place the words "sections 5.2 and 5.3."; and the first sentence of the second paragraph is amended by deleting the word "quarterly" and adding the phrase "for the entire sampling quarter" after the word "information".

Appendix D [Amended]

9. Appendix D is amended as follows:

a. In the Table of Contents, section 2.7 and 3.6 are added in the appropriate places as follows:

* * * * *

2.7 Lead (Pb) Design Criteria for SLAMS.

* * * * *

3.6 Lead (Pb) Design Criteria for NAMS.

* * * * *

b. In section 1, the fourth sentence of the third paragraph is revised to read as set forth below:

1. *SLAMS Monitoring Objectives and Spatial Scales.*

* * * * *

* * * It should be noted that this appendix contains no criteria for determining the total number of stations in SLAMS networks, except that a minimum number of lead SLAMS is prescribed.***

* * * * *

c. In section 2, the term "Slams" is corrected to read "SLAMS" in the title and section 2.7 is added as follows:

2. *SLAMS Network Design Procedures.*

* * * * *

2.7 *Lead (Pb) Design Criteria for SLAMS.* Presently, about 90 percent of the lead concentration in air originates from automobile exhaust, while the remaining 10 percent comes from industrial processes and stationary combustion sources. (*6*) The most important spatial scales to effectively characterize the emissions from both mobile and stationary sources are the micro, middle, and neighborhood scales. For purposes of establishing monitoring stations to represent large homogeneous areas other than the above scales of representativeness, urban or regional scale stations would also be needed.

Microscale—This scale would typify areas such as downtown street canyons and traffic corridors where the general public would be exposed to maximum concentrations from mobile sources. Because of the very steep ambient Pb gradients resulting from Pb emissions from mobile sources, (*7*) the dimensions of the microscale for Pb generally

would not extend beyond 15 meters from the roadway. Emissions from stationary sources such as primary and secondary lead smelters, and primary copper smelters may under fumigation conditions likewise result in high ground level concentrations at the microscale. In the latter case, the microscale would represent an area impacted by the plume with dimensions extending up to approximately 100 meters. Data collected at microscale stations provide information for evaluating and developing "hot-spot" control measures.

Middle Scale—This scale generally represents lead air quality levels in areas up to several city blocks in size with dimensions on the order of approximately 100 meters to 500 meters. However, the dimensions for middle scale roadway type sttions would probably be on the order of 50–150 meters because of the exponential decrease in lead concentration with increasing distances from roadways. (*7*) Emissions from point sources frequently impact on areas at which single sites may be located to measure concentrations representing middle spatial scales.

Neighborhood Scale—The neighborhood scale would characterize air quality conditions throughout some relatively uniform land use areas with dimensions in the 0.5 to 4.0 kilometer range. Stations of this scale would provide monitoring data in areas representing conditions where children live and play. Monitoring in such areas is important since this segment of the population is more susceptible to the effects of lead.

Urban Scale—Such stations would be used to present ambient Pb concentrations over an entire metropolitan area with dimensions in the 4 to 50 kilometer range. An urban scale station would be useful for assessing trends in city-wide air quality and the effectiveness of larger scale air pollution control strategies.

Regional Scale—Measurements from these stations would characterize air quality levels over areas having dimensions of 50 to hundreds of kilometers. This large scale of representativeness would be most applicable to sparsely populated areas and could provide information on background air quality and interregional pollutant transport.

Monitoring data for ambient Pb levels are required in major urbanized areas, particularly where Pb levels have been shown or are expected to be of significant concern. such locations are to be expected in urban areas having high population densities and accompanying high traffic densities. The total number and type of stations for SLAMS are not prescribed but must be determined on a case-by-case basis. As a minimum, there must be two stations in any urbanized area (as defined by the U.S. Bureau of Census) where lead concentrations currently exceed or have exceeded 1.5 $\mu g/m^3$ quarterly arithmetic mean measured since January 1, 1974, or which has a population exceeding 500,000. The EPA Regional Administrator may specify more than two monitoring stations if he finds that two stations are insufficient to adequately determine if the Pb standard is being attained and maintained. He may also specify that stations be located in areas outside urbanized areas. One of the stations must be a category (a) type station and the second a category (b) station. Both of these categories of stations are defined in section 3, which follows. The category (a) station must be a microscale station located near a major roadway (>30,000 ADT) in order to measure maximum Pb concentrations from mobile sources. In situations where there are no roadways exceeding 30,000 ADT, the station should be located near the roadway with the largest traffic volume. Studies (*7,8*) indicate that lead levels decrease exponentially with distance from roadways. Thus, the higher concentrations are close to the roadway and stations located in such areas because of the steep concentration gradients, are most often found to represent the microscale dimension.

The category (b) station must be a neighborhood scale station since the microscale station would not represent the air quality over large geographical areas and frequently may not be located in highly populated areas. Since children (*7*) are the segment of the population most susceptible to the effects of lead and are more likely to live and play in the residential section of the urban area, the category (b) station should be located in residential areas having a combination of high population and traffic density.

To locate monitoring stations, it will be necessary to obtain background information such as stationary and mobile source emissions inventories, morning and evening traffic patterns, climatological summaries, and local geographical characteristics. Such information should be used to identify areas that are most suitable to the particular monitoring objective and spatial scale of representativeness desired. Reference 9 provides additional guidance on locating sites to meet specific urban area monitoring objectives and must be used in locating new stations or evaluating the adequacy of existing stations.

After locating each Pb station, and, to the extent practicable, taking into consideration the collective impact of all Pb sources and surrounding physical characteristics of the siting area, a spatial scale of representativeness must be assigned to each station.

Guidance on locating monitoring stations in the vicinity of stationary lead sources is given in reference 10. This reference provides assistance in designing a network to meet the monitoring objective of determining the impact of point sources on ambient Pb levels.

d. In section 3, the third paragraph is revised to read as follows and section 3.6 is added as set forth below:

3. *Network Design for National Air Monitoring Stations (NAMS).*

* * * * *

Category (a): Stations located in the area(s) of expected maximum concentrations (generally neighborhood scale, except microscale for CO and Pb, and urban scale for O_3);

* * * * *

3.6 *Lead (Pb) Design Criteria for NAMS.* In order to achieve the national monitoring objective, two of the SLAMS located in urbanized areas with populations greater than 500,000 will be designated as NAMS. One of the stations must be a microscale category (a) station, located adjacent to a major roadway (>30,000 ADT) or near the roadway with the largest traffic volume if the volume is less than 30,000 ADT.

The second station must be a neighborhood scale category (b) station located in a highly populated residential section of the urbanized area where traffic density is high, preferably (>30,000 ADT) or near the roadway with the largest traffic volume if the volume is less than 30,000 ADT.

e. In section 4, Table 4 is revised to include Pb and a title is added to the table as follows:

4. *Summary*

Table 4.—*Summary of Spatial Scales for SLAMS and Required Scales for NAMS*

Spatial	Scales applicable for SLAMS						Scales required for NAMS					
	TSP	SO_x	CO	O_x	NO_x	Pb	TSP	SO_x	CO	O_x	NO_x	Pb
Micro			✓			✓			✓			✓
Middle	✓	✓	✓	✓	✓	✓						
Neighborhood	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Urban	✓	✓		✓	✓	✓				✓	✓	
Regional	✓	✓		✓		✓						

* * * * *

* * * * *

f. In section 5., the list of references is amended by adding references 6 through 10 as follows:

5. *References*

* * * * *

6. Control Techniques for Lead Air Emissions, OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA–450/2–77–012. December 1977.

7. Air Quality Criteria for Lead. Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC. EPA–600/8–77–017 December 1977.

8. Johnson, D. E., et. al. Epidemiologic Study of the Effects of Automobile Traffic on Blood Lead Levels, Southwest Research Institute, Houston, TX. Prepared for U.S.

Environmental Protection Agency, Research Triangle Park, NC. EPA–600/1–78–055. August 1978.

9. Optimum Site Exposure Criteria for Lead Monitoring. PEDCo Environmental, Inc., Cincinnati, OH. Preapred for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68–02–3013. (Draft in Progress).

10. Guidance for Lead Monitoring in the Vicinity of Point Sources. Office of Air Quality Planning and Standards, and Environmental Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC. June 15, 1979 (draft).

10. Appendix E is amended as follows:

a. The Table of Contents is amended by adding a new section 7 and renumbering the original sections 7 through 10 as sections 8 through 11 as follows:

Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

* * * * *

7. Lead (Pb).
7.1 Vertical Placement.
7.2 Spacing from Obstructions.
7.3 Spacing from Roadways.
8. Probe Material and Pollutant Sample Residence Time.
9. Waiver Provisions.
10. Discussion and Summary.
11. References.

1. Introduction [amended].

b. In section 1, the last sentence of the second paragraph is amended by changing the term "Section 8" to "Section 9".

2. Total Suspended Particulates (TSP) [amended].

c. In section 2.3, *Spacing from Roads,* the fourth sentence in the first paragraph is amended by deleting the words "special purpose monitoring studies" and adding the word "situations" in their place. Also, in section 2.3 a new sentence is inserted after the fourth sentence to read as follows: "NAMS would not be located to measure the impact of one or two point sources if the impact only extends over a geographic scale smaller than a neighborhood scale."

d. Section 7 is revised to read as follows:

7. Lead (Pb).

7.1 *Vertical Placement* Several studies (*5, 14–15*) on the relationship between roadway placement of lead samplers and measured ambient concentrations do not typically indicate large gradients within the first 6 to 7 meters above ground level. Similar to monitoring for other pollutants, optimal placement of the sampler inlet for lead monitoring should be at breathing height level. However, practical factors such as prevention of vandalism, security, and safety precautions must also be considered when siting a lead monitor. Given these considerations, the sampler inlet for micro and middle scale lead monitors must be 2–7 meters above ground level. However, for neighborhood or larger spatial scales, increased diffusion results in vertical concentration gradients which are not as great as for the small scales. Thus, the required height of the air intake for neighborhood or larger scales is 2–15 meters.

7.2 *Spacing from Obstructions* The sampler should be placed at least 20 meters from trees, since trees absorb particles as well as restrict airflow. The sampler (except street canyon sites) must be located away from obstacles such as buildings, so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the sampler.

A minimum of 2 meters of separation from walls, parapets, and penthouses is required for rooftop samplers. No furnace or incinerator flues should be nearby. The height and type of flues and the type, quality, and quantity of waste or fuel burned determine the separation distances. For example, if the emissions from the chimney have high lead content and there is a high probability that the plume would impact on the sampler during most of the sampling period, then other buildings/locations in the area that are free from the described sources should be chosen for the monitoring site.

There must be unrestricted airflow in an arc of at least 270° around the sampler, except for stree canyon sites. The predominant direction for the season with the greatest pollutant concentration potential must be included in the 270° arc.

7.3 *Spacing from Roadways* Numerous studies have shown that ambient lead levels near mobile sources are a function of the traffic volume and are most pronounced at ADT≥30,000 within the first 15 meters, on the downwind side of the roadways. (*1,16–19*) Therefore, stations to measure the peak concentration (microscale) must be located between 5 to 15 meters from the major roadway, the goal being to locate the station at that distance most likely to produce the highest concentrations.

Monitoring stations which are intended to represent spatial scale with dimensions larger than the micro scale must be located at least 15 meters from the edge of the nearest traffic lane. The minimum separation distances between roadway and neighborhood or larger scale stations are given in Table 4. These distances are based upon the data of reference 16 which illustrates that lead levels remain fairly constant after certain horizontal distances from the roadway. As depicted in the above reference, this distance is a function of the traffic volume.

Table 4.—*Minimum separation distance between neighborhood, urban, and regional scale Pb stations and roadways (edge of nearest traffic lane).*

Roadway averge daily traffic, vehicles per day	Minimum separation distance between roadways and stations, meters
≤ 10,000	≥ 15[a]
20,000	75
≥ 40,000	≥ 100

[a]Distances should be interpolated based on traffic flow.

e. The original section 7 (Probe Material and Pollutant Sample Residence Time) is amended by renumbering it as section 8, and the references are renumbered as follows: references "14–18" to "20–24", references "19 to 25", references "20 to 26", and references "21–22" to "27–28".

f. The original section 8 (Waiver Provisions) is amended by renumbering it as section 9.

g. The original section 9 (Discussion and Summary) is renumbered as section 10; the table, therein, is renumbered as Table 5; and the text and table are revised to read as follows: 10. Discussion and Summary.

Table 5.—*Summary of probe siting criteria*

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal[a]	
TSP	All	2–15	—	>2	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstable protrudes above the sampler.[b] 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby.[c] 5. Must have minimum spacing from raods. This varies with height of monitor and spatial scale (see Figure 1).
SO_2	All	3–15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270°around the inlet probe, or 180° if probe is on the side of a building. 4. No furnace or incineration flues should be nearby.[c]

Table 5.—*Summary of probe siting criteria*—Continued

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacing criteria
			Vertical	Horizontal[a]	
CO	Micro	3±½	>1	>1	1. Must be >10 meters from intersection and should be at a midblock location. 2. Must be 2–10 meters from edge of nearest traffic lane. 3. Must have unrestricted airflow 180° around the inlet probe.
	Middle neighborhood	3–15	>1	>1	1. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 2. Spacing from roads varies with traffic (see Table 1).
O_3	All	3–15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 2).
NO_2	All	3–15	>1	>1	1. Should be >20 meters from trees. 2. Distance from inlet probe to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the inlet probe.[b] 3. Must have unrestricted airflow 270° around the inlet probe, or 180° if probe is on the side of a building. 4. Spacing from roads varies with traffic (see Table 3).
Pb	Micro middle	2–7	>1	>1	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler except for street canyon sites. 4. No furnace or incineration flues should be nearby.[c] 5. Must be 5 to 15 meters from major roadway.
	Neighborhood, urban and regional	2–15	>1	>1	1. Should be >20 meters from trees. 2. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. 3. Must have unrestricted airflow 270° around the sampler. 4. No furnace or incineration flues should be nearby.[c] 5. Spacing from roads varies with traffic (see Table 4).

[a] When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.
[b] Sites not meeting this criterion would be classified as middle scale (see text).
[c] Distance is dependent on height of furnace or incineration flue, type of fuel or waste burned, and quality of fuel (sulfur, ash or lead content). This is to avoid undue influences from minor pollutant sources.

Table 5 presents a summary of the requirements for probe-siting criteria with respect to distances and heights. It is apparent from Table 5 that different elevation distances above the ground are shown for the various pollutants. The discussion in the text for each of the pollutants described reasons for elevating the monitor or probe. The differences in the specified range of heights are based on the vertical concentration gradients. For CO, the gradients in the vertical direction are very large for the microscale, so a small range of heights has been used. The upper limit of 15 meters was specified for consistency between pollutants and to allow the use of a single manifold for monitoring more than one pollutant.

h. The original section 10 (References) is renumbered as section 11, six new references are added after reference 13, and the original references 14 through 22 are renumbered as references 20 through 28 as follows:

11. References

* * * * *

14. Lead Analysis for Kansas City and Cincinnati. PEDCo Environmental, Inc., Cincinnati, OH. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68–02–2515. June 1977.

15. Barltrap, D. and C. D. Strelow. Westway Nursery Testing Project. Report to the Greater London Council. August 1976.

16. Daines, R. H., H. Moto, and D. M. Chilko. Atmospheric Lead: Its Relationship to Traffic Volume and Proximity to Highways. Environ. and Technol., 4:318, 1970.

17. Johnson, D. E., *et al.* Epidemiologic Study of the Effects of Automobile Traffic on Blood Lead Levels, Southwest Research Institute, Houston, TX. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA–600/1–78–055. August 1978.

18. Air Quality Criteria for Lead. Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC. EPA–600/8–77–017. December 1977.

19. Lyman, D. R. The Atmospheric Diffusion of Carbon Monoxide and Lead from an Expressway, Ph.D. Dissertation, University of Cincinnati, Cincinnati, OH. 1972.

* * * * *

11. Appendix F is amended as follows:

a. The Table of Contents is amended by correcting the term "Slams" to read "SLAMS" in the title, and by adding sections 2.6, 2.6.1, and 2.6.2 as follows:

Appendix F. Annual SLAMS Air Quality Information

* * * * *

2.6 Lead (Pb).
2.6.1 Site and Monitoring Information.
2.6.2 Annual Summary Statistics.

b. A new section 2.6 is added to section 2 immediately following the table of section 2.5.2 as set forth below:

* * * * *

2.6 *Lead (Pb).*

2.6.1 *Site and Monitoring Information*—City name (when applicable), county name, and street address of site location, SAROAD site code. SAROAD monitoring method code. Sampling interval of submitted data, e.g., twenty-four hour or quarterly composites.

2.6.2 *Annual Summary Statistics*—The four quarterly arithmetic averages given to two decimal places for the year together with the number of twenty-four hour samples included in the average, as in the following format:

Quarter	Number of 24-hour samples	Quarterly arithmetic average (μg/m³)
Jan.–March		
April–June		
July–Sept		
Oct.–Dec		

* * * * *

(Secs. 110, 301(a) and 319 of the Clean Air Act (42 U.S.C. 7410, 7601(a), 7619))

[FR Doc. 80–31695 Filed 10–9–80; 8:45 am]
BILLING CODE 6560–01–M

federal register

Friday
October 10, 1980

Part VIII

Environmental Protection Agency

Motor Vehicles and Motor Vehicle Engines; Oxides of Nitrogen Research Program

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS-FRL-1536-1]

Motor Vehicles and Motor Vehicle Engines; Oxides of Nitrogen Research Program

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action is a final rulemaking establishing an oxides of nitrogen research program for the 1981 and subsequent model years. It is established under authority of Section 202(b)(7) of the Clean Air Act and applies to light duty vehicle manufacturers with at least 0.5% of the United States new car market. Participating manufacturers will be required to submit annual research plans and reports. They will also be required to build one or more demonstration vehicles for the purpose of exhibiting technology designed to meet low oxides of nitrogen emission levels.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Wagner, Office of Mobile Source Air Pollution Control, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4279.

SUPPLEMENTARY INFORMATION: On February 7, 1979 a notice of proposed rulemaking for the Oxides of Nitrogen Research Program was published, 44 FR 7780. The proposed regulations were to apply to the 1980 and subsequent model years. An interim final rulemaking was published for the 1979 model year at the same time, 44 FR 7718. Manufacturers have continued to comply with the interim final regulations for the 1980 model year.

The regulations promulgated are very similar to those which were proposed. Some of the manufacturers' concerns have been eliminated or the requirements have been relaxed. Specifically, the reporting requirements have been reduced and the "right of entry" provisions have been eliminated. Other minor changes have been made; these are described below under "Comments Received".

Statutory Requirements

These regulations implement Section 202(b)(7) of the Clean Air Act:

> The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen. * * * [E]ach manufacturer whose sales represent at least 0.5 per centum of light-duty motor vehicle sales in the United States [shall] build and, on a regular basis, demonstrate the operation of light-duty motor vehicles that meet this research objective, in addition to any other applicable standards. * * * Such demonstration shall, in accordance with applicable regulations, to the greatest extend possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and, (C) assure the utilization of optimum engine, fuel, and emission control systems.

Comments Received

Five organizations commented in response to the notice of proposed rulemaking: American Motors, Chrysler, Ford, General Motors and the Washington Legal Foundation. Several general comments were raised on EPA's role in the oxides of nitrogen research program. The opinion was expressed that the Agency should not be involved in "approving" a manufacturer's plan since public criticism would amount to administrative blackmail. The Agency has no intention of being involved in the internal decision making of the research programs. EPA's role will be to review manufacturers' research plans and the results obtained by the manufacturer in his program. A composite report will then be submitted to Congress. Since research is a creative process it cannot be regulated in the same manner as compliance with emission standards. However, in its reports to Congress the Agency will make judgments or recommendations as appropriate; not with the intent of "administrative blackmail" but as the duty of an independent Agency charged with administering the program. This is similar to the process which has been followed with the periodic status report required under Section 202(b)(4) of the Clean Air Act. EPA expects to follow essentially the same procedures with the oxides of nitrogen research program report.

