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Friday
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Highlights

7496 **Energy Management** DOE/Solar proposes guidelines for use by Federal agenices in order to enhance the development of an overall 10 year plan to increase energy efficiency; comments by 3–3–80; hearing on 2–25–80 (Part V of this issue)

7268 **Medical Benefits** VA stipulates that although timely filing of claims is totally encouraged, payment of claims will not be made when received prior to the effective date of the grant of service connection; comments by 3–12–80

7321 **Native American Grantees** Labor/ETA informs public of estimated fiscal year 1981 funding levels under the Comprehensive Employment and Training Act of 1973

7261 **Elementary and Secondary Education** HEW/OE releases interpretation to clarify how guidance, counselling and testing projects may be conducted during school year 1979–80 with funds made available by Title IV of the Act

7227 **Certain School Programs** USDA/FNS issues emergency final rule on submission of claims for reimbursement; effective 2–1–80

7402 **Ethics in Government** OPM revises rules implementing restrictions on post employment activity; effective 3–3–80 (Part II of this issue)

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7263 **Back Pay** OPM proposes to implement amendments of the Civil Service Reform Act of 1978; comments by 4–1–80

7474 **Medical Devices** HEW/FDA publishes notices on voluntary standards of development and promulgates procedures for initiation and establishment; comments by 5–1–80; effective 7–30–80 (4 documents) (Part IV of this issue)

7318 **Federal Coal Leases** Interior/Sec'y solicits comments on policy options exercising discretion to extend 10 year diligent development

7514 **Equal Employment** EEOC and Labor/FCCPO publishes interpretative guidelines in order to provide guidance to the employer/contractor to ensure non-discrimination and equitable opportunities; comments by 6–2–80 (Part VI of this issue)

7521 **Employee Benefit Plan** Labor/P&WBP reopens comment period to 2–27–80 on the subject that certain assets be held in trust; hearing 2–27–80 (Part VII of this issue)

7525 **Labor-Management Reporting** Labor/Office of Labor Management Standards Enforcement permits labor organizations with less than $100,000 total annual receipts to file on the simplified Form LM–2; effective 3–3–80 (Part VIII of this issue)

7308 **Privacy** FLRA and Federal Service Impasses Panel publish document affecting systems of records

7362 **Privacy** WRC issues annual publication of systems of records

7265 **Improving Government Regulations** Justice/INS and Office of the Attorney General publish semiannual agendas

7533 **Improving Government Regulations** Treasury/ATF and Customs postpone semiannual agendas until 2–15–80 (Part X of this issue)

7364 **Sunshine Act Meetings**

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7434 **Part III, Labor/ESA**
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220 and 225

National School Lunch Program, School Breakfast Program, and Summer Food Service Program for Children; Submission of Claims for Reimbursement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rules.

SUMMARY: These final rules amend regulations for the National School Lunch and School Breakfast and Summer Food Service Programs for Children to clarify and expand upon recently issued amendments which required that (1) Claims for Reimbursement for meals served during fiscal year 1979 must be submitted to State agencies prior to January 1, 1980 in order to be eligible for payment and (2) any Claim for Reimbursement that is being adjusted due to audits or investigations may be paid, provided that the Claim for Reimbursement was originally submitted before January 1, 1980. These amendments implemented the mandate of Pub. L. 96–38 and were published on October 26, 1979 at 44 FR 65161 for School Nutrition Programs and on October 25, 1979 at 44 FR 61510 for the Summer Food Service Program for Children.

EFFECTIVE DATE: February 1, 1980. To be assured of consideration in the formulation of regulations covering fiscal year 1980 claims, comments on these amendments must be received by March 31, 1980.

FOR FURTHER INFORMATION CONTACT:

For School Nutrition Programs: Stanley C. Garnett, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8130.
For the Summer Food Service Program: Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8211.

SUPPLEMENTARY INFORMATION:

Recognizing the problem of late submission of claims and the overall need to maintain tighter control over the programs, Congress has required ". . . that only claims for reimbursement for meals served during fiscal year 1979 submitted to State agencies prior to January 1, 1980, shall be eligible for reimbursement." This requirement was made a part of Pub. L. 96–38 which was enacted on July 25 of this year. In a House of Representative's conference report (H. Report 96–331), written during the development of Pub. L. 96–38, the conferees noted that ". . . adjustment to these (reimbursement) claims may arise pursuant to audits or investigations performed subsequent to submittal of claims."

The report went on to say that the conferees did not intend to stop proper payments of Claims for Reimbursement that were being adjusted due to audits or investigations if the claims were originally submitted before January 1, 1980.

The Department's Food and Nutrition Service, on October 23, 1979 issued a nondiscretionary final amendment 34 to Part 210 (National School Lunch Program) and a nondiscretionary final amendment 30 to Part 220 (School Breakfast Program) in order to comply with Pub. L. 96–38. On October 30, 1979, amendment 1 to Part 225 (Summer Food Service Program) was issued.

These regulations require that Claims for Reimbursement for meals served in FY 1979 must be submitted to State agencies prior to January 1, and that any claims so filed but subsequently amended by the State agency due to audits or investigations would be eligible for payment. The school program regulations specified that these audits or investigations must be at the Federal level.

Since the issuance of these amendments, many concerns have been expressed about the ability of these regulations to meet the intent of Pub. L. 96–38 to assure that the claims submission and payment process is completed in a timely and orderly fashion. One specific concern raised was that the amended language in the school program regulations would have permitted claims adjustments only as a result of Federal audits or investigations. It was pointed out that States' administrative procedures in processing claims involve a series of checks and reviews which often identify needed corrective action. For example, in many instances, typographical errors are discovered. In addition, the need to take corrective action on claims that were filed by the filing deadline may also be indicated by findings of non-Federal, as well as Federal, audits, investigations, reviews and other management tools which reveal that the claim is inadequate. A wording change to delete references to Federal level audits and investigations has been made in these amendments. These regulations also provide State agencies the needed flexibility to correct claims as determined necessary through their administrative review processes or through other means. State agencies must assure that any claims so corrected were submitted to the State agency prior to January 1, 1980.

It is imperative, and Pub. L. 96–38 intends, that the reimbursement process for fiscal year 1979 be completed at the earliest possible opportunity. It is critical that the Department firmly fix program obligations for FY 1979 in order to accurately assess budget needs. The Department believes the FY 1979 claim submission deadline provided by Pub. L. 96–38 will put State agencies in a position to promptly review all FY 1979 Claims for Reimbursement submitted by School Food Authorities and institutions and then submit their final Financial Status Reports (Form SF–269), final Reports of Child Nutrition Operations (Form FNS–10) and final monthly Reports of the Child Care Food Program and the Summer Food Service Program for Children (Form FNS–44) covering FY 1979 operations in a timely manner.

These amendments will provide two factors to expedite this process. First, States will be permitted to take corrective action resulting in reimbursement increases and decreases until the State files its final FY 1979 fiscal and program operations reports if reimbursement is to be made through the letter of credit process. The FY 1979 reporting deadline for these reports,

which are required under OMB Circular No. A-102 and existing program regulations, has been established at March 1, 1980 by these amendments. Secondly, claim corrections made after the reporting deadline and resulting in additional reimbursement due to School Food Authorities and institutions will be subject to FNS approval.

Payment for such reimbursements will be made by FNS to the extent that funds are available. Claim corrections made after the reporting deadline which require the collection of overpayments from School Food Authorities and institutions will continue to be made under existing procedures.

In view of the need to finalize fiscal year 1979 obligations of child nutrition program funds in a timely manner, and since these amendments are a liberalization of existing rules in the case of school nutrition program claim adjustments or are considered to be within the Department's existing administrative authorities in the case of year-end reporting and fiscal control requirements, these rules are being issued as final rules. The Department recognizes that these amendments afford minimal lead time to State agencies relative to the year-end reporting and fiscal control requirements and has attempted to provide advance notice to State agencies. Comments received on these amendments will be analyzed by the Department in order to assess the actual implementation of the claim submission requirement of Pub. L. 96-38 and the other requirements of these regulations. This analysis will be considered in rulemaking to implement the provision of Pub. L. 96-108, enacted on November 9, 1979, which requires that fiscal year 1980 Claims for Reimbursement be submitted by January 1, 1981 in order to be eligible for reimbursement.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, Part 210, National School Lunch Program, is amended by Amendment 36 as follows:

§ 210.13 paragraph (b) is amended by deleting the last sentence and adding the following:

§ 210.13 Reimbursement procedures.

* * * * *

(b) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 210.5(a) of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 210.16 of this Part except that amounts recovered may not used to make program payments.

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PART 220—SCHOOL BREAKFAST PROGRAM

Part 220, School Breakfast Program, is amended by Amendment 31 as follows:

§ 220.11 paragraph (a) is amended by deleting the last sentence and adding the following:

§ 220.11 Reimbursement procedures.

(a) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 220.5 of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 220.14 of this Part except that amounts recovered may not be used to make program payments.

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PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Part 225, Summer Food Service Program for Children, is amended by Amendment 2 as follows:

§ 225.13 paragraph (a) is amended by deleting the last two sentences and adding the following:

§ 225.13 Program payment procedures.

(a) * * * Claims for Reimbursement for meals served during fiscal year 1979 must be filed with the State agency, or FNSRO where applicable, prior to January 1, 1980, in order to be eligible for reimbursement. The State agency, or FNSRO where applicable, shall, as determined necessary through its administrative review processes or otherwise, promptly take corrective action with respect to any such claim. Such corrective action must be completed in sufficient time to be reflected in the final Program Operations and Financial Status Reports for fiscal year 1979 if reimbursement for such claims is to be made from funds made available for fiscal year 1979 through the Letter of Credit process described under § 225.8(b) of this Part. The final Program Operations and Financial Status Reports for fiscal year 1979 must be submitted by March 1, 1980. Any requested increase in reimbursement level for fiscal year 1979, resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports, must be submitted to FNS for approval. The request will be accompanied by a written explanation

of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approved of such increase, it will make payments subject to the availability of funds. Any reduction in reimbursement level for fiscal year 1979 resulting from corrective action taken after submission of the final fiscal year 1979 Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 225.14 of this Part except that amounts recovered may not be used to make program payments.

* * * * *

(Title I Chapter I, Pub. L. 96-38, 93 Stat. 98 (42 USC 1776a))

Note.—Fiscal year 1979 ended September 30, 1979. Under Pub. L. 96-38, School Food Authorities and institutions must submit all final Claims for Reimbursement before January 1, 1980. These amendments to clarify and expand upon existing regulations must be finalized promptly in order that State agencies may provide for the expeditious processing of reimbursement claims payment of Fiscal Year 1979 funds to local School Food Authorities and comply with year-end fiscal and reporting requirements. These requirements are considered to be within the Departments' existing administrative authorities and are made a part of this rule to relate the reimbursement claim submission provision of Pub. L. 96-38 to overall claim payment and program reporting procedures for fiscal year 1979.

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 Bob Greenstein, Administrator, FNS that the emergency nature of this final rule warrants publication without opportunity for public comment at this time. An Impact Analysis Statement has been prepared and is available from the Office of the Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: January 25, 1980.

Carol Tucker Foremen,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-2991 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Parts 272 and 273

[Amdts. 152, 154 and 161]

1979 Amendments to the Food Stamp Act: Provision of Social Security Numbers; Fraud Disqualification and Recovery; Rounding Procedures and Clarification on Hotline Alternatives

Note.—This document originally appeared in the **Federal Register** for Thursday, January 31, 1980. It is reprinted in this issue to meet the Tuesday/Friday publication schedule assigned to the Food and Nutrition Service, USDA.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements the 1979 Amendments to the Food Stamp Act of 1977 on provision of social security numbers, and fraud disqualification and recovery. Final rulemaking on group living arrangements will be published separately at a later date. The delay in publishing the final rulemaking on group living arrangements allows the Department additional time to consider all the ramifications of this provision. Proposed regulations on all three provisions were published at 44 FR 62862; October 31, 1979 and republished at 44 FR 63496; November 2, 1979. In addition, this rulemaking finalizes proposed rules revising the current rounding procedures published at 44 FR 57414, October 5, 1979; and provides new language to clarify outreach regulations published at 44 FR 64386, November 6, 1979.

Two major impacts are expected from these final regulations. The Department expects program integrity to be enhanced by the social security number and fraud procedures since these will provide the tools and incentives necessary to lessen fraud and abuse. The second impact the Department expects is that the rounding procedures (published proposed at 44 FR 57414; October 5, 1979) will improve program efficiency by increasing comparability between this program and public assistance programs.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy/Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, FNS, USDA, Washington, D.C. 20250. (202) 447-9075.

SUPPLEMENTARY INFORMATION: 1979 Amendments to the Food Stamp Act of 1977.

This preamble articulates the basis and purpose behind any significant requirements which have been changed from the proposed rulemaking. The reasons supporting the provisions of the proposed rules which are unchanged by the final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the proposed rulemaking.

The amendment sets forth procedures by which social security numbers may be obtained for all members of food stamp households as authorized by Section 4 of Pub. L. 96-58. That section amended the Food Stamp Act of 1977 (Title XIII of Pub. L. 95-113, 91 Stat. 958) to enable the Department to require as a condition of eligibility for participation in the Food Stamp Program, that each household member furnish to the State agency his or her social security account number or numbers.

In addition, this rulemaking amends the regulations so that individuals subject to disqualification from program participation for fraudulent conduct are required to agree to either a reduction in the household's food stamp allotment or to a repayment in cash in order to again participate in the Food Stamp Program, as mandated by Section 5 of Pub. L. 96-58.

This rule also amends Part 273 to reflect changes made by Section 6 of Pub. L. 96-58 to permit each State agency to retain 50 percent of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain food stamp allotments.

A total of 69 comment letters were received on the 1979 amendments on social security numbers, group homes and fraud disqualification and overissuance recovery. There were 23 comment letters received from State agencies, 32 from public interest groups, 4 from local agencies, two from other government agencies, two from regional offices and six from the general public.

It should be noted that all of the comments received by December 17, 1979 were given full consideration. The comments received after December 17, 1979 were considered to the fullest extent possible. There were several technical comments, relating to regulation references, word changes, etc. These are not specifically addressed in this preamble.

Social Security Numbers

Implementation

The section on implementation of the social security numbers (SSN) provisions received 17 comments. Two of the commenters misunderstood the proposed regulations, commenting that implementation of the SSN requirement by July 1980 is unrealistic. The Department did not intend that this requirement be fully implemented by July 1980. The final rules require that State agencies start requesting participants' and applicants' social security numbers no later than the first of the month, 120 days from the date of publication of final rules. The numbers will be requested at the time of application and recertification.

The Department feels that this implementation schedule will provide State agencies adequate time to prepare for implementation. One State agency commented that the proposed implementation schedule was reasonable and would not be disruptive to normal operations. The Department concurs with this position.

Fourteen commenters expressed the opinion that program participants should receive advance notification of this eligibility requirement and the consequences of the failure to comply. One local agency and 13 public interest groups suggested advance notification in the form of individual notices, media releases and other outreach efforts. The Department believes that these suggestions have merit, and the final rulemaking has been rewritten to include an advance notification requirement. Specifically, the final rulemaking allows the State agency to send a one-time notice prior to implementation or to send a notice of the SSN requirement when notices of expiration are sent. State agencies may use one or a combination of these alternatives. In addition the State agency will have to give some type of notice through the media, for example, a press release announcing the requirement.

Requirement for Participation

The four large areas of concern expressed by the commenters on this section were as follows: (1) Requiring the SSN as a condition of eligibility; (2) application of requirement to children; (3) status of aliens relative to the requirement; and (4) 90-day participation pending receipt of the number.

The first area, requiring SSN's as a condition of eligibility received a total of 32 comments with four State agencies and 11 public interest groups opposing the requirement, and 12 State agencies, two local agencies, two government agencies and one public interest group supporting the requirement. One State agency opposing the requirement stated it could not serve any purpose related to cross matching of information in their State since they were on a manual system. One State was concerned about the increase in workload and administrative cost although this State, while not actually in support of the requirement for that reason, did not strongly oppose the requirement. One State agency questioned the value of SSN's as antifraud devices, especially to noncomputerized States. Another State agency was opposed to making the requirement mandatory. This State suggested that since Congressional legislation offered this provision as an option, at least initially, this option should be passed along to the States. It was believed, based on AFDC enumeration experience, that this requirement would consume an "extraordinary amount of staff time" and that the results did not justify the increased workload.

The public interest groups opposing this requirement gave numerous reasons. Those most often cited were as follows: clients are already overburdened with a process requiring excessive verification of personal situations; there are enough eligibility requirements already and further eligibility requirements will reduce program participation; the requirement is an overzealous attempt to eliminate fraud and constitutes harassment; it will be a hardship for poor people to obtain SSN's; and, finally, Congress intended to allow the requirement, not mandate it. As stated in the preamble to the proposed regulations, the Department researched Congressional intent in the area of requiring SSN's as a condition of eligibility. The legislative history views the use of an SSN as a positive measure to counteract fraud and program abuse. The Department has decided to mandate the requirement as the best way to effectively carry-out the Congressional intent. The Department also does not agree that this requirement will create an unmanageable workload or will result in reduced program participation by harassing and overburdening applicants and participants. It is estimated that over half of the food stamp caseload already has SSN's i.e., that portion of the caseload which has been subject to AFDC enumeration as well as participants who receive social security and/or SSI benefits and the working members of nonassistance food stamp households. The Department is allowing for program participation pending receipt of the SSN. Unless an applicant or participant actually refuses to cooperate it is unlikely that participation will be adversely affected.

The State agencies and other commenters supporting the requirement generally feel that the requirement will indeed reduce fraud, and that it clearly follows Congressional intent.

Some of the State agencies supporting the requirement did, however, comment in the second area of concern in this section, that is, the application of the requirement to children. Seven comments were received on this subject. One Regional Office, four States and two public interest groups wanted the requirement limited to adults or persons receiving income. Some of the commenters suggested limiting the requirement to members of households over 16 or 18 years of age. Another commenter suggested that the requirement be applied to all individuals who are or have been employed, or who are or have been receiving income from any source, regardless of age. These commenters all felt that there is very little benefit to be gained by requiring SSN's for children, particularly those without income. Delaware pointed out that based on their AFDC experience, social security enumeration requires a significant amount of staff time and that since most adults have social security numbers, most staff time is spent trying to enumerate infants and young children. They further note that "the number of infants and young children who are subsequently found on computer cross checks to have earned income is obviously zero; the number found to be receiving unreported SSI or OASDI benefits is very small". It was the opinion of the four States commenting on this that the benefits to be derived from enumerating children could not justify the manhours that would be expended in this effort.

After evaluating these comments, the Department has decided to require SSN's for household members 18 years and over and for those children under 18 years who receive countable income from any source. It is the Department's opinion that this responds both to the concern of the commenters and to the intent of Congress that SSN's be used for income cross-checking. The final rulemaking has been rewritten to reflect this decision.

The Department plans, at a later date, to evaluate the cost effectiveness of requiring SSN's as a condition of eligibility for all household members, regardless of age, and may expand the requirement in the future, if, contrary to

the comments of these States, it is proven cost effective.

The third issue raised in this section concerned the application of the requirement for an SSN to aliens. Eight commenters, all public interest groups, stated that aliens should be exempt from the requirement until such time as SSA and USDA have negotiated an agreement for the provision of SSN's to aliens. As stated in the preamble to the proposed regulations, SSA currently issues SSN's to aliens admitted for permanent residence, for refugees and for those legal temporary aliens who are given employment authorization by the Immigration and Naturalization Service (INS). Moreover, legally admitted temporary aliens who do not have documentation that they are "employment authorized" are issued SSN's when they have valid nonwork reasons, for example if they have a bank account. Discussion with SSA indicates that applying for food stamps will be considered a valid reason for obtaining an SSN. However, there should not be significant problems relative to temporary aliens since most aliens, with status as alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country, are not eligible for food stamps, although they may be able to obtain an SSN as explained above.

Thirteen commenters addressed the last area of concern in this section, the provision of allowing 90-day participation pending receipt of an SSN. One State agency and seven public interest groups supported the 90-day provision as a fair and reasonable time to allow for participation pending receipt of an SSN. One government agency opposed 90 days as too long and suggested a 45–60 day time-period, although, as explained below, this may have been based on a misunderstanding of the time it takes to get an SSN. One State agency and one member of the general public suggested 180 days instead of 90 days, stating that 90 days is not long enough. The proposed regulations (in the preamble) noted that the 31 day average processing time was from the completion of the application for an SSN to the date of SSN issuance. SSA staff indicated that this should be reworded to state that, based on study information, the average processing time from the point at which *all required documentation has been submitted* to the date of SSN issuance is approximately 31 days. In many cases the individual applying for an SSN will need some time to obtain the documents required to be submitted with the application for the SSN. For example, an individual may need to write to a State or local agency to obtain a copy of a birth certificate and receipt of this document may take several weeks. To allow for a possibly longer processing time due to a delay in the receipt of required documentation the Department has reworded the final regulations to specify that the 90 day participation pending the receipt of an SSN shall begin at the date of the food stamp eligibility determination rather than the date of application. This provision, as well as allowing for participation in excess of 90 days (with good cause), should address those situations in which the process takes longer than 90 days. It is the Department's position that the 90 days as reworded, and, in addition, the good cause provision, will result in equitable treatment of program participants.

Obtaining SSN's for Household Members Required To Provide an SSN

There were four comments on this section of the proposed regulations. One local agency felt that it should be optional for the State agency to file the SS–5, to avoid requesting verification of citizenship which is not currently required in the Food Stamp Program. A public interest group wanted it made clear that States having agreements with SSA to allow filing of SS–5's for individuals without SSN's are obligated to file those applications. As both the proposed and final regulations note, it is actually up to the applicant or the participant to decide whether or not request the State agency to take the applications for an SSN. If the individual requests this service and the State agency has such an agreement with SSA, then the State agency will process the application. SSA commented that State agencies with an agreement with SAA for AFDC enumeration should renegotiate new agreements with SSA to include the Food Stamp Program as soon as possible.

Language has been added to the final regulations to this effect and to require that all State agencies which currently have agreements with SSA have to renegotiate those agreements to include food stamps. One State suggested that USDA should come to some agreement with SSA to ensure prompt processing of applications for an SSN. The Department expects that SSA will handle these applications as expeditously as possible.

Verification of Social Security Numbers

The section on verification of SSN's at initial and subsequent certification received 15 comments. Six public interest groups supported certification pending verification of an SSN and there were no comments opposing this concept, which remains unchanged in the final rules. One Regional Office and one other government agency noted that State agencies do not have routine user status of BENDEX for food stamps purposes and until such status is approved BENDEX could only be used if the responsible individual representing the household signs an individual release of information form. This was true at that time but effective January 7, 1980, the Food Stamp Program was given routine user status of BENDEX (exclusive of use of wage information) and consequently no change to the proposed regulations is necessary.

SSA commented that it should not be directly queried by local food stamp staff until the State agency has been queried for SDX information since each State receives a SDX tape or printout. Local agencies should attempt to contact their State office for SDX information prior to contacting SSA directly for this information.

One Regional Office, two States and one public interest group suggested that the regulations specify that staff should not reverify an SSN that has already been verified for use in other programs such as AFDC, Medicaid, etc. The Department concurs with this suggestion and has included this in the final rulemaking. The Department has also clarified that once an SSN is verified it shall not be reverified unless the number or the identity of an individual becomes questionable.

Finally, two States commented on the methods of verification; one State suggested that verification of SSN's should be performed through a tape exchange with SSA and another State suggested that verification should be limited to either a copy of an actual social security card, verification from SSA through tapes or other means. The Department wants to allow State agencies the flexibility to handle the variety of case situations which they will face. For those States which have BENDEX and/or SDX tapes readily accessible the use of these tapes to verify SSN's would be practical. In situations where household members will not be either BENDEX or SDX or these tapes are not readily accessible, then the State agency will have to use, as verification of SSN's, documents containing the SSN which are provided by the household. If the State agency chooses to rely on the household to provide documentation then the State agency cannot specify that only one type of documentation, such as a social

security card, is acceptable as verification.

Expedited Service

This section received 12 comments, 11 of which reflected a misunderstanding of the proposed rulemaking. A total of 11 public interest groups interpreted the proposed rules incorrectly, assuming that the Department was proposing to establish a shorter time standard for getting an SSN in those cases in which households receive expedited service. The Department never intended that households certified under expedited procedures would not receive the 90 days allowed other households to participate pending receipt of an SSN. The Department's intention was that households receiving expedited service be certified before being asked to furnish or obtain a social security number. Once these households receive their first allotment they will be required to furnish or apply for an SSN and allowed the full 90 days from the date of eligibility determination allowed other households to obtain the SSN. The final regulations have been rewritten to clarify this provision.

One State agency felt that applicants using expedited service should furnish or obtain their SSN's before receiving their first allotment. However, as stated in the preamble to the proposed regulations, Congress specifically indicated that individuals entitled to expedited service would be permitted to furnish an SSN after receiving their first allotment. This was intended to avoid a delay in benefits simply because an SSN cannot be furnished immediately. The final regulations as written reflect this intent.

Failure To Comply

This section of the proposed regulations prompted 11 comments. One government agency suggested that the disqualification should be applied to the entire household. As stated in the preamble to the proposed regulations the intent of Congress was very clear on this subject. The legislative history specifically references the individual without an SSN who fails to comply by either refusing to provide or to apply for an SSN. It never refers to disqualification of the entire household. Ten public interest groups expressed the opinion that only adults should be disqualified for failure to supply their SSN. The feeling of these commenters was that minors are not responsible for obtaining their own number and thus should not be disqualified if an adult member of a household acts irresponsibly. This concern is, of course, alleviated somewhat by the fact that the final rulemaking requires SSN's only for household members 18 years and over as well as for children under 18 who receive countable income. The Department, however, is of the opinion that obtaining SSN's for children under 18 who receive countable income is a household responsibility and that there would be no incentive for the responsible adult to obtain and furnish a number for such a child if it makes no difference if they do not. The Department feels that it is more consistent with present disqualification policy and more straight forward to disqualify the household member who is receiving income and for whom the SSN is sought, even if this individual is a minor. The final rulemaking is this section is written to apply to each household member for whom an SSN is required.