A brief summary of other comments and the EPA response is listed below:

1. All manufacturers objected to the "right of entry" provisions. They have been deleted. The agency expects that the manufacturers will cooperate in a reasonable manner. However, if necessary, a subsequent rulemaking will be undertaken to add appropriate "right of entry" provisions.

2. Objections were raised to what were felt to be excessive reporting requirements by both the manufacturers and the Washington Legal Foundation. As a consequence of these comments, the reporting requirements have been revised. The provision requiring prediction of anticipated fuel economy has been eliminated.

The participants will no longer be required to calculate the projected fuel economy attributable to the types of technology used during the research period. The details of the hypothetical fleet will be retained so EPA can assess the fuel economy implications and appropriateness of the research vehicles to the anticipated sales mix.

Other reductions in reporting requirements have previously included:

(1) Combination of plans and progress reports into one document,

(2) Reductions in submission of quarterly reports, and

(3) No special report formats; e.g., data can be submitted as copies of data logs, or files, and narrative can follow the manufacturer's chosen format.

Additional, EPA is contemplating the consolidation of the NOx research reports with the annual EPA status report at some future date. EPA does not consider the remaining reporting requirements to be excessive.

3. Manufacturers also objected to the provision that requires notification of major plan changes and the requirement that EPA be allowed to conduct testing before the destruction of test hardware. EPA did not intend that these requirements should impose a burden on the manufacturer. A *major* change in the program would be of such significance that waiting to the end of the annual period would not be appropriate. In the same vein, destruction of a vehicle or significant test hardware would also indicate a major decision or conclusion had been reached by the manufacturer. (This destruction would be prior to be planned completion of the experiment). Again, this is not anticipated to be an ordinary occurrence and was never intended to be a burden on the manufacturer. While these provisions remain in the regulations, it is not anticipated that EPA will routinely choose to test such discontinued vehicles or hardware. As with other testing, it will be the exception and not the rule. EPA intends to cooperate with the manufacturers and will not unnecessarily choose to do such testing. Any EPA testing requests will be limited to devices and vehicles of unusual significance.

4. At the suggestion of American Motors, the participation criteria have been modified. A manufacturer can elect not to participate upon showing that the engines it produces do not constitute

0.5% of the total engine production for use in light duty vehicles (light duty trucks are not included in the calculation). This change would allow a manufacturer who purchases engines and emission control systems as a unit to be classified as a non-participating manufacturer. Of course, this exemption is conditioned upon the supplier of such engines and emission control systems participating in the oxides of nitrogen research program. This change is viewed as being in accordance with the Congressional intent that manufacturers with the capability to develop engines and emission control systems participate in the program. It would make little sense to require a manufacturer who produced no engines but whose total sales were over the threshold to participate. We believe this change is consistent with the intent of Congress in enacting section 202(b)(7).

An additional change suggested by American Motors was that projected sales be used to determine inclusion in the program. This suggestion has not been followed. While it is true that the actual sales figures lag behind a manufacturer's inclusion in the program, this is not a serious problem. Using actual sales figures gives manufacturers adequate notice that participation will be required and it provides both a positive and accurate way of identifying who will be included. Another advantage of this method is that since no additional information would be required, this results in less paperwork. However, if a manufacturer whose sales have suddenly declined below the threshold value can demonstrate that fact to the Administrator, that manufacturer will be deleted from the program.

5. The manufacturers suggested that the names of the key personnel not be required in the annual research plan but instead that one contact individual be named. This has been adopted.

6. Ford Motor Company suggested some minor revisions in the section on confidential information. These changes have been made.

7. General Motors requested that the due date for annual reports be extended 30 days to the first of October. This has been incorporated.

As outlined above, most questions raised by the comments have been resolved in favor of the manufacturers. Any requests made by EPA upon the manufacturers for supporting documentation or opportunity to perform its own testing will be limited. It is expected that the manufacturers will cooperate. There is considerable difference between a mandatory vehicle certification program and the monitoring of a research effort. EPA recognizes this difference and will act accordingly.

Note.—The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before December 9, 1980. 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 judicial proceedings brought by EPA to enforce these requirements.

Dated: October 6, 1980.

Douglas M. Costle,

Administrator.

A new Subpart E is added to Part 85, Title 40 of the Code of Federal Regulations which reads as follows:

Subpart E—Oxides of Nitrogen Research Program for the 1981 and Subsequent Model Years

Sec.

85.401 Scope.
85.402 Definitions.
85.403 Manufacturer participation.
85.404 Manufacturer's research program.
85.405 Annual research period plan.
85.406 Conduct of the research program.
85.407 Annual report.
85.408 Treatment of confidential information.

Authority: Sections 202, 208, and 301(a) of the Clean Air Act as amended (42 USC 7521, 7542 and 7601(a)).

Subpart E—Oxides of Nitrogen Research Program for the 1981 and Subsequent Model Years

§ 85.401 Scope.

The provisions of this subpart establish an oxides of nitrogen research program and require the participation of certain light-duty vehicle manufacturers.

§ 85.402 Definitions.

The terms used in this subpart shall have the meaning established in the Clean Air Act and 40 CFR Part 86. The following definition shall also apply:

"Annual research period" means the time period from August 1 of a previous calendar year to July 31 of the given calendar year, e.g., the 1981 annual research period would be the time period from August 1, 1980 to July 31, 1981.

§ 85.403 Manufacturers' participation.

(a) Each manufacturer whose sales are determined by the Administrator to represent at least 0.5 per centum of light-duty motor vehicle sales in the United States is required to comply with the provisions of this subpart beginning in the 1981 annual research period.

(b) Sales figures submitted to determine Corporate Average Fuel Economy will be used to determine which manufacturers must participate.

(c) Manufacturers will be notified in writing of the Administrator's determination; such notification will apply to subsequent research periods until rescinded. Upon written request, the Administrator will make a new determination considering any relevant sales data supplied by a manufacturer.

(d) A manufacturer may elect to have sales determined under parpagraph (b) of this section reduced by the number of complete engines and emission control systems supplied by another manufacturer who participates in the Oxides of Nitrogen Research Program.

§ 85.404 Manufacturers' research program.

(a) Each manufacturer who is subject to these regulations shall institute a research program to achieve the following objectives:

(1) The development of propulsion systems and emission control technology to achieve the research objective of 0.41 gram per mile oxides of nitrogen.

(2) The construction and demonstration, for each annual research period, of the operation of light-duty motor vehicles that meet the research objective of paragraph (a)(1) of this section and that meet all other applicable emission standards or requirements under the Clean Air Act. The most stringent hydrocarbon, carbon monoxide, evaporative emissions and other emissions standards and/or requirements established by regulation or statute prior to the start of an annual research period for a future model year shall apply. Demonstrations shall include emissions and fuel economy testing.

(b) The demonstration vehicles under paragraph (a)(2) of this section shall:

(1) Be designed to encourage the development of new powerplants and emission control technologies that are fuel efficient.

(2) Be within or be reasonably expected to be within the productive capability of the manufacturers; and

(3) Use optimum engine, fuel and emission control systems.

§ 85.405 Annual research period plan.

(a) Not later than October 1 of each annual research period, the manufacturer shall provide the Administrator three (3) copies of an annual research program plan that contains the information specified in

paragraphs (b), (c) and (d) of this section. Two (2) copies shall be sent to:

Director, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI. 48105.

One (1) copy, less any material claimed to be confidential shall be sent to:

U.S. Environmental Protection Agency, Public Information Reference Unit, (PM–213), 401 M Street SW., Washington, D.C. 20460.

(b) Each plan shall contain a description and discussion of:

(1) The manufacturers' long-term, interim, and short-term NOx research and development goals. Long-term goals are more than 4 years beyond the end of the annual research period. Interim goals are those applicable between 0 and 4 years beyond the end of the annual period, and short-term goals are those applicable to the annual research period for which the plan applies.

(2) The specific problems that exist, or are expected to exist, in the development and demonstration of vehicles that achieve the objectives of § 85.404.

(3) The relationship of the goals in paragraph (b)(1) of this section to the problems identified in paragraph (b)(2) of this section and to the objectives of § 85.404; and

(4) The resources, in terms of personnel, capital expenditures, materials, and contracted efforts the manufacturers intend to allocate to the research program. Planned resources expenditures shall be estimated for the current and each future annual period contained in the plan. A "contact person" name, address and telephone number shall be included.

(c) Each plan shall contain a brief discussion of how the research program, established to comply with this subpart, interfaces with other programs conducted by the manufacturer, including contracts with the Federal Government. There should be a general discussion of such programs which includes but is not limited to:

(1) The manufacturer's overall low emissions research and development program, including but not limited to programs for meeting state requirements, unregulated emissions, emissions at high altitude, evaporative emissions, and particulate emissions;

(2) Fuel economy improvement programs;

(3) Vehicle driveability and performance programs; and

(4) Alternate engine programs.

(d)(1) The plan shall identify and fully describe each project and the purposes of each project the manufacturer plans to conduct or sponsor, including but not limited to research efforts in:

(i) Catalyst development and evaluation programs;

(ii) Fuel metering development and evaluation programs;

(iii) EGR development and evaluation programs;

(iv) Air injection development and evaluation programs;

(v) Development and evaluation programs for heat conservation;

(vi) Ignition system development and evaluation programs;

(vii) Development and evaluation programs for combustion or combustion chamber modifications;

(viii) Electronic control system/component development and evaluation programs;

(ix) New powerplant programs, such as those related to stratified charge engines, Diesel engines, gas turbine engines, and Stirling engines.

(2) The plan shall provide the following additional information about projects planned to be conducted during the research period to which the plan applies:

(i) A schedule for the initiation and completion of major outputs;

(ii) Detailed discussion of anticipated technical problems; and

(iii) For demonstration vehicles: a description of each vehicle, the number and type(s) of tests to be performed, and a description of the engine, fuel system components and emission control system to be used on each vehicle.

§ 85.406 Conduct of the research program.

(a) Nothing in this subpart shall be construed as limiting the scope, or direction of a manufacturer's plan, the manufacturer's decision-making ability, or the manufacturer's responsibility to conduct the research plan.

(b) Manufacturers shall build and test vehicle that employ technology which is consistent with the objectives of section 404 of this subpart. Testing shall include but is not limited to regulated emissions and fuel economy.

(c) Upon reasonable notice from EPA, manufacturers shall provide periodic briefings and/or reports for the Administrator regarding the status of the activities being conducted during the research period. Such briefings, and/or reports will be requested not more frequently than quarterly, and will be limited to vehicle emission and fuel economy data, discussion and interpretation of that data, important events during the reporting period, significant program changes, and other indications of status, progress, or lack of progress in meeting the objectives of the research and development effort.

(d) At the Administrator's request, the manufacturer shall provide demonstration vehicles for testing by EPA.

(e) The manufacturer shall notify the Administrator of any major changes to the plan including, but not limited to, the decision to discontinue mileage accumulation on a vehicle prior to the accumulation of all planned mileage, and/or to destroy a vehicle or significant prototype test hardware. The manufacturer shall provide an opportunity for the Administrator to test or inspect such vehicles and/or hardware prior to discontinuation or destruction.

§ 85.407 Annual Report.

(a) Each manufacturer shall provide three (3) copies of an annual report that contains the information required by paragraph (b) of this section no later than October 1 after the close of the research period. The annual report may be combined with the annual research plan required by § 85.405 for the following annual research period. Reports shall be submitted in the same manner and to the same addresses as research plans, see § 85.405 paragraph (a).

(b) The annual report shall include the following:

(1) A summary of the work conducted, conclusions about the success or failure of each project, a discussion of the implications for future efforts of the research and development activities conducted, a comparison of actual accomplishments to those planned, and identification and discussion of significant problems areas.

(2) A list of projects conducted, a discussion of the relationship of the projects to the goals of the plan submitted pursuant to § 85.405 of this subpart, and a discussion of the influence that research and development efforts in programs identified under § 85.405(c) had on the efforts conducted under this subpart.

(3) A description of how the original plan was modified during the annual research period and the basis and rational for such modification.

(4) A description of each demonstration vehicle constructed under § 85.406, including a description of each engine, emission control system, and fuel system component used, all test data generated during the annual research period from the demonstration vehicles including but not limited to testing for regulated and unregulated emissions, fuel economy, driveability, and performance.

(5) An identification of any vehicle(s) which the manufacturer considers to represent the best relationship among emissions, fuel economy, driveability, performance, cost, reliability, maintainability, producibility and other factors of importance to the manufacturer, i.e., a fully optimized vehicle.

(6) A description of other programs, including those conducted with outside organizations, that generated test data that involve emissions, including but not limited to: engine dynamometer testing, optimization programs, catalyst screening testing, and component testing. Representative data and conclusions from these programs shall be submitted, and impacts of these programs on future vehicle testing shall be discussed.

(7) Description of the fuel economy implications of the use of the types of technology used during the annual research period, specifically including a description of the fleet of vehicles that could be manufactured four (4) years in the future. The hypothetical fleet shall be described in terms of the sales mix, inertia weight, engine, transmission, axle ratio, and the emission control system assumed for each type of vehicle.

(8) An identification of the resources expended during the research period and a comparison of those expenditures to those in the plan submitted under § 85.405.

§ 85.408 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR, Part 2, Subpart B.

(b) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must submit such information on separate pages which are clearly marked employing language such as "Trade Secret", "Proprietary", "Company Confidental", and which are easily detached from the document, and provide a separate section labeled "Confidential Business Information" in which the number of each page on which confidential information appears shall be identified.

(c) If a claim is made that some or all of the information is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(d) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice.

(Sec. 202, 208 and 301(a) of the Clean Air Act, as amended, 42 USC 7521, 7542 and 7601(a))

[FR Doc. 80-31644 Filed 10-9-80; 8:45 am]

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federal register

Friday
October 10, 1980

Part IX

Department of Energy

Economic Regulatory Administration

Coal Program; Regulations Republication and Rescission

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 303, 305, 307, and 309

[Docket No. ERA-R-80-34]

Coal Program—Regulations, Republication, and Rescission

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Revision of final rules; rescission of parts.

SUMMARY: The Economic Regulatory Administration, is revising Parts 303 and 305 (Parts 307 and 309 are rescinded) which implement section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). Under ESECA, ERA could formerly prohibit the use of natural gas or petroleum as the primary energy source in certain powerplants and major fuel burning installations. The revision is necessary primarily to reflect the amendments to section 2 of ESECA in section 762 of the Powerplant and Industrial Fuel Use Act. Section 762 provides that ERA will retain only its authority under ESECA to finalize prohibition orders that were pending on May 8, 1979 (Freedom of Information Act effective date) and to rescind, modify, or enforce all pending prohibition orders and all other final orders under section 2 of ESECA that were in effect on May 8, 1979 (including final construction orders).

ERA has determined that the republication of Parts 303 and 305 is essentially editorial in nature and does not involve substantive modifications that would require notice and public procedure.

ERA has further determined that the rescission of Parts 307 and 309 is appropriate to reflect the termination of certain authorities under ESECA. (The responsibility for implementing ESECA was transferred from the Federal Energy Administration to DOE by Executive Order No. 12009, pursuant to the DEOA, effective October 1, 1977.)

This action is taken in accordance with DOE's regulatory reform program for Fiscal Year 1980 (10 CFR 300–399; DOE Order 2030)

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 7002, Washington, D.C. 20461, (202) 653–3217.

Steven Frank, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3302, Washington, D.C. 20461, (202) 653–4184.

James Renjilian or Marya Rowan, Office of General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: The final rule implementing Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*; 792) was first published on May 9, 1975 at 40 FR 20465. It was subsequently amended on July 3, 1975 (40 FR 28422) and May 6, 1977 (42 FR 23135). On October 1, 1977, the responsibility for implementing ESECA was transferred from the Federal Energy Administration to the Department of Energy (DOE) by Executive Order No. 12009, pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.* (1977)).

Since the ESECA regulations were last amended in 1977, the statute has been amended by Section 762 of the Fuel Use Act. The amendments significantly affected the ESECA coal regulatory program described in Parts 303, 305, 307, and 309. The impact of FUA will be discussed in detail below. Additionally, the ESECA regulations are revised to reflect the 1977 amendments (Public Law 95–95) to the Clean Air Act (42 U.S.C. 7401 *et seq.* (1970)), and regulations DOE has issued implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552 (1966)) and the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4231 *et seq.*).

The 1977 Clean Air Amendments necessitated changes in citations and procedures that are referenced in the ESECA regulations. DOE's recently issued FOIA and NEPA regulations affected a number of citations contained in the ESECA regulations.

The amendments to ESECA contained in Section 762(a) of the Fuel Use Act provide that any powerplant or major fuel burning installation (MFBI) issued a construction order under Section 2 of ESECA, which order was pending on the effective date of FUA (May 9, 1979), is subject to the provisions of Title II of FUA, as though the powerplant or MFBI were a new installation.

Section 762(b) provides that Titles II and III of FUA do not apply to a powerplant or MFBI for which either a final or pending prohibition order under ESECA had been issued prior to the effective date of FUA, except in the case of a MFBI which elected the option of being covered by Titles II or III of FUA rather than by ESECA.

Under Section 762(c) the validity of prohibition orders issued under subsection (2) of ESECA and of final construction orders issued under Subsection (c) of ESECA was preserved, as well as the authority of the Secretary to amend, repeal, rescind, modify, or enforce such orders or the rules applicable thereto notwithstanding any previous limitation of time otherwise applicable to the authority. The order issuance authority of the Secretary under Section 2 of ESECA was otherwise expressly terminated on the effective date of FUA.

The effect of the FUA amendments on the ESECA regulations has been to make certain paragraphs in Parts 303 and 305 and all of Parts 307 and 309 obsolete. ERA, as the DOE agency responsible for ESECA implementation, has determined that Parts 307 and 309 should be rescinded and that those paragraphs in Parts 303 and 305 that are no longer pertinent should be deleted in the interest of regulatory simplification. All other changes to Parts 303 and 305 have been made to reflect current law or regulations and are basically editorial in nature.

(Energy Supply and Environmental Coodination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 94–163; Pub. L. 95–70; Pub. L. 95–91; and Pub. L. 95–620; Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 *et seq.*), as amended by Pub. L. 94–385; Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) (42 U.S.C. 8301 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009, FR 46267)

Issued in Washington, D.C., October 3, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

In consideration of the foregoing, Parts 307 and 309 of Chapter II, Title 10 of the Code of Federal Regulations are removed and reserved. Parts 303 and 305 are revised to read as follows:

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303.201 Violations.
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Authority: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93-319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163; Pub. L. 95-70; Pub. L. 95-91; and Pub. L. 95-620; Federal Energy Administration Act of 1974 (Pub. L. 93-275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94-385; and Pub. L. 95-91; Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620) (42 U.S.C.A. 8301 et seq.) E.O. 11790 (39 FR 23185) E.O. 12009, 42 FR 46267.

Subpart A—General Provisions

§ 303.1 Purpose and scope.

(a) Part 303 establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Department of Energy pursuant to the Energy Supply and Environmental Coordination Act of 1974 (ESECA)(15 U.S.C. 791 *et seq.*)

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 303.2 Definitions.

As used in the part, the term:

"Action" means an order, or modification or rescission thereof, interpretation, notice of probable violation, or ruling issued, or a rulemaking undertaken by DOE, unless otherwise defined in this part.

"Aggrieved", for purposes of administrative proceedings means a person with an interest sought to be protected under the FEAA or ESECA who is adversely affected by an order or interpretation issued by DOE.