Determining Good Cause

Ten comments were received on this section of the proposed regulations. One State and five public interest groups supported the section as written. Some commenters thought that the section should be more specific and one commenter felt that a requirement should be added to require a caseworker to assist a household member in obtaining the documents required by SSA to establish age, identity and citizenship or alien status if the individual is having difficulty obtaining these. The Department feels that the section is adequately specific: it is clear that as long as the individual has applied for and provided, or is trying to obtain, the documentation necessary for an SSN application, good cause will exist for a delay in furnishing an SSN. The Department has added language to this section suggesting that the State agency caseworker assist the individual in every way possible in obtaining the SSN. SSA has also suggested that it would be helpful if the State agencies distributed the SSA pamphlet "Applying for a Social Security Number" to program applicants and participants. State agencies are encouraged to do so and should contact SSA to obtain sufficient copies of this informational pamphlet.

Use of Social Security Numbers

This section of the proposed regulations received ten comments, nine of which were from public interest groups. These groups felt that the language was too broad and that it could result in abuse of "client privacy and rights." These commenters generally suggested that the use be limited to verification of income eligibility, preventing duplicate participation and facilitating mass changes. The remaining commenter, a government agency, felt that the language was too weak and that the use should be more specifically addressed, i.e., use of SSN's to match wage information, etc. As explained in the preamble to the proposed rulemaking, the Department felt that Congress did intend that SSN's be used as an antifraud device. Using the SSN's to avoid duplicate participation is an example of this use. The amendment specifies that State agencies shall have the same access provided to HEW to the information regarding individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act, to the extent that the Secretaries of USDA and DHEW determine that access to SSI information is within the purposes set forth in the statute. Other uses not inconsistent with Federal or State privacy laws or other pertinent legislation, and which further administration of the program, would also be permitted. The proposed regulations allowed for such usage, and the final regulations remain unchanged.

SSN Disqualification

This section of the proposed regulations, concerning the sending of a notice of adverse action to a household containing a member who has failed to comply with the SSN disqualification, received six comments, all from public interest groups. The six commenters all requested that the notice of adverse action reference the household's right to a fair hearing and one commenter suggested that available legal aid be mentioned. There is no change needed in the final regulations to satisfy these comments. The content of a notice of adverse action is clearly defined in the October 17, 1978 regulations (43 FR 47846) and includes an explanation of the household's right to a fair hearing. A reference to the section of the October 17 regulations specifying the content of the notice has been included in the final regulations.

Mass Changes

This section received a total of 15 comments. One State, one local agency and seven public interest groups opposed the requirement to conduct desk reviews after July 1, 1980 for those households receiving social security/SSI benefits. These commenters felt that these households are being unfairly singled out. They also questioned the Department's requiring desk reviews in this situation when desk reviews were not mandated for the implementation of the new medical and shelter deductions.

The Department gave State agencies the option of conducting desk reviews of cases affected by the medical and shelter deduction regulations. Desk reviews for medical expenses are pointless as the level of the deduction can only be determined through a report made by the household. Desk reviews for shelter expenses alone would duplicate effort to process reported changes in medical expenses. With these factors in mind the Department did not think it practical to mandate desk review conversion for the medical and shelter deduction amendment. State agencies do have available to them information on the SSI/Social Security cost-of-living increases and can act without contact from a participant. State agencies with the capability to make point-in-time changes through use of a computer or by other means will be able to make the change in benefits without the use of desk reviews. In addition, in most States some cases will be handled through recertifications which are due during the 180 days allowed to effect the cost-of-living increase change.

For the remaining cases, it is the Department's opinion that, in 1980, desk reviews of cases receiving social security/SSI cost-of-living increases, within 180 days of the effective date of the increase, will result in these cases being treated more uniformly and equitably than in the past. The variance between States in the handling of this change will be greatly reduced. For this reason the final regulations retain the desk review requirement for cases which are not changed through other means. The final regulations also allow States with the capability to perform an automated conversion, but which have some difficulty in doing so, to identify the affected cases by other means.

Six State agencies commented on the method of effecting the social security/SSI cost-of-living increase on an ongoing basis. One State agency felt that desk reviews were preferable to conducting complete recertifications of these particular cases. Two State agencies and one local agency were concerned about the increased workload resulting from mandatory mass reviews of social security and SSI cases each year. Another State agency, Kentucky, suggested that States "be given the latitude to either assign certification periods as provided in the proposed regulations or conduct desk reviews during July, August, and September on cases whose certification does not expire during one of these months." They felt that allowing this option would reduce the number of times elderly participants would need to come to the certification office and also reduce the administrative burden on the State agency. The department has rewritten the final regulations to allow all State agencies without the capability to perform an automated conversion the option of effecting the social security/SSI cost-of-living increases through scheduled recertifications and/or through a desk review on these specific cases.

A State agency may use one or a combination of these options. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may also effect the increases through recertification and/or desk reviews. Moreover, to lessen the workload burden on State agencies, the final rulemaking allows States to complete this conversion over a 120 day period. The Department wants to both allow States sufficient time and to ensure uniform treatment of these cases.

Fraud Disqualification, Recovery and Retention

Introduction

Of the 69 comment letters, 46 letters made one or more references to the proposed regulations on fraud claims. The comments were primarily on areas in which the Department has discretion and not areas set by the statute. Overall, 22 State and local agencies and 19 public interest groups submitted comments on the fraud provisions with the remaining comments from the general public and from FNS Regional Offices and other governmental offices. The primary issues discussed by commenters included the minimum amount of a claim for conducting a fraud hearing; implementation; the six-month disqualification for individuals convicted of fraud by a court when the court does not impose a period of disqualification; holding fraud hearings for current ineligibles, the rate of allotment reductions and claims repayment.

Increasing the Minimum Amount for Fraud Claims

In the preamble to the proposed rule, suggestions were requested on raising the present limit of $35 for conducting a fraud hearing. Fourteen comments suggested that the minimum be raised to $100, five suggested that the amount be tied to the cost of pursuing a fraud claim; and the remaining comments had various suggestions or opinions including a two-tiered system based on the amount of the claim and any previous offenses. Although the comments received provided various suggestions on the minimum level of claims to pursue, the Department does not believe that sufficient information is yet available to make a decision on changing the $35 minimum.

The comments did, however, point out the need for further study of the issue. The Department intends to survey States' costs for collecting fraud and nonfraud claims. After the results of the survey are evaluated, proposed rulemaking will be issued, if warranted.

Implementation

Two comments were received which discussed the implementation schedule. The issues raised were the 120-day implementation schedule and when the 50 percent retention rate becomes effective. The proposed 120-day implementation deadline was adopted for the final rule; however, the Department did clarify that implementation would be the first of the month following the 120th day after publication. The Department believes that this period gives States adequate time to make all necessary changes. Changes in reports required by FNS are currently being made and, if not completed by implementation, FNS will provide instructions on submitting interim reports.

One commenter suggested that the Department clarify whether fraud claims established or collected after implementation are subject to the new provisions including the 50 percent State retention. The Department is adding language to make clear that the State may keep half of fraud claims *collected* after implementation, even though the fraud claim was established prior to implementation. The 50% retention would even apply to fraud claims established under the 1964 Act which are collected after these provisions are implemented. However, the State agency may only apply the recovery provisions of these regulations to fraud claims which have been established through an administrative fraud hearing or a court of appropriate jurisdiction as provided for by the 1977 Act and subsequent regulations. These provisions are, therefore, retroactive to implementation of the fraud claims provisions under the 1977 Act.

Any individual who was found guilty of fraud either through an administrative hearing or by a court and who is not already making restitution must be notified (through the revised agreement letter) of the new recovery requirements and be notified that failure to agree to restitution will result in another period of disqualification until agreement is made. In addition to notifying these individuals, the State agency may want to notify persons making cash

repayments of the changes in order to allow them to convert to allotment reduction. Regardless, should this latter category of individuals fail to continue its cash repayments subsequent to implementation, these individuals must be sent the agreement letter when cash repayments cease or diminish, before allotment reduction may be imposed.

Six-Month Disqualification

Another provision which received several comments was the imposition of an automatic six-month disqualification for individuals found guilty of fraud by a court which failed to address or specify a period of disqualification. The majority of comments opposed this provision. Seven comments opposed the six-month disqualification based on lack of legal authority although those States commenting on the issue generally supported it if the Deparment believed that there was sufficient legal authority. The rationale for this decision was provided in the preamble to the proposed regulations. The Department believes that disqualification of individuals found guilty of fraud is required by the Act and supported by the legislative history. A six-month disqualification is the minimum cited in the Act for a court decision of fraud. The Act specifically provides that an individual is ineligible upon being found criminally or civilly fraudulent for a period of not less than six and not more than 24 months as determined by the court. Thus, the Department believes Congress intended the court to have authority to set the period of disqualification but, without the court's determination, the individual would be ineligible to participate for six months by operation of the statute itself. This provision allows for more equity between individuals found guilty of fraud by a court as all such individuals would be disqualified, regardless of whether or not the court addressed the issue. It should be noted that the individual and his/her household would receive notice prior to the disqualification. The Department believes, therefore, that a six-month disqualification balances legislative intent and program uniformity with fairness to fraudulent individuals and provides for protection of their rights.

Fraud Hearings for Current Ineligibles

About 19 commenters expressed an opinion on holding an administrative fraud hearing for currently ineligible households; all but five opposed the provision. Of these, 12 public interest groups and one State agency were in opposition with five State agencies and the Department's Office of the Inspector General expressing support. The most frequent reason given for opposing the provision was that the individual's rights could be violated primarily because the person would be more likely not to attend the hearing when not participating. Most of those supporting the provision believed it would further curb abuse and be a meaningful deterrent to fraud.

The Department is retaining this provision as proposed. An opinion from the Department's Office of General Counsel (OGC) states that the Food Stamp Act clearly provides authority for administrative fraud hearings but "* * * is not explicit as to the appropriate time for them." Further, it is believed that this provision contributes to the clear Congressional intent of aggressive action to counteract fraud.

This provision will also assist individuals accused of fraud because the information necessary to oppose the allegation of fraud would be more current and witnesses more readily available. One commenter, a public interest group, conditionally supported this provision if "clear and specific notice" were provided. The notice procedures already set forth in the regulations would be followed, thus assuring timely notices of an impending hearing and an explanation of the household's rights.

Agreement Letters

Eleven letters contained comments on some aspect of the written agreement letter for restitution. Five commenters felt that States should not be permitted to deviate from the FNS-designed agreement letter. This suggestion is not adopted as States need the flexibility to develop forms compatible with their own systems. However, all State-designed forms must be approved by FNS which will closely monitor them to assure that the minimum requirements are met including a clear explanation of the household's rights. One commenter suggested that the names and addresses of available legal services be added. The Department has not adopted this suggestion since the notices telling the household of the fraud hearing and other hearing notices contain this information.

Two State agencies commented that the notice should contain language that advises the household that it will automatically be subject to benefit reduction for failure to make a scheduled cash payment. As a result of these regulations, changes in the claims forms are in preparation, and all the information required by these regulations is being incorporated, including language on this point. States will be allowed, however, to deviate from the FNS-designed forms under the same conditions allowed for other forms.

Changes in Household Composition

Only two comments were received on handling fraud claims when the guilty individual has left the household. One was technical and the other opposed taking recovery action against the household in which the fraudulent individual currently is a member. The Department is adopting the technical suggestion which is to delete the introductory phrase from § 273.18(d)(1) concerning collection of nonfraud claims. The provision on collection of fraud claims is retained and a clarification on pursuing nonfraud claims is added. The Department can only reiterate the reasons for this action from the proposed rule. This provision conforms most closely to the law which states that the fraudulent individual is responsible for making repayment of the overissuance. This provision places the liability with the individual thus making the individual's current household liable, not the former household.

Repayment of Fraud Claims

General. Numerous comments addressed various aspects of the fraud collection system. The majority of these comments were from public interest groups expressing concern that the regulations did not adequately ensure the negotiation of the amount of a repayment schedule or the renegotiation, if needed, of these items if the household's economic situation changes. The Department believes these rights are stressed in the regulations as the method of repayment and the amount of cash installments are discussed with the household and fully explained in agreement letters. Establishing a repayment schedule can only be accomplished with participation by the household. Consequently, the final decision of the State agency is based on discussion with the household and analysis of its economic situation.

The guilty individual has a responsibility to repay the fraudulent overissuance, and the regulations are structured to require repayment, either through cash or allotment reduction, or to enforce disqualification for failure to agree to repayment. Therefore, these provisions are revised slightly to require that the household be advised of its right to request a renegotiation of repayment agreements but the State agency retains its rights to enforce collection. Another area of concern was that the set rate of allotment reduction allows for only limited exceptions. The Department believes because allotment reduction is

more administratively complex than cash repayment, and because the household is offered the option of cash repayments that the State agency must be permitted to recover an amount which will possibly provide a higher rate of return than cash especially when allotment reduction is imposed for failure to make scheduled cash payments. Therefore, the State agency is allowed a set rate, with the only exceptions being those that will allow for liquidation within a year or to make reduction easier to account for, both by the State agency and for the household to know exactly, from month to month, its allotment level.

Comments were received that stressed the need for reinstating the disqualified member as soon as possible at the end of disqualification period. This is desired to allow for prompt recovery of the fraudulent overissuance through allotment reduction should the individual fail to make cash repayment. However, due to statutory constraints, these regulations require that the fraudulent individual continue his/her disqualification period for failure to agree to restitution. The only time a State agency can automatically impose allotment reduction is when the fraudulent individual makes a lesser payment or no payment at all. These households will not receive a notice of adverse action as they are informed of the consequences of failure to make agreed to cash payments. The regulations do prevent participation by individuals who do not meet their responsibility to make restitution.

Other comments received suggested considering coupons "retained" during the individual's period of disqualification as recovered funds. The Department maintains that recovery and disqualification including disqualification for failure to agree to repayment are two separate and distinct issues and must remain so. The Act requires both disqualification *and* recovery and discusses these in terms of two separate actions. If benefits lost during disqualification were counted towards repayment, the fraudulent individuals are being credited benefits which, by law, they are ineligible to receive. The language from the proposed regulation prohibiting this action is retained. Another issue raised by commenters on this provision was that households should not be forced to liquidate all of its assets to make a lump sum cash repayment. It was never intended in the proposed rules that a household would be so compelled. Therefore, sentences are added to the final regulations to avoid this misunderstanding.

One commenter suggested that claims over $100 be subject to a combination of cash repayment and allotment reduction. This was not adopted as a requirement but it is not precluded by the regulations if voluntarily agreed to by both the State agency and the household. Because of the potential for administrative complexities in many States for tracking the two methods of payments, this was not mandated. The household would be informed of its rights especially including its right to renegotiate the monthly cash payment level should its economic circumstances change.

Two State agencies suggested that a minimum cash repayment amount be established. This prospect is not precluded by the regulations. The regulations allow for negotiation of the repayment schedule between the State agency and the household, with the State agency having to "accept installment payments." Therefore, the State agency has the right to refuse to settle on the amount tendered by the individual when it considers this amount to be insufficient. The individual would then be required to make adjustments or be subject to either disqualification or automatic allotment reduction depending on the timing of the negotiation.

One commenter suggested that repayment be postponed until the household's income reaches a set percent of the poverty guideline. This is not contemplated by the statute, and the Department has not adopted this suggestion. The law does not exempt any individual found guilty of fraud from repayment.

Rate of allotment reduction. About 39 comments were received on this aspect of fraud claims recovery. Of these, 13 suggested that the reduction be set at 25% or the pro-rata share of the fraudulent individual's entitlement, whichever is less. Four commenters supported the 25% figure; two opposed it without suggesting any alternatives; four simply suggested making the criteria more flexible, depending on the household's circumstances; and three suggested that the AFDC rate be adopted in lieu of the 25%.

Seven commenters suggested that a maximum percentage amount, not a minimum, be set, and two commenters preferred that a fixed dollar amount be set, not a percentage. The latter commenters felt the percentage method would require frequent recalculations of the recovery amounts. The remaining comments include extending the three-year payment period.

The Department adopted the suggestion that the rate of reduction be set at the lesser of 25% or the fraudulent individual's pro-rata share of the entitlement. This is adopted primarily because it has been determined that the regulations, as proposed, would have imposed an undue burden on the households of five or more and because of the number of commenters, including State agencies, that supported this procedure. Approximately 21 percent of the food stamp caseload (as of February, 1978) contain five or more persons. We feel this provision will not cause a significant administrative burden on the State agency due to the different calculation. This provision will, however, prevent the disincentive for larger households to not participate in the Program due to the relatively larger loss of coupons as compared to smaller households. The option for percentage reduction of a lesser amount if the claim amount can be recovered within a year is retained as is the exception for setting equal amounts.

As to comments about a maximum recovery level, the Department believes this was set by the 25% recovery rate and further constrained by adding the pro-rata share limit. Further, a household is able to choose either a negotiated cash repayment schedule or an allotment reduction.

The House Agriculture Committee recently considered an amendment to pending legislation which would have penalized the entire household for fraudulent conduct, not just the individual. This amendment was voted down, thus reaffirming Congress' intent that the individual be held responsible for fraud. Adding the pro-rata share method is, therefore, consistent with Congressional intent to have the liability rest with the individual by not subjecting larger households to losing a disproportionate share of its allotment; i.e., a share that reflects benefits for other household members in addition to the fraudulent individual.

State Retention of Funds

Only five comments were received on this provision—one opposed, two in support, and two suggesting that the coupons "retained" during disqualification be counted toward the State's retention level. The rationale for not considering coupons "retained" during disqualification as restitution was discussed earlier under the heading of repayment of fraud claims. Clearly, the State agency cannot be allowed to be credited for this method of recovery while the fraudulent individual is not. Clarification was also added that retention of 50% of recovered amounts

applies to any claims *collected* after implementation, not just established. This will provide incentive for State agencies to reevaluate suspended claims and is also administratively easier as a dual accounting system is not required.

Outreach

The Department issued final outreach regulations in the November 6, 1979 **Federal Register** (44 FR 64386–64395). One provision of those regulations requires State agencies to operate, at the State level, toll-free statewide hotline services which participants and potential participants can use to obtain program information and applications, lodge complaints and make inquiries. There was some misunderstanding among readers as to what the November 6, 1979 regulations meant in reference to the use of machine answering systems. This amendment to the November 6, 1979 outreach regulations is intended only to resolve this misunderstanding. In no way does this amendment impose an additional regulatory requirement upon State agencies or weaken the requirement for either a hotline or an alternate system of equal quality.

The Department required the establishment of statewide Food Stamp hotlines because it believes that hotlines are the most effective way to offer the required services to participants and potential participants. However, the Department recognized that, in some States, a hotline service may not be the best way to offer the required services. Therefore, the regulations allowed State agencies, with FNS approval, to get exemptions from this requirement. According to the regulations, such exemptions would be granted to State agencies that can demonstrate that the low level of use of the hotline service does not warrant the continued expense of its operation. In lieu of the hotlines in these States, an alternative method of providing the required services to participants and potential participants must be established. These regulations clarify that a machine answering system may be used as one alternative that would be acceptable and that any alternative system must provide telephone access at no cost to the caller and assure that the calls are promptly answered.

Rounding Procedures

Introduction

On October 5, 1979 (44 FR 57414), the Department published a proposal to revise the current rounding procedures used to calculate net income and benefits in the Food Stamp Program. These procedures would have allowed State agencies to use either the standard rounding procedures or rounding procedure in effect for that State's AFDC program. At that time the Department invited interested parties to comment on the proposed rulemaking. Seventy-three organizations and individuals commented—25 State and local agencies, 25 interest groups, 21 members of the public, and two FNS Regional Offices. Their comments addressed the issues of the comment period, the implementation schedule, the rounding procedures, rounding as applied to shelter, net income and allotment figures, publication of allotment tables by FNS and the publication schedule of this final rulemaking.

Comment Period

Six commenters stated that there was an inconsistency between the Department's determination that the proposed rulemaking was significant and its decision to allow a comment period of only 45 days. To allow interested parties the fullest opportunity to comment, the Department extended the comment period until December 15, 1979.

Implementation

Two State agencies supported the Department's proposal to allow State agencies to implement any changes in the rounding procedures in three methods: at recertification, desk review, or mass conversion of all or part of the caseload. One commenter opposed the option of converting only part of a State agency's caseload at one time. One State agency suggested implementation should be restricted only to recertification or recomputation for currently certified households. One commenter suggested that State agencies be allowed to delay implementation for new applications until they conduct mass conversions by computer. The schedule allows State agencies to implement in accordance with their own respective capabilities. Gradual implementation of these regulations will result in slightly different treatment of similar households for a limited period of time. However, the impact upon most clients will be minimal or nonexistent while the impact upon program administration will be significant.

The Department has not revised the proposed implementation schedule except to require implementation for new applications and recertifications and conversions by July 1, 1980.

Calculating Net Income

This issue drew 72 comments. The procedure currently in use requires State agencies to drop the cents from all figures used in calculating net income and allotments, except for individual shelter expenses. Three State agencies, two local agencies, 25 interest groups and 19 members of the public supported the continued use of this procedure. The Department's proposal would allow State agencies either to round all figures to the nearest whole dollar or to follow their own AFDC rounding procedures. This proposed procedure received the support of 15 State agencies, two local agencies, and one member of the public. Two State agencies and one local agency suggested a third option, that is, allowing State agencies to implement the Department's proposal or to continue using the current procedure.

The final regulations contain the same rounding procedures proposed in the rulemaking of October 5, 1979. This decision was made after considering the comments, particularly as they related to the effects of the procedures on clients and State agencies, and the cost of the alternatives to the Department's proposal.

The new rounding procedures will assure greater consistency between AFDC and food stamps, which helps improve the administrative efficiency of both programs. In addition, under the old rounding procedures, some households' incomes were slightly overstated. The new rounding procedures will more accurately calculate the benefits to which households are entitled. The Department is not allowing State agencies to continue using the current method unless it is also used for AFDC because it does not calculate households' benefits as precisely as the procedure of rounding to the nearest whole dollar.

Calculating the Allotment

One State agency recommended that all cents be dropped from net monthly income before calculating the allotment; and one Regional Office recommended that rounding to the nearest whole dollar be used through to the calculation of the allotment. According to Section 8(a) of the Food Stamp Act of 1977 rounding in the calculation of the allotment must be to the nearest whole dollar. Therefore, the Department is changing the regulations by requiring that State agencies calculate the allotment by multiplying the household's net income (rounded in accordance with § 273.10(e)(1)(ii)) by 30 percent, rounding the product to the nearest whole dollar and subtracting the rounded product

from the household's Thrifty Food Plan. The remainder is the household's allotment. This uniform method guarantees that all households with the same net monthly income will receive the same allotment.

Remaining Issues

One commenter recommended that rounding not be allowed in computing total shelter cost. The Department believes that State agencies should be allowed the flexibility to round the total shelter cost if they want to, or to use the actual unrounded amount. Consequently, this recommendation is not being adopted.

Two commenters recommended that FNS continue to provide allotment tables for use by State agencies. While the Department intends to continue this practice, two groups of tables will be needed until the end of the conversion period. The Department will attempt to continue to distribute tables at the earliest date practicable.

One commenter recommended that these regulations be published in conjunction with the final regulations implementing the 1979 Amendments to the Food Stamp Act of 1977. This is being done in this final rulemaking.

Rounding may also be necessary in other calculations involving the allotment, such as the benefit reduction calculation required by § 273.18(e)(2).

Therefore, Parts 272 and 273 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. New subparagraphs (8), (9) and (12) are added to § 272.1(g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(8) *Amendment 152.* The rounding procedure set forth in § 273.10(e) shall be in effect for new applications and recertifications no later than July 1, 1980. The State agency shall have up to 12 months following the implementation date of final regulations to convert the current caseload to the rounding procedure that is chosen under § 273.10(e)(1)(ii). The State agency shall have a choice of the following three options in converting households that are already participating at the time the new rounding procedure goes into effect: (i) convert households at recertification: (ii) convert households by conducting a desk review; or (iii) convert all households, or all households in a certain category, at a point-in-time. For example, the State agency may convert all public assistance households or all households in a project area by computer. Point-in-time mass conversions shall be conducted no later than July 1, 1980. In any case, the State agency shall advise FNS regarding which rounding and caseload conversion procedures are chosen and when the conversion will be completed.

(9) *Amendment 154.* State agencies shall implement the program changes required by Amendment 154 as follows:

(i) State agencies shall begin requiring social security numbers for all new applications and recertifications no later than the first day of the first month which commences 120 days from the date of publication of final rules. Participating households shall be requested to provide or apply for social security numbers (SSN) for appropriate household members at recertification, or at the time of office contact for any other reason. The State agency shall provide advance notification of this requirement and the consequences of noncompliance by sending an individual notice to all participating households and by providing press releases for dissemination through the media. The individual notices may be sent as either a one-time notice prior to implementation and/or with the notices of expiration of a certification period.

(ii) If any affected member(s) of a household does not have his or her SSN readily available at the time of application, recertification, or any office contact, he or she shall follow the procedures for furnishing an SSN in accordance with § 273.6 as amended.

(iii) State agencies shall implement the fraud claims procedures contained in § 273.16 and § 273.18. Implementation shall be no later than the first of the month following the 120th day from the date of publication of final rules. By implementation the State agency shall also have an approved system for handling claims, including a method for accounting for the fifty percent retention of the value of funds collected from fraud claims. Any collection action on fraud claims after implementation is subject to the fifty percent retention including claims established under the Food Stamp Act of 1964 as amended and under the Food Stamp Act of 1977, as amended. However, only individuals found guilty of fraud through an administrative fraud hearing or through a court of law under regulations promulgating the Food Stamp Act of 1977, as amended, are subject to the recovery provisions in §§ 273.16 and 273.18 retroactive to implementation of fraud claim provisions under the 1977 Act.

* * * * *

(12) *Amendment 161.* The clarification on hotline alternatives in § 272.6(b)(8) is effective January 31, 1980

* * * * *

2. In § 272.6 paragraph (b)(8) is amended and reads as follows:

§ 272.6 Outreach

* * * * *

(b) *Minimum requirements.* * * *

(8) *Hotlines.* State agencies shall operate toll free telephone hotline services at the State level that can be used by participants and potential participants to secure program information and application forms, lodge complaints and generally facilitate their participation in the Program. The Alaska State agency is exempt from the requirement for maintaining a toll free hotline at the State level. The Alaska State agency shall, however, provide an alternative means for participants and potential participants to secure program information and applications, lodge complaints and make inquiries. The alternate procedures for Alaska are subject to FNS approval through the Outreach Plan submitted in accord with paragraph (e) of this section. Other State agencies that can demonstrate conclusively that the number of calls received on the food stamp hotline does not justify the expense of its operation may be granted an exemption by FNS from this requirement, provided an alternative system is established to allow participants and potential participants, at no cost to themselves, to secure program information and applications, lodge complaints and make inquiries. State agencies requesting exemptions shall provide documented evidence of justification to FNS, including the average number of calls per month; the cost of hotline equipment, service, and staff; efforts to publicize the availability of the hotline service; and a description of the alternate service that will be offered in lieu of the hotline service. An example of an acceptable alternative would be a machine answering system where toll free calls are recorded and promptly returned by someone knowledgeable in program policy and procedures. The quality of a State agency's alternative system shall meet the hotline standards outlined in this paragraph, i.e., it must provide some means of telephone service at no cost to those who use it and the response to users shall be prompt.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.2, a new subdivision (v) is added to § 273.2(f)(1), subdivision (i) of § 273.2(f)(9) is revised, and § 273.2 (i)(4)(i) is amended to read as follows:

§ 273.2 Application processing.

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.** * *

(v) *Social Security Numbers.* The social security number(s) (SSN) reported to the State agency by the household shall be verified by the State agency. However, the State agency shall not delay certification of an otherwise eligible household solely to validate any member's SSN, even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed except for verification of an SSN, the State agency shall certify the household. If verification of an already reported SSN is not completed at inital certification, it shall be completed at the time of or prior to the household's next recertification. The SSN shall be verified in one of the following ways:

(A) Matching the reported SSN with information supplied by the Social Security Administration (SSA) such as BENDEX or SDX computer tapes or printouts;

(B) Observing the household member's social security card or any official document containing the SSN. If the individual has no social security card or other official document containing the SSN or the social security number appears questionable, the State agency shall verify the number either by matching it with SSA tapes or submitting or having the individual submit Form SS–5, Application for a Social Security Number, to the Social Security Administration. In the latter case, the State agency shall advise the individuals where to file and discuss with them what evidence will be needed. Once an SSN has been verified, the State shall annotate its file accordingly to prevent the need for reverification in the future. State agencies shall accept as verified an SSN which has already been verified through the Aid to Familes with Dependent Children program, Medicaid, or other similar programs. A verified SSN shall be reverified only if the identity of the individual or the SSN becomes questionable.

* * * * *

(9) *Verification subsequent to initial certification.*—(i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section. Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in § 273.2(f)(1)(v).

* * * * *

(i) *Expedited service.* * * *

(4) *Special procedures for expediting service.* * * *

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card or birth certificate. Households entitled to expedited service shall not be required to furnish or apply for a social security number until after they have received their first allotment. However, these households shall be required to furnish an SSN before their next issuance in accordance with subdivision (iii) of this subparagraph. Those households unable to provide the required SSN's or who do not have one shall be allowed 90 days to obtain the SSN, in accordance with § 273.6(a)(2). The household's income statements shall be verified through a collateral contact, or readily available evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standards described in paragraph (i)(3) of this section solely because income has not been verified.

§ 273.20 [Redesignated from § 273.6]

4. In § 273.6 SSI Cash-out States is renumbered § 273.20 and § 273.6 is retitled Social Security Numbers. The new § 273.6 reads as follows:

§ 273.6 Social security numbers.

(a) *Requirement for participation.* (1) The State agency shall require that a household participating or applying for participation in the Food Stamp Program provide the State agency with the social security number (SSN) for each household member 18 years or older and each child under 18 who receives countable income. If individuals have more than one number, all numbers shall be required. The State agency shall explain to applicants and participants that refusal to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained in accordance with paragraph (c) of this section.

(2) If any household member(s) required to provide an SSN is unable to provide the State agency with an SSN prior to certification or recertification, the member who does not have an SSN, and therefore must apply for one, shall be allowed to participate for 90 days from the date of eligibility determination while awaiting receipt of the social security number.

(3) If the SSN has not been obtained within the 90 days from the date of eligibility determination and the participant cannot show good cause why an SSN has not been obtained, the participant shall be disqualified in accordance with § 273.6(c). If the SSN has not been obtained within the time limit but good cause has been established, then the participant may continue to participate provided the individual has documentation indicating he/she has, in fact, applied for the SSN. Household members without an SSN who are required to provide an SSN shall be eligible to participate while waiting for the Social Security Administration (SSA) to issue an SSN as long as they have filed an application for an SSN accompanied by the necessary verification and can document this.

(b) *Obtaining SSN's for food stamp household members 18 years and over and children receiving income.* (1) For those individuals who provide SSN's prior to certification, recertification or at any office contact, the State agency shall record the SSN and verify it in accordance with § 273.2(f)(1)(v).

(2) For those individuals required to provide an SSN who do not have one, the State agency shall use one of the following two procedures:

(i) In a State where an agreement exists between the State agency and SSA which allows the State agency to complete the application for an SSN, Form SS–5 the State agency shall offer to and shall complete this form at the

household's request. State agencies which have such an agreement with SSA for AFDC and Medicaid shall be required to renegotiate these agreements for food stamp purposes as soon as possible in order to offer this service to food stamp applicants and participants. To complete Form SS–5, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS–5 to SSA. The State agency can complete the SS–5 only when this renegotiated agreement between SSA and the State exists.

(ii) If the household member elects to complete the SS–5 and apply to the SSA directly or in a State in which no agreement with SSA exists, the State agency shall inform the household member where to apply and what information will be needed. The State agency shall suggest that the household member ask for proof of application from SSA, in the event his or her application is not processed within the 90 day time period described in paragraph (a) of this section. SSA normally uses the Receipt for Application for a Social Security Number, Form SSA–5028, as evidence that an individual has applied for an SSN. State agencies may also use their own documents for this purpose.

(3) The State agency shall follow the procedures described in subparagraphs (2) (i) and (ii) above for individuals who do not know if they have an SSN, or are unable to find their SSN.

(c) *Failure to comply.* If the State agency determines that a household member(s) required to provide an SSN as a condition of eligibility has refused to provide it, then the individual without the SSN shall be ineligible to participate in the Food Stamp Program. If, at the end of the 90 day period allowed in paragraph (a) of this section, the State agency determines that a household member(s) required to provide an SSN has failed without good cause to attempt to supply the documentation required by SSA to be submitted with the application for an SSN, the individual without the SSN shall be ineligible to participate until that individual complies. The disqualification applies to the individual(s) for which the SSN is not provided and not to the entire household. The earned or unearned income of an individual disqualified from the household for failure to comply with this requirement shall be handled as outlined in § 273.9(b)(3) of these regulations.

(d) *Determining good cause.* In determining if good cause exists for failure to comply with the requirement to provide the State agency with an SSN, the State agency shall consider information from the household member, the Social Security Administration and the State agency (especially if the State agency was designated to send the SS–5 to SSA and either did not process the SS–5 or did not process it in a timely manner). Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying timely with this requirement. If the household member(s) applying for an SSN has been unable to obtain the the documents required by SSA, the State agency caseworker should make every effort to assist the individual(s) in obtaining these documents.

(e) *Ending disqualification.* The household member(s) disqualified may become eligible upon providing the State agency with an SSN or demonstrating that an application has been made at SSA for a social security number.

(f) *Use of SSN.* The State agency is authorized to use social security numbers in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary and the Secretary of HEW, State agencies shall have access to information regarding individual Food Stamp Program applicants and participants who receive benefits under title XVI of the Social Security Act to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefits of these households. State agencies shall use the State Data Exchange (SDX) to the maximum extent possible. The State agency should also use the SSN's to prevent duplicate participation, to facilitate mass changes in Federal benefits as described in § 273.12(e)(3) and to determine the accuracy and/or reliability of information given by households.

5. In § 273.9, paragraph (b)(3) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16, for failing to comply with the student work registration requirements in § 273.7(b)(9)(i) or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, shall continue to be counted as income, less the pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11.

6. In § 273.10 paragraphs (e)(1)(ii) and (e)(2)(ii) are revised and a new paragraph (f)(3)(iv) is added as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(e) *Calculating net income and benefit levels.*—(1) *Net monthly income.* * * *

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures: (A) Round down in each income and allotment calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents; or (B) apply the rounding procedure that is currently in effect for the State's Aid to Families with Dependent Children (AFDC) program. If the State AFDC program includes the cents in income calculations, the State agency may use the same procedure for food stamp income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and then to round the final shelter deduction amount.

* * * * *

(2) *Eligibility and benefits.* * * *

(ii) The household's monthly allotment shall be equal to the Thrifty Food Plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the State agency shall round the product down if it ends in 1 through 49 cents and round the product up if it ends in 50 through 99 cents, prior to subtracting that amount from the Thrifty Food Plan. All eligible one and two-person households shall receive a minimum monthly allotment of $10. This rounding method shall be used in all determinations of allotments.

* * * * *

(F) *Certification periods.* * * *

* * * * *

(3) * * *

* * * * *

(iv) If a State agency opts to effect the Social Security/SSI cost-of-living increase through the process of recertification, the affected cases shall be assigned certification periods that ensure that they are due for recertification in accordance with § 273.12(e)(3)(ii). Households entitled to a certification period of up to 12 months as discussed in § 273.10(f)(5) shall, on a one-time basis, be certified for less than a year in order to comply with this provision.

* * * * *

7. In § 273.11 the introductory text of paragraph (c) is rewritten and a new subdivision (iii) is added to (c)(5) to read as follows:

§ 273.11 Action on households with special circumstances.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud, for failure to meet the student work registration requirements during the school year or for failure to obtain, or refusal to provide, an SSN. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

* * * * *

(5) *Reduction or termination of benefits within the certification period.*

* * *

* * * * *

(iii) *SSN disqualification.* If a household's benefits are reduced or terminated within the certification period because one or more of its members required to provide an SSN is being disqualified for failure to meet the SSN requirement, the State agency shall issue a notice of adverse action, in accordance with § 273.13(a)(2), which informs the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

* * * * *

8. In § 273.12, paragraph (e)(3) is revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* * * *

* * * * *

(3) *Mass changes in Federal Benefits.* (i) State agencies shall treat cost-of-living increases received in July 1981 and all other subsequent years and any other mass changes in social security and SSI payments as a mass change for food stamp purposes. The household shall not be responsible for reporting these changes. The State agency shall be responsible for automatically adjusting a household's food stamp benefit level to reflect the change in accordance with the procedures in paragraph (e)(2) of this section, or as noted in paragraph (e)(3)(ii) of this section.

(ii) State agencies which have the capability shall treat the increases as a mass change in accordance with the procedure in paragraph (e)(2) of this section. A State agency is capable of treating these changes as a mass change if the State agency's computer system can identify by social security number individual household members receiving social security or SSI payments and the amount of these payments, and the computer system can extract on a timely basis the new benefit data from BENDEX and/or SDX for each recipient. All other State agencies shall have the option to use any one, or a combination of the following methods: Schedule all households containing one or more members who receive social security or SSI benefits for recertification during July, August, September, and October of each year so that the cost-of-living increases can be reflected in a timely manner; conduct desk reviews to effect the change within the 120 day period. If a State agency with the capability to perform an automated conversion has difficulty doing so, it may use one or a combination of the other two methods described.

(iii) For cost-of-living increases scheduled for July 1980, State agencies which have the capability shall treat the increases as a mass change in accordance with the procedures in paragraph (e)(2) of this section. All other State agencies shall, within 180 days of the effective date of the increase, identify cases receiving social security and SSI payments by either desk reviews or at recertification and reflect the cost-of-living increase in the household's allotment. If a State agency with the capability to perform an automated conversion has difficulty doing so, then it may identify cases receiving social security and SSI payments using the methods discussed above and adjust the household's allotment.

9. In § 273.13, a new subparagraph (11) is added to paragraph (b) to read as follows:

§ 273.13 Notice of adverse action.

* * * * *

(b) *Exemptions from notice.* * * *

(11) Converting a household from cash repayment of a fraud claim to benefit reduction as a result of failure to make cash repayment as discussed in § 273.18.

10. In § 273.16, paragraphs (a), the introductory text of paragraph (d) and paragraphs (d) (9)(ii) and (e)(3) are amended and a new subparagraph (4) is added to § 273.16(e) to read as follows:

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. If the court fails to specify or address a disqualification period for the fraudulent act, the State agency shall impose a six-month disqualification period unless it is contrary to the court order. State agencies shall disqualify only the individual convicted of fraud and not the entire household. If the individual fails to agree to make restitution, the period of disqualification shall continue until the individual agrees to make restitution. Individuals or the remaining household members shall be permitted to make restitution during the period of disqualification in accordance with established procedures for cash repayment or allotment reduction.

* * * * *

(d) *Administrative disqualification.* Each State agency shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. An administrative fraud hearing should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has committed one or more acts of fraud as defined in paragraph (b) of this section. Such cases may include those in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which prosecution was declined by the appropriate legal authority. The State agency may initiate an administrative fraud hearing regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the final hearing decision shall be deferred until the individual applies for and is determined eligible for program benefits. Fraud hearings shall not be conducted if the amount the State agency contends has been fraudulently obtained is less than $35 or if the value of the coupons used to obtain ineligible items is under $35. The burden of proving fraud is on the State agency. The administrative fraud hearing may be conducted regardless of whether other legal action is planned against the household member.

* * * * *

(9) *Notification of hearing decision.*

* * *

(ii) If the administrative fraud hearing finds that the household member

committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification, or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested, and that benefits will be continued pending a State level hearing if the household is otherwise eligible. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies for and is determined eligible for program benefits. A written agreement letter for restitution explaining the repayment requirements in § 273.18(e) shall also be sent. The written agreement letter for restitution shall inform the individual of the amount owed; the reason for the claim; the period of time the claim covers; any offsetting that was done to reduce the claim; the types and terms of each restitution schedule which is offered; the date restitution must commence in order to avoid continuing the period of disqualification; and the household member's right to a fair hearing if the individual disagrees with the amount of the claim. The household shall also be informed of its rights to request renegotiation of any agreed to schedule should the household's economic circumstance change and contain spaces for the individual to complete indicating the method of repayment and a signature block. Deviations may be granted from the FNS-designed agreement letter under the conditions in § 273.2(b). A list of the household member's rights as contained in § 273.15(p) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

* * * * *

(e) *Court imposed disqualifications.* * * *

(3) State agencies shall disqualify an individual found guilty of fraud for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the State agency shall impose a six-month disqualification period unless contrary to the court order. The court-imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court-ordered disqualification shall run concurrently with the 3-month disqualification period imposed through an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(4) If the court finds that the household member committed fraud, the State agency shall mail a written notice, designed or approved by FNS, to the household member. The notice shall be sent prior to disqualification, whenever possible. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in § 273.18(e). In addition, the State agency shall include the written agreement letter for restitution described in paragraph (e)(3) of this section.

* * * * *

11. In § 273.18 paragraphs (c) (3), and (4) are deleted and paragraph (c)(2), and paragraphs (d) and (e) are amended; paragraph (f) (2) is renumbered as (f)(3) and paragraphs (f)(1) and (f)(2) are amended. The amended paragraphs read as follows:

§ 273.18 Claims against households.

* * * * *

(c) *Fraud claim.* * * *

(2) *Collecting fraud claims.* (i) If a household member is found to have committed fraud (through an administrative fraud hearing or by a court of appropriate jurisdiction) the State agency shall send the individual a written agreement letter for restitution as indicated in § 273.16(d)(9)(ii). In addition, a personal contact shall be made, if possible. The State agency shall initiate such collection unless the household has repaid the overissuance as a result of nonfraud demand letters, the State agency has documentation which shows the household cannot be located, or the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.

(ii) One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the written agreement letter, the State agency shall send a subsequent notice, as described in § 273.16(e)(3), advising the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in paragraph (e)(2) of this section. The disqualified member shall not be considered a household member until a repayment agreement is reached. The procedures for handling the income and resources of this disqualified member are described in § 273.11. A written demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a nonfraud demand letter because the time period covered by the claim and the method of collection are different for fraud and nonfraud claims. In addition to the written agreement letter a personal contact shall be made, if possible. The State agency may also initiate civil court action to obtain the claim.

(iii) The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by an administrative fraud hearing or a court of law. The State agency shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in paragraphs (e) and (f) of this section.

(iv) If the household executes a repayment agreement, the State agency

shall follow the procedures prescribed in paragraph (e)(2) of this section for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

(v) If the State agency can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years. The State agency may use a suspended claim to offset benefits in accordance with § 273.17.

(d) *Change in household composition*—(1) *Nonfraud claims.* The State agency shall initiate collection against the head of the household or against the individual who was the head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(2) *Fraud claims.* If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency shall initiate collection action against the household currently containing the fraudulent individual.

(e) *Methods of collecting payments.* (1) State agencies shall collect payments for nonfraud claims in one of the following ways:

(i) *Lump sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.

(ii) *Installments.* If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, a payment schedule shall be negotiated with the household. Payments shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount (including any amount compromised) of the claim to offset benefits in accordance with § 273.17.

(2) State agencies shall collect payments for fraud claims in one of the following ways:

(i) *Reduction in food stamp allotment.* Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be the lesser of 25 percent of the household's monthly allotment *or* the fraudulent individual's pro rata share of the entitlement. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year using a lesser percentage. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 272.17.

(ii) *Repayment in cash.* If the household member found guilty of fraud agrees to a repayment in cash, and the individual is financially able to repay the claim in full, the State agency shall collect the payment in one lump sum. However, if the household has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. If the full amount of the claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. A State agency may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(iii) If the household member fails to make a payment in accordance with the established cash repayment schedule, (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that no payment or an insufficient payment was received. The notice shall also inform the individual that unless he or she makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction without a notice of adverse action. If the individual fails to respond to the notice, the State agency shall invoke allotment reduction. If the household does respond the State agency shall take one of the following actions as appropriate:

(A) If the individual makes the overdue payments and wishes to continue payments based on the previous schedule, permit the individual to do so;

(B) If the individual requests renegotiation, and if the State agency concurs with the request, negotiate a new payment schedule and execute a new written agreement letter;

(C) If the individual requests renegotiation of the amount of its cash repayment schedule but the State agency believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the State agency may invoke allotment reduction or continue renegotiation until a settlement can be reached and executed. If allotment reduction is invoked, no notice of adverse action is required.

(iv) State agencies may initiate civil court action to obtain payment of the claim prior to the end of the disqualification period. However, the State agency shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule or to make the agreed upon payment, except for the allotment reduction which shall occur when repayment of a claim is beginning after the period of disqualification and the household member found guilty of fraud does not make agreed to cash repayments in accordance with the procedures prescribed in this section.

(f) *Submission of payments.* (1) The State agency shall retain the value of funds collected for both fraud and nonfraud claims; this includes any claims collected or established after the date the State implements the fraud recovery provisions. This amount includes the total value of allotments reduced to repay fraud claims, except for allotments reduced during a period of disqualification. The States' letter of credit will be amended on a quarterly basis to reflect the States' retention of 50 percent of the value of fraud claims collected as well as full retention by FNS of all nonfraud overissuance recoveries.

(2) Each State shall submit monthly a Form FNS–209, Status of Claims Against Households, to detail the State's activities relating to claims against household. This report is due no later than 30 days after the end of each calendar month and shall be submitted to FNS even if the State agency has not collected any payments. In addition to reporting the amount of funds recovered from fraud claims each month on Form FNS–209, the State agency shall also report this amount on other letter of credit documents as required. In accounting for fraud claim collections, the State agency shall include cash repayments and the value of the allotments recovered or offset by restoration of lost benefits. However, the value of allotments reduced during periods of disqualification shall not be considered recovered allotments and

shall not be used to offset a fraud claim. In addition, each State agency shall establish controls to ensure that officials responsible for fraud determinations will not benefit from the State share of recoveries.

* * * * *

Note.—These proposals have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that these actions should not be classified as significant under those criteria.

Note.—Food Stamp forms are being revised in accordance with the requirements of this amendment. The reporting and/or record keeping requirements anticipated in this amendment resulting from the revisions of forms will be forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(91 Stat. 958 (7 U.S.C. 2011–2027).)

Final Impact Statements have been prepared and are available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamps)

Dated: January 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-3485 Filed 1-30-80; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 237]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

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

EFFECTIVE DATE: February 3, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* The 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.

The committee met on January 29, 1980, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opporunity to submit information and views on the regulation at an open meeting. 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.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of the regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS USDA, Washington, D.C. 20250, telephone 202–447–5975.

§ 910.537 Lemon Regulation 237.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 3, 1980, through February 9, 1980, is established at 190,000 cartons.

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

Dated: January 30, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-3608 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of onions grown in designated counties in South Texas to be inspected and meet minimum size and quality requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews (202) 447–3824.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulate the handling of onions grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the November 14, 1979 **Federal Register** (44 FR 65592) regarding the proposal. It afforded interested persons an opportunity to file written comments by January 14, 1980.

One comment was received from Mrs. Darlene Barter, manager of the South Texas Onion Committee. Mrs. Barter was concerned that there was no limit on the number of 40 pound cartons permitted under paragraph (f)(3), experimental shipments. Such a limit was in the regulation last year but was removed this year in order to give the committee more latitude in reaching decisions regarding experimental shipments. However, at the request of the committee, the 4,000 carton limit again is being made a part of the regulation.

One other comment was received from Mr. George Eisenberg of the Eisenberg Company, Omaha, Nebraska. Three of the five items Mr. Eisenberg was concerned with were the

percentage of defects in each lot, the effect of onions with loose skins, and the requirements for jumbo size onions. In its open meeting on October 17, 1979, the committee carefully deliberated the many factors that are involved in recommending regulations. As a result of these deliberations the committee recommended the regulation hereinafter set forth, including appropriate grade and size tolerances, as being in the best interests of both the consumer and the industry. The Department believes, therefore, that the points covered by these suggestions have been considered by the committee in formulating its recommendation. Mr. Eisenberg also suggested that consideration be given to adding the metric weight equivalent on all printed bags. The Department finds merit in this suggestion and is currently studying ways to implement it both for this and other commodities. And finally it was suggested that the grade of the onions be marked on the bag to comply with certain State requirements. This suggestion cannot be accepted since the order does not authorize container markings.

This regulation is based upon recommendations made by the committee at its public meeting in Laredo, Texas, on October 17, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1980 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 3, 1980.

The grade and size requirements are similar to last season's and are designated to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export may be shipped from March 3 through May 10, 1980. In order to provide more orderly marketing from all districts, the inspection and container requirements are extended through June 14, 1980.

The container requirements will prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, they will not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is intended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. Handlers are permitted, with the approval of the committee, to grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This prevents handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 110 pounds of onions may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The requirements with respect to special purpose shipments allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and should encourage exports by allowing the use of containers required for such purposes. Onions for canning and freezing are exempt under the legislative authority for this part. Shipments for relief or charity are exempt since no useful purpose would be served by regulating such shipments.

Findings. After consideration of all relevant comments, including the proposal set forth in the notice, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." A final impact analysis is available from Robert F. Matthews (202) 447-3824.

§ 959.319 [Terminated]

Section 959.319 is hereby terminated and § 959.320 is added. The regulation is as follows:

§ 959.320 Handling regulation.

During the period March 3 through June 14, 1980, no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on May 10, 1980.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or longer;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f), only the following containers may be used:

(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with inside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with inside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e) or (f)(1) of this section, unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation or any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document is surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessments on all assessable onions according to the provisions of § 959.220.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) of this section shall not be applicable to shipments of onions for charity, relief, canning and freezing if handled in accordance with paragraph (g) of this section.

(2) Onions may be packed in 50-pound cartons or in 2, 3 or 5 pound containers customarily used for the retail trade. Such shipments shall be exempt from paragraph (c) of this section but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section.

(i) Shipments of such containers shall not exceed 10 percent of a handler's total weekly onion shipments.

(ii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iii) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(3) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside demensions of 47 inches by 37½ inches by 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 40-pound cartons not to exceed 4,000 cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed ten percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section. The receiver shall furnish the committee with a report on the arrival condition of each shipment.

(ii) Upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section.

(4) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages and ships onions for export on any Sunday, such handler shall on the first workday following shipment, cease all grading, packaging and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(5) *Onions failing to meet requirements.* Onions failing to meet the grade, size and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons or 2, 3 or 5 pound containers customarily packed for the retail trade shall:

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

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(h) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 2851.2830–2851.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U. S. No. 1" shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(i) *Applicability to imports.* Onions imported during the period March 24 through May 10, 1980, will be in most direct competition with onions produced in South Texas and regulated under Marketing Order No. 959, as amended. Therefore, under Section 8e of the act and § 980.117 "Import Regulations" (43 FR 5499) such imported onions shall have not more than 20 percent defects of U. S. No. 1 grade and be at least 1 inch in diameter for white varieties and at least 1¾ inches in diameter for all other varieties. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerance in the U.S. Grade Standards shall apply to in-grade lots.

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

Dated January 29, 1980, to become effective March 3, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-3434 Filed 1-31-80; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 2006

Management; Operations Review

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) removes its regulations pertaining to operations review from the Code of Federal Regulations (CFR). The intended effect of this action is to remove these regulations from the CFR since they involve only internal Agency management.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George S. W. Marvin, (202) 447–2369.

SUPPLEMENTARY INFORMATION: It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This change, however, is not being published for public comment since it involves only internal Agency management. Therefore, publication for public comment is unnecessary. This

determination has been made by Mr. Joseph H. Linsley.

Accordingly, Subpart M of Part 2006, chapter XVIII, Title 7, Code of Federal Regulations, is hereby deleted and reserved.

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

This final rule has been reviewed for applicability of the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this rule involves agency management only and is therefore exempt from those procedures. A determination has also been made that this action should not be classified "significant" under the USDA criteria.

(7 U.S.C. 1989; 42 U.S.C 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: January 24, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80–3347 Filed 1–31–80; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the county of Bonneville in Idaho and Adams in Iowa, to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the county of Alcorn in Mississippi, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county now qualifies only as a Modified Certified Brucellosis Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 76751–76754) effective December 28, 1979. These amendments add the county of Bonneville in Idaho and Adams in Iowa, to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the county of Alcorn in Mississippi to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from the list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in § 78.1(m) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Idaho.* Bonneville; *Iowa.* Adams; and deleting: *Mississippi.* Alcorn.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by adding: *Mississippi.* Alcorn; and by deleting: *Idaho.* Bonneville; *Iowa.* Adams.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating an area as a Modified Certified Brucellosis Area imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

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 Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 28th day of January 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80–3159 Filed 1–31–80; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Doc. No. 20011; Amdt. No. 135–3]

Air Taxi Operators and Commercial Operators; Commuter Pilot in Command Operating Experience Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that each commuter air carrier pilot meet increased operating experience levels before serving as a pilot in command. The intended effect is to upgrade the amount of pilot experience

in the aircraft being flown in order to achieve a higher level of safety. The necessity for this amendment is indicated by recent fatal commuter accidents involving pilots with low pilot time in the aircraft being operated.