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act, as amended, (except for any requirement prescribed under section 113(d), section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 7413, 7410(a)(2)(F)(v) and 7603, respectively)), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

"Clean Air Act" means the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (1970).

"Coal" includes coal derivatives.

"Combined cycle unit" means an electric power generating unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit.

"Combination gas turbine" means an electric power generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with

an electric power generator driven by such engine.

"Conference" means an informal meeting, incident to any proceeding between DOE and any person aggrieved by that proceeding.

"Construction order" means a directive issued by DOE pursuant to section 2(c) of ESECA (15 U.S.C. 792(c)) that requires a powerplant or major fuel burning installation in the early planning process (other than a combustion gas turbine or combined cycle unit) to be designed and constructed to be capable of using coal as its primary energy source.

"Delayed compliance order" means an extension issued by the Administrator of EPA in accordance with section 113(d)(5) of the Clean Air Act (42 U.S.C. 7413(d)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1986, be prohibited, by reason of the application of any air pollution requirements, from burning coal which is available to such source, except as otherwise provided in section 113(d) of that Act (42 U.S.C. 7413(d))

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or group of powerplants determined by DOE, in consultation with the Federal Energy Regulatory Commission, to constitute a power generation system sufficient in scope that DOE may make a reliability finding within the meaning of ESECA.

"DEOA" means the Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7101 et seq. (1977).

"DOE" means the Department of Energy, including the Secretary of Energy or his designee.

"Duly authorized representative" means a person who has been designated to appear before DOE in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"Early planning process" (i) in the case of powerplants, commences 10 years prior to the planned commencement of the sale or exchange of electric power by a powerplant and terminates with commencement of the driving of the foundation piling, or the equivalent foundation structural event, in accordance with final drawings for the main boiler of the powerplant which were approved prior to commencement of such structural event; and (ii) in the case of major fuel burning installations, commences with completion of the preliminary feasibility study and terminates when the major fuel burning installation can no longer be ordered to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments. Typically, such a termination point will coincide with the completion of the major fuel burning installation's foundation, or the equivalent foundation structural event, in accordance with final drawings for the major fuel burning installation which were approved prior to the commencement of such structural event.

"EPA" means the Environmental Protection Agency.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Pub. L. 95–70; Pub. L. 95–91; and Pub. L. 95–620.

"Exception" means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

"Exemption" means the release from the obligation to comply with an entire part, or subpart thereof, of Parts 303 or 305, of this chapter.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–332; Pub. L. 94–385; Pub. L. 95–70; and Pub. L. 95–91.

"Federal legal holiday" means New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a national holiday by the President or the Congress of the United States.

"FUA" means the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) (42 U.S.C.A. 8301 *et seq.*), which became effective on May 9, 1979.

"Interpretation" means a written statement issued by the General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued, to the particular facts of a prospective or completed act or transaction.

"Interested person" includes members of the public, as well as any person with an interest sought to be protected under ESECA.

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combustor of fuel, or any combination thereof at a single site, and includes any person who owns, leases, operates or controls any such installation or unit.

"Natural gas" includes dry gas and casinghead gas.

"Notice of effectiveness" or "NOE" means (a) a written statement issued by DOE to an existing powerplant or major fuel burning installation, subsequent to certification by EPA pursuant to section 112(b) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95), advising the powerplant or installation of the date that the prohibition order applicable to it becomes effective; or (b) a written statement issued by DOE to a new powerplant or major fuel burning installation advising the powerplant or installation of the date that the construction order applicable to it becomes effective.

"Notice of probable violation" means a written statement issued to a person by DOE that states one or more alleged violations of the provisions of Parts 303 or 305 of this chapter or any order issued pursuant to section 2 of ESECA.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by DOE pursuant to Part 303 or 305 of this chapter or section 2 of ESECA. An order may be issued in response to an application, petition or request for DOE action or in response to an appeal from another order, or it may be a remedial order or other directive issued by DOE on its initiative. A notice of probable violation is not an order. For purposes of this definition a "written directive" shall include telegrams, telecopies and similar transmissions.

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government, including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments, and includes any officer, director, owner or duly authorized representative thereof. DOE may, in regulations and in any forms issued in this part, treat as a person:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls,

(b) A parent and its consolidated entities,

(c) An unconsolidated entity, or
(d) Any part of a person.

"Petroleum product" means crude oil, residual fuel oil or any refined petroleum product, as that last term is defined in section 3(5) of the Emergency Petroleum Allocation Act of 1973 as amended (Pub. L. 93–159).

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

"Preliminary feasibility study" means that analysis, formal or otherwise, which concluded that new, additional, or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of a major fuel burning installation.

"Primary energy source" means with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use, and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued delayed compliance order by EPA in accordance with Section 113 of the Clean Air Act (42 U.S.C. 7413), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04: *Provided,* Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of the minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by DOE, either on its initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by DOE.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature control and precise flame characteristics.

"Prohibition order" means a directive issued by DOE pursuant to sections 2(a) and (b) of ESECA (15 U.S.C. 792(a) and (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

"Remedial order" means a directive issued by DOE requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Ruling" means an official interpretative statement of general applicability issued by DOE General Counsel and published in the **Federal Register**, that applies DOE regulations to a specific set of circumstances.

"Stationary source fuel or emission limitations" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 113, 111(b), 112, or 303 (42 U.S.C. 7413, 7411, 7412, and 7603 respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 7410(a)(2)(F)(v)), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

"United States", when used in the geographic sense, means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 303.3 Appearance before DOE.

(a) A person may make an appearance and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Personal appearances are at the discretion of DOE, except as required by ESECA, DEOA, or the FEAA. Any application, appeal, petition, request or complaint filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless a DOE form requires otherwise. Falsification of this certification will subject the person to the sanctions stated in 18 U.S.C. 1001 (1970).

(b) DOE may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by DOE—

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking a DOE action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 303.4 Filing of documents.

(a) Any document, including, but not limited to, an application, request, complaint, petition and other documents submitted in connection therewith, filed with DOE under Part 303 or Part 305 of this chapter is considered to be filed when it has been received by DOE National Office. Documents transmitted to DOE shall be addressed as required by § 303.12. All documents and exhibits submitted become part of a DOE file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, if transmitted by registered or certified mail and addressed to the appropriate office,the following are considered to be filed upon mailing: (1) an appeal, (2) a response to a denial of an appeal or application for modification or rescission of an order in accordance with § 303.107(a)(3) of this chapter and § 303.145(a)(3), respectively, (3) an application for modification or rescission of a prohibition order as a result of significantly changed circumstances that occurred during the interval between issuance of the prohibition order and service of the NOE, (4) an application for the quashing or modification of a subpoena, (5) a reply to a notice of probable violation, (6) the appeal of a remedial order or remedial order for immediate compliance, (7) a response to denial of a claim of confidentiality, or (8) a comment submitted in connection with any proceeding.

(c) Hand-delivered documents to be filed with the Office of Hearings and Appeals shall be submitted to Room 8002 at 2000 M Street, NW., Washington, D.C. All other hand-delivered documents to be filed with the DOE National Office shall be submitted at the address provided in section 303.12.

(d) Documents received after regular business hours are deemed to have been filed on the next regular business day. Regular business hours for the DOE National Office are 8 a.m. to 4:30 p.m.

§ 303.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of DOE, the day of the act, event,

or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by DOE is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail, 3 days shall be added to the prescribed period.

§ 303.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the office with which the document is required to be filed upon good cause shown.

§ 303.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail (only when service is effected by DOE), except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail, or, if by DOE, by regular mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute *prima facie* evidence of service.

§ 303.8 Subpoenas; witness fees.

(a) The Secretary of DOE, his duly authorized agent, DOE General Counsel, or the agency official designated to conduct a hearing or public hearing convened in accordance with Subpart N of this part, may sign and issue subpoenas either on his own initiative or upon the request of any person participating in that proceeding, which request shall be supported by an adequate showing that the information sought will materially advance a proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of the person served, or both.

(c) A subpoena may be served personally by any person who is an interested person and is not less than 18 years of age, or by certified or registered mail. For purposes of this paragraph, "interested person" means a person who is participating directly in the proceeding with respect to which the subpoena is issued.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (f) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person; leaving them at his office with the person in charge thereof; leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; by mailing them by registered or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date. If any person is an entity with offices and operations in more than one jurisdiction, such person may designate one address to which any subpoena may be served by filing such designation with the General Counsel at the address specifed in § 303.12.

(e) The original subpoena bearing a certificate of service shall be filed with the DOE office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by DOE shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by DOE when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage. The designated DOE official issuing the subpoena shall make the determination required by this paragraph.

(h)(1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the designated DOE official who issued the subpoena, or if he is unavailable, to the Secretary of DOE, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Secretary of DOE or such other designated DOE official specified in paragraph (h)(1) of this section may (i) deny the application, (ii) quash or modify the subpoena, or (iii) condition the denial or granting of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. Such denial may be summary.

(3) While the Secretary of DOE or such other designated DOE official specified in paragraph (h)(1) of this section is considering the application to quash or modify the subpoena, a stay of the obligation to comply with the subpoena may be issued in accordance with Subpart I.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, DOE may request the Attorney General to seek the aid of the District Court of the United States for any district in which such person is found to compel such person,

after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the agency, or both.

§ 303.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with DOE.

(b) *Signing.* All applications, petitions, requests, appeals, complaints, comments, or any other documents that are required to be signed shall be signed by the person filing the document or a duly authorized representative. Any application, petition, request, appeal, complaint, comment or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless a DOE form otherwise requires. (A false certification is unlawful under the provisions of 18 U.S.C. 1001 (1970).)

(c) *Labeling.* An application, petition, or other request for action by DOE should be clearly labeled according to the nature of the action involved both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* (1) A person who files an application, petition, complaint, appeal or other request for action and other documents relevant thereto, or to whom a prohibition order or a construction order is issued, is under a continuing obligation during the proceeding to provide the DOE with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, appeal or request for action or document required to be submitted that is subsequently filed by that person with any DOE office or EPA office if such document pertains to this Part 303 or Part 305, Part 307, Part 309, or Part 215 of this chapter, or Subpart A of 40 CFR Part 55.

(2) With respect to documents required to be filed with EPA in accordance with Subpart A of 40 CFR Part 55, notice of the filing of such documents shall be filed with DOE within 5 days of their filing with EPA.

(e) *The same or related matters.* A person who files an application, petition, complaint or other request for action by the DOE shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any DOE office, other Federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with the proceeding described in this part or under subpart A of 40 CFR Part 55. In addition, the person shall state whether contact subsequent to the issuance of this Part 303 or Part 305 or Part 215 of this chapter has been made by the person or one acting on his behalf with any person who is employed by DOE or EPA with regard to the same issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contract.

(f) *Request for confidential treatment.* (1)(i) If any person filing a document with DOE claims that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1966)), as amended, or is information referred to in 18 U.S.C. 1905 (1970), or is otherwise exempt by law from public disclosure, and if such person requests DOE not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and shall file a concise statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information or is covered by 18 U.S.C. 1905, such person shall include a concise statement specifying why such information is privileged or confidential.

(ii) If the person filing a document does not submit a second copy of the document with the confidential information deleted, DOE may assume that there is no objection to public disclosure of the document in its entirety.

(2) DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by DOE to deny such claim, in whole or in partge a10oc0.133, shall be given to a person making such claim no less than seven (7) calendar days prior to the intended public disclosure of the information in question, as prescribed by 10 CFR 1004.11(e) (DOE's Freedom of Information Act regulations).

(3) This paragraph (f) does not apply where information is being submitted on a DOE form which contains its own instructions as to requests for confidential treatment of information provided therein.

(g) *Separate applications, petitions or requests.* Each application, petition or request for DOE action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 303.10 Effective date of orders.

(a) Any order issued by DOE under Parts 303 or 305 of this chapter, except a prohibition order as stated in paragraph (b) of this section is effective as against all persons having actual notice thereof upon publication in the **Federal Register**, in accordance with its terms, unless it is stayed, modified, suspended, or rescinded. The order is deemed to be issued on the date on which it it signed by an authorized representative of DOE, unless the order provides otherwise.

(b)(1) A prohibition order shall not become effective before certain action by EPA, actions by DOE as described in § 305.9 of this chapter, and service by DOE upon the affected powerplant or major fuel burning installation of an NOE in accordance with § 305.7 of this chapter. A prohibition order or NOE is deemed to be issued on the date on which it is signed by an authorized representative of DOE.

(2) A construction order or NOE is deemed to be issued on the date, as specified in the order or notice, on which it is signed by an authorized representative of DOE.

§ 303.11 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions of this chapter, the provisions of this part shall control with respect to procedure.

§ 303.12 Addresses for filing documents with DOE.

(a)(1) Send all petitions, forms, written communications, or other documents not included in paragraph (a)(2) of this section to the following address: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461.

(2) Send all requests for interpretations and interpretative rulings to the following address: Assistant General Counsel for Interpretations and Rulings, 1000 Independence Avenue,

SW., Forrestal Building, Washington, D.C. 20585.

(3) All other documents to be filed with the Office of the General Counsel shall be addressed as follows: Office of the General Counsel, Department of Energy, Attention: (Name of person to receive document, if known, and/or labeling as specified in Section 303.9(c)), Washington, D.C. 20585.

(b) The DOE National Office has facilities for the receipt of transmission via TWX and FAX to its offices at 1000 Independence Avenue, SW. (Forrestal) and 2000 M Street, NW. (The FAX machines are 3M full duplex 4 or 6 minute (automatic)). For purposes of these regulations, all your transmissions should be to the facilities at 2000 M Street, NW., except those to be sent to the Office of the General Counsel, which should be transmitted to the facilities located at Forrestal.

FAX Numbers:

(202) 252–5100 (3M) (Forrestal)
(202) 653–3613 (3M) (2000 M St.)

TWX Numbers:

(710) 822–0176 (Forrestal)
(710) 822–9454 (2000 M St.)

(c) Documents to be filed with the Office of Hearings and Appeals, as provided in this part or otherwise, shall be addressed as follows: Office of Hearings and Appeals, Department of Energy, Attn: (Name of person to receive document, if known, and/or labeling as specified in § 303.9(c)), Washington, D.C. 20461.

§ 303.13 Public information office/ Freedom of information reading room.

(a) DOE will make available at Room B–110, 2000 M Street, NW., Washington, D.C. for public inspection and copying:

(1) Each rule, order or other administrative determination that is issued as a final agency action on a matter before ERA;

(2) Any written comments received from interested persons in connection with issuance of a rule, order, or other determination, modifications or rescissions, or stays of rules, or determinations, and verbatim transcripts of any oral comments made at public hearings where a transcript was made;

(3) Any comments received during each rulemaking proceeding and a verbatim transcript of any public hearings that may have been held in any rulemaking proceeding; and

(4) Any other information required by statute to be made available for public inspection and copying, and any information that ERA determines should be made available to the public.

(b) There shall be made available at the Freedom of Information Reading Room (Forrestal Building, Room 5B–180, 1000 Independence Avenue, SW., Washington, D.C.) for public inspection and copying:

(1) The written comments received from interested persons in connection with issuance of prohibition orders or construction orders, or the modification or rescission thereof, if applicable, with a verbatim transcript of any oral comments made at a public hearing held prior to issuance of an order;

(2) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing, if such a public hearing was held; and

(3) Any other information required by statute to be made available for public inspection and copying, and any information that DOE determines should be made available to the public through display in the Freedom of Information Reading Room.

§ 303.14 Petitions for special redress, relief, and extraordinary assistance.

Petitions that seek special redress, relief or other extraordinary assistance apart from or in addition to the proceedings and procedures described in this part, including those petitions based on an assertion that DOE is not complying with the FEAA, ESECA, DEOA, FUA, DOE regulations, orders, rules, or otherwise, shall be filed with the Office of Hearings and Appeals in accordance with Subpart R of Part 205 of this chapter.

Subpart B—Prohibition Orders

§§ 303.30—303.36 [Reserved]

§ 303.37 Notice of Effectiveness.

(a) Prohibition orders shall not become effective until the certification procedures described in this paragraph are satisfied.

(b) A prohibition order shall not become effective (1) until either (i) the Administrator of EPA certifies to DOE in accordance with section 112(b) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95) that the powerplant or major fuel burning installation will be able on and after July 1, 1979 to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order, or (ii) the date which the Administrator of EPA certifies as the earliest date that the powerplant or major fuel burning installation will be able to comply with all applicable requirements of section 113 of the Clean Air Act, as amended (42 U.S.C. 7413); and (2) until DOE has taken the actions described in § 305.9 of this chapter and has served the affected powerplant or major fuel burning installation an NOE. No order shall be effective during any period certified by the Administrator of EPA under section 113(b) of that Act (42 U.S.C. 7413(d)).

(c) Upon receipt of certification by the Administrator of EPA in accordance with the procedures described in paragraph (c)(1) of this section, DOE may issue an NOE.

§ 303.38 Appeal.

(a) Any person aggrieved by a prohibition order may file an appeal with the DOE Office of Hearings and Appeals after issuance of an NOE. The appeal shall not be filed prior to issuance by DOE of the NOE and shall be filed within 30 days after the service of such notice.

(b) If a powerplant or major fuel burning installation applies for a modification or rescission of a prohibition order, in accordance with Subpart J of this part, any appeal of such prohibition order shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such powerplant or major fuel burning installation may treat that application as being denied in all respects.

(c) There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C— [Reserved]

Subpart D— [Reserved]

Subpart E—Exception

§ 303.70 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship, inequity or unfair distribution of burdens and for the consideration of such application by DOE

(b) A request for an interpretation or other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by DOE.

(c) The filing of an application for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement from which an exception is sought, unless a stay has been issued in accordance with Subpart I of this part.

§ 303.71 What to file.

(a) A person filing under this subpart shall file an "Application for Exception (ESECA)" which should be clearly labeled as such on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.72 Where to file.

All applications for exception shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

§ 303.73 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 303.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by DOE action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the DOE Office of Hearings and Appeals within 10 days of service of such application. The application filed with DOE shall include certification to DOE that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

DOE may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) DOE shall serve notice on any other person readily identifiable by DOE as one who will be aggrieved by the DOE action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to DOE with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.9(f) to the applicant. The person shall certify to DOE that he has complied with the requirements of this paragraph. DOE may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(e) At regular intervals, DOE shall publish a list of all persons who have applied for an exception under this subpart, with a brief description of the factual situation and the relief requested.

§ 303.74 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the DOE action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the act or transaction that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and DOE's determination regarding it shall be made in accordance with Subpart N of this part, which determination is within DOE's discretion.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE and EPA ruling, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 303.75 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any application or other document: *Provided,* That the applicant is afforded an opportunity to respond to all relevant third person submissions. In evaluating an application or other documents, DOE may conduct its own investigation and consider any other source of information. DOE on its initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

(2) If DOE determines that there is insufficient information upon which to base a decision and if upon request necessary additional information is not submitted by the applicant, DOE may dismiss the application without prejudice. If the failure to supply additional information in repeated or willful, DOE may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 303.73 DOE may dismiss the application without prejudice.

(b) *Criteria.* (1) DOE shall only consider an application for an exception when it determines that a more appropriate proceeding is not provided by this part.

(2) An application for an exception may be granted to alleviate or prevent special hardship, inequity or unfair distribution of burdens.

(3) An application for an exception shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exception.

§ 303.76 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, DOE shall issue an order either granting or denying the application.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis upon which the order is issued. The order shall provide that any person aggrieved thereby may file an appeal with the DOE Office of

Hearings and Appeals in accordance with Subpart H of this part.

(c) DOE shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by DOE as one who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be on file in the public docket room described in § 303.13. If such copy contains information that has been claimed by an applicant or other person to be confidential, notice of DOE's intention to place a copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room. The Office of Hearings and Appeals shall publish periodically a digest of all orders issued.