DATES: Effective date: March 1, 1980. Comments by: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McCorvey, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

ADDRESS: Comments on this proposal may be mailed in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 20011, 800 Independence Avenue, SW., Washington, D.C. 20591.

Or be delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments delivered must be marked "Docket No. 20011." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 1978, the FAA issued an extensive set of new and revised Part 135 regulations governing commuter air carriers and on-demand air taxi operators. These were published in the **Federal Register** on October 10, 1978 (43 FR 46783; Docket No. 16097). These regulations had two basic premises. First, operating experience over a representative number of years established the need to generally upgrade the requirements of Part 135. Second, in the light of airline economic deregulation legislative proposals which were progressing through Congress in 1977 and 1978, it was contemplated that the air taxi industry generally, and especially its commuter air carrier segment, would be called upon under deregulation to provide even more air transportation services than that rapidly growing air transportation component had furnished prior to 1977. It was expected that under economic deregulation, large air carriers would pull out of small markets and that in many cases commuter air carriers would step in and shoulder the job of providing air transportation.

Accordingly, in the development of revised Part 135, the agency placed heavy emphasis upon upgraded requirements for commuter air carriers. These requirements were constructed in the regulations by making some provisions explicitly applicable to commuter air carrier operations while others were made applicable to those aircraft customarily found in commuter operations.

Congress likewise recognized the increased role that commuter air carriers would be called upon to assume under deregulation when it passed the Airline Deregulation Act of 1978 on October 24, 1978 (Pub. L. 95–504). In that Act, Congress required the FAA to establish regulations which, to the maximum feasible extent, provide a level of safety to passengers traveling on commuter air carriers equivalent to that afforded passengers traveling on certificated carriers. Congress also charged the agency with the duty to periodically assess the pertinent safety achievements and report to the Congress. The agency had already recognized the need for a continuing review of Part 135 safety regulations when it noted in the preamble to revised Part 135 that a review of those regulations would be announced early in 1980.

The foresight and wisdom of Congress and the agency in planning for deregulation has been established. Commuter air carriers have enjoyed remarkable growth in the slightly more than 1 year since the Airline Deregulation Act was passed and, in general, that industry has responded well to the challenges.

Need for this Regulatory Change

During 1979 there have been 13 fatal accidents in commuter air carrier operations, several of which involved multiple fatalities.

The FAA has analyzed these accidents with the goal of identifying adverse trends and determining how these trends can be stopped. This analysis shows that there were significant numbers of single pilot operations where the pilot was not able to cope with an abnormal or emergency situation arising during the takeoff or early phase of flight. Further analysis reveals that the single pilot, although possessing significant experience in multiengine airplanes, had a low experience level in the specific make or model being operated at the time of the accident. For example, in a March 1, 1979 accident which killed the pilot and all seven passengers, the pilot was engaged in his first flight in the particular make and model being flown, although he did have 15 hours in a virtually identical make and model of airplane. In an accident on August 9, 1979, resulting in three fatalities, the single pilot had 30 hours in the make and model. In an October 8, 1979, accident which killed all eight persons on the airplane, the single pilot had 28 hours in the make and model, which included 20 hours line operating experience and a flight check with the company check pilot. However, the check pilot did not cover emergency procedures on the flight check. The FAA withdrew the check pilot's authorization on account of this deficiency. Finally, on November 2, 1979, the pilot and 5 passengers were killed in a commuter air carrier accident. Although the pilot had a total of approximately 10,000 total hours, he had only 2 hours in the make and model used on the fatal flight.

These accidents and general operating experience show that extensive total time or multiengine time do not establish that a pilot in command can safely operate a particular make and model of aircraft. Accordingly, there is a compelling need to establish minimum operating experience requirements which must be met before a pilot may be designated to serve as pilot in command on a commuter air carrier passenger-carrying flight. Moreover, although the single pilot operations accidents which have occurred were in VFR conditions, they indicate pilot deficiencies which have serious implications in operations under the greater demands imposed in IFR conditions where a single pilot operation is conducted with an autopilot in lieu of a second in command. If abnormal or emergency situations similar to those which occurred in the accidents discussed above were to occur under IFR conditions, the single pilot with a low level of experience in the make and model would be faced not only with handling the specific problem, but also with operating the aircraft under IFR conditions. Low levels of experience in the make and model of aircraft flown present an unacceptable safety risk in this latter type of situation also. The FAA recognizes that this amendment may have an economic impact on the affected certificate holders; however, the safety consideration, set forth above, requires its adoption.

The Amendment

These amendments will require two things. First, certain minimum levels of operating experience in the make and model of aircraft as a pilot in command under the supervision of a qualified check pilot must be acquired before a person may be designated to serve as a pilot in command in any commuter air carrier passenger carrying operation. The number of hours ranges from 10 for a relatively simple single-engine piston aircraft to 25 for a complex, high performance turbojet airplane. The operating experience requirement is

similar in many respects to that required of pilots of large, certificated carriers in § 121.434. Thus, this change follows the mandate of the Airline Deregulation Act of 1978.

Second, with respect to the single pilot autopilot operation, before a person can serve as a pilot in command of a commuter air carrier passenger flight, that person must have logged not less than 100 hours in the make and model of aircraft to be flown and have met all other pertinent requirements of Part 135. This change would ensure that a pilot has aircraft familiarity and proficiency sufficient to adequately cope with situations such as those encountered in the single pilot accidents discussed above if those or similar situations occur under IFR conditions.

Persons designated prior to the effective date of this amendment as pilot in command on the make and model of aircraft to be flown are not subject to the operating experience requirement. The 100-hour requirement under § 135.105 applies to all pilots in command, including those designated as pilot in command prior to the effective date of this amendment. The 100 hours may be obtained in operations under VFR conditions or in operations governed by Part 91, or it may have been accumulated in operations under this part prior to the effective date of this amendment.

Need for Immediate Adoption

In view of the number and nature of recent commuter air carrier accidents, there is an urgent need for effecting these amendments as soon as possible. Accordingly, I find that notice and public procedure are impracticable and contrary to the public interest. However, interested persons are invited to submit such comments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the address specified above.

All communications received on or before the date for comments specified above will be considered by the Administrator and these amendments may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 20011." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective March 1, 1980, as follows:

PART 135—AIR RAXI OPERATORS AND COMMERCIAL OPERATIONS

1. By adding a new § 135.244 to Part 135 of Subchapter G as follows:

§ 135.244 Operating experience.

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations, unless that person has completed, prior to designation as pilot in command, on that make and model aircraft and in that crewmember position, the following operating experience in each make and model of aircraft to be flown:

(1) Aircraft, single engine—10 hours.

(2) Aircraft multiengine, reciprocating engine-powered—15 hours.

(3) Aircraft multiengine, turbine engine-powered—20 hours.

(4) Airplane, turbojet-powered—25 hours.

(b) in acquiring the operating experience, each person must comply with the following:

(1) The operating experience must be acquired after satisfactory completion of the appropriate ground and flight training for the aircraft and crewmember position. Approved provisions for the operating experience must be included in the certificate holder's training program.

(2) The experience must be acquired in flight during operations under this part. However, in the case of an aircraft not previously used by the certificate holder in operations under this part, operating experience acquired in the aircraft during proving flights or ferry flights may be used to meet this requirement.

(3) Each person must acquire the operating experience while performing the duties of a pilot in command under the supervision of a qualified check pilot.

(4) The hours of operating experience may be reduced to not less than 50 percent of the hours required by this section by the substitution of one additional takeoff and landing for each hour of flight.

2. By amending § 135.105 by revising paragraph (a) to read as follows:

§ 135.105 Exception to second in command requirement: approval for use of autopilot system.

(a) Except as provided in §§ 135.99 and 135.111, unless two pilots are required by this chapter for operations under VFR, a person may operate an aircraft without a second in command, if it is equipped with an operative approved autopilot system and the use of that system is authorized by appropriate operations specifications. No certificate holder may use any person, nor may any person serve, as a pilot in command under this section of an aircraft operated by a Commuter Air Carrier (as defined in § 298.2 of this title) in passenger-carrying operations unless that person has at least 100 hours pilot in command flight time in the make and model of aircraft to be flown and has met all other applicable requirements of this part.

* * * * *

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421 and 1424); sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Issued in Washington, D.C., on January 30, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-3574 Filed 1-31-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-68]

New Natural Gas and Certain Natural Gas Produced from the Outer Continental Shelf; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Rehearing denial.

SUMMARY: On November 29, 1979, the Federal Energy Regulatory Commission issued Order No. 42-A in Docket No. RM79-68 which, among other things, promulgated a new definition of "commercially producible" for purposes of section 102(d)(2)(B)(iii) of the Natural Gas Policy Act of 1978, Pub. L. 95-621

(NGPA) in § 271.204(c) of the Commission's regulations. A petition for rehearing was filed December 20, 1979, in which petitioners claimed error in § 271.204(c). In this order the Commission denies rehearing for reasons expressed in Order No. 42–A and clarifies that while the general rule concerning "commercially producible" is expressed in the subject regulation, the details of implementing that rule are left to the United States Geological Survey.

DATE: Issuance date: January 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Scott E. Koves, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8317.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Order Denying Rehearing of Order No. 42–A

Issued: January 28, 1980.

I. BACKGROUND.

On November 29, 1979 the Federal Energy Regulatory Commission (Commission) issued Order No. 42–A in Docket No. RM79–68. (44 FR 69642, December 4, 1979) [1] Among other things, Order No 42–A issued a final regulation in § 271.204(c) defining the term "commercially producible", as that term is employed in section 102(d)(2)(B)(iii) of the Natural Gas Policy Act of 1978 (NGPA), in terms of an out-of-pocket operating cost test. In Order No. 42–A, the Commission determined that the same economic test should be applied by the United States Geological Survey (USGS) to establish the "commercial producibility" of a reservoir as it applied to establish the capability of a reservoir to produce in "paying quantities." The Commission reasoned that both rely on the same tests described in OCS Order No. 4. Furthermore, both are used to establish the date of "discovery" of a reservoir for purposes of NGPA section 102(d). Section 102(d) provides that the new natural gas price can be applied to production from an "old OCS lease" as long as the reservoir from which the gas is produced was not "discovered" prior to July 27, 1976.

On December 28, 1979, Shell Oil Company filed a Petition for Rehearing of Order No. 42–A specifying two points of error with respect to § 271.204(c).

[1] Order Denying Motion for Reconsideration and Granting In Part and Denying In Part Petitions For Rehearing of Order No. 42. (Published on December 4, 1979 at 42 FR 69642)

Specifications of Error

a. Shell's first point of alleged error in Order No. 42–A is as follows:

> The Commission erred in promulgating 18 CFR § 271.204(c) as a final rule by failing to define the NGPA § 102(d)(2)(B)(iii) term "commercially producible" to incorporate an economic test taking into account all costs which would have been required to be incurred after the date the relevant tests or evidence were obtained in order to produce and market the gas from the reservoir in question, including any necessary capital costs.

This specification of alleged error is simply a reiteration of an argument raised in a motion for reconsideration filed by Shell on October 11, 1978, on behalf of itself and other indicated producers.

On mimeo pages 20–21 we described the reasons for amending the § 271.204(c) definition of "commercially producible" to coincide with the definition of "capable of producing in paying quantities" in § 271.204(b). At mimeo pages 21–22, we specifically addressed and rejected the identical argument made here by Shell. For the same reasons, we now deny rehearing of this issue.[2]

b. Shell's second specification of alleged error is as follows:

> The Commission erred in promulgating 18 CFR 271.204(c) as a final rule by failing to specify the span of time over which its "out-of-pocket cost" test is to be applied.

This specification of alleged error is grounded on the same basic arguments underlying the first allegation. In calling for a clarification in the rule concerning the "time span" over which the out-of-pocket operating cost test is to be determined, Shell merely reiterates its claim that the "commercially producible" economic test should consider all prospective costs to produce and market the subject reserves, including, for example, capital costs of platforms. Accordingly, for the same reasons expressed in Order No. 42–A at mimeo pages 19–22, we shall again reject this argument and deny rehearing.

However, we recognize that the out-of-pocket test employed in defining "capable of producing in paying quantities" and "commercially producible" is not precisely delineated. Sections 271. 204(b) and (c) are intended only to describe the general economic test historically applied by the U.S.G.S. Given the imprimatur of Congress in section 102(d)(2)(B), the specifics of this test are left to the discretion of the U.S.G.S.

The Commission finds no new facts or principles of law raised in Shell's petition which warrant a reversal of the positions taken in Order No. 42–A.

The Commission orders: The Petition of Shell Oil Company for Rehearing of Order No. 42–A filed on December 28, 1979 in Docket No. RM79–68 is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–3420 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

[2] Shell also asserts that the Commission should amend § 271.204(b), the "paying quantities" definition, to reflect this same full cost approach. We reject this for the same reasons that apply in the case of paragraph (c). We note that this argument seems to contradict the position Shell took at page 6 (Part III) of its Motion for Reconsideration of Order No. 42, filed October 10, 1979 in Docket No. RM79–68. There, at least with respect to NGPA section 102(d)(2)(B) (i) and (ii), Shell recognized that "Congress has clearly adopted long-standing standards implemented and administered by the United States Geological Survey." The full cost standard Shell advocates is not one of these standards.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 510 and 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed for Farm Bureau Services, Inc., providing for safe and effective use of 4- and 10-gram-per-pound tylosin premixes for making complete swine feeds. The regulations are also amended to add Farm Bureau Services, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909, is the sponsor of NADA (118–780) providing for safe and effective use of premixes containing 4 and 10 grams of tylosin (as tylosin phosphate) per pound. The premixes are used for increased rate of weight gain and improved feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to

support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, issued in the **Federal Register** of December 23, 1977 (42 FR 64367), the approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of the safety and effectiveness data in NADA 12-491.

Farm Services Bureau, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Farm Bureau Services, Inc., P.O. Box 30960, Lansing, MI 48909	020584
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
020584	Farm Bureau Services, P.O. Box 30960, Lansing, MI 48909.
* * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(64) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(64) To 020584: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective February 1, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 23, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-3036 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of Statement of Procedural Rules.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco and Firearms. These amendments make certain changes in the Service's procedure, eliminate discriminatory language, and bring certain provisions of the SPR up to date.

DATE: The amendments are effective February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Benedetta A. Kissel of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458 not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the SPR (26 CFR Part 601). These amendments do not meet the Treasury Department criteria for a significant regulation set forth in paragraph 8 of the Treasury Directive for improving government regulations, published in the **Federal Register** for November 8, 1978 (43 FR 52120). The amendments are issued under the authority contained in 5 U.S.C. 301 and 552.

These amendments fall into several categories. A description of the most significant amendments in each category follows:

Conforming Amendments

Several amendments reflect the delegation of authority within the Bureau of Alcohol, Tobacco and Firearms. For example, the change in § 601.327(a) from Director, Alcohol, Tobacco and Firearms Division to Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms reflects the delegation of authority in ATF Order 1100.63B (43 FR 55305). Other amendments relating to the Bureau change nomenclature, addresses, and cross-references.

Several amendments conform the SPR to the procedures set forth in the Internal Revenue Code of 1954 for the assessment, collection, refund, and credit of excise taxes imposed by Chapters 41 through 44 of the Code.

Several sections are changed to conform to the amendments made by section 1202 of the Tax Reform Act of 1976 (Pub. L. No. 94-455, 90 Stat. 1667), which revised section 6103 of the Code, relating to disclosure of returns and return information, and repealed section 6106 of the Code, relating to publicity of unemployment tax returns. Thus, § 601.702(d)(1) is revised to reflect the amendment to section 6103 deleting the provision that returns are open to inspection only upon order of the President and under rules and regulations approved by the President. Paragraphs (d) (2) and (4) of § 601.702, which relate to disclosure of information as to persons filing certain tax returns, are deleted to reflect the amendment of section 6103(f) and the repeal of section 6106.

Paragraphs (a)(1)(i), (a)(2), and (d)(3) of § 601.106, relating to Appeals functions, are amended to conform to Delegation Order 60 (Rev. 5) (1979-48 I.R.B. 20), Delegation Order No. 66 (Rev. 9) (44 FR 33509), and Rev. Proc. 79-59 (1979-48 I.R.B. 21). The amendments relate to limitations upon Appeals

authority and to the processing of cases docketed in the United States Tax Court.

Section 601.203(a)(1) is amended to conform to Delegation Order 11 (Rev. 11) (44 FR 50128), which authorizes certain officials to accept or reject offers in compromise for specified categories of civil and criminal cases.

Amendments deleting out-of-date material

Sections 601.101(c) and 601.501(a) are amended by deleting references to the Economic Stabilization Program, which has been terminated.

Section 601.105(i) is amended by deleting reference to review by the National Office Examination Division of examined cases closed in the Office of International Operations. The National Office no longer performs that function.

Section 601.404, relating to miscellaneous excise taxes collected by sale of revenue stamps, is amended to reflect the repeal of some of these excise taxes.

Amendments clarifying the SPR

Section 601.105(k) is amended to provide further guidance with respect to the transfer of returns between districts for examination or the closing of a case. The amendment makes clear that the transfer of returns is not mandatory and that the effective administration of the tax laws will be considered in determining if returns will be transferred to another district.

Amendments reflecting changes in procedure

Section 601.106(a)(1)(ii), relating to Appeals procedures, is amended to reflect the Service's requirement that a written protest be submitted on all post-assessment penalty appeals.

Paragraph (b)(1) of § 601.502, relating to requirements for recognition to practice before the Revenue Service, is amended to reflect the requirement that taxpayer representatives present satisfactory identification before they appear on behalf of any taxpayer. Paragraph (b)(1)(iii) is amended to extend to enrolled agents the requirement of filing a written declaration of qualification and authorization.

Section 601.504(b)(1), relating to execution of a power of attorney or a tax information authorization, is amended to provide that a husband and wife can authorize separate representatives with respect to joint returns. A separate representative cannot, however, perform any act with respect to a joint return year that the spouse represented could not perform alone.

Section 601.506(b)(2), relating to delivery of refund checks in cases in litigation, is amended to provide a procedure for delivery of such checks in actions arising in the United States Tax Court. Under this procedure a check is delivered to the appropriate Internal Revenue Service District Counsel or, in certain cases, to the appropriate member of the National Office Trial Staff, for delivery to the taxpayer or to the counsel of record.

Amendments eliminating discriminatory language

Many sections of the SPR are amended to eliminate the exclusive use of masculine pronouns in referring to taxpayers, internal revenue agents, etc. For example, in § 601.103(c)(3) "he" is changed to "the taxpayer."

Miscellaneous amendments

Additional miscellaneous amendments are included, such as the correction of a clerical error, the change of a publication number, the addition of form numbers, and other amendments of a similar nature.

Drafting Information

The principal author of these amendments to the Statement of Procedural Rules is Benedetta A. Kissel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments, both on matters of substance and style.

Adoption of amendments to the Statement of Procedural Rules

Accordingly, 26 CFR Part 601 is amended as follows:

PART 601—STATEMENT OF PROCEDURAL RULES

§ 601.101 [Amended]

Paragraph 1. Section 601.101 is amended as follows:

1. Paragraph (b) is amended by deleting "Titles 26 and" from the eleventh sentence and inserting instead "Title".

2. Paragraph (c) is deleted.

3. Paragraph (d) is redesignated paragraph (c) and is amended by deleting "the terms 'Alcohol, Tobacco, and Firearms Division', 'assistant regional commissioner (alcohol, tobacco and firearms)', and 'chief special investigator (alcohol, tobacco and firearms)' shall be construed as meaning respectively 'Bureau of Alcohol, Tobacco and Firearms', 'regional director, Bureau of Alcohol, Tobacco and Firearms', and 'special agent-in-charge, Bureau of Alcohol, Tobacco and Firearms'." from the third sentence, by deleting "Also," and "used in Subpart C of this part," from the fourth sentence, by deleting "director" the first time it appears in the fourth and fifth sentences and inserting instead "regulatory administrator", by deleting "and their geographical compositions" from the last sentence, and by deleting "27 CFR 71.22(b)(3)(ii)" from the last sentence and inserting instead "Appendix A to Subpart C, 27 CFR Part 71".

§ 601.102 [Amended]

Par 2. Paragraph (b)(1)(iv) of § 601.102 is amended by deleting "chapter 42" and inserting instead "chapters 41 through 44".

§ 601.103 [Amended]

Par 3. Section 601.103 is amended as follows:

1. Paragraph (c)(2) is amended by deleting "gift, and excise" from the first sentence and inserting instead "and gift", by inserting "excise" between "and" and "taxes" in the first sentence, and by deleting "chapter 42" from the first sentence and inserting instead "chapters 41 through 44".

2. Paragraph (c)(3) is amended by deleting "He" from the fourth sentence and inserting instead "The taxpayer", and by deleting "he" from the seventh sentence and inserting instead "the taxpayer".

§ 601.104 [Amended]

Par. 4. Section 601.104 is amended as follows:

1. Paragraph (a)(1) is amended by deleting "he himself" from the first sentence and by inserting instead "the taxpayer", by deleting "him" from the third sentence and by inserting instead "the taxpayer", and by deleting "his" from the ninth sentence and inserting instead "the Secretary's".

2. Paragraph (a)(3) is amended by deleting "or" the second time it appears in the first sentence and inserting instead "and", by inserting "or her" between "his" and "estimated tax" in the first sentence, and by deleting "$40" from the first sentence and inserting instead "$100".

3. Paragraph (b) is amended by inserting "or her" between "his" and "return" in the sixth sentence, and by deleting "and paying the unpaid balance of tax due with the return" from the sixth sentence and inserting instead "accompanied by payment of the full amount of the estimated unpaid tax liability".

4. Paragraph (c)(1) is amended by deleting "regional" from the first

sentence and inserting instead "appropriate".

5. Paragraph (c)(2) is amended by inserting "chapters 41 through 44," between "estate," and "or" in the third sentence.

6. Paragraph (c)(4) is amended by deleting "regional" from the first and third sentences and inserting instead "appropriate".

§ 601.105 [Amended]

Par. 5. Section 601.105 is amended as follows:

1. Paragraph (b)(1) is amended by deleting "examining officers" wherever it appears and inserting instead "examiners" and by deleting "examining officer" wherever it appears and inserting instead "examiner".

2. Paragraph (b)(2)(ii) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner", by deleting "his" wherever it appears and inserting instead "the", by deleting "with him" from the sixth sentence, and by deleting "he" from the seventh sentence and inserting instead "the taxpayer".

3. Paragraph (b)(3) is amended by deleting "examining officer" from the second sentence and inserting instead "examiner".

4. Paragraph (b)(4) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner", by deleting "his" from the second sentence and inserting instead "the", by deleting "him" from the third sentence and inserting instead "the taxpayer", by deleting "against him and paid by him" from the eighth sentence and inserting instead "against, and paid by, the taxpayer", by deleting the last word of the eighth sentence and inserting instead "the taxpayer", and by deleting "his" from the ninth sentence and inserting instead "the taxpayer from".

5. Paragraph (b)(5)(i)(*c*) is amended by deleting "he" from the first sentence.

6. Paragraph (b)(5)(iii)(*b*) is amended by deleting "examining officer" from the second sentence and inserting instead "examiner".

7. Paragraph (b)(5)(iii)(*g*) is amended by deleting "he" wherever it appears in the first sentence and inserting instead "the taxpayer" and by deleting "his" from the first sentence and inserting instead "the taxpayer's".

8. Paragraph (b)(5)(iii)(*h*) is amended by deleting "he" the first place it appears and inserting instead "the taxpayer", by deleting "his" and inserting instead "the", and by deleting "he desires such a conference" and inserting instead "such a conference is desired".

9. Paragraph (b)(5)(iv) is amended by deleting "examining officer" wherever it appears and inserting instead "examiner".

10. Paragraph (b)(5)(v)(*e*) is amended by deleting "his" the first place it appears and inserting instead "a taxpayer's", by deleting "his" the second place it appears and inserting instead "the", by deleting "Income Tax" and inserting instead ", Corporation Tax", and by deleting "Miscellaneous and Special Provisions Tax" and inserting instead "Individual Tax".

11. Paragraph (b)(5)(viii)(*d*) is amended by inserting "or she" between "he" and "may".

12. Paragraph (d)(1) is amended by deleting "examining officer" from the first sentence and inserting instead "examiner", by deleting "examining officer's" from the fifth sentence and inserting instead "examiner's", by deleting "he" the first place it appears in the sixth sentence and inserting instead "the taxpayer", by inserting "or she" in the sixth sentence between "he" and "indicate", by deleting "his" from the sixth sentence, by deleting "to him" from the seventh sentence, and by inserting "or she" in the seventh sentence between "he" and "disagrees".

13. Paragraph (i) is amended by deleting the second sentence.

14. Paragraph (k) is revised to read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

* * * * *

(k) *Transfer of returns between districts.* When a request is received to transfer returns to another district for examination or the closing of a case, the district director having jurisdiction may transfer the case, together with pertinent records, to the district director of such other district. The Service will determine the time and place of the examination. In determining whether a transfer should be made, circumstances such as the following will be considered:

(1) Change of the taxpayer's domicile, either before or during examination.

(2) Discovery that taxpayer's books and records are kept in another district.

(3) Change of domicile of an executor or administrator to another district before or during examination.

(4) The effective administration of the tax laws.

Par. 6. Section 601.106 is amended as follows:

1. Paragraph (a)(1)(i) is amended by deleting the fifth sentence and inserting instead a new sentence, reading as set forth below.

2. Paragraph (a)(1)(ii) is amended by adding after the last sentence a new sentence reading as set forth below.

3. Paragraph (a)(1)(iii)(*c*) is redesignated (a)(1)(iii)(*d*), paragraph (a)(1)(iii)(*d*) is redesignated (a)(1)(iii)(*e*), and a new (a)(1)(iii)(*c*) is added to read as set forth below.

4. Paragraph (a)(2) is revised to read as set forth below.

5. Paragraph (a)(3) is amended by deleting "the Appellate Division" and inserting instead "Appeals".

6. Paragraph (a)(4) is amended by deleting "Appellate jurisdiction" and inserting instead "Appeals jurisdiction" and by deleting "Appellate Division" and inserting instead "Appeals official".