§ 303.77 Timeliness.

(a) When DOE has received all substantive information deemed necessary to process an application filed under this subpart, DOE shall serve notice of that fact upon the applicant and all other persons who received notice of the proceeding pursuant to the provisions of § 303.73; and if DOE fails to take action on the application within 90 days of serving such notice, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if DOE fails to take action on the application within 150 days from the filing of the application, the applicant may treat it as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.78 Appeal.

Any person aggrieved by an order issued by DOE under this subpart may file an appeal with the DOE Office of Hearings and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken or within 30 days of the date on which the applicant can treat the application as being denied in all respects. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Exemption

§ 303.80 Purpose and scope.

This subpart establishes the procedures for filing an application for exemption and the consideration of such by DOE. The applicant must be seeking an exemption from no less than an entire part, or subpart of this chapter.

§ 303.81 Procedures.

(a) An exemption may be effected only by amendment to the regulations. Although an application for an exemption is a request for a rulemaking, the application is not subject to the procedures of Subpart M of this part. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart M of this part.

(b) An application for an exemption shall be submitted separate and apart from any other application, appeal, petition or other request submitted in accordance with this part. If an application for exemption is included with any other application, appeal petition, or other request, the application for exemption will not be processed, nor will it be severed for separate consideration.

§ 303.82 What to file.

A person filing under this subpart shall file an "Application for Exemption (ESECA)" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

§ 303.83 Where to file.

An application for exemption shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

§ 303.84 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the DOE action sought. The application shall identify the part or parts, or subparts thereof, of this chapter from which the exemption is sought; describe the business or other reason that would justify such exemption; identify the persons or classes of persons and acts or transactions that would be aggrieved or affected by such exemption and describe the adverse impact; describe the benefit to the person making the application, or others, that would result if the exemption were effected; and explain the reasons why the action sought by the application cannot be accomplished by any other proceeding provided in this part. Upon request, the applicant shall submit copies of relevant contracts, agreements, leases, instruments, and other documents that are representative of those that would be affected by the granting of the requested exemption.

§ 303.85 DOE evaluation.

(a) *Processing.* All applications for exemption shall be evaluated by DOE to determine if the institution of a rulemaking proceeding is warranted and if the DOE action sought by the applicant could more appropriately be considered in any other proceeding provided by this part. DOE may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any application for exemption or other document provided that the person making the request is afforded an opportunity to respond to all relevant third person submissions other than written comments or oral presentations in response to a rulemaking. In evaluating an application or other document. DOE may conduct its own investigation and consider any other source of information.

(b) *Criteria.* (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if DOE in its discretion determines that such a proceeding would be appropriate. Among the factors that DOE will evaluate in making a determination with respect to a rulemaking are—

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) DOE may summarily deny an application for exemption if:

(i) The exemption sought is not from each or all of the parts or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rulemaking proceedings for the purpose of considering an amendment to the regulations;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 303.86 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, DOE shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a Notice of Proposed Rulemaking regarding the application in the **Federal Register.**

(b) The order shall include a written statement setting forth the pertinent facts and legal basis upon which the order is issued. The order denying the application shall state that any person aggrieved thereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of this part.

§ 303.87 Timeliness.

If DOE fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.88 Appeal.

Any person aggrieved by an order issued by DOE under this subpart that denies an application for exemption may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken or within 30 days of the date on which the applicant can treat the application as being denied in all respects. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart G—Interpretation

§ 303.90 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request. Responses, which may include verbal or written responses, to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or his delegate, are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include, an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 303.91 What to file.

(a) A person filing under this subpart shall file a "Request for Interpretation (ESECA)" which should be clearly labeled as such both on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing the request. The person filing the request shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information contained in the request or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.92 Where to file.

A request for interpretation shall be filed with the General Counsel or his delegate at the address provided in § 303.12.

§ 303.93 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the request and to DOE action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the request.

(b) The request for interpretation shall include a discussion of all relevant authorities, including, but not limited to, DOE and EPA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 303.94 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in a request or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any request for interpretation or other document: *Provided,* That the person making the request is afforded an opportunity to respond to all relevant third person submissions. In evaluating a request for interpretation or other document, DOE may conduct its own investigation and consider any other source of information. DOE on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the request.

(2) DOE shall issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the General Counsel during the proceeding. The interpretation shall, therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) If DOE determines that there is insufficient information upon which to base a decision and if upon request necessary additional information is not submitted by the person requesting the interpretation, DOE may refuse to issue an interpretation.

(b) *Criteria.* (1) DOE shall base an interpretation on the FEAA, DEOA, FUA, and ESECA and the regulations and published rulings of DOE as applied to the specific factual situation.

(2) DOE shall take into consideration previously issued interpretations dealing with the same or a related issue.

§ 303.95 Decision and effect.

(a) An interpretation may be issued after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(b) The interpretation shall contain a written statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed and other persons upon whom DOE serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Subpart Q of this part for any act made in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) DOE at any time may rescind or modify an interpretation on its initiative. Rescission or modification may be effected by notifying persons entitled to rely on interpretation that it is rescinded or modified. This notification shall

include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

(f)(1) Any person aggrieved by an interpretation may submit a petition for reconsideration to the General Counsel within 30 days of service of the interpretation from which the reconsideration is sought. There has not been an exhaustion of administrative remedies until a period of 30 days from the date of service of the interpretation has elapsed without receipt by the General Counsel of a petition for reconsideration or, if a petition for reconsideration of the interpretation has been filed in a timely manner, until that petition has been acted on by the General Counsel. However, a petition to which the General Counsel does not respond within 60 days of the date of receipt thereof, or within such extended time as the General Counsel may prescribe by written notice to the petitioner concerned within that 60 day period, shall be considered denied.

(2) A petition for reconsideration may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

(3) The General Counsel may deny any petition for reconsideration if the petitioner does not establish that—

(i) The petition was filed by a person aggrieved by an interpretation;

(ii) The interpretation was erroneous in fact or in law; or

(iii) The interpretation was arbitrary or capricious. The denial of a petition shall be a final order of which the petitioner amy seek judicial review.

§ 303.96 Appeal.

There is no administrative appeal of an interpretation.

Subpart H—Appeal

§ 303.100 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of DOE actions taken under Subparts B, C, E, F, J, K, or P of this part and the consideration of such appeal by DOE.

(b) A person who has appeared before DOE in connection with a matter arising under Subparts B, C, E, F, J, K, or P of this part has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 303.101 Who may file.

Any person aggrieved by an order issued by DOE under Subparts B, C, E, F, J, K, or P, of this part may file an appeal.

§ 303.102 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order (ESECA)" which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 303.9 (other than § 303.9(e), as provided in § 303.106(c)) in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.103 Where to file.

The appeal of an order shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

§ 303.104 When to file.

The time within which an appeal must be filed and, in the case of a prohibition order, the time before which an appeal cannot be filed, is stated in the appeals section of each subpart, unless a subpart describes a proceeding for which there is not an administrative appeal.

§ 303.105 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 303.9(f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the DOE action sought, including those who participated in the prior proceeding, except as provided in paragraphs (b) and (c) of this section. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the DOE Office of Hearings and Appeals within 10 days. The appeal filed with DOE shall include certification to DOE that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

(c) DOE may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register.** With respect to the appeal of a prohibition order, or the modification or rescission of a prohibition order or construction order as a result of significantly changed circumstances that occurred during the interval between issuance of a prohibition order and service of an NOE, DOE shall provide notice of the appeal of those orders by publication in the **Federal Register.** Such notice shall state that aggrieved persons shall have 10 days from publication of the notice to file written comments regarding the appeal.

(d) DOE shall serve notice on any other person reasonably identifiable by DOE as one who will be aggrieved by the DOE action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within 10 days of service of that notice, except as stated in paragraph (c) of this section with respect to prohibition orders, or the modification or rescission of prohibition or construction orders.

(e) Any person submitting written comments to DOE with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.9(f), to the appellant. The person shall certify to DOE that it has complied with the requirements of this paragraph. DOE may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 303.106 Contents.

(a)(1) The appeal shall contain a concise statement of the grounds upon which it is brought and a description of the relied sought. It shall include a discussion of all relevant authorities, including, but not limited to, DOE

rulings, regulations, interpretations and decisions on appeals and exceptions relief upon to support the appeal.

(2) An appeal of a prohibition order may not contain an assertion of significantly changed circumstances, as that term is defined in this subpart, and further defined in § 303.136(b)(2). An assertion of significantly changed circumstances relating to such orders should be made pursuant to Subpart J of this part.

(3) If the appeal (other than the appeal of a prohibition order) includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstances is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision on an appeal or exception that was in effect at the time of the proceeding upon which the order is based and which, if such had been made known to DOE, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) A substantial change in the facts or circumstances upon which an outstanding and continuing order affecting the appellant was issued, which change has occurred during the interval between issuance of the order and the date of the appeal and was caused by forces or circumstances beyond the contol of the appellant.

(b) A copy of the order that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by any DOE or EPA office, other Federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with a DOE proceeding described in this part, other than the proceeding from which the appeal is taken, or under Subpart A of 40 CFR Part 55. In addition, the appellant shall state whether contact has been made by the appellant or a person acting on his behalf with any person who is employed by DOE or EPA subsequent to service of the order that is being appealed with regard to the issue, act or transaction that is the subject of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall comply with this paragraph in lieu of § 303.9(e).

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and DOE's determination regarding it shall be made in accordance with Subpart N of this part, which determination is within DOE's discretion.

§ 303.107 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in an appeal or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any appeal or other document provided that the appellant is afforded an opportunity to respond to all relevant third person submissions. In evaluating an appeal or other document, DOE may conduct its own investigation and consider any other source of information. DOE on its initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(2) If DOE determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, DOE may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, DOE may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 303.105, DOE may dismiss the appeal without prejudice.

(3) Failure to satisfy requirements:

(i) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, DOE may issue an order summarily denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the appellant and any other person who participated in the appellate proceeding.

(ii) The order denying the appeal shall become a final order of DOE within 10 days of its service upon the appellant, unless within such 10-day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the Office of Hearings and Appeals.

(iii) Within 10 days of the filing of such amendment, as provided in paragraph (a)(3)(ii) of this section, DOE shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiences, that notice shall be an order dismissing the appeal as amended. Such order shall be a final order of DOE of which appellant may seek judicial review.

(b) *Criteria.* (1) An appeal may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the DOE action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) DOE may deny any appeal if the appellant does not establish that—

(i) The appeal was filed by a person aggrieved by DOE action;

(ii) DOE's action was erroneous in fact or in law; or

(iii) DOE's action was arbitrary or capricious.

(3) The denial of an appeal shall be a final order of DOE of which the appellant may seek judicial review.

§ 303.108 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, DOE shall enter an appropriate order, which may include the modification of the order that is the subject of the appeal.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis of the order. The order shall state that it is a final order of DOE of which the appellant may seek judicial review.

(c) DOE shall serve a copy of the order upon the appellant, any other person who participated in the appellate proceeding and upon any other person reasonably identifiable by DOE as one who is aggrieved by such order.

(d) A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be filed in the Freedom of Information Reading Room described in § 303.13. If such copy contains information that has been claimed by an appellant or other

person to be confidential, notice of DOE's intention to place a copy in the Freedom of Information Reading Room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room.

§ 303.109 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, *except:*

(a) The appeal must be filed within 10 days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by DOE, with respect to which there was an exhaustion of administrative remedies, no issues will be considered on the current appeal that were raised in that prior proceeding.

(c) If an issue raised on an appeal of a remedial order is also being considered in connection with any other DOE proceeding, DOE may consolidate such issues and consider them in the appellate proceeding for the remedial order.

§ 303.110 Timeliness.

(a) When DOE has received all substantive information deemed necessary to process any appeal filed under this subpart, DOE shall serve notice of that fact upon the appellant and all other persons who receive notice of the proceeding pursuant to the provisions of § 303.105, except those persons who received notice by publication of the notice in the **Federal Register**, or participated in the appellate proceeding by the filing of comments; and if DOE fails to take action on the appeal within 90 days of serving such notice, the appellant may treat the appeal as having been denied in all respects and may seek judicial review thereof.

(b) Notwithstanding the provisions of paragraph (a) of this section, if DOE fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat it as having been denied in all respects and may seek judicial review thereof.

(c) If a powerplant or major fuel burning installation, as appropriate, applies for a modification or rescission of a prohibition order or a construction order in accordance with Subpart J of this part, any appeal of the prohibition order that is the subject of such application shall be suspended until 30 days after an order has been issued in accordance with Subpart J of this part or until 30 days from the date on which the powerplant or major fuel burning installation may treat that application for modification or rescission as being denied in all respects pursuant to Subpart J of this part. The 120-day period provided in paragraph (b) of this section shall be suspended during the period the appeal is stayed.

Subpart I—Stay

§ 303.120 Purpose and scope.

(a) This subpart establishes the procedures for the application for and granting of a stay by DOE.

(b) An application for a stay will only be considered:

(1) Incident to or pending an appeal from or order of DOE;

(2) Incident to an application for an exception from the application of any DOE regulations, rulings or generally applicable requirements when the stay sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought;

(3) Incident to an application for modification or rescission of an issued and effective prohibition order or construction order;

(4) Incident to an application to quash or modify an administrative subpoena; or

(5) Pending judicial review.

(c) All DOE orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 303.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay (ESECA)" which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.122 Where to file.

(a) An application for stay of a DOE order incident to an appeal from such order shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

(b) An application for stay of the application of any or all DOE regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

(c) An application for stay of an issued and effective prohibition order or a construction order incident to an application for modification or rescission of such order shall be filed with the DOE National Office at the address provided in § 303.12.

(d) An application for stay of a DOE order or of the application of any DOE regulations, rulings or generally applicable requirements pending judicial review shall be filed with the office that issued the order of which judicial review is sought.

(e) An application for stay of an administrative subpoena pending review by the Secretary of DOE or such other designated DOE official specified in § 303.8(h)(1) of an application to quash or modify the subpoena, shall be filed with such persons as appropriate, at the address provided in § 303.12.

§ 303.123 Notice.

(a) When administratively feasible, DOE shall notify each person reasonably identifiable by DOE as one who would be aggrieved by the DOE action sought that the applicant has filed for a stay and that DOE will accept written comment on the application.

(b) Any person submitting written comments to DOE with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.9(f), to the applicant. The person shall certify to DOE that it has complied with the requirements of this paragraph. DOE may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 303.124 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the DOE action sought. Such facts, shall include, but not be limited to, all information that related to the satisfaction of the criteria in § 303.125(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all DOE and EPA actions relevant to the proceeding.

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the

time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and DOE's determination regarding it shall be made in accordance with Subpart N of this part, which determination is within DOE's discretion.

§ 303.125 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any application or other document provided that the applicant is afforded an opportunity to respond to all relevant third person submissions. In evaluating an application or other documents, DOE may conduct its own investigation and consider any other source of information. DOE on its initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted by the applicant, DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, DOE may dismiss the application with prejudice.

(3) DOE shall process applications for stay as expeditiously as possible. When administratively feasible, DOE shall grant or deny the application for stay within 10 business days after receipt of the application.

(4) Notwithstanding the provision for notice to third persons in § 303.123(a), DOE may make a decision on an application for stay prior in the receipt of written comments.

(b) *Criteria.* The grounds for granting a stay are a showing that there is a likelihood of success on the merits and one or more of the following:

(1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate special hardship, inequity or unfair distribution of burdens to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the *status quo ante* pending a decision on the merits of the appeal, exception, modification or rescission; or

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order.

§ 303.126 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, DOE shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(c) DOE shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person reasonably identifiable by DOE as one who is aggrieved by such decision.

(d) The grant or denial of a stay is not an order of DOE subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEAA, DEOA, or ESECA, DOE may order a stay on its own initiative.

Subpart J—Modification or Rescission of Prohibition Orders and Construction Orders

§ 303.130 Purpose and scope.

(a) This subpart establishes the procedures for the filing by a powerplant or major fuel burning installation of an application for modification or rescission of a prohibition order or a construction order.

(b) A proceeding for modification or rescission of a prohibition order of a construction order may be commenced by DOE in response to an application or upon its initiative. A proceeding initiated by DOE may be commenced at any time after DOE has issued a prohibition order or construction order. Sections 303.134, 303.136, 303.137, and 303.139 shall be applicable to the proceeding regardless of the manner in which the proceeding was initiated. Other sections of this subpart apply only to a proceeding commenced in response to an application.

§ 303.131 What to file.

(a) A powerplant or major fuel burning installation filing under this subpart shall file an "Application for Modification (or Rescission) of Prohibition Order (or Construction Order)" which should be clearly labeled as such, using the applicable terms, both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures stated in § 303.9(f) shall apply.

§ 303.132 Where to file.

An application for modification or rescission shall be filed with the DOE National Office at the address provided in § 303.12.

§ 303.133 When to file.

(a) An application for modification or rescission of a prohibition order or a construction order based on significantly changed circumstances, which circumstances occurred during the interval between issuance of such orders and service of an NOE, shall be filed within 30 days of service of such notice.

(b) An application for modification or rescission of a prohibition order or construction order based on significantly changed circumstances other than those stated in paragraph (a) of this section may be filed at any time after the NOE is served.

§ 303.134 Notice.

(a) Prior to issuance of an order modifying or rescinding a prohibition order or a construction order, either in response to an application or on its initiative, DOE may publish notice of the intention to take such action in the **Federal Register** and shall serve a copy of any such notice on the powerplant or major fuel burning installation that would be affected by the proposed order. Any such notice shall describe the proposed action and provide a period of no less than 10 days from the date of publication in which interested persons may file written data, views or arguments.

(b) If DOE on its initiative commences a proceeding for the modification or rescission of a prohibition order or construction order and does not publish in the **Federal Register** a notice of its intention to take such action, it shall give notice, either by service of a written notice or by verbal communication, which communication shall be promptly confirmed in writing, to each person who was served the order that DOE proposes to modify or rescind. A reasonable period of time shall be given for each person notified to file a written response or give a verbal

communication, which communication shall be promptly confirmed in writing.

§ 303.135 Contents.

(a)(1) An application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the DOE action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to DOE upon its request. A copy of the prohibition order or construction order of which modification or rescission is sought shall be included with the application.

(2) The application referred to in paragraph (a)(1) of this section shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances as defined in § 303.136(b), upon which the application for modification or rescission of a prohibition order or construction order is based. The application shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding an application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and DOE's determination regarding it shall be made in accordance with Subpart N of this part, which determination is in DOE's discretion.

(c) The application shall include a discussion of all relevant authorities, including but not limited to, DOE or EPA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the action sought therein.

§ 303.136 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to any application for modification or rescission or other document: *Provided,* That the applicant is afforded an opportunity to respond to all relevant third person submissions, except that the affected powerplant or major fuel burning installation's opportunity to respond to written comments or oral presentations in response to a notice of intention to issue a modification or rescission of an order shall be in accordance with such notice. In evaluating an application for modification or rescission or other document, DOE may conduct its own investigation and consider any other source of information. DOE may on its initiative convene a conference, if, in its discretion, it considers that such will advance its evaluation of the application.

(2) If DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, DOE may dismiss the application with prejudice.

(b) *Criteria.* DOE's decision with respect to modification or rescission of a prohibition order or a construction order, except as provided in paragraph (c) of this section, shall be based on a determination that there are significantly changed circumstances. For purposes of this paragraph, the term "significantly changed circumstances" shall mean:

(1) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based—in particular, (i) those that would substantially affect the findings made by DOE in the order and (ii) those developed in connection with DOE's environmental impact analyses;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application or order is based and which, if such had been made known to DOE, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) There has been a substantial change in the facts or circumstances upon which an order is based, which change occurred during the interval between issuance of the orders and service of an NOE, or occurred during the interval after service of an NOE and prior to the application for modification or rescission of a prohibition order or construction order, and was caused by forces or circumstances beyond the control of the applicant.

(c) DOE's decision with respect to the modification or rescission of a prohibition order or a construction order in a proceeding commenced at DOE's initiative may be based on grounds other than a determination that there are "significantly changed circumstances."

§ 303.137 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, DOE shall issue an appropriate order.

(b) *Prohibition orders.* The order shall either modify or rescind the prohibition order or deny the application for modification or rescission and shall include a written statement setting forth the pertinent facts and legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the DOE Office of Hearings and Appeals in accordance with Subpart H of this part. If appropriate, it shall state that a modified prohibition order will not be effective for any period certified by the Administrator of EPA pursuant to section 113(b) of the Clean Air Act (42 U.S.C. 7413(b)).

(c) *Construction orders.* The order shall either modify or rescind the construction order or deny the application for modification or rescission and shall include a written statement setting forth the pertinent facts and legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the DOE Office of Hearings and Appeals in accordance with Subpart H of this part.

(d) DOE shall serve a copy of the order upon the applicant or, if the action was initiated by DOE, upon the affected powerplant or major fuel burning installation, and any other person who participated in the proceeding by filing written comments or making oral presentation. Notice of issuance of an order substantially modifying or rescinding a prohibition order or a construction order shall be published in the **Federal Register.**

§ 303.138 Timeliness.

(a) If DOE fails to take action on an application for modification or rescission of a prohibition order or a construction order within 90 days of filing, the applicant may treat the application as having been denied in all respects, and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, the

applicant may treat the application as having been denied in all respects and may seek appeal therefrom as provided in this subpart if DOE fails to issue an order granting or denying the application within 150 days of the filing of such application.

(c) For purposes of this section, the term "action" includes service of a "Notice of Intention to Modify (or Rescind) Prohibition Order (or Construction Order)" on the applicant.

§ 303.139 Appeal.

(a) Any person aggrieved by an order issued by DOE under this subpart may file an appeal with the DOE Office of Hearings and Appeals in accordance with Subpart H of this part, except as provided in paragraph (c) of this section.

(b)(1) The appeal of an order issued pursuant to this subpart shall be filed within 30 days of service of the order or within 30 days of the date on which the applicant can treat the application as being denied in all respects, except as provided in paragraph (c) of this section.

(c) When an order modifying a prohibition order or construction order is the result of a proceeding initiated by DOE prior to issuance of an NOE, there shall be no appeal of such order until service of an NOE; such appeal shall be filed within 30 days after issuance of an NOE. If an order rescinding a prohibition order is the result of a proceeding initiated by DOE prior to issuance of an NOE any appeal of such rescission order shall be filed within 30 days of service of the rescission order.

(d) There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart K—Modification or Rescission of Orders Other Than Prohibition Orders or Construction Orders

§ 303.140 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an application for modification or rescission of a DOE order other than a prohibition order or construction order. Modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 303.145(b) are satisfied, unless the proceeding is commenced at DOE's initiative as provided in § 303.145(c).

(b) A proceeding for modification or rescission of an order other than a prohibition order or construction order may be commenced by DOE in response to an application or on its initiative. Section 303.143(b), 303.145(a) 303.146 (b) and (c), and 303.148 shall be applicable to the proceeding regardless of the manner in which the proceeding is initiated. Other sections of this subpart apply only to a proceeding commenced in response to an application.

§ 303.141 What to file.

(a) A person filing under this subpart shall file an "Application for Modification (or Rescission) (ESECA)" which should be clearly labeled, using the applicable term, as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 303.9(f) shall apply.

§ 303.142 Where to file.

All applications for modification or rescission filed under this subpart shall be filed with the Office of Hearings and Appeals at the address provided in § 303.12.

§ 303.143 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 303.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the DOE action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the DOE office with which the application was filed within 10 days. The application filed with DOE shall include certification that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes or persons to whom notice was not sent.

DOE may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Register.**

(c)(1) The DOE shall serve notice on any other person readily identifiable by the DOE as one who will be aggrieved by the DOE action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of that notice.

(2) If DOE on its initiative commences a proceeding for the modification or rescission of an order other than a prohibition order or construction order, it shall give notice, either by service of a written notice or by verbal communication, which communication shall be promptly confirmed in writing, to each person who was served the order or interpretation that DOE proposes to modify or rescind. A reasonable period of time shall be given for each person notified to file a written response or give a verbal communication, if promptly confirmed in writing.

(d) Any person submitting written comments to DOE with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 303.9(f), to the applicant. The person shall certify to DOE that it has complied with the requirements of this paragraph. DOE may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 303.144 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, acts or transactions that are the subject of the application and to the DOE action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases,

instruments, and other documents relevant to the application shall be submitted to DOE upon its request. A copy of the order of which modification or rescission is sought shall be included with the application.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and DOE's determination regarding it shall be made in accordance with Subpart N of this part which determination is in DOE's discretion.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 303.145(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, DOE or EPA rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

§ 303.145 DOE evaluation.

(a) *Processing.* (1) DOE may initiate an investigation of any statement in an application or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions from third persons relevant to the application for modification or rescission or other document provided that the applicant is afforded an opportunity to respond to all relevant third person submissions. In evaluating an application for modification or rescission or other document, DOE may conduct its own investigation and consider any other source of information. DOE on its initiative may convene a conference if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If DOE determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, DOE may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, DOE may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 303.143, DOE may dismiss the application without prejudice.

(3) Failure to satisfy requirements. (i) If the applicant fails to satisfy the requirements of paragraph (b)(1) of this section, DOE shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 10 days of its service upon the applicant, unless within such 10-day period an amendment to correct the deficiencies identified in the order is filed with the Office of Hearings and Appeals.

(iii) Within 10 days of the filing of such amendment, DOE shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final order of DOE of which the applicant may seek judicial review.

(b) *Criteria.* (1) An application for modification or rescission of an order (other than a prohibition order or construction order) shall be processed only if—

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The 30-day period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to DOE, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order of DOE affecting the applicant was issued, which change has occurred during the interval between issuance of such order and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

(c) DOE's decision with respect to the inititation of a proceeding to modify or rescind an order (other than a prohibition order or a construction order) commenced on DOE's initiative shall be in its discretion, and DOE's decision in such proceeding with respect to the modification or rescission of such order may be based on grounds other than a determination that there are "significantly changed circumstances."

§ 303.146 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, DOE shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the pertinent facts and the legal basis of the order. The order shall state that this is a final order of which the applicant may seek judicial review.

(c) DOE shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by DOE as one who is aggrieved by such order.

§ 303.147 Timeliness.

If DOE fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 303.148 Appeal.

The denial of an application for modification or rescission filed under this subpart shall be a final order of DOE of which the applicant may seek judicial review.

Subpart L—Rulings

§ 303.150 Purpose and scope.

This subpart establishes the criteria for the issuance of interpretative rulings by the General Counsel. All rulings shall be published in the **Federal Register**. Any person is entitled to rely upon such ruling to the extent provided in this subpart.

§ 303.151 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the General Counsel, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The General Counsel may issue a ruling whenever it is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 303.152 Modification or rescission.

(a) A ruling may be modified or rescinded by:

(1) Publication of the modification or rescission in the **Federal Register**; or

(2) A rulemaking proceeding in accordance with Subpart M of this part.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to the sanctions or penalties stated in Subpart Q of this part for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 303.153 Comments.

A written comment on or objection to a published ruling may be filed at any time with the General Counsel at the address provided in § 303.12.

§ 303.154 Appeal.

There is no administrative appeal of a ruling.

Subpart M—Rulemaking

§ 303.160 Purpose and scope.

(a) This subpart establishes the procedures that govern a rulemaking proceeding. The initiation of a rulemaking proceeding is within the sole discretion of DOE.

(b) Rulemaking by DOE shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551, et seq. (1970)) and the FEAA.

§ 303.161 What to file.

(a) *Comments in connection with a rulemaking.* Any comments filed in connection with a rulemaking shall be filed in accordance with the instructions in the notice of proposed rulemaking published in the **Federal Register.** Such comments shall be in writing and signed by the person filing them.

(b) *Petition for rulemaking.* (1) Any person may at any time file a petition regarding any DOE regulation or amendment thereto or, by letter, request that a rulemaking proceeding be instituted. Such petition or request shall be signed by the person filing it.

(2) Upon due consideration of a petition for rulemaking, expressly designated as such, DOE shall either: (i) Institute a rulemaking as proposed or as modified in its discretion; (ii) notify the petitioner in writing that it does not intend to institute a rulemaking as proposed or as modified and stating the reasons therefore; or (iii) notify the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other reasons as set forth in such notice.

§ 303.162 Where to file.

All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the notice of proposed rulemaking. Any other petition or request shall be filed with the General Counsel at the address provided in § 303.12.

Subpart N—Conferences, Hearings, and Public Hearings

§ 303.170 Purpose and scope.

This subpart establishes the procedures for requesting and conducting a DOE conference, hearing, or public hearing. Such proceedings shall be convened in the discretion of DOE, consistent with the requirements of FEAA, DEOA, and ESECA.

§ 303.171 Conferences.

(a) DOE in its discretion may direct that a conference be convened, on its initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of DOE, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of DOE by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the DOE office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, DOE in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless DOE in its discretion determines that such would be advisable.

§ 303.172 Hearings.

(a) DOE in its discretion may direct that a hearing be convened, on its initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of DOE, but a hearing will usually not be open to the public.

(b) A hearing may only be requested in connection with an application for an exception or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the DOE action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the Office of Hearings and Appeals as provided in § 303.12.

(c) DOE will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person reasonably identifiable by DOE as one who will be aggrieved by the DOE action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, DOE in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless DOE in its discretion determines that such would be advisable.

§ 303.173 Public hearings.

(a) A public hearing shall be convened incident to a rulemaking:

(1) When the proposed rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses; or

(2) When DOE determines that a public hearing would materially advance the consideration of the issue. A public hearing may be requested by any interested person in connection with a rulemaking proceeding, but shall only be convened on the initiative of DOE unless otherwise required by statute.

(b) A public hearing may be convened incident to any other proceeding, including the environmental analysis, if such analysis results in preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific prohibition or construction order, or group of such orders, when DOE in its discretion determines that such public hearing would materially advance the consideration of the issue.

(c) A public hearing may only be convened after publication of a notice in the **Federal Register**, which shall state the time, place, and nature of the public hearing.

(d) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the **Federal Register**. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokesperson for the particular view expressed.

(e) DOE shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide to the extent practicable, for the presentation of all relevant views by competent spokespersons.

A verbatim transcript shall be made of the hearing. The transcript, together with any written comments submitted in the course of the proceeding, shall be made available for public inspection and copying in the Hearings and Appeals Docket Room or Freedom of Information Reading Room, as appropriate, described in § 303.13

The information presented at the public hearing, together with the written comments submitted and other relevant information developed during the course of a proceeding, shall provide the basis for the DOE decision.

Subpart O—Complaints

§ 303.180 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the ESECA coal conversion regulations.

§ 303.181 What to file.

A person filing under this subpart shall file a "Complaint (ESECA)" which should be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in § 303.9 in addition to the requirements stated in this subpart. Verbal complaints that othewise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the DOE.

§ 303.182 Where to file.

A complaint shall be filed with the DOE National Office at the address provided in § 303.12.

§ 303.183 Contents.

The complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the DOE action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events that led to the complaint. It shall include a statement describing the regulation, ruling, order or interpretation that allegedly has been violated.

§ 303.184 DOE evaluation.

(a) *Processing.* DOE may initiate an investigation of any statement in a complaint or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by such investigation. DOE may solicit or accept submissions relevant to a complaint or other document from third persons to the proceeding. In evaluating a complaint, DOE may consider any other source of information. DOE on its initiative may order a conference if, in its discretion, it considers such conference will advance its evaluation of the complaint.

(b) *Confidentiality of information.* Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall remain confidential to the extent it is covered by the investigatory file exception to public disclosure contained in 5 U.S.C. 552 unless, upon proper notice to the complainant and an opportunity to respond, DOE determines that disclosure would be in the public interest.

§ 303.185 Decision.

After consideration of a written complaint, unless written verification of a verbal complaint was not requested, and of other relevant information received or obtained during the proceeding, DOE may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart P of this part;

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart P—Notice of Probable Violation and Remedial Order

§ 303.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the ESECA coal conversion regulations and the procedures for issuance of a notice of probable violation, a remedial order, or a remedial order for immediate compliance.

(b) When any report required by DOE or any audit or investigation discloses, or DOE otherwise discovers, that there is reason to believe a violation of any provision of the ESECA coal conversion regulations, or any order issued thereunder, has occurred, is continuing or is about to occur, DOE may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. DOE may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

§ 303.191 Notice of probable violation.

(a) DOE may begin a proceeding under this subpart by issuing a notice of probable violation if DOE has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within 10 days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the DOE office that issued the notice of probable violation at the address provided in § 303.12. DOE may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the

subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to DOE and EPA rulings, regulations, interpretations, and decisions on appeals and applications for exception relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirement of Subpart N of this part, which determination is within DOE's discretion.

(f) If a person has not filed a reply with DOE within the 10-day period provided, and DOE has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If DOE finds, after the 10-day period provided in § 303.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 303.192 Remedial order.

(a) If DOE finds, after the 10-day period provided in § 303.191(b), that a violation has occurred, is continuing, or is about to occur, DOE may issue a remedial order. The order shall include a written statement setting forth the relevant facts and the legal basis of the remedial order.

(b) A remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart K of this part.

(c) A remedial order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart Q of this part.

§ 303.193 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 303.191 and 303.192, DOE may issue a remedial order for immediate compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds that:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 303.191 and 303.192.

(b) A remedial order for immediate compliance shall be served promptly by telex or telegram upon the person against whom such order is issued, with a copy of the remedial order for immediate compliance served by registered or certified mail. The order shall contain a written statement of the relevant facts and the legal basis for the remedial order for immediate compliance, including the findings required by paragraph (a) of this section.

(c) DOE may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under § 303.191.

(d) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (a) of this section are satisfied, DOE may issue a remedial order for immediate compliance, even if the 10-day period for reply specified in § 303.191(b) has not expired.

(e) At any time after a remedial order for immediate compliance has become effective, DOE may refer such order to the Department of Justice for appropriate action in accordance with Subpart Q of this part.

§ 303.194 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to take such action as DOE determines is necessary to eliminate or to compensate for the effects of a violation.

§ 303.195 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H of this part.

(b) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the DOE Office of Hearings and Appeals in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

Subpart Q—Investigations, Violations, Sanctions, and Judicial Actions

§ 303.200 Investigations.

(a) *General.* DOE may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by DOE under the authority of sections 2 and 12 of ESECA (15 U.S.C. 792 and 797, respectively), any decree of court relating thereto, or any other agency action. DOE encourages voluntary cooperation with its investigations. When the circumstances warrant, however, DOE may issue subpoenas in accordance with and subject to § 303.8. DOE may conduct investigative conferences and hearings in the course of any investigation in accordance with Subpart N of this part, which determination is within DOE's discretion.

(b) *Investigators.* Investigations will be conducted by representatives of DOE who are duly designated and authorized for such purposes. Such representatives have the authority to administer oaths and receive affirmations in any matter under investigation by DOE.

(c) *Notification.* Any person who is under investigation by DOE in accordance with this section and who is requested to furnish information or documentary evidence shall be notified as to the general purpose for which such information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the investigative file will be closed without prejudice to further investigation by DOE at any time that circumstances so warrant.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall, unless otherwise determined by DOE, remain confidential to the extent it is covered under the

investigatory file exception to public disclosure contained in 5 U.S.C. 552.

§ 303.201 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of the ESECA coal conversion regulations or any order issued pursuant thereto is a violation of the DOE regulations stated in such parts and is unlawful.

§ 303.202 Sanctions.

(a) *General.* Any person who violates any provision of the ESECA coal conversion regulations or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of the ESECA coal conversion regulations or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this part relating to criminal fines and civil penalties.

(b) *Criminal fines.* (1) Any person who willfully violates any provision of the ESECA coal conversion regulations or any order issued pursuant thereto shall be subject to a fine of not more than $5,000 for each violation.

(2) Criminal violations are prosecuted by the Department of Justice upon referral by DOE.

(c) *Civil penalties.* (1) Any person who violates any provision of the ESECA coal conversion regulations, or any order issued pursuant thereto shall be subject to a civil penalty of not more than $2,500 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by DOE.

(2) When DOE considers it to be appropriate or advisable, DOE may compromise and settle, and collect civil penalties.

(d) *Other Penalties.* Willful concealment of material facts, or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of ESECA, DEOA, or FEAA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 303.203 Injunctions.

Whenever it appears to DOE that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under the ESECA coal conversion regulations DOE may request the Attorney General to bring a civil action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order or regulation, the violation of which is prohibited by section 12(a) of ESECA (15 U.S.C. 797).

PART 305—COAL UTILIZATION

Sec.

305.1 Scope.
305.2 Definitions.
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305.7 Effective date of prohibition orders.
305.8 Modification and rescission of prohibition orders.
305.9 Consideration of environmental impact.
305.10 Procedures.

Authority: Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319); (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Pub. L. 95–70; Pub. L. 95–91; and Pub. L. 95–626; Federal Energy Administration Act of 1974 (Pub. L. 93–275) (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; and Pub. L. 95–91; Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) (42 U.S.C.A. 8301 et seq.) E.O. 11790 (39 FR 23185; E.O. 12009, 42

§ 305.1 Scope.

(a) *Applicability.* This part applies to certain powerplants and major fuel burning installations that DOE is authorized to prohibit from burning natural gas or petroleum products as their primary energy source.

(b) *Purpose.* This part, together with Part 303 of this chapter, establishes the methods and procedures by which DOE will exercise its powers under section 2 of ESECA (15 U.S.C. 792) to prohibit a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

§ 305.2 Definitions.

For purposes of this part—

"Action" means a prohibition order, or modification or rescission of such order, issued by DOE pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792).

"Air pollution requirement" means any emission limitation, schedule or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including the Clean Air Act (except for any requirement prescribed under section 113(d), section 110(a)(2)(F)(v), or section 303 of such Act (42 U.S.C. 7413, 7410(a)(2)(F)(v) and 7603, respectively), and which limits stationary source emissions resulting from combustion of fuels (including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic).

"Clean Air Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq. (1970).

"Coal" includes coal derivatives.

"Delayed compliance order" means an extension issued by the Administrator of EPA in accordance with section 113(d) of the Clean Air Act (42 U.S.C. 7413(d)) as a result of which a powerplant or major fuel burning installation shall not, until January 1, 1986, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to that source, except as otherwise provided in section 113(d) of that Act (42 U.S.C. 7413(d)).

"DEOA" means the Department of Energy Organization Act, Pub. L. 95–91, 42 U.S.C. 7101 et seq. (1977).

"Dispatching system" means (1) an integral group of powerplants within a geographical power pool for which there is centralized control of power generation, scheduling, and transmission; or (2) where there is no such integral power system, that powerplant or groups of powerplants determined by DOE, in consultation with the Federal Energy Regulatory Commission, to constitute a power generation system sufficient in scope that DOE may make a reliability finding within the meaning of ESECA.

"DOE" means the Department of Energy, including the Secretary of Energy or his designee.

"EPA" means the Environmental Protection Agency.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"ESECA" means the Energy Supply and Environmental Coordination Act of 1974 (Pub. L. 93–319) (15 U.S.C. 791, et seq.), as amended by Pub. L. 94–163; Pub. L. 95–70; Pub. L. 95–91; and Pub. L. 95–620.

"Interested person" includes members of the public, as well as any person with an interest sought to be protected under ESECA.

"Major fuel burning installation" means an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner, or other combuster of fuel or any combination thereof at a

single site, and includes any person who owns, leases, operates or controls any such installation or unit.