7. Paragraph (b) is amended by deleting "the *Appellate Division"* from the title and inserting instead *"Appeals"*, by deleting "Appellate" from the first sentence and inserting instead "Appeals", by inserting ", (c)(1) and (c)(2) of 601.105," in the first parenthetical of the first sentence between "§§ 601.103" and "and", by deleting "regional office of the Appellate Division" from the first sentence and inserting instead "Appeals organization", by deleting "Appellate Division of the region" from the fourth sentence and inserting instead "Appeals activity", by deleting "the Appellate Division" from the fifth sentence and inserting instead "Appeals", by deleting "Appellate Division" from the sixth sentence and inserting instead "Appeals", by deleting "his" from the seventh sentence and inserting instead "a", by deleting "the Appellate Division" from the seventh sentence and inserting instead "Appeals", and by deleting "the Appellate Division" from the ninth sentence and inserting instead "Appeals".

8. Paragraph (c) is amended by deleting *"the Appellate Division"* from the title and inserting instead *"Appeals"*, by deleting "the Appellate Division" from the first sentence and the first place it appears in the fifth sentence and inserting instead "Appeals", by deleting "he and the Appellate Division" from the fifth sentence and inserting instead "the Appeals", by inserting "and the district director" in the fifth sentence between "authority" and "deem", by deleting "Regional" from the last sentence and inserting instead "District", and by inserting "or she" in the last sentence between "he" and "so".

9. Paragraph (d) is amended by deleting *"the Appellate Division"* from the title and inserting instead *"Appeals"*.

10. Paragraph (d)(1) is amended by deleting "Appellate Division" from the

first sentence and inserting instead "Appeals office" and by deleting "the Appellate Division" from the second sentence and inserting instead "Appeals".

11. Paragraph (d)(2)(i) is amended by deleting "the Appellate Division of the region" from the first sentence and inserting instead "Appeals" and by deleting "he" from the first sentence and inserting instead "the taxpayer".

12. Paragraph (d)(2)(ii) is amended by revising the first sentence to read as set forth below, by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office", by deleting "the Appellate Division" from the fourth sentence and inserting instead "Appeals", by deleting "service center director or returned to the district director" from the fifth sentence and inserting instead "appropriate function", by deleting "such" from the fifth sentence, and by deleting from the fifth sentence "the Appellate Division as may be appropriate, such as the preparation of a notice of adjustment, or the collection of any additional tax in excise and employment tax cases or of the 100-percent penalty" and inserting instead "Appeals".

13. Paragraph (d)(2)(iii) is amended by deleting "chapter 42" from the first sentence and inserting instead "chapters 41 through 44,", by deleting "said" from the first sentence, and by inserting "(or portion thereof of divisible taxes)" in the first sentence between "tax" and "when".

14. Paragraph (d)(3)(i) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals".

15. Paragraph (d)(3)(ii) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "regional" and inserting instead "appropriate district".

16. Paragraph (d)(3)(iii) is amended by deleting "Appellate Division" wherever it appears in the first sentence and inserting instead "Appeals office" and deleting "regional" from the first sentence and inserting instead "district".

17. Paragraphs (d)(3)(iii) (*a*) through (*f*) are revised to read as set forth below.

18. Paragraphs (d)(3)(iii) (*g*) and (*h*) are deleted.

19. Paragraphs (d)(3)(iii)(*i*) is amended by redesignating it (d)(3)(iii)(*g*) and by deleting the last two sentences.

20. Paragraph (e)(1) is amended by deleting "A Regional Appellate Division" from the first sentence and inserting instead "An Appeals office", by deleting "his" from the first sentence and inserting instead "the taxpayer's", and by deleting "Appellate" from the last sentence and inserting "Appeals".

21. Paragraph (e)(2) is amended by deleting "A Regional Appellate Division" from the first sentence and inserting instead "An Appeals office", by deleting "his" from the first sentence and inserting instead "the petitioner's", and by deleting "Appellate" from the second sentence and inserting instead "Appeals".

22. Paragraph (e)(3) is amended by inserting "or she" between "he" and "may", by deleting "Appellate Division of the region" and inserting instead "Appeals office", and by inserting "or her" between "his" and "personal".

23. Paragraph (f) is amended by deleting "the Appellate Division" from the first sentence and the first place it appears in the second sentence and inserting instead "Appeals".

24. Paragraph (f)(1) is amended by deleting "Appellate Division" from the second sentence and inserting instead "Appeals", and by inserting "or her" in the second sentence between "his" and "conclusions" and in the third sentence between "his" and "duty".

25. Paragraph (f)(2) is revised to read as set forth below.

26. Paragraph (f)(3) is amended by deleting "Appellate Division conferee" from the first sentence and inserting instead "Appeals officer", by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", and by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office".

27. Paragraph (f)(4) is amended by deleting "Appellate Division" wherever it appears and inserting instead "Appeals" and by inserting "or her" in the second sentence between "his" and "office".

28. Paragraph (f)(5) is amended by inserting "unagreed" in the first sentence between "an" and "income", by deleting "the Appellate Division" from the third and fourth sentences and inserting instead "Appeals", by deleting "Appellate Division" the first place it appears in the last sentence and inserting instead "Appeals Division", by deleting "Appellate Divisions" from the last sentence and inserting instead "Appeals office" and by deleting "Appellate Division" the second place it appears in the last sentence and inserting instead "Appeals".

29. Paragraph (f)(6) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by inserting "or her" in the last sentence between "his" and "consideration".

30. Paragraph (f)(8) is revised to read as set forth below.

31. Paragraph (f)(9) is deleted.

32. Paragraph (f)(10) is redesignated (f)(9) and is amended by deleting "*Rule X*" from the heading and inserting instead "*Rule IX*".

33. Paragraph (g)(1) is revised to read as set forth below.

34. Paragraphs (g)(2) and (g)(3) are amended by deleting "the Appellate Division" and inserting instead "Appeals".

35. Paragraph (h)(1) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "Assistant Regional Commissioner (Appellate)" from the last sentence and inserting instead "Regional Director of Appeals".

36. Paragraph (h)(2) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", by deleting "Assistant Regional Commissioner (Appellate)" from the first sentence and inserting instead "Regional Director of Appeals", by deleting "Appellate Division" from the second sentence and inserting instead "Appeals", and by deleting "Appellate" from the last sentence and inserting instead "Appeals".

37. Paragraph (h)(3) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals" and by deleting "Assistant Regional Commissioner (Appellate)" from the last sentence and inserting instead "Regional Director of Appeals".

38. Paragraph (h)(4) is amended by deleting "the Appellate Division" wherever it appears and inserting instead "Appeals".

§ 601.106 Appeals functions.

(a) *General.* (1)(i) * * * After the filing of a petition in the Tax Court the Appeals office will have exclusive settlement jurisdiction, subject to the provisions of subparagraph (2) of this paragraph, for a period of 4 months (but no later than the receipt of the trial calendar in regular cases and no later than 15 days before the calendar call in S cases), over cases docketed in the Tax Court. * * *

(ii) * * * A written protest is required on all postassessment penalty appeals.

(iii) * * *

(*c*) Penalties that are subject to an administratively granted preassessment appeal procedure such as that provided in § 1.6694–2(a)(1) because taxpayers are able to protest such penalties prior to assessment;

* * * * *

(2) The authority described in subparagraph (1) of this paragraph does not include the authority to:

(i) Negotiate or make a settlement in any case docketed in the Tax Court if the notice of deficiency, liability or other determination was issued by Appeals officials;

(ii) Negotiate or make a settlement in any docketed case if the notice of deficiency, liability or other determination was issued after appeals consideration of all petitioned issues by the Employee Plans/Exempt Organizations function;

(iii) Negotiate or make a settlement in any docketed case if the notice of deficiency, liability or final adverse determination letter was issued by a District Director and is based upon a National Office ruling or National Office technical advice in that case involving a qualification of an employee plan or tax exemption and/or foundation status of an organization (but only to the extent the case involves such issue);

(iv) Negotiate or make a settlement if the case was docketed under Code sections 6110, 7477, or 7478;

(v) Eliminate the ad valorem fraud penalty in any case in which the penalty was determined by the district office or service center office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of Counsel; or

(vi) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of Counsel.

* * * * *

(d) *Disposition and settlement of cases before Appeals.* * * *

(2) *Cases not docketed in the Tax Court.* * * * (ii) If after consideration of the case by Appeals it is determined that there is a deficiency in income, profits, estate, gift tax, or chapter 41, 42, 43, or 44 tax liability to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by Appeals. * * *

* * * * *

(3) *Cases docketed in the Tax Court.* * * *

(iii) * * *

(*a*) The Appeals office will have exclusive settlement jurisdiction for a period of 4 months over certain cases docketed in the Tax Court. The 4-month period will commence at the time Appeals receives the case from Counsel, which will be after the case is at issue. Appeals will arrange settlement conferences in such cases within 45 days of receipt of the case. In the event of a settlement, Appeals will prepare and forward to Counsel the necessary computations and any stipulation decisions secured. Counsel will prepare any needed settlement documents for execution by the parties and filing with the Tax Court. Appeals will also have authority to settle less than all the issues in the case and to refer the unsettled issues to Counsel for disposition. In the event of a partial settlement, Appeals will inform Counsel of the agreement of the petitioner(s) and Appeals may secure and forward to Counsel a stipulation covering the agreed issues. Counsel will, if necessary, prepare documents reflecting settlement of the agreed issues for execution by the parties and filing with the Tax Court at the appropriate time.

(*b*) At the end of the 4-month period, or before that time if Appeals determines the case is not susceptible of settlement, the case will be returned to Counsel. Thereafter, Counsel will have exclusive authority to dispose of the case. If, at the end of the 4-month period, there is substantial likelihood that a settlement of the entire case can be effected in a reasonable period of time, Counsel may extend Appeals settlement jurisdiction for a period not to exceed 60 days, but not beyond the date of the receipt of a trial calendar upon which the case appears. Extensions beyond the 60-day period or after the event indicated will be granted only with the personal approval of regional counsel and will be made only in those cases in which the probability of settlement of the case in its entirety by Appeals clearly outweighs the need to commence trial preparation.

(*c*) During the period of Appeals jurisdiction, Appeals will make available such files and information as may be necessary for Counsel to take any action required by the Court or which is in the best interests of the Government. When a case is referred by Counsel to Appeals, Counsel may indicate areas of needed factual development or areas of possible technical uncertainties. In referring a case to Counsel, Appeals will furnish its summary of the facts and the pertinent legal authorities.

(*d*) The Appeals office may specify that proposed Counsel settlements be referred back to Appeals for its views. Appeals may protest the proposed Counsel settlements. If Counsel disagrees with Appeals, the Regional Counsel will determine the disposition of the cases.

(*e*) If an offer is received at or about the time of trial in a case designated by the Appeals office for settlement consultation, Counsel will endeavor to have the case placed on a motions calendar to permit consultation with and review by Appeals in accordance with the foregoing procedures.

(*f*) For issues in docketed and nondocketed cases pending with Appeals which are related to issues in docketed cases over which Counsel has jurisdiction, no settlement offer will be accepted by either Appeals or Counsel unless both agree that the offer is acceptable. The protest procedure will be available to Appeals and regional counsel will have authority to resolve the issue with respect to both the Appeals and Counsel cases. If settlement of the docketed case requires approval by regional counsel or Chief Counsel, the final decision with respect to the issues under the jurisdiction of both Appeals and Counsel will be made by regional counsel or Chief Counsel. See Rev. Proc. 79–59.

* * * * *

(f) *Conference and practice requirements.* * * *

(2) *Rule II.* Appeals will ordinarily give serious consideration to an offer to settle a tax controversy on a basis which fairly reflects the relative merits of the opposing views in light of the hazards which would exist if the case were litigated. However, no settlement will be made based upon nuisance value of the case to either party. If the taxpayer makes an unacceptable proposal of settlement under circumstances indicating a good faith attempt to reach an agreed disposition of the case on a basis fair both to the Government and the taxpayer, the Appeals official generally should give an evaluation of the case in such a manner as to enable the taxpayer to ascertain the kind of settlement that would be recommended for acceptance. Appeals may defer action on or decline to settle some cases or issues (for example, issues on which action has been suspended nationwide) in order to achieve greater uniformity and enhance overall voluntary compliance with the tax laws.

* * * * *

(8) *Rule VIII.* In cases not docketed in the United States Tax Court on which a conference is being conducted by the Appeals office, the district counsel may be requested to attend and to give legal advice in the more difficult cases, or on matters of legal or litigating policy.

* * * * *

(g) *Limitation on the jurisdiction and function of Appeals*—(1) *Overpayment of more than $200,000.* If Appeals determines that there is an overpayment

of income, war profits, excess profits, estate, or gift tax, or any tax imposed by chapters 41 through 44, including penalties and interest, in excess of $200,000, such determination will be considered by the Joint Committee on Taxation. See § 601.108.

* * * * *

§ 601.108 [Amended]

Par. 7. Section 601.108 is amended as follows:

1. Paragraph (a) is amended by deleting "imposes with respect to private foundations or pension plans under chapter 42 or 43" from the first sentence and inserting instead "imposed by chapters 41 through 44".

2. Paragraph (b) is amended by deleting "the Appellate Division" from the first sentence and inserting instead "Appeals", and by revising the last sentence to read as set forth below.

§ 601.108 Review of overpayments exceeding $200,000.

* * * * *

(b) *Reports to Joint Committee.* * * * In cases in which a protest has been made, the report to the Joint Committee is prepared by an Appeals officer; in cases in which a petition is docketed, either an Appeals officer or a Counsel attorney prepares the report, depending on the circumstances.

§ 601.109 [Amended]

Par. 8. Section 601.109 is amended as follows:

1. Paragraph (a)(1) is amended by deleting "agricultural composition," from the sixth sentence, by deleting "sections 75," from the sixth sentence and inserting instead "section", and by deleting "section 75 or" from the seventh sentence".

2. Paragraph (d) is amended by deleting "75 (1)," from the third sentence and by inserting "or abandoned" in the last sentence between "exempt" and "property".

Par. 9. Section 601.201 is amended as follows:

1. Paragraph (a)(7) is amended by inserting after the fifth sentence a new reference to read as set forth below.

2. Paragraph (e)(2) is amended by inserting after the parenthetical reading "(Revenue Procedure 73–17 sets forth the information to be included in the request for a ruling under section 332, 334 (b)(1), or 334 (b)(2).)" a new reference, reading as set forth below.

3. Paragraph (o)(10)(iv) is amended by making the sentence beginning with "The steps described" flush material and revising it to read as set forth below.

4. Paragraph (o)(10)(v) is revised to read as set forth below.

7. A new paragraph (u) is added to read as set forth below.

§ 601.201 Rulings and determination letters.

(a) *General practice and definitions.* * * *

(7) * * * See, for example, Rev. Proc. 78–15, 1978–2 C.B. 488, and Rev. Proc. 78–16, 1978–2 C.B. 489. * * *

* * * * *

(e) *Instructions to taxpayers.* * * *

(2) * * * See Rev. Proc. 77–30, 1977–2 C.B. 539, Rev. Proc. 78–18, 1978–2 C.B. 491, relating to rules for the issuance of an advance ruling that a proposed sale of employer stock to a related qualified defined contribution plan of deferred compensation will be a sale of the stock rather than a distribution of property. * * *

* * * * *

(o) *Employees' trusts or plans.* * * *

(10) *Exhaustion of administrative remedies.* * * *

(iv) * * * The step described in paragraph (o)(10)(i)(*c*) of this section will not be considered completed until the Internal Revenue Service has had a reasonable time to act upon the appeal. * * *

(v) The administrative remedy described in paragraph (o)(10)(i)(*c*) of this section will not be available to an applicant with respect to any issue on which technical advice from the National Office has been obtained.

* * * * *

(u) *Conditions for issuing rulings involving bonuses and advanced royalties of lessors under § 631 (c) of IRC of 1954.*

(1) *In general.* Rev. Proc. 77–11, 1977–1 C.B. 568, provides that the tax liability of a lessor who received a bonus or an advance royalty is required to be recomputed for the taxable year or years in which such payment or payments were received if the right to mine coal or iron ore under the lease expires, terminates, or is abandoned before (with respect to bonuses) any coal or iron ore has been mined; or (with respect to advance royalties) the coal or iron ore that has been paid for in advance is mined. In such recomputation, the lessor is required to treat the bonus payment or payments or any portion of the advance royalty payment or payments attributable to unmined coal or iron ore, as ordinary income and not as received from the sale of coal or iron ore under section 631 (c) of the Code.

(2) *Condition for issuing rulings.* Prior to issuing a ruling to lessors who request a ruling that they may treat bonuses or advance royalties received under a lease for coal or iron ore as received from a sale of coal or iron under section 631 (c) of the Code, the Internal Revenue Service will require that the lessor enter a closing agreement in which the lessor agrees that—

(i) If the lease under which the lessor received a bonus or an advance royalty expires, terminates, or is abandoned before (with respect to a bonus) any coal or iron ore has been mined or (with respect to an advance royalty) the coal or iron ore that has been paid for in advance is mined, the tax liability of the lessor will be recomputed for the taxable year or years of receipt of (A) the bonus by treating the bonus payment or payments as ordinary income or (B) the advance royalty by treating any portion or the advance royalty payment or payments attributable to unmined coal or iron ore as ordinary income;

(ii) If the recomputation described in paragraph (u)(2)(i) of this section is required, the lessor will pay the additional amount, if any, of all federal income tax finally determined as due and payable by the lessor for the taxable year or years of the receipt of the bonus or advance royalty; and

(iii) If any of the described events has occurred, the lessor will notify the appropriate district director of such event in writing within 90 days of the close of the taxable year in which the lease expires, terminates, or is abandoned.

§ 601.203 [Amended]

Par. 10. Section 601.203 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the second and third sentences and inserting instead four sentences to read as set forth below and by deleting "Alcohol, Tobacco and Firearms Division" from the next-to-the-last sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

3. Paragraph (b) is amended by deleting "(Rev. 2–69)" from the first sentence.

4. Paragraph (c)(1) is amended by inserting "or she" in the fourth sentence between "he" and "will".

5. Paragraph (c)(1)(iii) is amended by deleting "(including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment)".

6. Paragraph (c)(2)(i)(*c*) is amended by deleting "(without regard to the class of tax involved)" and inserting instead "; in

joint liability cases, where either taxpayer is deceased".

7. Paragraph (c)(2)(iv) is amended by inserting "or her" in the last sentence between "his" and "recommendation" and by deleting "his" the second place it appears in the last sentence and inserting instead "the".

8. Paragraph (c)(3) is amended by deleting "Appellate Division" from the second sentence and inserting instead "Appeals office".

§ 601.203 Offers in compromise.

(a) *General.* (1) * * * Certain functions of the Commissioner with respect to compromise of civil cases involving liability of $100,000 or more, based solely on doubt as to liability, have been delegated to regional commissioners and, for cases arising in the Office of International Operations, to the Assistant Commissioner (Compliance). The authority concerning liability of $100,000 or more based on doubt as to collectibility or doubt as to both collectibility and liability has been delegated to the Director, Collection Division and regional commissioners. The authority with respect to compromise of civil cases involving liability under $100,000, and of certain specific penalties has been delegated to district directors, assistant district directors, the Director of International Operations, the Assistant Director of International Operations, regional directors of Appeals, and chiefs and associate chiefs, Appeals offices. The authority concerning offers in compromise of penalties based solely on doubt as to liability, if the liability is less than $100,000, has also been delegated to service center directors and assistant service center directors. * * *

* * * * *

§ 601.301 [Amended]

Par. 11. Section 601.301 is amended as follows:

1. Paragraph (c) is amended by revising the fifth sentence to read as set forth below and by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

2. Paragraph (c)(7) is further amended by inserting "Bureau of" in the last sentence between "the" and "Alcohol" and by deleting from the last sentence "Division".

3. Paragraph (c)(18) is further amended by deleting "internal revenue" from the last sentence and inserting instead "ATF".

4. Paragraph (c)(21) is further amended by deleting "198" and inserting instead "18".

§ 601.301 Imposition of taxes, qualification requirements, and regulations.

* * * * *

(c) *Regulations.* * * * ATF publication 1322.1, which contains a listing of alcohol, tobacco and firearms public-use forms, may be obtained from the ATF Distribution Center, 3800 South Four Mile Run Drive, Arlington, Va. 22206. * * *

§ 601.304 [Amended]

Par. 12. Section 601.304 is amended as follows:

1. All paragraphs of this section are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

2. Paragraph (a) is further amended by deleting "director" from the last sentence and inserting instead "regulatory administrator".

§ 601.306 [Amended]

Par. 13. Section 601.306 is amended by deleting "Alcohol, Tobacco, and Firearms Division" from the first and second sentences and inserting instead "Bureau of Alcohol, Tobacco and Firearms", by deleting "Internal Revenue Service," from the second sentence, and by deleting "20224" from the second sentence and inserting instead "20226".

§ 601.308 [Amended]

Par. 14. Section 601.308 is amended by inserting "Bureau of" in the first sentence between "Director," and "Alcohol," and by deleting "Division" from the first sentence.

§ 601.309 [Amended]

Par. 15. Section 601.309 is amended by deleting "before the Service,", by inserting "Bureau of" between "Director," and "Alcohol,", and by deleting "Division".

§ 601.311 [Amended]

Par. 16. Section 601.311 is amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.312 [Amended]

Par. 17. Section 601.312 is amended by deleting "Internal Revenue Service" wherever it appears in paragraphs (a) and (b) and inserting instead "Bureau of Alcohol, Tobaccco and Firearms".

§ 601.315 [Amended]

Par. 18. Section 601.315 is amended by deleting "assistant regional commissioner (alcohol, tobacco, and firearms)" from the first sentence of paragraph (i) and inserting instead "regional regulatory administrator".

§ 601.318 [Amended]

Par. 19. Section 601.318 is amended by deleting "assistant regional commissioners (alcohol, tobacco, and firearms)" from the second sentence and inserting instead "regional regulatory administrators in the Bureau of Alcohol, Tobacco and Firearms", by deleting "IRS Publication No. 480" from the third sentence and inserting instead "ATF Publication 1322.1", by deleting "purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402" from the third sentence and inserting instead "obtained from the ATF Distribution Center, 3800 South Four Mile Run Dr., Arlington, Va. 22206", and by deleting "Internal Revenue Service" from the fourth sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

§§ 601.320–601.321 [Amended]

Par. 20. Sections 601.320 and 601.321 are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.321a [Amended]

Par. 21. Section 601.321a is amended by deleting "180" wherever it appears and inserting instead "47" and by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.321b [Amended]

§ 601.324 [Amended]

Par. 22. Sections 601.321b and 601.324 are amended by deleting "this chapter" wherever it appears and inserting instead "Title 27 CFR".

§ 601.326 [Amended]

Par. 23. Section 601.326 is amended by deleting "172" from the first sentence and inserting instead "72" and by deleting "this chapter" from the first sentence and inserting instead "Title 27 CFR".

§ 601.327 [Amended]

Par. 24. Section 601.327 is amended as follows:

1. Paragraph (a) is amended by deleting "internal revenue" the second place it appears in the first sentence and inserting instead "ATF", by deleting ";" between "taxes" and "(2)" in the third sentence and inserting instead "and", by deleting from the third sentence "; and (3) liabilities arising under chapter 52 of the Code (cigars, cigarettes, and cigarette papers and tubes)", by deleting "Director, Alcohol, Tobacco and Firearms Division" from the fourth and ninth sentences and inserting instead "Assistant Director (Regulatory

Enforcement), Bureau of Alcohol, Tobacco and Firearms", by inserting ", 52," in the fourth sentence between "51" and "and", by deleting "Commissioner" from the fifth sentence and inserting instead "Director, Bureau of Alcohol, Tobacco and Firearms,", by deleting "Internal Revenue Service" from the sixth sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms", and by deleting "assistant regional commissioner" from the ninth sentence and inserting instead "regional regulatory administrator".

2. Paragraph (b) is amended by deleting "Director, Alcohol, Tobacco, and Firearms Division" from the second and fourth sentences and inserting instead "Assistant Director (Regulatory Enforcement) Bureau of Alcohol, Tobacco and Firearms", by deleting "internal revenue" from the third sentence and inserting instead "ATF", and by deleting "assistant regional commissioner" from the fourth sentence and inserting instead "regional regulatory administrator".

3. Paragraph (c) is amended by deleting "special agent in charge (alcohol, tobacco and firearms)" from the first sentence and inserting instead "regional administrative officer, Bureau of Alcohol, Tobacco and Firearms,", by deleting "Internal Revenue Service, including liabilities to forfeiture under the internal revenue laws pertaining to wagering" from the first sentence and inserting instead "Bureau of Alcohol, Tobacco and Firearms", by deleting "chief special investigator (alcohol, tobacco, and firearms)" from the second sentence and inserting instead "regional administrative officer, Bureau of Alcohol, Tobacco and Firearms" and by deleting the third sentence.

§ 601.401 [Amended]

Par. 25. Section 601.401 is amended as follows:

1. Paragraph (a)(3) is amended by deleting "he may at his election" from the tenth sentence and inserting instead "the employer may elect to", by deleting "he" from the last sentence and inserting instead "the employee", and by inserting "or her" in the last sentence between "his" and "income".

2. Paragraph (a)(5) is amended by inserting "*and trust companies*" in the heading between "*banks*" and "*in*".

3. Paragraph (a)(5)(i) is amended by deleting "his" from the last sentence and inserting instead "the employer's".

4. Paragraph (a)(5)(iv) is amended by inserting "or trust company" in each sentence after the words "authorized commercial bank".

5. Paragraph (a)(5)(v) is amended by inserting "or trust company" in the first sentence between "bank" and "authorized".

6. Paragraph (a)(6) is amended by deleting "he" from the first sentence and inserting instead "the employer".

7. Paragraph (b)(1) is amended by deleting "has in his employ" from the last sentence and inserting instead "employs" and by deleting "his" the last place it appears in the last sentence and inserting instead "the employer's".

8. Paragraph (c)(1) is amended by deleting "his" from the second and third sentences and inserting instead "the".

9. Paragraph (d)(1) is amended by deleting the footnote.

10. Paragraph (d)(3) is amended by deleting "he" from the first sentence and inserting instead "the employee".

§ 601.402 [Amended]

Par. 26. Section 601.402 is amended as follows:

1. Paragraph (c)(2) is amended by deleting "him" from the first sentence and inserting instead "the taxpayer".

2. Paragraph (c)(3) is amended by deleting "his" from the fifth sentence and inserting instead "the taxpayer's", by deleting "his" from the seventh sentence and inserting instead "the purchaser's", and by deleting "he" from the seventh sentence and inserting instead "such purchaser".