"Natural gas" includes dry gas and casinghead gas.

"Notice of effectiveness" or "NOE" means either a written statement issued by DOE to an existing powerplant or major fuel burning installation, subsequent to a certification by EPA pursuant to section 112(b) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95), advising such powerplant or installation of the date that a prohibition order applicable to it and the prohibitions contained therein become effective; or a written statement issued by DOE to a new powerplant or major fuel burning installation advising such powerplant or installation of the date that a construction order applicable to it became effective.

"Person" means any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government, including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments, and includes any officer, director, owner or duly authorized representative thereof. DOE may, in regulations and in any forms issued in this part, treat as a person:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls,

(b) A parent and its consolidated entities,

(c) An unconsolidated entity, or

(d) Any part of a person.

"Petroleum product" means crude oil, residual fuel oil or any refined petroleum product, as that last term is defined in section 3(5) of the Emergency Petroleum Allocation Act of 1973.

"Powerplant" means a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange, and includes any person who owns, leases, operates or controls any such unit.

"Primary energy source" means, with respect to a powerplant or major fuel burning installation that utilizes a fossil-fuel, the fuel that is or will be used for all purposes except for the minimum amounts required for startup, testing, flame stabilization and control, and process fuel use; and except, with regard to powerplants or major fuel burning installations issued prohibition orders that also are issued delayed compliance order by EPA in accordance with section 113 of the Clean Air Act (42 U.S.C. 7413), for such minimum amounts of fuel required to enable such powerplant or major fuel burning installation to comply with applicable primary standard conditions prescribed by EPA in accordance with 40 CFR 55.04, *Provided,* Such minimum amounts of fuel may be used only when such primary standard conditions include the utilization of intermittent control systems and only during such temporary periods as use of such minimum amounts is absolutely necessary to meet the terms of the primary standard conditions relating to use of intermittent control systems.

"Proceeding" means the process and activity, and any part thereof, instituted by the DOE, either on its initiative or in response to an application submitted by a powerplant or major fuel burning installation, that may lead to an action by DOE.

"Process fuel use" means that fuel use for which alternate fuels are not technically feasible such as in applications requiring precise temperature controls and precise flame characteristics.

"Prohibition order" means a directive issued by DOE pursuant to sections 2 (a) and (b) of ESECA (15 U.S.C. 792 (a), (b)) that prohibits a powerplant or major fuel burning installation from burning natural gas or petroleum products as its primary energy source.

"Stationary source fuel or emission limitation" means any emission limitation, schedule or timetable of compliance, or other requirement, which is prescribed under the Clean Air Act (other than sections 113, 111(b), 112, or 303 (42 U.S.C. 7413, 7411, 7412, and 7603 respectively)) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v) of such Act (42 U.S.C. 7410(a)(2)(F)(v))), and which limits, or is designed to limit, stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type, grade, or pollution characteristic.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§§ 305.3–305.6 [Reserved]

§ 305.7 Effective date of prohibition orders.

The prohibitions stated in a prohibition order issued to a powerplant or major fuel burning installation shall not become effective (a) until the Administrator of EPA certifies to DOE pursuant to section 112(b) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95) the earliest date that the powerplant or installation will be able to burn coal and to comply with all applicable requirements of section 113 of the Clean Air Act (42 U.S.C. 7413), and (b) until DOE has taken the actions described in § 305.9 and has served the affected powerplant or major fuel burning installation an NOE, as provided in §§ 303.10(b) and 303.37(b) of this chapter. Such order shall not be effective during any period certified by the Administrator of EPA under section 113(d) of the Clean Air Act (42 U.S.C. 7413(d)).

§ 305.8 Modification and rescission of prohibition orders.

(a) DOE may modify or rescind any prohibition order at any time. A modification or rescission of a prohibition order may be the result of DOE action taken on its own initiative or at the conclusion of proceedings initiated by an application. Modification or rescission of prohibition orders that are not yet effective will be undertaken only on DOE's initiative.

(b) Notice of intention to modify or rescind any prohibition order shall be published in the **Federal Register.** The notice shall provide interested persons with a period of no less than 10 days in which to make written presentation of data, views and arguments regarding such action.

§ 305.9 Consideration of environmental impact.

Prior to the issuance of an NOE to any powerplant or major fuel burning installation, DOE shall perform an analysis of the environmental impact of the issuance of the NOE. That analysis shall result in either (1) issuance of a declaration that a specific prohibition order or group of prohibition orders will not, if made effective by issuance of an NOE be likely to have a significant impact on the quality of the human environment, or (2) preparation of an environmental impact statement covering significant site-specific impacts that are likely to result from a specific prohibition order or group of prohibition orders and that have not been adequately discussed in the programmatic environmental impact statement prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332) and Part 1021 of this chapter, or in other official documents made publicly available during the DOE proceedings in connection with issuance of a prohibition order or by EPA in the course of its determinations with respect to certification pursuant to section

112(b) of the Clean Air Act Amendments of 1977 (Pub. L. 95–95), or otherwise made available to the public. If DOE prepares an environmental impact statement covering significant site-specific impacts from a prohibition order or group of such orders, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of NEPA and Part 1021 of this chapter and prior to issuance of an NOE. Interested person may request a public hearing pursuant to Subpart N of this part to comment on the contents of a draft environmental impact statement published pursuant to this paragraph.

§ 305.10 Procedures.

(a) All applications for modification or rescission of a prohibition order shall be filed with DOE in accordance with Subpart J of Part 303 of this chapter.

(b) Procedures pertaining to the modification or rescission of a prohibition order and the appeal of such order (e.g., notice, hearings, content of order, process of evaluation, appeal) are stated in Subparts J and H respectively, of Part 303 of this chapter.

PART 307 [RESERVED]

PART 309 [RESERVED]

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federal register

Friday
October 10, 1980

Part X

Department of Housing and Urban Development

Office of the Secretary

Privacy Act of 1974; Annual Publication of Systems of Records

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1030]

Privacy Act of 1974: Annual Publication of Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Annual Publication of Systems of Records.

SUMMARY: This notice is published to meet the requirements of 5 U.S.C. 552a(e)(4). It is the annual publication providing an up-to-date description of the existence and character of the Department's systems of records.

EFFECTIVE DATE: This notice is effective October 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert English, Departmental Privacy Act Officer, Telephone 202-557-0605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This annual publication brings together all HUD systems of records published to become effective through September 20, 1980. It includes notices published in our last annual compilation (44 FR 72288) and amendments, deletions and new systems which have been published to become effective through September 20, 1980. New system managers have been named for most systems in order to accurately identify the officials responsible for managing the systems, and authorities for maintaining the systems have been added. Additionally, the title of system HUD/H-3 has been changed from Housing Production and Mortgage Credit Monitoring System to Single Family Housing Monitoring System (F-39).

There are a number of routine use disclosures which apply to most HUD systems of records. These routine use disclosures are listed below as "General Statement of Routine Uses."

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 30, 1980.

William A. Medina,
Assistant Secretary for Administration.

1. General Statement of Routine Uses.

ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by this Department 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 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 pursuant thereto.

ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component 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.

ROUTINE USE—DISCLOSURE OR REQUESTED INFORMATION

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its 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.

ROUTINE USE—DISCLOSURE TO OMB

The information contained in a system of records will be disclosed to the Office of Management and Budget in connection with 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, and for the purpose of evaluating the Department's credit and debt collection activities to further the goal of the President's Management Improvement Council.

ROUTINE USE—DISCLOSURE PURSUANT TO CONGRESSIONAL INQUIRY

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Listing of Systems of Records Within Coverage of Act.

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HUD/DEPT—1

System name: Accidents, Employees and/or Government Vehicles.

System location: Most Department Offices, including the Headquarters Office. For a complete listing of these officers, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees in on-the-job accidents, including accidents involving official use of motor vehicles.

Categories of records in the system: Details of how accidents occurred and injuries were sustained; employees' absences due to injuries and resultant claims; and property damage incurred.

Authority for maintenance of the system: Occupational Safety and Health Act of 1970, P.L. 91-596.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses; the records are used by the Department of Labor when personal injury occurs and/or compensations is involved. GSA uses the records when accidents involve motor vehicles and the repair of those vehicles.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Subject name.

Safeguards: The systems records are kept in lockable file cabinets, desks, and in locked rooms.

Retention and disposal: Procedural disposal follows: HUD Handbook General Records Schedule.

System manager(s) and address: Director, Policy Evaluation and Special Projects Division, Office of Administrative Services, AS Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notificaton procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Subject individual and supervisor, Federal Government agencies; law enforcement agencies; current or previous employers; accident investigation officers.

HUD/DEPT—2

System name: Accounting Records

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Progams; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

Categories of records in the system: Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgages, builders and contractors financial statements, records and audit reports; requests for terminiation of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

Authority for maintenance of the system: Sec. 113 of the Budget and Accounting Act of 1950 31 U.S.C. 66a. (Pub. L. 81-784).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Users paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof: Internal Revenue Service—for reporting of sales commissions; General Accounting Office, General Services Administration, Department of Labor, Local housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes.

Policies and practices for storing, retrieving accessing, retaining, and disposing of records in the system:

Storage: Desks; safes; locked filing cabinets; central files; bookcases; ledger trays and binders; tables; magnetic tape/disc/drum.

Retrievability: By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

Safeguards: Security checks, limited authorization and access, security guards; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed wiht regard to accessing the records.

Retention and disposal: GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

System manager and address: Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacing; (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to apeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD: Federal and non-federal governmental agencies; HUD personnel.

HUD/DEPT—4

System name: Fee Inspectors, Appraisers, and Mortgage Credit Examiners.

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals who have applied to HUD for appointment as fee appraisers, inspectors, and mortgage credit examiners.

Categories of records in the system: Applications and resumes containing personal data and qualifications for position sought; assignment logs, fees paid and appraisals made; and evaluation of qualifications and of appraisals made.

Authority for maintenance of the system: Section 203 and 226 of the National Housing Act, Pub. L. 73-479.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to fee appraisers—for voucher preparation; to VA, mortgagors, mortgagees—notice of FHA action, billing; to local government officials—for code enforcement, health and wetlands clearance; to Environmental Protection Agency—for environmental clearance; to Social Security Administration—for research.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and 5 x 8 file cards.

Retrievability: Name; case file number (in some cases).

Safeguards: Lockable file cabinets and desks.

Retention and disposal: Primarily active information; also mixed historical and active. Social Security appraisals are historical data. Disposal in accordance with HUD Handbook.

System manager(s) and address: Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; references; and HUD staff.

HUD/DEPT—5

System name: Architects and Engineers.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Certified architects and engineers dealing with HUD, both directly and on a consultant basis.

Categories of records in the system: Applications containing personal data and qualifications for position sought and assignment logs and fees paid.

Authority for maintenance of the system: National Housing Act, as amended, 12 U.S.C. 1702 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses Paragraph of prefatory statement. Other routine uses: to General Accounting Office—investigation and annual audit; to the U.S Forest Service, Bureau of Indian Affairs, Corps of Engineers, HEW, and Farmers Home Administration for reference and information; to builders and other individuals dealing with HUD—for planning and specifications review.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Subject name.

Safeguards: Files are kept in file cabinets, in desks and on shelves. Access is limited by locks, by security checks, or by authorized individuals.

Retention and disposal: Most files are kept active and up-to-date. Some files are partly current and partly historical. Files are destroyed per regulation or stored at a federal records center one year after last date of commitment.

System manager(s) and address: Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contactng: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals and references.

HUD/DEPT—9

System name: Single-family Casualty Damage Files.

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors under HUD single-family insurance programs filing claims for repairs due to casualty damage on their insured homes.

Categories of records in the system: Inspection reports of repaired property; certifications of casualty damages/repairs; records of repairs made and their costs; and related correspondence.

Authority for maintenance of the system: Section 104(a), 105(a) Housing Act of 1964, (Pub. L. 88-560), 12 U.S.C. 1710, 1710(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Veterans' Administration for information on veterans' participation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name; case file.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Primarily active information, some mixed historical and active. Disposed of in accordance with HUD Handbook.

System manager(s) and address: Director, Single Family Loan Servicing Division, HSSI, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 4 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given an Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Mortgagors, mortgagees; inspectors; and contractors.

HUD/DEPT—10

System name: Construction Complaints files

System location: Field Offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors of insured single-family homes who have filed construction complaints with HUD.

Categories of records in the system: Complaints regarding construction and defects; inspection reports; records of complaint status and disposition; compliance reports; related correspondence.

Authority for maintenance of the system: National Housing Act, as amended, 12 U.S.C. 1702 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the person or firm complained about—for resolution of the complaint; to IRS—for investigation; to Farmers Home Administration, Veterans Administration; Better Business Bureau and local agencies—for notice of restriction of builders; to state agencies—for investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Name of subject individual; case file number, property location.

Safeguards: Records filed in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are partly current and partly historical; disposal is in accordance with HUD Handbook.

System manager(s) and address: Director, Single Family Development Division, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subjects and other individuals, builders and contractors and their current and previous employees, credit bureaus and financial institutions; federal and non-federal agencies.

HUD/DEPT—15

System name: Equal Opportunity Housing Complaints

System location: Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. For a complete listing of these with addresses see Appendix A.

Categories of individuals covered by the system: Individuals filing housing discrimination complaints. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system: Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaints status reports. In mortgage discrimination cases, records include mortgage applications, credit reports and verification of income, employment and bank deposits.

Authority for maintenance of the system: Title VIII of the Civil Rights Act of 1978, Sec. 810(a); 42 U.S.C. 3610(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to state and local government EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

Retrievability: Usually retrievable by name of complainant and, in some instances, by case file number.

Safeguards: Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

System manager(s) and address: Director, Office of Fair Housing Enforcement and Section 3 Compliance, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appears in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), all unvestigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

HUD/DEPT—17

System name: Experimental Housing Allowance Program—Participant Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Applicants for housing allowance; participants under Experimental Housing Allowance Program.

Categories of records in the system: Socio-economic, financial and demographic data on EHAP participant.

Authority for maintenance of the system: Section 504, Housing and Urban Development Act of 1970, as amended by Section 804 of the 1974 Act; 12 U.S.C. 1701z-3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to EHAP contractors—analysis for research purposes in accordance with program objectives.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy survey instrument stored in folders, microform, computer printout, punched cards, and magentic tape/disc.

Retrievability: Manual files by name, social security number, personnel characteristics and case file number Automated files have been stripped of all personnel identifiers and are statistical only.

Safeguards: Access to manual files limited to survey subcontractors. No access to these records prime contractors and HUD personnel. Records kept in secured areas and vaults.

Retention and disposal: In accordance with HUD Handbook.

System manager(s) and address: Director, Housing Assistance Research Division, TRH, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification porcedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of

Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employers.

HUD/DEPT—18

System name: Fellowship Files, Urban Studies.

System location: Headquarters.

Categories of individuals covered by the system: Recipients of HUD fellowships in urban studies, and their alternates.

Categories of records in the system: Applications; financial statements; correspondence; policy statements; press releases.

Authority for maintenance of the system: Section 802, Title VIII of the Housing Act of 1964. (P.L. 88-560), 20 U.S.C. 802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free test in file folders.

Retrievability: By name of award recipient and alternate.

Safeguards: Files are stored lockable metal file cabinets.

Retention and disposal: Files are inactive and historical only. There are no established procedures for disposal of these records.

System manager(s) and address: Director, Planning Assistance Division, Office of Planning and Program Coordination, Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification porcedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Individual awardees and alternates; educational institutions.

HUD/DEPT—20

System name: Homeownership Assistance and Recertifications Application (HARAS).

System location: Headquarters.

Categories of individuals covered by the system: Participants in Section 235 Homeownership Assistance Program.

Categories of records in the system: Historical profile of participant group.

Authority for maintenance of the system. National Housing Act of 1934 Sec. 235(a)(f) (as amended by Sec. 101 of the Housing and Urban Development Act of 1968), 12 U.S.C. 1715z.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses. See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Case file number.

Safeguards: Computer Facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address: Director, Single Family Loan Servicing Division, HSSL, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Applications; recertifications; Single-family Statistical Reporting System.

HUD/DEPT—22

System name: Housing Counseling.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

Categories of individuals covered by the system: This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

Categories of records in the system: This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

Authority for maintenance of the system: Section 106(a) of the 1968 Housing Act; 12 U.S.C. 1701x.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are stored in paper files which are kept in standard lockable file cabinets and desks.

Retrievability: Records are retrievable by name, case number or property address.

Safeguards: During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

Retention and disposal: Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

System manager(s) and address: Director, Office of Consumer Affairs, NVACP, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Information in this system of records is: (1) supplies directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgages, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

HUD/DEPT—23

System name: Single-family Research files.

System location: Headquarters Office.

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Sample of single-family home cases for most recent five-year period.

Authority for maintenance of the system: National Housing Act of 1934 (PL 73-479), Sec. 209.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number; property address.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address: Chief, Single Family Insured Branch, Management Information Systems Division, HAI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures. The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals; financial institutions; federal government agencies.

HUD/DEPT—24

System name: Investigation Files

System location: Headquarters

Categories of individuals covered by the system: HUD program participants and HUD employees under investigation, including mortgagors, grant applicants, and appraisers.

Categories of records in the system: Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials and recommendations and disposition to be made.

Authority for maintenance of the system: Inspector General Act of 1978, P.L. 95-452.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses. See Routine Use paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Files may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

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, investigation file number, case number.

Safeguards: Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are primarily active; however, records are destroyed in conformance with Records Schedule 28 (Investigation Records) Appendix 28, HUD Handbook 2225.6.

System manager(s) and address: Director, Administrator Support Staff, Office of the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures. The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 522a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f)) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—25

System name: Legal Actions Files

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Litigants; potential and past claimants against the government.

Categories of records in the system: Threatened, pending and past litigation involving HUD as a party; summons; writs; indictments; pleadings; decisions; legal memoranda; litigation reports; deposition; deficiencies on court judgments; notices of levy; settlement negotiations; legal rulings; claims against the government; employee claims.

Authority for maintenance of the system: 42 U.S.C. 3533; 42 U.S.C. 3535.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Justice Department—information for purposes of litigation, and representation of HUD before the courts and performance of all legal work incident thereto; to HEW—for investigation and litigation; to IRS—for investigation, litigation and collection of levies; to Local Housing Authorities—for investigation and litigation; to local governments—for investigation and litigation; to parties to litigation—to provide status and facts in litigations; to private individuals and corporations—to assist co-defendants or to provide documents and information as required by the Federal Rules or Civil Procedure; various uses under the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Name, case names; case numbers assigned by courts.

Safeguards: Records maintained in locked and lockable metal file cabinets with access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical; disposal in accordance with HUD Handbook.

System manager(s) and address: Director, Administrative Services Staff, Office of General Counsel, GA, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by containing: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; financial institutions; firms and corporations; Federal government agencies; non-Federal government agencies; and Federal, state, and local courts.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—28

System name: Property and Mobile Home Improvement and Rehabilitations Loans—Delinquent/Default

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mobile home, home improvement, and rehabilitation loan debtors delinquent or in default.

Categories of records in the system: Names, credit applications, and case histories of borrowers; records of payments; financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence.

Authority for maintenance of the system: Sec. 2, Title I, National Housing Act as amended, 12 U.S.C. 1703.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to private employers and other Federal agencies—for the purpose of collecting government-owed debts; to the Department of Justice and U.S. Attorney's Offices—for collection purposes; and to financial institutions that serviced Title I loans that were assigned to HUD and subsequently paid off—to inform credit reporting agencies that the loans were paid off: to local agencies that service Section 312 loans—to aid in the collection of delinquent loans; and to counseling agencies—to provide counseling and assistance in the collection of delinquent Section 312 debts in accordance with HUD/Dept-22.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of individual covered.

Safeguards: Files are stored in lockable file cabinets.

Retention and disposal: Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

System manager(s) address: Director, Office of Title I Insured Loans, HSSS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents or records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employees; credit bureaus; financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

HUD/DEPT—29

System name: Rehabilitation Grants and Loans Files

System location: Field offices; for a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Applicants who have applied for rehabilitation grants and loans.

Categories of records in the system: Names of borrowers, builders, dealers and contractors; loan and grant applications and eligibility information; loan and grant documents; payment records; registration records; collection records; complaint records; related correspondence.

Authority for maintenance of the system: Section 312, Housing Act of 1964, as amended, (P.L. 88-560), 42 U.S.C. 1452(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to local agencies—for monitoring and carrying out the program; to financial institutions—for providing supplemental rehabilitation funds; to credit reporting agencies, employers, financial institutions, and retail consumer credit grantors—for verification of employment and financial status; and to Federal National Mortgage Association and loan servicers—for loan servicing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and/or on magnetic tape/disc/drum.

Retriveability: By name, property address and case file number of individual covered.

Safeguards: Records stored in lockable file cabinets and technical restraints are employed with regard to accessing computer files.

Retention and disposal: Records are primarily active with some historical information; disposal is in accordance with HUD Handbook.

System manager(s) and address: Director, Rehabilitation Management Division, Office of Urban rehabilitation and Community Reinvestment Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Financial institutions; subject and other individuals; federal and non-federal agencies; firms, current and previous employers; law enforcement agencies; credit reporting agencies.

HUD/DEPT-32

System name: Delinquent/Default/Assigned

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors with HUD/FHA insured single-family mortgages that are delinquent or in default; mortgagors seeking assistance to prevent foreclosures; and mortgagors whose mortgages are held by HUD.

Categories of records in the system: Notices of delinquent mortgages; requests for forebearance or assignment; forebearance or assignment reviews include data on mortgage amount and payments made, employment and income, debts and expenses, reasons for delinquency, recommendations and actions on requests; credit reports; forebearance agreements; deeds of trust; and related correspondence.

Authority for maintenance of the system: Sec. 114(a), Housing Act of 1959, (P.L. 86-372), 12 U.S.C. 1702 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling: to Legal Aid—to assist mortgagors.

Storage: In file folders and on magnetic tapes, drums, and discs.

Retrievability: Name; case file number; property address.

Safeguards: Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

Retention and disposal: Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

System manager(s) and address: Director, Single Family Loan Servicing Division, HSSL, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

HUD/DEPT-34

System name: Pay and Leave Records of Employees.

System location: All Department offices. For a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Name, Social Security Number and employee number, grade, step, and salary; organization, retirement or FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deduction; allotments by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Actions."

Authority for maintenance of the system: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security Numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management concerning pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual, machine-readable and magnetic media.

Retrievability: Name of employee; Social Security Number.

Safeguards: Physical technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

HUD/DEPT—37

System name: Personnel Travel System.

System location: All Department offices maintain employee travel records, and several maintain driver permit application records. For a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD personnel.

Categories of records in the system: All travel records, including vouchers, requests, advances, receipts for requests, orders, applications for Federal vehicles, driver permits, U.S. Government driver's licenses, driver's physical fitness forms, motor pool records, monthly motor vehicle use records, and GSA vehicle mileage reports. Applications for parking space.

Authority for maintenance of the system: Section 7(d) of the Department of Housing and Urban Development Act of 1965, P.L. 89-174; Budget and Accounting Act of 1950, 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of uses and the purposes of such users: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; driver's license information transmitted to Department of Transportation for verification with National Driver Register; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Almost always retrievably by name, occasionally by Social Security number.

Safeguards: Lockable desks or file cabinets; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

Retention and disposal: Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

System manager(s) and address: Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual and supervisors.

HUD/DEPT—42

System name: Rent Subsidy Program Files.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Low-rent housing applicants and recipients under Section 236 and Rent Supplement programs.

Categories of records in the system: Applications for rent subsidy and recertifications include name, address, telephone number, race, household composition, employment data, detailed financial information, monthly rent payment and supplement calculations, HUD review and certification, description of rental unit participant will occupy; subsidized tenant move-out records; verification of employment, income and bank deposits, credit bureau reports; and related correspondence.

Authority for maintenance of the system: Sec. 201 of the Housing and Community Development Admendments of 1978, (12 U.S.C. 1715z-la), Sec. 101 of the Housing Act of 1965 (12 U.S.C. 1701s).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit: to IRS—for investigation; to local and state housing authorities—for reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In files folders and on magnetic tape/disc/drum.

Retrievability: Name; case file number.

Safeguards: Limited access; lock file cabinets; security checks and limited authorization to secured computer facilities.

Retention and disposal: Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Record Center for storage or disposed in accordance with HUD Handbook.

System manager(s) address: Director, Program Planning Division, HMHO, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contacting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal government agencies; project and project managers.

HUD/DEPT—43

System name: Property Disposition Files.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors with HUD/FHA insured single-family homes who have had their mortgages foreclosed and properties acquired by HUD; individuals who have had their properties acquired by the Department of Defense and transferred to HUD; single-family mortgagors who defaulted on Section 312 loans and had their properties acquired by HUD; and potential buyers of HUD-held single-family properties.

Categories of records in the system: Documents pertaining to acquisition of foreclosed HUD/FHA insured single-family homes and single-family homes transferred from the Department of Defense. The documents include names, addresses, loan amounts and payments, and reasons for default; leases and rental information if properties are rented; purchasers' family characteristics, income and employment histories, credit reports, sales contracts, and settlement costs; and related correspondence.

Authority for maintenance of the system: National Housing Act of 1937 as amended (P.L. 75-412).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for auditing income tax returns; to insurance companies—to file claims for amounts due; to mortgagees—to review the credit of prospective

purchasers; to local public authorities—to check on acquisition, reuse and sales of real estate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Case file number and property address.

Safeguards: Desk; lockable file cabinet; secured computer facilities. Access restricted.

Retention and disposal: Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook.

System manager(s) and address: Director, Single Family Preservation and Sales Division, HSSP, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies; real estate brokers and agents.

HUD/DEPT—44

System name: Relocation Assistance Files.

System location: Headquarters and field offices. For a complete listing of these officers, with addresses, see Appendix A.

Categories of individuals covered by the system: Displaced persons and relocation claimants who have filed grievances.

Categories of records in the system: Names of relocation claimants; family characteristics; personal and family financial data; relocation needs and problems; claims; documentation and evaluation of claims; recommendations; inquires and grievances; responses to grievances; audits.

Authority for maintenance of the system: Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), Sec. 205(c)(2), 42 U.S.C. 4625.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to the Department of Justice—for investigation and prosecution; to local public agencies—for processing, training and monitoring purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of subject individual.

Safeguards: Stored in lockable file cabinets; access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical, disposal is in accordance with HUD Handbook.

System manager(s) and address: Director, Relocation and Real Estate Division, Office of Urban Rehabilitation and Community Reinvestment Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification precedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional informational or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department at Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; corrent and previous employers; credit bureaus and financial institutions; firms federal and non-federal agencies.

HUD/DEPT—46

System name: Single Family Case Files

System location: Headquarters and field officers. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals who have applied for HUD/FHA mortgage insurance in connection with single family housing programs of the department.

Categories of records in the system: Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrower inability to make payments, cancellations and monies returned. Also, requests for refinancing income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, appraisal and inspection reports; verification of employment and income; credit bureau reports; mortgage note and deed of trust; record of escrow account; correspondence and complaints.

Authority for maintenance of the system: National Housing Act as amended, 12 U.S.C. 1702 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: to welfare agencies—for fraud investigation, to VA—for coordination with HUD in processing construction complaints. Congressional delegation—providing information concerning status of complaints. Complainants and attorneys representing them—review of complainant file for status and information. Builders and attorneys representing them—review of complainant file for status information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and computerized tape, disc and drum.

Retrievability: File by name of individual and case file number.

Safeguards: Records maintained in locked an lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

System manager(s) and address: Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Depart-

ment of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals, current or previous employers, credit bureaus and financial institutions, corporations and firms and federal and non-federal government agencies.

HUD/DEPT—51

System name: Standards of Conduct File.

System location: Headquarters.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Financial statements; statements of employment.

Authority for maintenance of the system: E.O. 11222, Sec. 305–402, 5 CFR 735.401.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statements. Other routine uses; to the Department of Justice, the Federal Bureau of Investigation, and the Internal Revenue Service for purposes of investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and standard forms.

Retrievability: Name.

Safeguards: Locked file cabinets.

Retention and disposal: Files are active and kept up-to-date, partly current and partly historical.

System manager(s) and address: Assistant General Counsel for Finance and Administrative Law Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 126. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents or records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT—52

System name: Privacy Act Requesters.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

Categories of records in the system: Personal identification of requester, nature of request, and disposition of the request by the Department.

Authority for maintenance of the system: Privacy Act of 1974 (5 U.S.C. 552(a)(c)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file holders.

Retrievability: Filed by case number and name of individual.

Safeguards: Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active. Inactive files are normally disposed of after a one-year period.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record acess procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assitance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is neeeded, it may be obtained by contacting: (i) In relation to contesting contents or records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Deveopment, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT—53

System name: Consumer Complaint Handling System

System location: Headquarters.

Categories of individuals covered by the system: Any member of the public who writes a letter of complaint to HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supporting by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenant in FHA-insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

Categories of records in the system: Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

Authority for maintenance of the system: Housing and Community Development Act of 1974 (P.L. 93–383).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials, public and private counseling agencies, building associations; developers; financial institutions holding HUD-insured mortgages, Federal, State and local Consumer Affairs offices; Consumer Protection agencies, State and local real estate and planning Commissions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, cassettes, computerized tape, disc, and drum.

Retrievability: Control number, date of receipt, name of writer, date of letter, HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

Safeguards: Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

Retention and disposal: Correspondence file is closed upon final response, and purged after six months. Correspondence pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

System manager(s) and address: Director, Division of Consumer Complaints, NVACP, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification porcedure: For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information of assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the

Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Contesting record procedures: The Department's rules of contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents or records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Letters of complaints from individuals, and consumer oriented agencies on behalf of individuals.

HUD/DEPT—54

System name: Parking Permit Application Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Headquarters and other Federal employees who made application to park at Headquarters location.

Categories of records in the system: Application forms that contain information about the vehicles owned by and addresses of the principal applicant and carpool members.

Authority for maintenance of the system: Federal Property and Administrative Procedures Act of 1949 (P.L. 81-152, Sec. 201), 41 U.S.C. 231.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other Routine Uses: To parking management company—for billing purposes.

Storage: 8 inch by 5 inch card file.

Retrievability: Name and permit number.

Safeguards: Lockable file cabinets.

Retention and disposal: (1) For individuals issued permits, as long as permits are valid; (2) for individuals on the waiting list, approximately 2 years.

System manager(s) and address: Administrative Officer, Office of Administrative Services, AS, Department of Housing and Urban Development, 4517th Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location (this location is given in appendix A); (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Parking Permit Applicants.

HUD/DEPT—55

System name: Executive Personnel Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Executive employees; namely, executive levels, members of the Senior Executive Service, supergrades, schedule C's, experts and consultants, field office directors, and high potential senior level employees.

Categories of records in the system: Data pertaining to experience, training, education, achievements, personal activities, potential and career objectives, and evaluation of these skills and attributes.

Authority for maintenance of the system: Sections 401-415 Civil Service Reform Act of 1978, P.L. 95-454.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraph in prefatory statement. Other routine uses: To former employers, education, institutions, and references for information verfication.

Policies and practices for storing retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Name of applicant or HUD organization.

Safeguards: Records are maintained in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Retained during active status and then disposed, usually 3 years.

System manager(s) and address: Director, Executive Resources Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing intial denials, by the indiyidual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contests of records, the Privacy Act officer at the headquarters location. This location is given in appendix A. (ii) In relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals, former employers and references.

HUD/DEPT—56

System name: Telephone Numbers of HUD Officials.

System location: Headquarters office.

Categories of individuals covered by the system: HUD senior staff officials.

Categories of records in the system: Name, title, home and office phone numbers.

Authority for maintenance of the system: Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraph in prefatory statement. Other routine uses: Executive Office of the President for identification and communication with key staff.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Bookcase of Director, Office of Executive Secretariat.

Retrievability: Office, name, and title.

Safeguards: Records are maintained in lockable room with access limited to authorized personnel.

Retention and disposal: Records are revised as personnel and telephone numbers change. When records are revised, older records are destroyed.

System manager(s) and address: Chief, Secretary's Correspondence Unit, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedures: For information, assistance, or inquiry about the existence of records contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the headquarters location. This location is given in appendix A.

Contesting record procedures: The Departments' rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD departmental privacy appeals officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT—58

System name: HUD Child Care Center Files.

System location: Headquarters Office.

Categories of individuals covered by the system: Children enrolled in the Center and their parents, staff of the Center, others who may be involved in special programs of the Center, and names of donors.

Categories of records in the system: Information on the child, including parents' names and addresses and income; health records of children and staff; information on staff including work history; current work evaluations, and other work-related information; evaluation of the children's progress in the Center, names of donors and amounts of donations to the Center.

Authority for maintenance of the system: Housing Authorization Act of 1976, P.L. 94–375.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Paper records in file cabinets.

Retrievability: By name of child or name of staff member.

Safeguards: Records will be maintained in lockable file cabinets with access limited to authorized personnel of the Center.

Safeguards: Records of children who leave will be stored for one year; records of staff who leave will be stored for three years. At the expiration of those periods, records will be disposed of.

System manager(s) and address: Director, HUD Child Care Center, Department of HUD, 451 Seventh Street SW, Washington, D.C. 20410.

Notification procedure: For information, assistance or inquiry about the existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Applicants; current and formerly enrolled children and their parents; current and former staff members, doctors and former institutions attended by the children.

HUD/DEPT–60

System name: Employee Emergency Reference File.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Name, address, home phone number, social security account number, and personal and medical references to be used in an emergency.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To personal and medical sources identified by subject—for providing HUD with assistance in the event of an emergency affecting the subject.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and card boxes.

Retrievability: Subject's name.

Safeguards: Records are kept in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are retained during active status and disposed of within one year of subject's departure from the Department.

System manager(s) and address: Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT–61

System name: Mobile Home Standards Complaint, Production and Compliance Analysis System.

System location: Headquarters.

Categories of individuals covered by the system: Consumers who have registered complaints regarding mobile homes.

Categories of records in the system: Name, telephone number of purchaser, information on mobile home purchased (make, model, serial number, date of purchase, location, dealer's name, and complaints or problems).

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraphs of preferatory statement. Other routine uses: to HUD-approved State Administrative Agencies who participate in enforcement of the Federal Mobile Home Construction and Safety Standards Program—for assisting in the enforcement of the Mobile Home Construction and Safety Standards Act, and handling of consumer complaints.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, card boxes, and on magnetic tape/dis/drum.

Retrievability: By purchaser name; by mobile home make, model, serial number, date of purchase, location, dealer's name, complaint or problem.

Safeguards: Manual records are kept in lockable file cabinets; computer records are maintained in secured facilities. Access to either type of record is limited to authorized personnel.

Retention and disposal: Records are retained during active status, a period not to exceed five years. Following the active period, hard-copy records may be disposed of or retired to a Federal Records Center. Automated data will be erased or retired to storage.

System manager and address: Director, Office of Mobile Home Standards, NVACP, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location if given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals who have registered compliants.

HUD/DEPT-62

System name: Claims Collection Records.

System location: Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

Categories of individials covered by the system: Mortgagors; mortgagees; grant/project and loan applicants and recients; HUD personnel; vendors; brokers; bidders; managers; tanents; builders; developers, contractors, and appraisers; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

Categories of records in the system: Lease and loan collection register; schedules of payments receivable and received; premiums due; clam files; fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; bills of lading; vouchers; invoices; receipts; mortgagors, builder's and contractor's financial statements, records and audit reports; deposit and receipt records; disbursements and cancelled checks; repurchases of mortgages; adjustments from recoveries, defaults, acquired home property records; sales closing papers; statements of accounts; tax records; certifications and applications for assistance; and notice of court action.

Authority for maintenance of the system: Federal Claims Collection Act of 1966 (Section 1, Pub. L. 89-508).

Routine uses of records maintained in the system including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: Justice Department—for prosecution of fraud revealed in the course of claims collection efforts, and for the institution of foreclosure or other proceedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for the institution of proceedings to effect collection of claims; other Federal Agencies—to facilitate collection of claims agains Federal employees; Office of Personnel Management—for offsetting retirement payments; and to commercial credit bureaus—to facilitate claims collection consistent with Federal Claims Collection Standards 4 CFR Section 102.4.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Desks; safes; locked file cabinets.

Retrievability: Name, Social Security Number, Project Name and Number, and Contract Number.

Safeguards: Locked files; limited access by authorized individuals.

Retention and disposal: GSA schedules of retention and disposal; destruction one year after statute of limitation expiration.

System manager and address: Department Claims Officer, Office of Finance and Accunting, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-Federal government agencies; HUD personnel.

HUD/Dept-63

System name: Secretary's Correspondence Control System.

System location: Headquarters.

Categories of individuals covered by the system: (a) Individuals who correspond with the Secretary or the Under Secretary, (b) Individuals whose correspondence has been referred by the White House, other Executive agencies, or members of Congress to the Secretary or Under Secretary for response.

Categories of records in the system: Correspondence identification (correspondent's name, address, organization, title, control number, date of letter, subject); status or response within the Department (office assigned, date due, current disposition); may include original correspondence, Department's response, referral letters name and identification of person referring the correspondence, and copies of any enclosures.

Authority for maintenance of the system: Section 7(d) of the Department of Housing and Urban Development Act of 1965, Pub. L. 89-174.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: See Routine Uses paragraphs or prefatory statement. Other routine uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, on microfiche and on magnetic disc/tape.

Retrievability: Name, control number, name of person referring correspondence, return address on letters, organization name, title, date of letter, subject of letter, office assigned, date due, current disposition.

Safeguards: Manual files and microfiche are kept in folders and accessed only by authorized personnel, computer records are maintained in a secure area with access restricted to authorized personnel.

Retention and disposal: All files are maintained in the Executive Secretariat for three years and then are retained/disposed of in accordance with HUD Handbook 225.6, Schedule 62, dated March, 1976. All computerized information is maintained on magnetic disc for one year, then is copied to magnetic tape and stored in a secure location.

System manager(s) and address: Chief, Secretary's Correspondence Unit Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories: Subject, referral source, Department employees involved in processing the correspondence.

HUD/DEPT-64

System name: Congregate Housing Services Program Data Files.

System location: Headquarters.

Categories of individuals covered by the system: Congregate Housing Services Program (CHSP) applicants residing in grantee Public Housing and Sec. 202 (Elderly or Handicapped) projects.

Categories of records in the system: The files will contain the following data on program applicants: name, CHSP code (file) number, race, sex, date of birth, living arrangement, marital status, number of minors, yearly gross income, contract rent, total housing expense, size of unit, sources of income, handicap type, disability type, date of admission to project, yearly gross income at admission, income sources at admission, current and previous services received by program type, dates of service received, date of admission to CHSP, type and quantity (e.g. hours per week) of services received in CHSP, date left CHSP, status at termination, post-program status, score on Activities of Daily Living (ADL) tests.

Authority for maintenance of the system: Congregate Housing Services Act of 1978, 42 U.S.C. 8001.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: Routine uses: HUD contractor—for CHSP program evaluation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name, CHSP code (file) number, race, sex, date of birth, living arrangement, marital status, number of minors, yearly gross income, contract rent, total housing expense, size of unit, sources of income, handicap type, disability type, date of admission to project, yearly gross income at admission, income sources at admission, current and previous services received by program type, dates of service received, date of admission to CHSP, type of services received in CHSP, date left CHSP, status at termination, post-program status, score on Activities of Daily Living (ADL) tests.