3. Paragraph (d)(1)(ii) is amended by deleting "his" from the first sentence and inserting instead "the person's".

4. Paragraph (e)(1) is amended by deleting "his" from the fifth and sixth sentences and inserting instead "the".

5. Paragraph (e)(3) is amended by deleting "he" wherever it appears in the first sentence and inserting instead "the importer" and by deleting "his" from the first sentence. .

§ 601.403 [Amended]

Par. 28. Section 601.404 is amended as follows:

Par. 27. Section 601.403 is amended by deleting "he is not required to file a return with respect to such taxes" from paragraph (d) and by inserting instead "a return is not required to be filed with respect to such taxes".

§ 601.404 [Amended]

1. Paragraph (a) is revised to read as set forth below.

2. Paragraphs (b) and (c) are deleted.

3. Paragraph (d) is redesignated paragraph (b).

4. Paragraph (e) is amended by redesignating it paragraph (c) and by deleting the first sentence.

5. Paragraph (f)(1) is deleted.

6. Paragraph (f)(2) is amended by deleting the first two sentences.

7. Paragraph (f)(3) is amended by deleting the first sentence and by deleting "Commodity and occupational" from the second sentence and inserting instead "Occupational".

8. Paragraph (f)(4) is amended by deleting the second sentence.

9. Paragraph (f)(5) is amended by deleting "miscellaneous" from the first sentence and by deleting "revenue" from the first sentence and inserting instead "occupational tax".

10. Paragraph (f) is further amended by redesignating it paragraph (d) and by redesignating subparagraphs (2) as (1), (3) as (2), (4) as (3), and (5) as (4).

11. Paragraph (g) is amended by redesignating it paragraph (e).

12. Paragraphs (h), (i) and (j) are deleted.

13. Paragraph (k) is amended by redesignating it paragraph (f), by deleting "*special or*" from the heading, and by deleting "form 11 (relating to adulterated and process or renovated butter and filled cheese)," from the fourth sentence.

§ 601.404 Miscellaneous excise taxes collected by sale of revenue stamps.

(a) *General.* Excise taxes collected by sale of revenue stamps apply to wagering and to gaming devices. A brief description of these taxes is set forth in paragraph (b) of this section.

* * * * *

§ 601.501 [Amended]

Par. 29. Section 601.501 is amended as follows:

1. Paragraph (a) is amended by deleting ", except economic stabilization matters" from the first sentence.

2. Paragraph (b)(3) is amended by deleting "his" from the first sentence and inserting instead "the taxpayer's".

§ 601.502 [Amended]

Par. 30 Section 601.502 is amended as follows:

1. Paragraph (a) is amended by deleting "his" wherever it appears and inserting instead "the taxpayer's".

2. Paragraph (b)(1) is amended by inserting "presents satisfactory identification and" in the first sentence between "person" and "is" and by inserting "or she" in the second sentence between "he" and "meets".

3. Paragraphs (b)(1)(i) and (b)(1)(ii) are amended by inserting "or she" between "he" and "is" and between "he" and "acts".

4. Paragraph (b)(1)(iii) is revised to read as set forth below.

5. Paragraph (b)(1) is amended by deleting "his" from the last sentence and inserting instead "the".

6. Paragraph (b)(3) is amended by inserting "or her" in the last sentence between the words "his" and "employer" the first time they appear and by deleting "his" the second time it appears in the last sentence and inserting instead "the".

7. Paragraph (c)(1)(i) is amended by deleting "his" from the second sentence and inserting instead "the taxpayer's".

8. Paragraph (c)(1) is amended by deleting "him" from the last sentence and inserting instead "the taxpayer".

9. Paragraph (c)(2)(i) is amended by deleting "examining officer's" from the third sentence and inserting instead "examiner's", by deleting "his" from the third sentence and inserting instead "the taxpayer's", and by deleting the fourth sentence.

10. Paragraph (c)(2)(ii) is amended by deleting "he" and inserting instead "the representative".

11. Paragraph (c)(3)(i) is amended by deleting "his" from the second sentence and inserting instead "the taxpayer's".

12. Paragraph (c)(3)(ii) is amended by deleting "that he" and inserting instead "that he or she".

13. Paragraph (c)(3)(iii) is amended by inserting "or her" between "his" and "authority" in the second sentence.

14. Paragraph (c)(3)(iv) is deleted.

15. Paragraph (c)(5) is amended by inserting "or her" between "his" and "authority".

§ 601.502 Requirements for conference-recognition to practice and, in certain cases, power of attorney or tax information authorization.

* * * * *

(b) *Requirements to be met by taxpayer's representative in order to be recognized.*

(1) *Explanation of recognition to practice.* * * *

(iii) Any person currently enrolled as an agent pursuant to the requirements of Circular No. 230, and who is not currently under suspension or disbarment from practice before the Revenue Service, and who files with the Revenue Service a written declaration that he or she is so currently qualified and is authorized to represent the particular party on whose behalf he or she acts (hereinafter referred to in this subpart as an enrolled agent); and

* * * * *

§ 601.503 [Amended]

Par. 31. Section 601.503 is amended as follows:

1. Paragraph (a) is amended by deleting "present himself" from the first sentence and inserting instead "appears", by inserting "or she" in the first sentence between "he" and "represents", by inserting "or she" in the first sentence between "he" and "acts", by deleting "or a" from the third sentence and inserting instead, "a", by inserting ", or an enrolled agent" in the third sentence between "accountant" and ", the", by deleting "and (ii)" from the third sentence and inserting instead ", (ii), and (iii)", and by deleting the last sentence.

2. Paragraph (b) is amended by inserting "(Form 2848 and Form 2848–D)" in the next-to-the-last sentence between "forms" and "are".

3. Paragraph (c) is amended by deleting "or certified public accountant" from the second sentence and inserting instead ", certified public accountant, or enrolled agent", by deleting "or (ii)" from the second sentence and inserting instead ", (ii), or (iii)", and by deleting the last sentence.

§ 601.504 [Amended]

Par. 32. Section 601.504 is amended as follows:

1. Paragraph (a) is amended by deleting "his" from the third and fourth sentences and inserting instead "the taxpayer's" and by inserting "(Forms 2848 and 2848–D)" in the next-to-the-last sentence between "forms" and "are".

2. Paragraph (b)(1)(ii) is revised to read as set forth below.

3. Paragraph (b)(1)(iv) is amended by inserting "or she" between "he" and "has".

4. Paragraph (b)(2)(ii) is amended by inserting "or her" in the third and fourth sentences between "his" and "authority".

5. Paragraph (b)(2)(iii) is amended by inserting "or her" in the second sentence between "his" and "authority".

6. Paragraph (b)(2)(v) is amended by inserting "or her" in the last sentence between "his" and "appointment".

7. Paragraph (d)(2) is amended by inserting "or she"; between "he" and "is".

8. Paragraph (e) is amended by inserting "or xerographic" in the first sentence between "photographic" and "processes" and by inserting "or she" in the last sentence between "he" and "has".

§ 601.504 Requirement for execution, attestation, acknowledgement or witnessing, and certification of copies of power of attorney and tax information authorization.

* * * * *

(b) *Execution of a power of attorney or a tax information authorization*—(1) *Ordinary cases.* * * *

(ii) *Husband and wife.* In the case of any taxable year for which a joint return was made by husband and wife, by both husband and wife if both are to be represented by the same representative, except that either spouse may sign for the other if such signature is duly authorized in writing by the other spouse. In the case of any taxable year for which a joint return was made by husband and wife, by either the husband or the wife if both are not represented by the same representative; however, the representative cannot perform any act with respect to a joint return year that the spouse represented cannot perform alone.

§ 601.505 [Amended]

Par. 33. Section 601.505 is amended as follows:

1. Paragraph (b) is amended by revising the last sentence to read as set forth below.

2. Paragraph (c)(2)(iv) is amended by deleting "to act for him" from the first sentence, and also by deleting "he" from the second sentence and inserting instead "the taxpayer".

§ 601.505 Requirements for changing representation.

* * * * *

(b) *Cases where taxpayer may be contacted directly.* * * * Moreover, if the district director deems it advisable, he or she may refer the matter to the Director of Practice for possible disciplinary proceedings under section 10.23 of Department Circular No. 230.

§ 601.506 [Amended]

Par. 34. Section 601.506 is amended as follows:

1. Paragraph (b)(1) is amended by inserting "or her" between "him" and "to" in the second sentence and by deleting the clause beginning with ": *Provided*".

2. Paragraph (b)(2) is amended by inserting at the end of the paragraph a sentence to read as set forth below.

§ 601.506 Notices to be given to recognized representatives; delivery of refund checks to recognized representatives.

* * * * *

(b) *Delivery of checks in payment of refunds.* * * *

(2) *Cases in litigation.* * * * In an action arising in the U.S. Tax Court, the check will be sent to the appropriate Internal Revenue Service District Counsel, or member of the National Office Trial Staff where a case is tried in the National Office, for delivery to the taxpayer or the counsel of record in the court proceeding.

§ 601.507 [Amended]

Par. 35. Section 601.507 is amended by deleting "or not he" wherever it appears

in the third sentence and inserting instead "the representative" and by inserting "or her" in the third and fourth sentences between "his" and "own".

§ 601.509 [Amended]

Par. 36. Section 601.509 is amended by deleting "the Appellate Division" from the last sentence and inserting instead "Appeals".

§ 601.521 [Amended]

§ 601.522 [Amended]

§ 601.524 [Amended]

§ 601.526 [Amended]

§ 601.527 [Amended]

Par. 37. Sections 601.521, 601.522, 601.524, 601.526, and 601.527 are amended by deleting "Alcohol, Tobacco, and Firearms Division" wherever it appears and inserting instead "Bureau of Alcohol, Tobacco and Firearms".

§ 601.701 [Amended]

Par. 38. Section 601.701 is amended as follows:

1. Paragraph (a) is amended by revising the first sentence to read as set forth below, and by inserting "(Freedom of Information Act)" in the first sentence of the flush material between "552" and "are".

2. Paragraph (b)(1)(ii) is amended by deleting "inforcement" and inserting instead "enforcement", by deleting "or" between "action," and "(C)", and by deleting ";" at the end and inserting instead ", or (D) use of parking facilities, regulation of lunch hours, statements of policy as to sick leave and the like;".

3. Paragraph (b)(1)(iii) is amended to read as set forth below.

4. Paragraph (b)(2) is deleted.

5. Paragraphs (b)(3) and (b)(4) are redesignated (b)(2) and (b)(3).

§ 601.701 Publicity of information.

(a) *General.* Section 552 of title 5 of the United States Code, as amended, prescribes rules regarding the publicizing of information by Federal agencies. * * *

(b) *Exemptions*—(1) *In general.* * * *

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld (e.g., I.R.C. sections 6103, 6110, and 4424); * * *

* * * * *

§ 601.702 [Amended]

Par. 39. Section 601.702 is amended as follows:

1. Paragraph (b)(2) is amended by deleting "and 18 U.S.C. 1905" from the last sentence.

2. Paragraph (b)(3)(i) is amended by deleting "481" from the fourth sentence and inserting instead "676", and by revising the fifth sentence to read as set forth below.

3. Paragraph (b)(3)(ii) is amended by deleting from the address of the North Atlantic Region "90 Church Street" and inserting instead "120 Church Street, Room 805,".

4. Paragraph (d)(1) is revised to read as set forth below.

5. Paragraph (d)(2) is deleted.

6. Paragraph (d)(3) is amended by redesignating it paragraph (d)(2), by revising the first sentence to read as set forth below, and by deleting the last sentence.

7. Paragraph (d)(4) is deleted.

8. Paragraph (d)(5) is amended by redesignating it paragraph (d)(3), by deleting "for a 4-year period" from the first sentence, and by deleting "or of the Director of the Mid-Atlantic Regional Service Center" from the second sentence.

9. Paragraph (d)(6) is amended by redesignating it paragraph (d)(4) and by inserting ", and any letter or other document issued by the Internal Revenue Service with respect to such applications," in the first sentence between "501(a)" and "will".

10. Paragraph (d)(7) is amended by redesignating it paragraph (d)(5), by inserting "as well as copying" in the first sentence between "inspection" and "(i) in", and by deleting the second sentence and inserting instead a new sentence to read as set forth below.

11. Paragraphs (d)(8), (d)(9), (d)(10), and (d)(11) are redesignated (d)(6), (d)(7), (d)(8), and (d)(9), respectively.

12. Paragraph (f)(1) is amended by inserting "for time expended in" in the second sentence between "asserted," and "deleting".

§ 601.702 Publication and public inspection.

* * * * *

(b) *Public inspection and copying.* * * *

(3) *Public reading rooms*—(i) *In general.* * * * Fees will be charged for copying materials in the reading rooms as provided in paragraph (f) of this section. * * *

* * * * *

(d) *Rules for disclosure of certain specified matters*—(1) *Inspection of tax returns and return information.* The inspection of returns and return information is governed by the provisions of the internal revenue laws and regulations thereunder promulgated by the Secretary of the Treasury. See section 6103 and the regulations thereunder.

(2) *Record of seizure and sale of real estate.* Subject to the rules on disclosure set forth in section 6103, Record 21, "Record of seizure and sale of real estate", is open for public inspection in offices of district directors and copies are furnished upon application.

* * * * *

(5) *Accepted offers in compromise.* * * * After the 1-year period has expired, the documents will continue to be available upon request, although they may have been removed from the Freedom of Information Reading Room. * * *

* * * * *

These amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. §§ 301 and 552.

Jerome Kurtz,

Commissioner of Internal Revenue.

A. R. Dickerson,

Director of the Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 80-3484 Filed 1-31-80; 8:45 am]

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Fiscal Service

31 CFR Part 240

Forms of Indorsement on U.S. Treasury Checks

AGENCY: Fiscal Service, Treasury.

ACTION: Final Rule.

SUMMARY: On January 4, 1980, a final rule was published (45 FR 1020), concerning forms of indorsement on U.S. Treasury checks. One of the paragraphs affected was paragraph 240.8 (a) (2) (i), *Acceptable indorsement.* This paragraph outlined the proper manner of indorsing a U.S. Treasury check on behalf of the payee or payees. The Social Security Administration has raised a concern that the wording may be misconstrued to imply that a person may sign for someone else without formal authority conferred by or under law or other regulation. Specifically, they were concerned about the possible implication that the formalities required by the Social Security Administration for the appointment of beneficial payee may be avoided. This was not and is not intended. Therefore, wording is being added to the paragraph to explain that one may indorse on behalf of the named payee or payees only pursuant to

authority expressly conferred by or under law or other regulation. In addition, several paragraphs are being renumbered for added clarity.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Serlin, Assistant Commissioner, Disbursement and Claims, Room 416, Annex Building, Pennsylvania Avenue and Madison Place NW., Washington, D.C. 20226 (202) 566–2392.

SUPPLEMENTARY INFORMATION: It is not deemed necessary to invite comment on this issue, since the net effect is to clarify Treasury's intent in a final rule which becomes effective February 1, 1980.

Accordingly, Part 240, Title 31 of the Code of Federal Regulations, is revised as follows:

§ 240.8 [Amended]

1. By revising Section 240.8 (a) (2) (i), to read as follows:

(a) * * * * *

(2) * * * * *

(i) *Acceptable indorsement.* The only acceptable indorsement of a check by another on behalf of the named payee or payees (except when a check is indorsed by a financial organization under the payee's or payees' authorization) is one which indicates that the person indorsing is doing so on behalf of the named payee or payees. Such an acceptable indorsement shall include the signature of the indorser and sufficient wording to indicate that the indorser is indorsing on behalf of the named payee or payees, pursuant to authority expressly conferred by or under law or other regulation. An example would be: "John Jones by Mary Jones". This example states the minimum indication acceptable. However, Sections 240.9 (a) (1), 240.10 (a) (1) and 240.12 (d) specify the addition of an indication in specified situations of the actual capacity in which the person other than the named payee is indorsing. Checks indorsed "for collection" or "for deposit only to the credit of the within named payee or payees", are acceptable without any signature. However, in the absence of a signature, the presenting bank will be deemed to guarantee its good title to such checks to all subsequent indorsers and to Treasury.

2. By renumbering the following paragraphs as follows:

Section 240.8 (a) (1) becomes 240.8 (b).
Section 240.8 (a) (2) becomes 240.8 (c).
Section 240.8 (a) (3) becomes 240.8 (d).
Section 240.8 (a) (4) becomes 240.8 (e).
Section 240.8 (a) (5) becomes 240.8 (f).

* * * * *

Signed this 29th day of January, 1980.

D. A. Pagliair

Commissioner.

[FR Doc. 80-3390 Filed 1-31-80; 8:45 am]

BILLING Code 4810-35-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Chapter 101

[FPMR Temp. Reg. H-21]

Federal Property Management Regulations; Recovery of Costs of Care and Handling of Surplus Personal Property Under the Control of the Department of Defense

AGENCY: Federal Property Resources Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

DATES:

Effective date: January 1, 1980.

Expiration date: September 30, 1980.

Comments due on or before: March 15, 1980.

ADDRESS: Comments should be addressed to: General Services Administration (DP), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: E. L. Harper, Assistant Commissioner for Personal Property (703–557–1798).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purpose of Executive Order 12044.

Authority: The provisions of this regulation are issued under section 764 of Pub. L. 96–154.

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter H to read as follows:

Federal Property Management Regulations—Temporary Regulation H–21

January 25, 1980

To: Department of Defense.

Subject: Costs of care and handling.

1. *Purpose.* This regulation establishes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

2. *Effective date.* This regulation is effective on January 1, 1980.

3. *Expiration date.* This regulation expires September 30, 1980, unless revised or superseded sooner. Prior to the expiration date, this regulation will be codified in the permanent regulations of the General Services Administration (GSA) appearing in Title 41 CFR, Public Contracts and Property Management.

4. *Applicability.* The provisions of this regulation apply to the Department of Defense.

5. *Background.* Section 764 of Pub. L. 96–154, approved December 21, 1979, provides that none of the funds appropriated by that act shall be available for paying to the Administrator of General Services the standard level user charge established under section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), for space and services for any month after January 1, 1980, unless, during that month, the Administrator has regulations in effect, provided for by section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)), that require the recovery of the costs of care and handling of surplus property under the control of the Department of Defense that is disposed of under the provisions of that section. This regulation provides the necessary implementation of section 764 of Public Law 96–154.

6. *Policy.* The attachment to this regulation is hereby made a part of the regulations of GSA as 41 CFR Part 101–50, subject to the intent to codify these regulations as set forth in paragraph 3.

7. *Effect on other issuances.* When the provisions of other regulations and related directives are in conflict with the provisions of the attachment to this regulation, the provisions of the latter shall govern.

R. G. Freeman III,

Administrator of General Services.

PART 101–50—COST OF CARE AND HANDLING FOR DEPARTMENT OF DEFENSE SURPLUS PERSONAL PROPERTY

§ 101–50.000 Scope of part.

This part prescribes policies and procedures governing the recovery of the costs of care and handling of surplus personal property under the control of the Department of Defense that is disposed of under the authority of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)).

§ 101–50.101 Costs incurred incident to donation.

The Department of Defense is required to recover the costs of care and

handling of surplus personal property under its control that is disposed of under the provisions of section 203(j) of Federal Property and Administrative Services Act of 1949, as amended, provided that the costs are limited to the recovery of care and handling as defined in section 3(h) of the Federal Property and Administrative Services Act of 1949, as amended, and that these costs are specifically attributable and allocated to the items of property transferred for donation. Where these costs are incurred, they shall be reimbursed promptly by the State agency, the designated donee, or service educational activity upon appropriate billing by the Department of Defense. The Department of Defense shall maintain information on all billings and collections of care and handling costs incident to this part.

[FR Doc. 80-3203 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 134, 134a, and 134b

Grants to State Educational Agencies for Educational Improvement, Resources and Support

AGENCY: Office of Education, HEW.

ACTION: Notice of Interpretation for Funding of Guidance, Counselling and Testing Activities During Fiscal Year 1980.

SUMMARY: The Executive Deputy Commissioner for Educational programs is issuing this notice of interpretation to clarify for State educational agencies (SEAs) and local educational agencies (LEAs) how guidance, counselling and testing projects may be conducted during school year 1979–80 with funds made available by Title IV of Elementary and Secondary Education Act (ESEA).

EFFECTIVE DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. Interpretations are usually transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the interpretation or takes certain adjournments. If you want to know the effective date of this interpretation, call or write the Office of Education contact person.

ADDRESSES: Submit comments to: Dr. Milbrey L. Jones, U.S. Office of Education, Office of Libraries and Learning Resources, 400 Maryland Avenue, S.W., ROB–3, Room 3600, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Milbrey L. Jones, (202) 245–2488.

Background

Under the Title IV, ESEA program as authorized by the Education Amendments of 1974 (Pub. L. 93–380), an LEA could receive a subgrant of part B funds from its SEA that could be used at the LEA's discretion to acquire school library and instructional resources and to conduct guidance, counselling or testing activities for students in the elementary and secondary grades.

The Education amendments of 1978 (Pub. L. 95–561) reauthorized the Title IV, ESEA program but enacted several significant changes in it. Among those changes were the deletion of guidance, counselling and testing activities from part B of title IV and the creation of a separate part D for these purposes. The education Amendments were signed by the President on November 1, 1978. The changes made, however, were given a delayed effective date of October 1, 1979.

The Title IV, ESEA program is "advance funded," which means that funds for title IV programs conducted during the 1979-80 school year were included in the FY 1979 appropriation for the departments of Labor and Health, Education and Welfare (Pub. L. 95–480). This appropriation was signed by the President on October 18, 1978, approximately two weeks before the enactment of the Education Amendments of 1978. Accordingly, the appropriation included funds for title IV, part B but not for the new part D guidance, counselling, and testing authority which was enacted by the Education Amendments of 1978.

The interpretive question is whether LEAs and SEAs in school year 1979–80 may use the title IV, part B funds in the FY 1979 appropriation to support guidance, counselling, and testing activities. It is clear from reviewing the relevant legislative history of the FY 79 appropriation that Congress intended to make part B funds available for these activities during school year 1979–80.

In this connection, the House Committee on Appropriations has observed:

> The authorization existing at the time the Committee considered these programs, and under which the appropriation bill was enacted, provide[d] consolidated grants for school library and instructional resources—including guidance, couselling, and testing * * *. The purposes of all programs involved can best be served by allocating consolidated grants to the States under the authority of Title IV–B as it existed at the time the 1979 appropriation bill was enacted. (House Report No. 96–227, 96th Cong., 1st Session, at 72–73.)

Interpretation

Accordingly, it is the Commissioner's interpretation of Pub. L. 95–480 and Pub. L. 95–561 that LEAs may, at their discretion, expand part B funds appropriated by Pub. L. 95–480 for guidance, counselling, and testing projects during fiscal year 1980. (20 U.S.C. 3081 et seq.) (CFDA No. 13.570; Instructional Materials and School Library Resources).

Dated: January 25, 1980

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-3395 Filed 1-31-80; 8:45 am]

BILLING Code 4110-02-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Appendix A; Louisiana

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: This notice identifies additional locations in Plaquemines, St. Helena, and East Carroll Parishes, Louisiana, for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: October 24,1979.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202–632–4540.

SUPPLEMENTARY INFORMATION: The Attorney General has requested that additional examiner's offices be opened in Plaquemines, St. Helena, and East Carroll Parishes, areas previously designated as coming under the provisions of the Voting Rights Act of 1965, as amended.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

Accordingly, the Office of Personnel Management is amending 45 CFR Part 801, Appendix A to show three additional places under the heading "Dates, Times and Places" for filing in Louisiana, as follows:

Louisiana

Parish; Place for filing ; Begining date.

* * * * *

Plaquemines; Belle Chasse—US Naval Air Station, Administration Building, Room 46, Office of the Senior Chief of Command; October 19, 1979.

St. Helena; Greensburg—ASCS Office, Burrell Carter Building, Street Floor, South Main Street; October 19, 1979.

East Carroll; Lake Providence—ASCS Office, 205 North Hood; October 19, 1979.

(5 U.S.C. 1103,; Secs. 7, 9, 79 Stat. 440, 441, (42 U.S.C. 1973e, 1973g))

[FR Doc. 80-3389 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Northern Common Dolphin; Prohibition on Take Incidental to Commercial Fishing Operations

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

ACTION: Notice of take of northern common dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking northern common dolphin is being implemented due to the fact that the quota established in 1980 for northern common dolphin has been exceeded. Northern common dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals.

EFFECTIVE DATE: January 31, 1980.

ADDRESSES: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 So. Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT: Richard Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Telephone: (202) 634-7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1980, a limit of seventy (70) northern common dolphin mortalities was stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(B) notice is hereby published of the date when a prohibition on further taking of northern common dolphin, except as allowed in 50 CFR 216.24(d)(2)(i)(C), becomes effective.

Date: January 29, 1980.

Winfred H. Meibohm,

National Marine Fisheries Service.

[FR Doc. 80-3490 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing revised regulations to implement the back pay amendments of the Civil Service Reform Act of 1978 and to clarify and simplify the provisions of the current back pay regulations.

DATE: Comments must be received on or before April 1, 1980.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, 202–632–5530.

SUPPLEMENTARY INFORMATION: Prior to the Civil Service Reform Act of 1978 (CSRA), the back pay law (5 U.S.C. 5596) provided for the payment of back pay when an appropriate authority determined that an employee had been affected by an unjustified or unwarranted personnel action that had resulted in the withdrawal or reduction of all or part of the pay, allowances, and differentials otherwise due the employee. The amendments made by section 702 of the CSRA provide, in addition, for the payment of reasonable attorney fees related to the personnel action when such payment is warranted in the interest of justice. The amendments also specify that (1) back pay is to be allowed for decisions relating to unfair labor practices or grievances, (2) acts of omission as well as acts of commission are to be covered, (3) back pay under 5 U.S.C. 5596 does not apply to any reclassification action, and (4) the back pay law does not authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

The proposed revisions to Subpart H of Part 550 of Title 5, Code of Federal Regulations, are intended to implement these amendments to the back pay law made by the CSRA. In addition, the proposes revisions clarify and simplify the current back pay regulations and make a number of editorial changes in them. OPM has determined this is a significant regulation for the purposes of E.O. 12044.