Safeguard: Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

Retention and Disposal: System will be retained through completion of evaluations or duration of the program whichever is longer.

System manager(s) and address; Director, Office of Consumer Affairs, NVACP, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories. Subject individuals, Professional Assessment Committee, Project Managers.

HUD/H—1

System name: Section 8 Lower-Income Rental Assistance Files.

System location: Headquarters and many field offices. for a complete list of these offices, with addresses, see Appendix.

Categories of individuals covered by the system: Tenants in Section 8 Program.

Categories of records in the system: Applications filing for eligibility and recertification include names; addresses; socal security numbers; telephone numbers; family characteristics; employment and income information; HUD review and certification; verification of employment, income and bank deposits; and related correspondence.

Authority for maintenance of the system: Housing Act of 1937 (P. L. 73-479); Housing and Community Development Act of 1974 (P.L. 93-383).

Routine uses of records maintained in the systems, including categories of users and the purposes of such uses. See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage: Magnetic tape/disc/drum.

Retrievability: Name of tenant. Inquiry capability by HUD management. Output interface with HPMC Section 8 MIS (occupancy characteristics).

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address: Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals; landlords; financial institutions; employers; and local housing authorities.

HUD/H—3

System name: Single Family Housing Monitoring System (F-39)

System location: Headquarters.

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Cross-indexes (used to support studies and investigations).

Authority for maintenance of the system: National Housing Act of 1934, P.L. 73-479, Sec. 209.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routing Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address: Director, Management Information Systems Division, HAI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals; current or previous employers; credit bureau; financial institutions; corporations; firms; federal government agencies.

HUD/H—5

System name: Single-family Homes Management Underwriting System.

System location: Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Builders of single-family dwellings.

Categories of records in the system: Case binders and automated files contain builder's name; address; telephone number; tax identification number or social security account number; and minority data for statistical tracking to include racial/ethnic background and sex of the builder.

Authority for maintenance of the system: Sec. 203, National Housing Act (P.L. 73-479).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In case binders and on magnetic tape/disc drum.

Retrievability: Name, tax identification number or social security number.

Safeguards: Manual files are kept in lockable cabinets or rooms; automated records are maintained in secured areas. Access to either type of record is limited to authorized personnel.

Retention and disposal: Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

System manager(s) and address: Director, Office of Single Family Housing, HSS, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: HUD authorized mortgagees.

HUD/H—6

System name: Section 518 Files.

System location: HUD field offices.

Categories of individuals covered by the system: HUD insured owners of one-to-four family dwellings who filed claims because of structural or other major defects found in their homes.

Categories of records in the system: Name, address, home phone number, property inspection report, disposition of claim information and other information pertinent to the claim.

Authority for maintenance of the system: Sec. 104, Housing and Urban Development Act of 1970 (P.L. 91-609), 12 U.S.C. 1735b.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Name, case number, and claim number.

Safeguards: Records are kept in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are retained for six years and then disposed.

System manager(s) and address: Chief, Special Programs Branch, HSSI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations if given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals and Departmental records.

HUD/H-7

System name: Previous Participation Files.

System location: Headquarters.

Categories of individuals covered by the system: Principals (owners, general contractors, management agents, consultants and packagers) in HUD multifamily housing programs.

Categories of records in the system: Information concerning the Department's consideration/approval/disapproval of HUD multifamily housing program principals, including names and Social Security Numbers of principals; lists of prior HUD projects; summaries of financial, management, or operational difficulties with prior HUD projects (if any); indication of whether principals are or have been the subject of a government; investigation, other information relevant to the standards for previous participation approval; minutes of deliberative meetings.

Authority for maintenance of the system: Section 7(d), Department of HUD Act, 79 Stat. 670, (42 U.S.C. 3535(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: To state and local governments participating in HUD housing programs as co-insurers or finance agencies—to assist in project application reviews.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in filing cabinets.

Retrievability: Name of principal and HUD project case number.

Safeguards: Files are kept in lockable cabinets. Access is limited to authorized personnel.

Retention and disposal: Records are primarily active; disposal is in accordance with HUD Handbook.

System manager(s) and address: Director, Participation and Compliance Division, HAC, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; HUD Field Offices; other governmental agencies.

HUD/PD&R—1

System name: Urban Homesteading Evaluation Data.

System location: Cambridge, Massachusetts.

Categories of individuals covered by the system: Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

Categories of records in the system: Demographic, socioeconomic, housing characteristics, and housing costs.

Authority for maintenance of the system: Sec. 810(e), Housing and Community Development Act of 1974 (P.L. 93-383), 12 U.S.C. 1706e.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs of prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

Retrievability: Code number, address.

Safeguards: File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

Retention and disposal: Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

System manager(s) and address: Director, Community Conservation Research Division, TRR, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

HUD/PD&R—2

System name: Solar Energy Demonstration Survey Files.

System location: Headquarters.

Categories of individuals covered by the system: Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demstration program.

Categories of records in the system: Housing charactristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socioeconomic information.

Authority for maintenance of the system: Solar Hearing and Cooling Demstration Act (P.L. 93-409), Sec. 11, 42 U.S.C. 5509.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name; address; code number; and index.

Safeguards: Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

Retention and disposal: Records will be maintained until followup interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed in the conclusion of the study, scheduled to end in approximately five years.

System manager(s) and address: Director, Energy Building Technology and Standards Division, TRB, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/PD&R—3

System name: Urban Reinvestment Task Force Data.

System location: Cambridge, Mass.

Categories of individuals covered by the system: Partcipants in Neighborhood Housing Services (NHS) Program and other residents of NHS neighborhoods.

Categories of records in the system: Socio-economic, demographic and housing characteristics of partcipants, their perceptions of the Neighborhood, and of the NHS program, and housing investment behavior of residents.

Authority for maintenance of the system: Title V, Housing and Urban Development Act of 1970, P.L. 91-609.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, punch cards, magnetic tape and computer disc.

Retrievability: Identification code.

Safeguards: Access to file folders and computer files limited to authorized personnel.

Retention and disposal: Retained until June 1981 and then destroyed.

System manager(s) and address: Director, Division of Community Conservation Research, Office of Research, Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories: Survey particpants.

HUD/PD&R—4

System name: Prepurchase Counseling Demonstration and Evaluation Records.

System location: Cambridge, Mass.

Categories of individuals covered by the system: Individuals who seek homes and inquire about the program; first-time homeseekers who join the program, counseled individuals after they purchase a home or decide not to purchase; and counseled individuals who default on their mortgages.

Categories of records in the system: Socio-economic, demographic, financial, attitudinal and, if appropriate, mortgagor payment information.

Authority for maintenance of the system: Sec. 508a of the Housing Authorization Act of 1976 (P.L. 94–375), 12 U.S.C. 1701z–1.

Routine uses of records maintained in the system, including categories oif users and the purposes of such uses: See Routine Uses in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, assessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape.

Retrievability: Name and Identification No.

Safeguards: Files are maintained in a secured data storage bank and in lockable file cabinets with access limited to authorized persons.

Retention and disposal: Records are retained until December 31, 1980 and then destroyed.

System manager(s) and address: Director, Community Conservation Research Division, TRR, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information of assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individual, institution servicing the mortgage and HUD approved counseling agency.

HUD/PD&R—5

System name: HUD Community Development Block Grant Evaluation Files.

System location: Location of private data collection firm to be selected and headquarters office.

Categories of individuals covered by the system: A sample of occupants of owner-occupied and rental housing units and members of neighborhood groups in selected community development block grant (CDBG) entitlement cities.

Categories of records in the system: Demographic, socioeconomic, housing, and neighborhood characteristics, utilization of neighborhood services and facilities and attitudes about the CDBG program.

Authority for maintenance of the system: Title V, Sec. 501, 502, Housing and Urban Development Act of 1970 (P.L. 91–609), 12 U.S.C. 1701z–1, 1701z–2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraphs of prefatory statement. Other routine uses: the University of Pennsylvania for analyses of the impacts and benefits of the CDGB program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual records stored in lockable file drawers located in lockable rooms. Access limited to authorized personnel. Personal identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

Retrievability: Name, address, and numeric code.

Safeguards: Manual records stored in lockable file cabinets in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

Retention and disposal: Records maintained for duration of study, approximately 4 years. Manual records, including lists of names and addresses indexed to numeric codes, will be destroyed. Computer records without personal identifiers will be maintained for a longer period.

System manager(s) and address: Director, Evaluation Division, TRI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance or inquiry about the existence of records, contact the Privacy Act officer at the headquarters location, in accordance with 24 CFR Part 16. This location is given in appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act officer at the Headquarters location. This location is given in appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act officer at the headquarters location. This location is given in appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individual.

HUD/PD&R—6

System name: Real Estate Settlement Costs Research Files.

System location: Contractor's office (contractor to be selected).

Categories of individuals covered by the system: Buyers and sellers of individual residential housing units and owners of such units who refinance their mortgages.

Categories of records in the system: A national sample of Uniform Settlement Statement (HUD–1) forms, showing detailed settlement items and their costs, will be collected from mortgage lenders. Follow-up phone calls to buyers and sellers listed on these forms may be made to elicit information on settlement procedures, costs, etc. In addition, a sample of HUD–1 forms and good-faith estimates of settlement costs will be collected from mortgage lenders in about 12 different housing markets across the country; a sub-sample of these forms will be used to draw a sample of buyers and sellers, as well as a sample of attorneys, mortgage lenders, and others who provided services to buyers and sellers in the sub-sample; this subsample will then be interviewed. Data will also be collected from national experts in this subject area and from State and local bodies which regulate providers of settlement services.

Authority for maintenance of the system: Sec. 14, Real Estate Settlement Procedures Act of 1974 (88 Stat. 1724), 12 U.S.C. 2613.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and magnetic tape/disc/drum.

Retrievability: Name or address of subject;

Safeguards: Manual records stored in lockable file cabinets and desks in lockable rooms and computer facilities are in secured areas. Access to both types of records are limited to authorized personnel.

Retention and disposal: All records will be maintained for five years until the end of 1983.

System manager(s) and address: Director, Housing and Demographic Analysis Division, TEH, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part

16. If additional information or assistance is required, contact the Privacy Act Officer at the headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC, 20410.

Record source categories: Subject individual, mortgage lenders, title insurance firms, real estate agents, title abstractors, land surveyors and other providers of settlement services.

HUD/PD&R-7

System name: Section 8 Program Research Data Files.

System location: Cambridge, Massachusetts; Boone, North Carolina.

Categories of individuals covered by the system: Families selected in a random sample of applicants to and certificate holders in the Section 8 Program.

Categories of records in the system: Name, address, household demographics (age, sex, race, education, income, handicapped/disabled), status/condition of pre-program housing unit, typology of pre-program neighborhood, and program understanding of the respondent.

Authority for maintenance of the system: Sec. 501, 502, Housing and Urban Development Act of 1970 (P.L. 91-609), 12 U.S.C. 1701z-1, 1701z-2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name, address.

Safeguards: Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

Retention and disposal: All personal identifiers will be destroyed approximately four months after the system is created.

System manager(s) and address: Director, Housing Assistance Research Division, TRH Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence or records, contact the Privacy Act Officer at the Headquarters locations, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, Contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject.

HUD/PD&R-8

System name: Income Certification Evaluation Data files

System location: Applied Management Science, Inc., Silver Spring, MD.

Categories of individuals covered by the system: Tenants of Section 8, Section 236, and Public Housing projects. Projects are selected randomly from a subset of all projects, tenants are selected randomly from the set of all tenants of the projects thus sampled.

Categories of records in the system: Family identification (name, address, Social Security Number), household demographics (age, sex, family size, income and income sources, length of tenure), verification of income data.

Authority for maintenance of the system: Title V, Section 501 and 502 of the Housing and Community Development Act of 1970, P.L. 91-609.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine uses paragraphs of prefatory statement. Other routine uses: Applied Management Science, Inc.—to carry out objectives of study, Social Security Administraiton, Internal Revenue Service—to verify income data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name, address, Social Security Number.

Safeguards: Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

Retention and disposal: All records will be destroyed at the completion of the study.

System manager(s) and address: Director, Evaluation Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarter's location. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject, Income Sources.

Appendix A—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

Headquarters

Privacy Act Officer, 451 Seventh Street SW., Washington, D.C. 20410.

Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203.

Area Offices

Area Manager, Bulfinch Building, 15 New Chardon Street, Boston, Mass. 02114.

Area Manager, One Financial Plaza, Hartford, Conn. 06103.

Service Offices

Supervisor, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103.

Supervisor, Room 300, John O. Pastore Federal Building, U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903.

Valuation/Endorsement Stations

Supervisor, Federal Building and Post Office, 202 Harlow Street, Bangor, Maine 04401.

Supervisor, Federal Building, Elmwood Avenue, Burlington, Vermont 05401.

Region II

Regional Administrator, 26 Federal Plaza, New York, New York 10278.

Area Offices

Area Manager, Suite 800, Statler Building, 107 Delaware Avenue, Buffalo, New York 14202.

Area Manager, 26 Federal Plaza, New York, New York 10278.

Area Manager, Gateway I Building, Raymond Plaza, Newark, New Jersey 07102.

Caribbean Area Office

Area Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918.

Service Offices

Supervisor, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207.
Supervisor, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103.

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.

Area Offices

Area Manager, Mercantile Bank and Trust Building Two Hopkins Plaza, Baltimore, Maryland 21201.
Area Manager, Curtis Building, 625 Walnut Street, Philadelphia, Pa. 19106.
Area Manager, Fort Pitt Commons, 445 Fort Pitt Blvd., Pittsburgh, Pennsylvania 15219.
Area Manager, 701 East Franklin Street, Richmond, Virginia 23219.
Area Manager, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Service Office

Supervisor, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301.

Valuation/Endorsement Station

Supervisor, Delaware Trust Plaza, 1800 Pennsylvania Avenue, Suite 604, Wilmington, Delaware 19806.

Region IV

Regional Administrator, Richard B. Russell, Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

Area Offices

Area Manager, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.
Area Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233.
Area Manager, Strom Thurmond Federal Building, 1835-45 Assembly Street, Columbia, South Carolina 29201.
Area Manager, 415 N. Edgeworth Street, Greensboro, North Carolina 27401.
Area Manager, Federal Building, Suite 1016, 100 W. Capitol Street, Jackson, Mississippi 39201.
Area Manager, Peninsular Plaza, 661 Riverside Avenue, Jacksonville, Florida 32204.
Area Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919.
Area Manager, 539 River City Mall, Louisville, Kentucky 40201.

Service Officers

Supervisor, 3001 Ponce de Leon Boulevard, Coral Gables, Florida 33134.
Supervisor, Federal Building, 700 Twiggs Street, Post Office Box 2097, Tampa, Florida 33601.
Supervisor, Federal Building—U.S. Courthouse, 80 N. Hughey Avenue, Post Office Box 1400, Orlando, Florida 32802.
Supervisor, 28th Floor, 100 North Main Street, Memphis, Tennessee 38103.
Supervisor, One Commerce Place, Suite 1600, Nashville, Tennessee 37219.

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, Illinois 60606.

Area Offices

Area Manager, 1 North Dearborn Street, Chicago, Illinois 60602.
Area Manager, New Federal Building, 200 North High Street, Columbus, Ohio 43215.
Area Manager, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.
Area Manager, 151 North Delaware Street, Indianapolis, Indiana 46207.
Area Manager, 744 North 4th Street, Milwaukee, Wisconsin 53203.
Area Manager, 6400 France Avenue, South Minneapolis, Minnesota 55435.

Service Offices

Supervisor, Federal Office Building, 550 Main Street, Cincinnati Ohio 45202.
Supervisor, 777 Rockwell Avenue, Cleveland, Ohio 44114.
Supervisor, Northbrook Building Number II, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505.
Supervisor, Metropolitan Building, 432 North Saginaw Street, Flint, Michigan 48502.

Valuation/Endorsement Station

Supervisor, Lincoln Tower Plaza, 524 South Second Street, Springfield, Illinois 62701.

Region VI

Regional Administrator, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.

Area Offices

Area Manager, 2001 Bryan Tower, 4th Floor, Dallas, Texas 75201.
Area Manager, Suite 1400, One Union National Plaza, Little Rock, Arkansas 72201.
Area Manager, Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113.
Area Manager, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102.
Area Manager, Washington Square, 800 Dolorosa, Post Office Box 9163, San Antonio, Texas 78285.

Service Offices

Supervisor, 221 West Lancaster Street, Post Office Box 2905, Fort Worth, Texas 76113.
Supervisor, Two Greenway Plaza East, Suite 200, Houston, Texas 77046.
Supervisor, Courthouse and Federal Office Building, 1205 Texas Avenue, Post Office Box 1647, Lubbock Texas 79408.
Supervisor, 625 Truman Street, N.E., Albuquerque, New Mexico 87110.
Supervisor, Joe Waggoner Federal Building, 500 Fannin Street, Shreveport, Louisiana 71120.
Supervisor, 440 South Houston Avenue, Tulsa, Oklahoma 74137.

Region VII

Regional Administrator, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106.

Area Offices

Area Manager, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106.
Area Manager, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106.
Area Manager, 210 North Tucker Boulevard, St. Louis, Missouri 63101.

Service Office

Supervisor, Room 259, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.

Valuation/Endorsement Station

Supervisor, 444 S.E. Quincy Street, Room 330, Topeka, Kansas 66683.

Region VIII

Regional Administrator, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202.

Service Offices

Supervisor, Room 340, Federal Office Building, Drawer 10095, 301 South Park, Helena, Montana 59601.
Supervisor, 125 South State Street, Salt Lake City, Utah 84147.

Valuation/Endorsement Stations

Supervisor, Federal Office Building, 100 East B Street, Casper, Wyoming 82601
Supervisor, Federal Building, 653-2nd Avenue, North, Fargo, North Dakota 58102.
Supervisor, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102.

Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102.

Area Offices

Area Manager, Federal Building, 300 Ala Moana Boulevard, Suite 3318, Honolulu, Hawaii 96850.
Area Manager, 2500 Wilshire Boulevard, Los Angeles, California 90057.

Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111.

Service Offices

Supervisor, 34 Civic Center Plaza, Room 614, Santa Ana, California 92701.
Supervisor, Federal Office Building, 880 Front Street, Post Office Box 2648, San Diego, California 92112.
Supervisor, Arizona Bank Building, 101 N. First Avenue, Suite 1800, Phoenix, Arizona 85003.
Supervisor, Arizona Bank Building, 33 North Stone Avenue, Post Office Box 1911, Tucson, Arizona 85702.
Supervisor, 1315 Van Ness Street, Fresno, California 93721.
Supervisor, 545 Downtown Plaza, Post Office Box 1978, Sacramento, California 95809.
Supervisor, 1050 Bible Way, Post Office Box 4700, Reno, Nevada 89505.
Supervisor, Federal Building-U.S. Courthouse, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

Region X

Regional Administrator, 3003 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Area Offices

Area Manager, 334 West 5th Avenue, Anchorage, Alaska 99501.
Area Manager, 520 Southwest 6th Avenue, Portland, Oregon 97204.
Area Manager, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Service Offices

Supervisor, 419 North Curtis Road, Post Office Box 32, Boise, Idaho 83707.
Supervisor, West 920 Riverside Avenue, Spokane, Washington 99201.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

59577 9–10–80 / Florida; approval and promulgation of implementation plans; temporary relaxation of particulate emission limits for Florida Power & Light Co.'s Sanford Plant

59578 9–9–80 / North Carolina; approval and promulgation of implementation plans

POSTAL SERVICE

59871 9–11–80 / Enforcement and suspension of the private express statutes

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 October 9, 1980

DOCUMENT DRAFTING HANDBOOK

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