Section 702 of the CSRA amended section 5596(b) of title 5, United States Code, to read as follows:

(b)(1) An employee of an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee—

(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect—

(i) an amount equal to all or part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

(B) for all purposes, is deemed to have performed service for the agency during that period, except that—

(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

(3) For the purpose of this subsection, "grievance" and "collective bargaining agreement" have the meanings set forth in section 7103 of this title, "unfair labor practice" means an unfair labor practice described in section 7116 of this title, and "personnel action" includes the omission or failure to take an action or confer a benefit.

Section 7701(g) of title 5, United States Code, reads as follows:

(g)(1) Except as provided in paragraph (2) of this subsection, the [Merit Systems Protection] Board, or an administrative law judge or other employee of the Board designated to hear a case, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee, as the case may be, determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(2) If an employee or applicant for employment is the prevailing party and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

Accordingly, the Office of Personnel Management is proposing to revise the table of sections and Subpart H of Part 550 of Title 5, Code of Federal Regulations, as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

* * * * *

Subpart H—Back Pay

550.801 Scope.
550.802 Definitions.
550.803 Determining entitlement to back pay.
550.804 Back pay computations.
550.805 Payment of reasonable attorney fees.
550.806 Prohibition against setting aside proper promotions.

* * * * *

Subpart H—Back Pay

Authority.—5 U.S.C. 5596.

§ 550.801 Scope.

(a) *Coverage.* This subpart applies to agencies and employees, as defined in § 550.802.

(b) *Applicability.* Section 5596 of title 5, United States Code, and this subpart apply in the computation and restoration of pay, allowances, and differentials, and the payment of reasonable attorney fees, for the purpose of making an employee financially whole (to the extent possible) when, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance), the employee is found by an appropriate authority to have undergone an unjustified or unwarranted personnel action that resulted in the withdrawal, reduction, or denial of all or part of the pay, allowances, and differentials otherwise due the employee.

§ 550.802 Definitions.

In this subpart:

"Agency" means (a) an Executive agency (other than the Tennessee Valley Authority), as defined in section 105 of title 5, United States Code; (b) the Administrative Office of the United States Courts; (c) the Library of Congress; (d) the Government Printing Office; and (e) the government of the District of Columbia.

"Appropriate authority" means an entity having authority in the case at hand to correct or direct the correction of an unjustified or unwarranted personnel action. Such an entity may be (a) a court; (b) the Comptroller General of the United States; (c) the Office of Personnel Management; (d) the merit Systems Protection Board; (e) the Federal Labor Relations Authority; (f) the Equal Employment Opportunity Commission; (g) a grievance board established by section 692 of the Foreign Service Act of 1946, as amended; (h) an arbitrator in a binding arbitration case; (i) an entity established under District of Columbia law empowered to hear and decide appeals or grievances of employees of the government of the District of Columbia; or (j) the head of the employing agency or another official of the employing agency to whom such authority is delegated.

"Employee" means an employee or former employee of an agency.

"Grievance" has the meaning given that term in section 7103(a)(9) of title 5, United States Code.

"Pay, allowances, and differentials" means payments and entitlements that are provided by an agency to an employee in exchange for the performance of work.

"Unfair labor practice" means an unfair labor practice described in section 7116 of title 5, United States Code.

"Unjustified or unwarranted personnel action" means an act of the commission or an act of omission (i.e., failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or procedural defects, to have been unjustified or unwarranted under applicable law, Executive order, rule, regulation, personnel policy established by an agency, or collective bargaining agreement. Such actions include personnel actions and pay actions (alone or in combination), but do not include any actions relating to the reclassification of a position to a higher grade.

§ 550.803 Determining entitlement to back pay.

(a) An Unjustified or unwarranted personnel action must be corrected under the provisions of section 5596 of title 5, United States Code, and this subpart unless an appropriate authority determines that the record contains clear and convincing evidence that the employee would not have received the applicable pay, allowances, and differentials even if the unjustified or unwarranted personnel action had not occurred.

(b) The requirement for a "timely appeal" referred to in section 5596 of title 5, United States Code, is met when:

(1) an employee or an employee's personal representative initiates a claim to the Comptroller General of the United States for settlement of his or her claim against the Government, or initiates an appeal or grievance under an appeal or grievance system, including appeal or grievance procedures included in a collective bargaining agreement, and

(2) that claim is accepted as timely filed by the Comptroller General, or that appeal or grievance is accepted as timely filed by the Government authority administering the appeal or grievance system, or is found to be timely filed by another appropriate authority.

(c) The requirement for an "administrative determination" referred to in section 5596 of title 5, United States Code, is met when an appropriate authority determines, in writing, that an agency has taken an unjustified or unwarranted personnel action.

(d) The requirement for "correction of the personnel action" referred to in section 5596 of title 5, United States Code, is met when an appropriate authority consistent with law, Executive order, rule, regulation, personnel policy established by an agency, or collective bargaining agreement, after a review, corrects or directs the correction of an unjustified or unwarranted personnel action.

§ 550.804 Back pay computations.

(a) When an appropriate authority corrects or directs the correction of an unjustified or unwarranted personnel action, the agency shall recompute for the period covered by the corrective action the pay, allowances, and differentials the employee would have received if the unjustified or unwarranted personnel action had not occurred, but in no case will the employee be granted more pay, allowances, and differentials under section 5596 of title 5, United States Code, and this subpart than he or she would have been entitled to receive if the unjustified or unwarranted personnel action had not occurred.

(b) Except as provided in paragraph (c) of this section, in computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency may not include:

(1) any period during which the employee was not ready, willing, and able to perform his or her duties because of an incapacitating illness or injury, or

(2) any period during which the employee was unavailable for the performance of his or her duties, for reasons other than those related to, or caused by, the unjustified or unwarranted personnel action.

(c) In computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency shall grant, upon request of an employee, any sick or annual leave available to the employee for a period of incapacitation if the employee can establish that the period of incapacitation was the result of illness or injury.

(d) In computing the amount of back pay under section 5596 of title 5, United States Code, and this subpart, the agency shall deduct any amounts earned by an employee from other employment during the period covered by the corrected personnel action. The agency shall include as other employment only employment engaged in by the employee to take the place of the employment from which the employee was separated by the unjustified or unwarranted personnel action.

(e) Annual leave that is restored to an employee as a result of the correction of an unjustified or unwarranted personnel action and that is in excess of the maximum leave accumulation authorized by law shall be credited to a separate leave account for use by the

employee. Annual leave in such a separate leave account must be scheduled and used by the end of the leave year ending 2 years after the date on which the annual leave is credited to the separate account.

§ 550.805 Payment of reasonable attorney fees.

(a) An employee or an employee's personal representative may file with the appropriate authority a request for payment by the employing agency of attorney fees.

(b) The appropriate authority shall provide an opportunity for an appropriate official of the employing agency to file with the appropriate authority a response to a request for payment by the employing agency of attorney fees.

(c) Except as provided in paragraph (d) of this section, when an appropriate authority determines that an employee is entitled to back pay under section 5596 of title 5, United States Code, and this subpart, the payment of reasonable attorney fees requested in accordance with paragraph (a) of this section shall be deemed to be warranted only if:

(1) such payment is in the interest of justice, including any case in which a prohibited personnel practice described in section 2302(b) of title 5, United States Code, was engaged in by the agency or any case in which the agency's action was clearly without merit, and

(2) there is a specific finding by the appropriate authority setting forth the reasons such payment is in the interest of justice.

If the appropriate authority determines that such payment is warranted, the appropriate authority shall require payment by the employing agency of attorney fees in an amount determined to be reasonable by the appropriate authority. If the appropriate authority determines that such payment is not warranted, no such payment shall be required.

(d) When an appropriate authority determines that an employee is entitled to back pay under section 5596 of title 5, United States Code, and this subpart based on a finding of discrimination prohibited under section 2302(b)(1) of title 5, United States Code, the payment of attorney fees requested in accordance with paragraph (a) of this section shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(e) The payment of attorney fees shall be allowed only for the services of members of the Bar and paralegals or law clerks assisting members of the Bar. However, no payment may be allowed under section 5596 of title 5, United States Code, and this subpart for the services of any employee of the Federal Government, except as provided in section 205 of title 18, United States Code.

(f) The determination by an appropriate authority concerning whether the payment of reasonable attorney fees is in the interest of justice and concerning the amount of any such payment shall be subject to review or appeal when provided for by the appropriate authority.

§ 550.806 Prohibition against setting aside proper promotions.

Nothing in section 5596 of title 5, United States Code, or this subpart shall be construed as authorizing the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

[FR Doc. 80-3407 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Semiannual Regulatory Agenda is a semi-annual summary of each proposed and each final regulation that the Immigration and Naturalization Service expects to publish in the **Federal Register** during the succeeding 12 months or such longer projected period as may be anticipated. The agenda also includes a semi-annual summary of the existing regulations that the Immigration and Naturalization service has selected for review and possible revocation or revision. The Semiannual Regulatory Agenda provides the public with information about the Service's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Service's regulatory activity.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Semiannual Regulatory Agenda, in general, contact: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536. Telephone: (202) 633–3048.

Specific

For further information about any particular item on the agenda contact the individual listed in the column headed "Contact" for that item.

SUPPLEMENTARY INFORMATION:

Background

Improving Government regulations is a prime goal of the Carter Administration. To help achieve this goal, and in accordance with Executive Order 12044 ("Improving Government Regulations"; 43 FR 12661; March 24, 1978), the Attorney General issued his final report (Report on the Implementation of Executive Order No. 12044, "Improving Government Regulations"; 44 FR 30161; May 25, 1979) to establish guidelines within the Department of Justice for implementation of the Executive Order. The guidelines include a requirement that each organizational component prepare a semiannual agenda of regulations for publication in the **Federal Register.** The Immigration and Naturalization Service, in compliance with the Departmental guidelines, prepared the Semiannual Regulatory Agenda which follows, summarizes each proposed and final regulation it expects to publish in the **Federal Register** during the succeeding 12 months or longer projected period, and also a semi-annual list of existing regulations it has selected for review and *revision for publication in the* **Federal Register.**

Explanation of Information on the Semiannual Regulatory Agenda

The agenda consists of three major subdivisions: (1) Significant Regulations; (2) Non-significant Regulations; and (3) Review. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) A short descriptive title; (2) a summary of the contents of the regulation; (3) nature of the latest agency action taken; (4) a contact official who can provide additional information; and (5) the related regulatory citation in the Code of Federal Regulations.

For non-significant regulations, and those scheduled for review, only the general category of the regulations, the

identity of a contact official, and that Part of the code of Federal Regulations affected are included except where specific sections can be identified at this time.

In the "Decision Date" column, NPRM stands for Notice of Proposed Rule Making and the date immediately following indicates the month and year such notice was, or will be published in the **Federal Register**. The "Target Date" indicates the date by which the review is expected to be completed and a decision made whether or not a regulation will be changed by revision, revocation, or amendment.

Purpose

The Immigration and Naturalization Service is publishing this Semiannual Regulatory Agenda in the **Federal Register** to share with the public the Service's anticipated future regulatory activity. Knowledge of the nature and scope of this activity, as well as specific proposals and reviews being considered, should result in more effective public participation in the Service's regulatory actions.

This publication in the **Federal Register** does not impose any binding obligation on the Service with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

Issued in Washington, D.C., on January 30, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

Semiannual Regulatory Agenda Immigration and Naturalization Service Significant Regulations

Title	Summary	Contact	Decision date
Revision to Service Fee Schedule	A. *Description:* This revision proposes changes in the fee schedule to reflect current costs of providing services. (8 CFR Part 103). B. *Why Significant:* Significant increases in fees charged will have an economic impact on petitioners nation-wide. We received opposition from attorneys practicing immigration law who felt the increased fees impose an unfair financial burden on the petitioners. C. *Regulatory Analysis:* Not required. D. *Need:* The fee schedule in this regulation no longer reflects current processing costs of Service applications and petitions as required by law. E. *Legal Basis:* 31 U.S.C. 483(a) and OMB Circular No. A-25. F. *Chronology:* Fee review data worksheets prepared May 1979. NPRM published October 1, 1979 (44 FR 56368). G. *Citation:* 8 CFR 103.7(b)(1)	Anthony Lascaris (202) 633-3240. Olaf Fagerli (202) 633-2897.	NPRM October 1979.
Amendment to 8 CFR 212.6(d) Nonresident Alien Border Crossing Cards.	A. *Description:* This revision provides that an alien seeking to enter the United States using a nonresident alien border crossing card as an entry document shall be advised of the right to a hearing before an immigration judge if a supervisory immigration officer at a port of entry determines that the entry document should be voided.. B. *Why Significant:* This matter affects a sizeable population on the southern border of the United States, where such border crossing cards were previously taken from aliens without judicial review. C. *Regulatory Analysis:* Not required. D. *Need:* This amendment would ensure that an alien is not required to surrender a benefit without appropriate reviews of the action taken. E. *Legal Basis:* Sec. 103 and 212; 8 U.S.C. 1103 and 1182. F. *Chronology:* Published as a Notice of Proposed Rule Making in 44 FR 5668 on January 29, 1979 and republished as a NPRM in 44 FR 18979 on March 30, 1979. G. *Citation:* 8 CFR 212.6(d)	F. P. Murphy (202) 633-3275.	NPRM March 1979.
Nonimmigrant Alien (H-1) Nurses; Proposed Examination Requirement.	A. *Description:* This amendment would require nonimmigrant alien nurses to pass the screening examination given by the Commission on Graduates of Foreign Nursing Schools in order to qualify for the "H-1" nonimmigrant visa classification. B. *Why Significant:* This action bears upon a matter that is of importance to both the medical community and the public—the quality of nursing care being received in hospitals in the United States. C. *Regulatory Analysis:* Not required. D. *Need:* This amendment is intended to provide a test of the capabilities of foreign professional nurses in all areas of nursing for which American nurse graduates are responsible. This proposed requirement would afford an objective estimate of such alien nurse's ability to pass state licensure examinations in the United States and to perform services here of the "exceptional nature" required by the statute. E. *Legal Basis:* Sec. 103, 8 U.S.C. 1103, interpret or apply Sec. 214, 8 U.S.C. 1184. F. *Chronology:* Published as a proposed rule in 44 FR 50604 on August 29, 1979. G. *Citation:* 8 CFR 214.2(h)(2)(iv)	T. W. Simmons (202) 633-3946.	NPRM August 1979.
Voluntary Departure Prior to Commencement of Hearing.	A. *Description:* This proposed amendment sets forth criteria to be considered by the district director in determining whether there exist "compelling circumstances" which would justify the grant of voluntary departure to an alien prior to the commencement of hearing to determine deportability. (8 CFR Part 242). B. *Why Significant:* Voluntary departure, reduces the time the alien is held in detention and, in the case of voluntary surrender, avoids any detention. C. *Regulatory Analysis:* Not required. D. *Need:* Expeditious processing of an alien who agrees to depart voluntarily saves hearing time cost and allows the alien greater flexibility in arranging for his/her own departure. E. *Legal Basis:* Sec. 103 (8 U.S.C. 1103); interpret or apply Sec. 244 (8 U.S.C. 1254). F. *Chronology:* Proposed rule published in 44 FR 36193 dated June 21, 1979. Comments referred to the operating unit on September 7, 1979. Rule abandoned by the operating unit with the intent to incorporate procedural changes in the Service's Operating Instructions. G. *Citation:* 8 CFR 242.5(a)(2)(iii)	J.A. Simon (202) 633-4049.	NPRM June 1979
Apprehension, Custody and Detention of Aliens.	A. *Description:* This action would revise the procedure and criteria to be considered in determining the propriety of arrest and release on bond of aliens. B. *Why Significant:* Involves a matter that is of significant interest to the public as it involves enforcement action by the Service. C. *Regulatory Analysis:* Not required. D. *Need:* We need to clarify procedures that apply to aliens and to define clearly their rights..	J.A. Simon (202) 633-4049.	NPRM March 1979.

Semiannual Regulatory Agenda Immigration and Naturalization Service Significant Regulations—Continued

Title	Summary	Contact	Decision date
	E. *Legal Basis:* Sec. 103 and 242; (8 U.S.C. 1103 and 1252). F. *Chronology:* Published as proposed rule in 44 FR 12199 dated March 6, 1979 with a target date of August 1979 for final rule. Rule abandoned by the operating unit with the intent to incorporate procedural changes in the Service's Operating Instructions. G. *Citation:* 8 CFR 242.2(a)		
Replacement of Registration Receipt Cards	A. *Description:* This action would revise the regulation on replacement of Alien Registration Receipt Cards that have been lost, mutilated, destroyed, are obsolete, or where replacement is requested due to change of name. B. *Why Significant:* It is proposed to have an applicant for such a replacement card appear in person at the Service office to place one fingerprint and his/her signature on the data collection document from which the replacement card is to be made. Under the former procedure, replacement cards were processed by mail. C. *Regulatory Analysis:* Not required. D. *Need:* use of the new I-551, Alien Registration Receipt Card, requires the alien to be processed at a Service office. E. *Legal Basis:* Sec. 103 and 264; (8 U.S.C. 1103 and 1304). F. *Chronology:* Work plan prepared 7/79 involving all major operating units. G. *Citation:* 8 CFR 264.1(c)	E. W. Upton (202) 633-3946.	NPRM March 1980.
Various	A. *Description:* This revision would amend numerous sections of the regulations by setting forth criteria and factors to be considered by Service officers in the exercise of administrative discretion. B. *Why Significant:* Involves a matter of significant interest to the public seeking a benefit from the Service by informing the public of the criteria used by the Service for granting such benefits. C. *Regulatory Analysis:* Not required. D. *Need:* Clearly defined criteria for Service officers in the exercise of administrative discretion ensure uniformity and consistency in either granting or denying benefits to the public. E. *Legal Basis:* Sec. 103; 8 U.S.C. 1103. Interpret to apply secs. 205, 211, 212, 214, 223, 235, 243, 245, 248, 249, 250, 252, 256, 271, and 336; 8 U.S.C. 1155, 1181, 1182, 1184, 1203, 1225, 1253, 1255, 1258, 1259, 1260, 1282, 1284, 1286, 1321, and 1447. F. *Chronology:* Published as a proposed rule at 44 FR 36187 dated June 21, 1979. Comments referred to the operating unit on September 7, 1979 for analysis. G. *Citation:* 8 CFR §§ 103.2(b)(2); 103.6(a)(2); 103.7(c)(1); 106.2; 205.1(a)(3); 211.1(b)(3); 211.2 212.1(f); 212.2(j); 212.3; 212.4(h),(i); 212.5(a); 212.5(b); 2121.6; 212.7(a), (b), (c-1); 214.1(a); 223.1; 235.9(c); 243.4; 243.8; 245.4; 245.8; 248.3(c), (d), (e); 249.3; 249.4; 250.1; 252.1(d); 252.2; 254.1; 256.1; 271.1; and 336.16.	R. E. Coughlon (202) 633-3946.	NPRM June 1979..

Semiannual Regulatory Agenda Immigration and Naturalization Service Nonsignificant Regulations

Title	Summary	Contract	Decision date
Evidence Required to Accompany Petition for Orphan.	This action would amend the final rule published in 44 FR 5059 dated January 25, 1979 to provide clearer definitions of terms and to reformat the regulation to improve its read ability. (8 CFR 204.2(d)).	H. F. Klajbor (202) 633-3229.	Target date February 1980.
Proposed Rules for Employment Authorization for Certain Aliens.	This action would codify various Service Operations Instructions, policy statements, and other memoranda directed at Service field offices about procedures and criteria for granting employment authorization to aliens in the United States. (8 CFR Part 109). Published as a proposed rule in 44 FR 43480 dated July 25, 1979..	H. F. Klajbor (202) 633-3229.	NPRM July 1979.
Special Requirements for Admission, Extension and Maintenance of Status.	This action proposes an amendment to 8 CFR 214.2(h)(2)(v) to clarify criteria for determining if accompanying aliens such as managers, trainers, musical accompanists and other persons are essential to the successful performances of beneficiaries and may also be classified as H-1 aliens.	R. E. Coughlon (202) 633-3946.	NPRM February 1980.
Review: To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant.	Review of section 204.1 Petition, concerning relatives, orphans, labor certification, filing dates, with preference petition for members of the professions and discretionary interview procedure. (8 CFR 204.1).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Nonimmigrant Classes	Review of the special requirements for admission, extension, and maintenance of status of nonimmigrant classes. (8 CFR 214.2).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Petitions for Approval of Schools	Review of the procedures for petitions for approval of schools including filing, supporting documents, interview of petitioner, approval of petition, denial of petition, reporting requirements, review of school approvals, enforcement of student regulations, and issuance of certificates of eligibility. (8 CFR 214.3).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Withdrawal of school approval	Review of the grounds and procedural requirements for withdrawal of school approval, including notice, hearing, pleading, order, appeal and reopening by motion. (8 CFR 214.4).	H. F. Klajbor (202) 633-3229.	Target date August 1980.
Review: Field Officers; powers and duties	Up-date of existing regulation to reflect current case law if required. (8 CFR Part 287)	E. L. Carlson (202) 633-3094 or	No changes—action complete.
Review: Inspection of Persons Applying for Admission.	Up-date of existing regulation to reflect current statutory and case law if required. (8 CFR Part 235).	T. C. Leupp (202) 633-3078.	Target date June 1980.
Review: Landing of Alien Seamen	Up-date of existing regulation to reflect current statutory and case law if required. (8 CFR Part 252).	E. L. Carlson (202) 633-3094 or T. C. Leupp (202) 633-3078.	Target date June 1980..
Review: Petition to classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant.	As part of an ongoing process, Part 204 of 8 CFR has been reviewed by the operating unit and no significant changes are needed in the following: 8 CFR 204.2; 8 CFR 204.3; 8 CFR 204.4; 8 CFR 204.5; 8 CFR 204.6; 8 CFR 204.7.	R. E. Coughlon (202) 633-3946.	Action complete..
Review: Requirements for Admission, Extension and Maintenance of Status.	8 CFR 214.1 has been reviewed and no significant change is needed	R. E. Coughlon (202) 633-3946.	Action complete..
Review: Special Requirements for Admission, Extension, and Maintenance of Status.	Special requirements as they apply to students will be reviewed for possible modification. (8 CFR 214.2(f)).	R. E. Coughlon (202) 633-3946.	Target date March 1980.
Review: Inspection of Persons Applying for Admission.	Various sections of Part 235 of 8 CFR have been reviewed and no significant changes are needed: 8 CFR 235.4, Notations on Documents; 8 CFR 235.5, Preinspection; 8 CFR 235.8, Temporary Exclusion; 8 CFR 235.10, U.S. Citizen Identification Card.	W. F. Doyle (202) 633-4033.	Action complete..

[FR Doc. 80-3614 Filed 1-31-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 58

[Docket No. 76N-0400]

Nonclinical Laboratory Studies; Amendment of Good Laboratory Practice Regulations

Correction

In FR Doc. 79-36991 appearing at page 69666 in the issue for Tuesday, December 4, 1979, on page 69668, second column, eleventh line of the second paragraph, delete "326".

BILLING CODE 1505-01-M

21 CFR Part 353

[Docket No. 78N-0196]

Oral Mucosal Injury Drug Products for Over-the-Counter Human Use, Establishment of a Monograph; Proposed Rulemaking

Correction

In FR Doc. 79-32590, published at page 63270, on Friday, November 2, 1979, on page 63283, in the first column, under "References", in the fourth line of paragraph (1)., "MD, Section 11, * * *" should be corrected to read "MD, Section II, * * *".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Semiannual agenda of regulations.

SUMMARY: The Office of the Attorney General is publishing its semiannual agenda of regulations under Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Guadalupe Salinas, Special Assistant to the Attorney General, Department of Justice, Washington, D.C. 20530, 202/633-2927.

Semiannual Agenda of Regulations—Draft Consumer Program—Discussion of the Regulation

Executive Order 12160 established the Consumer Affairs Council and requires agencies to review and revise their operating procedures so that consumer needs and interest are adequately considered and addressed. A draft consumer plan was published in 44 FR 71384-71389 and is presently in a period of public comment, which will end on March 10, 1980. Approximately 90 days thereafter, on June 9, 1980 the Department will publish its Consumer Affairs Program. The Program will create a Consumer Affairs Committee to coordinate consumer-related activities of the Department. The Program will establish procedures for consumer participation in the development and review of rules, policies and programs, provide for publication and distribution of consumer information, establish procedures for systematically handling consumer complaints and provide for specialized training of agency consumer affairs personnel.

Legal Basis

Providing for Enhancement and Coordination of Federal Consumer Programs. Executive Order 12160, 44 FR 55787.

Regulatory Analysis

A regulatory analysis is not required.

Knowledgeable Official

Guadalupe Salinas, Office of the Attorney General, Department of Justice, Washington, D.C. 20530. 202/633-2927.

Guadalupe Salinas,

Special Assistant to the Attorney General.

[FR Doc. 80-3613 Filed 1-31-80; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Timely Filing of Claims for Payment

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed amendment clarifies the present regulation on timely filing of claims to include that payment of claims will not be made for medical care received prior to the effective date of the grant of service connection.

DATES: Comments must be received on or before March 3, 1980. It is proposed to make this change effective the date of final approval.

Comments will be available for inspection at the address shown below during normal business hours until March 12, 1980.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (202-389-3785).

SUPPLEMENTARY INFORMATION: The current text of 38 CFR 17.85(b) implies that veterans may be entitled to payment of unauthorized claims for medical care up to 2 years prior to filing for service-connected status regardless of the date of the grant of service connection. This change clarifies that payment will not be made for care received prior to the effective date of the grant of service connection in addition to restricting payment to no more than 2 years prior to filing or reopening a claim.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections, regarding this proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday

through Friday (except holidays) until March 12, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 25, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 17.82 [Amended]

1. Section 17.82 is amended by deleting the word "his" and adding the word "his/her".

§ 17.84 [Amended]

2. Section 17.84 is amended by deleting the words "Veterans Administration hospital" and inserting the words "Veterans Administration facility" in paragraph (a); by deleting the words "Veterans Administration Hospital" and inserting the words "Veterans Administration Medical Center" in paragraph (c); and by deleting the words "Veterans Administration Center" and inserting the words "Veterans Administration Medical and Regional Office Center" in paragraph (e).

3. In § 17.85, paragraph (b) is revised to read as follows:

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of medical care or services not previously authorized must be filed within the following time limits:

* * * * *

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered prior to the effective date of the grant of service connection or more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowances, whichever is later, or

* * * * *

[FR Doc. 80-3436 Filed 1-31-80; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 79-336]

Granting a General Exemption From the Radiotelegraph Requirements of Title III, Part II of the Communications Act to U.S. Cargo Vessels of 1,600 Gross Tons and Upward Navigated Solely on Domestic Voyages Along the East, West, of Gulf Coast of the Contiguous 48 States; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order

SUMMARY: The Federal Communications Commission released a Notice of Proposed Rule Making and Notice of Inquiry on January 3, 1980 which appeared in the **Federal Register** (45 FR 1924) of January 9, 1980. This notice proposed to grant a general exemption from the radiotelegraph requirements of the Communications Act to U.S. cargo vessels of 1600 gross tons or more when navigated on domestic voyages along the coasts of the contiguous 48 states, and solicited comments relative to the effectiveness of the radiotelegraph and radiotelephone safety systems as applicable to vessels navigated in these areas. The American Radio Association and Radio Officers Union requested an extension of time to collect and organize this data from submission in this matter affecting maritime safety to life and property.

DATES: Comments must be received on or before April 18, 1980, and reply comments must be received on or before May 30, 1980.

ADDRESSES: Send comments to: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

[45 FR 1924]

Adopted: January 25, 1980.

Released: January 28, 1980.

In the Matter of Amendment of Part 83 to grant a general exemption from the radiotelegraph requirements of Title III, Part II of the Communications Act to United States cargo vessels of 1600 gross tons and upward navigated solely on domestic voyages along the east, west or Gulf coasts of the continguous 48 states; PR Docket No. 79-336.

1. The American Radio Association and Radio Officers Union, AFL-CIO (ARA-ROU), pursuant to Sections 0.331 and 1.46 of the Commission's rules, has requested the Chief, Private Radio Bureau to extend the time for filing comments from March 7, 1980 to April 18, 1980 and reply comments from March 27, 1980 to May 30, 1980.

2. ARA-ROU state that the matters involved in this proceeding are extremely important to maritime safety of life and property. The Commission should have all relevant information before it to make a proper disposition of the matter. ARA-ROU desire to submit this information but require additional time for collection and organization of the material.

3. We find that the public interest will be served by the extension of time for filing comments and reply comments as requested by ARA-ROU. Accordingly, the Motion For Extension of Time filed by ARA-ROU is granted, and the date for filing comments and reply comments are extended to April 18, 1980 and May 30, 1980 respectively.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80-3408 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 79-191; RM-3380]

Designating Frequencies in the 806-821 and 851-866 MHz Bands for Slow Growth Land Mobile Radio Systems of Utilities and Public Safety Agencies; Order To Accept Late Filed Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order to accept late filed reply comments in proposed rulemaking.

SUMMARY: This order allows acceptance into the records of late filed reply comments submitted by the International Association of Chiefs of Police in PR Docket 79-191 relating to designating frequencies in the 806-821 and 851-866 MHz bands for slow growth land mobile radio systems of utilities and public safety agencies.

DATES: Non-Applicable.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, Rules Division, (202) 632-6497.

Adopted: January 23, 1980.

Released: January 28, 1980.

By the Chief, Private Radio Bureau:

In the matter of amendment of Part 90 of the Commission's rules to designate frequencies in the 806–821 and 851–866 MHz bands for slow growth land mobile radio systems of utilities and public safety agencies.

1. Because additional comments concerning this proceeding emerged at a January 7–9, 1980, meeting of the International Association of Chiefs of Police (IACP) Research Committee and National Advisory Committee for Law Enforcement Equipment and Technology, the IACP was unable to meet the January 10, 1980, deadline for submission of reply comments.

2. IACP has requested either a 30 day extension of time in which to file reply comments, or as an alternate to the extension of time, asked that the Commission accept their late filed reply comments when submitted.

3. It is felt that sufficient justification has been made, and that the public interest would be served by accepting IACP's late filed reply comments.

4. Accordingly, it is ordered, pursuant to §§ 0.331 and 1.46 of the Commission's rules, that late filed reply comments to be filed by the International Association of Chiefs of Police in the proceedings of PR Docket 79–191 be accepted into the records.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80-3489 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Cancelled Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Council meeting scheduled for February 6–7, 1980, (which appeared in the **Federal Register** on January 17, 1980, pg. 3361) has been cancelled.

Dated: January 24, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-3178 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-10-M

CIVIL AERONAUTICS BOARD

Southwest Airlines Co., et al.; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended January 25, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportaton cases).

Subpart Q Applications

Date filed	Docket No.	Description
Jan. 23, 1980	37496	Southwest Airlines Co., c/o Paul Y. Seligson, Wilner & Scheiner, 2021 L Street, N.W., Washington, D.C. 20036. Application of Southwest Airlines Co. pursuant to Section 401 of the Act and Subpart Q, requests a certificate of public convenience and necessity authorizing it to perform scheduled air transportation of persons and property between and among the terminal point Dallas (Love Field), Texas, on the one hand, and the alternate terminal points Tulsa, Oklahoma; Oklahoma City, Oklahoma; and Albuquerque, New Mexico, on the other hand. Conforming Applications and Answers are due February 20, 1980.
Jan. 24, 1980	37503	USAir, Inc., Washington National Airport, Washington, D.C. 2001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Economic Regulations of the Civil Aeronautics Board, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Detroit, Michigan, on the one hand, and Philadelphia, Pennsylvania, on the other hand, by removing USAir's stop restriction in the Detroit-Philadelphia market. Conforming Applications and Answers are due February 7, 1980.
Jan. 24, 1980	37504	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Board's Economic Regulations, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Columbus, Ohio, on the one hand, and Washington, D.C. (National) and Washington, D.C. (Dulles), on the other hand, by removing USAir's stop restriction in the Columbus-Washington market. Conforming Applications and Answers are due February 7, 1980.
Jan. 24, 1980	37505	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Board's Economic Regulations, requests amendment of its certificate of public convenience and necessity for Route 97 so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Dayton, Ohio, on the one hand, and Washington, D.C. (National) and Washington, D.C. (Dulles), on the other hand, by removing USAir's stop restriction in the Dayton-Washington Market. Conforming Applications and Answers are due February 7, 1980.
Jan. 14, 1980	37507	Pan American World Airways, Inc., Pan Am Building, New York, New York 10017. Application of Pan American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q requests a certificate of public convenience and necessity authorizing it to engage in nonstop air transportation of persons, property and mail on a permissive basis in the following markets: "Between the terminal point New York, N.Y./Newark, N.J. and the terminal point New Orleans, La." Conforming Applications and Answers are due February 21, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-3433 Filed 1-31-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35508]

Fitness Investigation of Pacific Alaska Airlines; Hearing (on Remand)

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 12, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., January 28, 1980.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 80-3431 Filed 1-31-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

High Plains-Ogallala Aquifer Regional Study, Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas; Intent To Prepare an Environmental Impact Statement

Notice is hereby given that, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Economic Development Administration (EDA) of the U.S. Department of Commerce will prepare an Environmental Impact Statement (EIS) on the High Plains-Ogallala Aquifer Regional Study authorized by section 193 of Pub. L. 94–587. The High Plains-Ogallala Aquifer covers portions of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas. The objectives of the study are to assure

adequate water supplies to the area, promote economic vitality of the High Plains region, develop plans to increase water supplies in the area, and assure continued growth and vitality to the region.

A major element of the study will be alternatives consideration. The EIS will address the potential impacts of major alternatives and otherwise assist in developing any decisions on the study for future courses of action.

In accordance with the Council on Environmental Quality's regulations, scoping meetings will be held to inform interested parties and to solicit their comments. These meetings also will serve as part of the public outreach program of the study. A notice will be published in a local newspaper prior to the meetings indicating the time, date, and location of each scoping meeting. Comments and questions regarding the EIS should be addressed to:

Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, ATTN: Mr. Andrew E. Kauders.

Dated: January 25, 1980.

Robert T. Hall,

Assistant Secretary for Economic Development.

[FR Doc. 80-3186 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Portable Electric Typewriters From Japan; Antidumping Hearing

A "Withholding of Appraisement Notice" in connection with the antidumping investigation of portable electric typewriters from Japan was signed on December 28, 1979 and published in the **Federal Register** on January 4, 1980, (Vol. 45 No. 3 pages 1220–1222). Pursuant to section 102(b)(2) of the Trade Agreements Act of 1979, (19 U.S.C. 1671; 93 Stat 189) a preliminary determination made prior to January 1, 1980 is deemed to have been made on January 1, 1980 under section 733 of the Tariff Act of 1930, as amended, (19 U.S.C. 1673 b; Stat 163). This notice provided an opportunity to interested parties, pursuant to § 153.40, of the Customs Regulations to present written views or arguments, or to request in writing an opportunity to present oral views. Pursuant to this notice, interested parties have requested opportunities to present their views orally.

Therefore, a public hearing in the matter of portable electric typewriters from Japan will be held at the U.S. Department of Commerce, Room 5611, 14th & Constitution Avenues, N.W., Washington D.C. 20230, beginning at 10 a.m. Friday, February 8, 1980. Interested persons other than those who have requested an opportunity to present their views may appear at the hearing provided that a written request is filed with the Office of the Assistant Secretary for Trade Administration, Room 3850 U.S. Department of Commerce, Washington, D.C. 20230.

These requests shall contain: (1) the name, address and telephone number of the requester. (2) the number of participants and reason for attending. All requests are subject to the approval of the Assistant Secretary, and must be received by 5:00 p.m. Monday, February 4, 1980.

Dated: January 28, 1980.

Stanley Marcuss,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80-3185 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

Brigham Young University; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00447. Applicant: Brigham Young University, 105 NICB, Chemistry Department, Provo, Utah 84602. Article: Gas Chromatograph, Model 4160 and Accessories. Manufacturer: Carlo Erba Strumentazione, Italy. Intended use of article: The article is intended to be used in research to evaluate the performance of glass capillary columns which have been prepared by different procedures. The article will also be used for training the Chemistry 589R–Special Problems and Chemistry 729R–Selected Topics in Analytical Chemistry.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides on-column sample injection. The National Bureau of Standards advises in its memorandum dated December 13, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80-3356 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-25-M

California Institute of Technology et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street N.W., Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

The applicant shall *on or before the 20th* day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.

* * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within

the context of Subsection 301.11. (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day* period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

* * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, of the Federal Register for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No.: 79–00020. Applicant: California Institute of Technology, 1201 E. California Street, Pasadena, California 91125. Article: Gas Chromatograph/Mass Spectrometer, Model MS–25 and Accessories. Date of denial without prejudice to resubmission: September 5, 1979.

Docket No.: 79–00100. Applicant: Princeton University, Flight Research Laboratory, Forrestal Campus, Princeton, NJ 08540. Article: Research Aircraft Navigation Computer. Date of denial without prejudice to resubmission: July 31, 1979.

Docket No.: 79–00136. Applicant: Loma Linda University Medical Center, 11234 Anderson Street, Loma Linda, CA 92350. Article: AECL Therac 20—Saturne Linear Accelerator. Date of denial without prejudice to resubmission: August 3, 1979.

Docket No.: 79–00199. Applicant: Veterans Administration Medical Center, Laboratory Service (113), Electron Microscope Unit, Hines, Illinois 60141. Article: LKB 2128–010 Ultrotome IV Ultramicrotome and Accessories. Date of denial without prejudice to resubmission: July 31, 1979.

Docket No.: 79–00204. Applicant: UCLA Lab. of Nuclear Medicine, 900 Veteran Avenue, Los Angeles, California 90024. Article: DC Power Supply. Date of denial without prejudice to resubmission: August 24, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80–3355 Filed 1–31–80; 8:45 am]

BILLING CODE 3510–25–M

Fresh Cut Roses From Israel; Initiation of Countervailing Duty Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of investigation.

SUMMARY: This notice is to advise the public that a petition has been received and as a result an investigation is being started for the purpose of determining whether or not benefits are granted by the Government of Israel to manufacturers, producers, or exporters of fresh cut roses which constitute a bounty or grant within the meaning of the countervailing duty law. Unless the case is extended, a preliminary determination will be made not later than March 26, 1980, and a final determination not later than June 9, 1980.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 16, 1979, from counsel on behalf of Roses Incorporated, Haslett, Michigan, alleging that payments or bestowals, conferred by the Government of Israel upon the production and exportation of fresh cut roses from Israel constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (the Act). It should be noted that Israel is not a country under the Agreement within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)). Therefore, section 303 of the Act continues to apply to this investigation. Title I of the Trade Agreements Act of 1979 ("TAA") applies to the extent indicated in section 103 of that Act. The effective date of that Title was January 1, 1980. Since no action had been taken on the petition prior to that time, the time limits and applicable procedural requirements of that Title apply to the initiation and conduct of this investigation.

In accordance with section 303 of the Act (19 U.S.C. 1303), I hereby determine that an investigation should be initiated to determine whether the Government of Israel pays or bestows any bounty or grant upon the manufacture, production or exportation of fresh cut roses.

Imports covered by this investigation are described as cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

The alleged bounties or grants arise from various programs which provide incentives for capital investment and exportation of capital goods in general, as well as programs designed to aid the flower industry in particular. Programs designed to encourage capital investments are set forth in the capital Investments Law and include favorable tax treatment for property taxes on buildings and property, grants for portions of the cost of property and equipment, a grant for a portion of the export value added, favorable depreciation rates, and a lower tax rate on income. Programs designed to encourage exports are described in the Israel Investors' Manual and include refunds of indirect taxes included in production of export products, refunds of portions of marketing and export insurance expenses, various forms of preferential financing for export related businesses, and cash rebates of a percentage of export sales. The remaining programs are alleged to encourage the flower industry specifically. It is stated that the Government of Israel subsidizes intensive research and development in the growing, preserving, and transportation of roses. In addition, the Government of Israel, through a marketing company known as AGREXCO, is said to underwrite a portion of marketing expenses and to insure preferential financing of delivery trucks, packing houses, and working capital. It is also alleged that the flower industry receives further support through expanded extension services and a Government backed minimum price program.

Pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the International Trade Administration is required to issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a bounty or grant is being paid or bestowed within the meaning of the statute within 85 days after the filing, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than 150th day after filing. Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), a final

decision is required within 75 days after the preliminary determination.

Therefore, a preliminary determination on this petition will be made no later than March 26, 1980, as to whether or not alleged payments or bestowals conferred by the Government of Israel upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303 of the Act. A final determination will be issued no later than June 9, 1980. If the case is extended, a preliminary determination will be made not later than May 30, 1980, and a final determination not later than August 13, 1980.

This notice is published pursuant to section 702(c)(2) of the Act (19 U.S.C. 1671a).

Donald Furtado,

Acting Under Secretary for International Trade.

January 24, 1980.

[FR Doc. 80-3397 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

Fresh Cut Roses From the Netherlands; Initiation of Countervailing Duty Investigation

AGENCY: United States Department of Commerce.

ACTION: Initiation of investigation.

SUMMARY: This notice is to advise the public that a petition has been received and as a result an investigation is being started for the purposes of determining whether or not subsidies are provided by the Government of the Netherlands to producers, manufacturers, or exporters of fresh cut roses. Unless the case is extended, a preliminary determination will be made within 85 days after publication in the **Federal Register**, and a final determination will be made within 75 days after the date of the preliminary determination.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230; (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 16, 1979, from counsel on behalf of Roses Incorporated, Haslett, Michigan, alleging that payments or bestowals, conferred by the Government of the Netherlands upon the manufacture, production, or exportation of fresh cut roses from the Netherlands constitute the payment or bestowal of bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (the Act).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (P.L. 96-39, 93 Stat. 144) ("TAA") became effective. Since no action had been taken on the petition prior to that time, the provisions of Title I of the TAA apply to the initiation and conduct of this investigation. Section 702 (b), (c), and (d) of the Act, as amended by the TAA (93 Stat. 152, 19 U.S.C. 1671a (b), (c), (d)) provide the requirements covering initiation of countervailing duty investigations by petition.

In accordance with section 702(c) of the Act (93 Stat. 152, 19 U.S.C. 1671a(c), I hereby determine that the petition alleges the elements necessary for the imposition of a duty under section 701(a) of the Act (93 Stat. 151, 19 U.S.C. 1671(a)) and contains information reasonably available to the petitioner supporting the allegations. Therefore, an investigation to determine whether a subsidy is being provided with respect to fresh cut roses from the Netherlands is being initiated.

Imports covered by this investigation are described as cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

The alleged subsidies arise from interest rate subsidies received by farmers for participation in a European Economic Community program designed to increase productivity through modernization. Further benefits are said to be derived from grants enacted under a system known as Wet Investeringsrekening (WIR) which provides incentives for investing in new operating assets. In addition, the government is said to assume certain social security costs and to provide a wage subsidy program.

The petitioner claims that the domestic rose growing industry has sustained material injury as the result of the importation of subsidized roses. It is alleged that the subsidized imports have depressed prices at a time when domestic growing costs have risen rapidly, thus causing a sharp decline in the profit margin of the domestic industry. The petitioner further claims that a recent increase in the importation of roses combined with a general weakening of the domestic growers' position constitute critical circumstances within the meaning of section 703(e) of the Act (19 U.S.C. 1671b(e)).

In accordance with section 702(d) of the Act (19 U.S.C. 1671a(d)), the U.S. International Trade Commission ("U.S.I.T.C.") is being notified of this determination. A copy of the information on the basis of which the investigation is being initiated is being delivered to the U.S.I.T.C. All nonprivileged and nonconfidential information in the files of the International Trade Administration is being made available to the U.S.I.T.C., and all privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under the administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), the U.S.I.T.C. will within 45 days after the date on which the petition was filed with it (January 3, 1980) make a determination as to whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of fresh cut roses from the Netherlands. If that determination is negative, this investigation will be deemed terminated and no further notice will be published by the International Trade Administration. Otherwise, the investigation will continue to conclusion.

Pursuant to section 703(b) of the Act (19 U.S.C. 1671b(b)), the International Trade Administration is required to issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that a subsidy is being provided within the meaning of the statute within 85 days after filing, but not before an affirmative determination by the U.S.I.T.C. as required by section 703(a) of the Act (19 U.S.C. 1671b(a)). If the case is extended pursuant to section 703(c) of the Act (19 U.S.C. 1671b(c)), the preliminary determination may be postponed until not later than the 150th day after filing. Pursuant to section 705(a) of the Act (19 U.S.C. 1671d(a)), a final decision is required within 75 days after the date of the preliminary determination.

This notice is published pursuant to section 702(c)(2) of the Act (19 U.S.C. 1671a(c)(2)).

Donald Furtado,

Acting Under Secretary for International Trade.

January 24, 1980.

[FR Doc. 80-3398 Filed 1-31-80; 8:45 am]

BILLING CODE 3510-22-M

International Trade Administration

Withdrawal of Application for Duty-Free Entry of Scientific Article

The Baylor College of Medicine has withdrawn Docket Number 80–00094 an application for duty-free entry of an Electron Microscope.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 80–3354 Filed 1–31–80; 8:45 am]

BILLING CODE 3510–25–M

Decision on Application for Duty Free Entry of Scientific Article; National Aeronautics and Space Administration

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666–11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79–00327. Applicant: National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt, Md 20771. Article: Scanning Electron Microscope, Model PSEM 500X and Accessories. Manufacturer: Philips Electronics Instruments, the Netherlands. Intended use of article: The article is intended to be used in materials research program covering a broad spectrum of applications. It will also be used extensively in the failure analysis of materials and spacecraft components both as a microscope and electron microprobe. Specific uses will include the following:

(a) To identify elements present in a specimen, determine their distribution and concentration on a microscopic level.

(b) To conduct fractographic studies of metals such as 301 and 17–7PH stainless steels and 6061 aluminum.

(c) To conduct diffusion studies of nobel metals into base metal matrices such as the diffusion of gold into Kovar (and iron-nickel-cobalt alloys).

(d) To characterize the microstructure of alloys and weldments, and

(e) To determine phase identification of grain boundary precipitates in alloy research.

Comments: No comments have been received with respect to this application. A letter received September 5, 1979 from AMRAY Inc. (AMRAY) is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 14, 1978). Reasons: The foreign article provides a fully eucentric goniometer specimen stage. In its comments on the application's initial submission (Docket Number 78–00369) and the additional information provided for the submission (Docket Number 79–00327), AMRAY contended that its Model 1000A was scientifically equivalent to the foreign article for the applicant's intended program. AMRAY did not contend that the 1000A or any other AMRAY instrument provided a fully eucentric goniometer stage and specifications for the 1000A provided by AMRAY indicate that the goniometer stage of this model is not fully eucentric. The National Bureau of Standards advises in its memorandum dated December 17, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose (2) AMRAY does not provide a fully eucentric goniometer stage and (3) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistant Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Program Staff.

[FR Doc. 80–3353 Filed 1–31–80; 8:45 am]

BILLING CODE 3510–25–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1980 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 1, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On November 16, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 F.R. 66010) of proposed addition to Procurement List 1980, November 27, 1979 (44 F.R. 67925).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1980:

SIC 7349

Janitorial Service, Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York 12207.

C. W. Fletcher,

Executive Director.

[FR Doc. 80–3392 Filed 1–31–80; 8:45 am]

BILLING CODE 6820–33–M

Procurement list 1980, Proposed Deletions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed deletion from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement list 1980 services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 5, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodities from Procurement List 1980, November 27, 1979 (44 FR 67925):

SIC 0782

Grounds Maintenance, State Line Park, West Point Lake, West Point, Georgia.

SIC 7641

Furniture Rehabilitation, Upholstery portion only, Fairbanks, Alaska, plus 30-mile radius.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-3393 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980, Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 5, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to add the following commodities and services to Procurement List 1980 November 27, 1979 (44 FR 67925):

Class 8440

Scarf, Man's Wool: 8440-00-005-2558, 8440-00-160-6843, 8440-00-823-7520.

SIC 7349

Janitorial Service, Waltham Federal Building, Waltham, Massachusetts.

Commissary Shelf Stocking and Custodial Service, Sheppard Air Force Base, Wichita Falls, Texas.

SIC 0782

Grounds Maintenance, Fort Ord, California. For the following Areas: 1. Football Field, 2. Multipurpose Field, 3. Durham Field, 4. Sober Field, 5. Bowling Alley, 6. Building #3015.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-3394 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-33-M

COPYRIGHT ROYALTY TRIBUNAL

Cable Royalty Distribution Proceeding

January 29, 1980.

The Copyright Royalty Tribunal (Tribunal) on December 19, 1979 published an Order in the **Federal Register** (44 FR 75201) directing claimants In the Matter of Distribution of Cable Royalty Fees to submit not later than January 31, 1980 "a pre-hearing memorandum" on certain identified subjects relating to the presentation of evidence during the cable royalty distribution proceeding and directing that memoranda on these matters shall be submitted in accordance with certain statements enumerated in the Order.

The National Association of Broadcasters (NAB) on January 17, 1980 filed a Petition for Review of the December 19 Order with the United States Court of Appeals for the District of Columbia. On January 18 the Tribunal received a petition from NAB on behalf of various broadcasting stations claiming cable royalty fees requesting a stay of the Tribunal's Order, and further requesting that all proceedings directed in the December 19 Order "be postponed to a date three weeks after a final decision on this application has been published in the **Federal Register.**"

The Tribunal, prior to action on the NAB petition, received written comments on behalf of the American Society of Composers, Authors, and Publishers, the Motion Picture Association of America, Inc., its member companies, and other program producers and distributors, the Joint Sports Claimants, National Collegiate Athletic Association, and Broadcast Music, Inc.

Prior Proceedings.—On September 12, 1979 the Tribunal, pursuant to 17 USC 111(d)(5)(B), declared the existence of a controversy concerning the distribution among copyright owners of cable royalty fees paid by cable operators during 1978. At a pre-hearing conference on October 11, 1979 representatives of the major claimants, including NAB, requested the Tribunal in the interest of an efficient proceeding to identify certain issues for early consideration. On October 17, 1979 the Tribunal published an Order (44 FR 59930) directing briefing and oral argument on specified issues. Oral arguments on these issues were held December 5 and 6, 1979.

Arguments by Claimants.—In support of its petition, the NAB asserts: 1. "The Broadcasters Have Clearly Met the Standards Required For Issuance Of A Continuance And A Stay", 2. "The Tribunal's December 19, 1979 Decision Should Be Stayed Pending Review Since There Is A Substantial Likelihood That It Will Be Reversed On Appeal", 3. Absent The Relief Requested, The Broadcasters And Countless Other Regulated Parties Will Suffer Irreparable Harm", 4. "Other Interested Parties Suffer Little, If Any, Harm From Issuance Of A Stay".

All comments received by the Tribunal in reply to the NAB petition urged the Tribunal to deny the requested relief. Each of these submissions analyzed and rejected the arguments advanced by NAB and specifically commented that the Tribunal had not made any final decision which is now appropriate for judicial review in accordance with 17 USC 810.

Tribunal Response.—All actions taken by the Tribunal must be rooted in the special procedures established by the Congress in Title 17 for the distribution of cable royalty fees. The Congress was well acquainted with the complexity of cable royalty fee distribution. It knew the problem and devised a *specific mechanism* and a *specific procedure* to resolve it. At the same time, the Congress gave the Tribunal wide discretion to fashion its procedures to accomplish its statutory functions. For as is stated at page 97 of House Report 94-1476 on S. 22, the bill for the general revision of the copyright law, "The Committee recognizes that the bill does not include specific provisions to guide the Copyright Royalty Commission in determining the appropriate division among competing copyright owners of the royalty fees collected from cable systems under Section 111."

Under the procedure established in the Copyright Act, copyright owners are required to file claims concerning the secondary transmission of their works by cable television systems with the Tribunal each July "in accordance with requirements that the Tribunal shall prescribe by regulation." To facilitate the distribution of cable royalty fees, 17 USC 111(d)(5)(A) suspended the provisions of the antitrust laws so that "claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them."

Section 111(d)(5)(B) requires the Tribunal to "determine whether there exists a controversy concerning the

distribution of royalty fees." Once the Tribunal finds the existence of a controversy, it is required to initiate without delay a proceeding to determine the distribution of the royalty fees and in accordance with 17 USC 804(e) the Tribunal is required to "render its final decision in any such proceeding within one year".

Section 803(d) requires that every final determination of the Tribunal shall be published in the Federal Register and shall state the criteria that the Tribunal "determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination." Finally, Section 810 provides that the final decision of the Tribunal in a cable royalty distribution proceeding may be appealed to the United States Court of Appeals.

It is thus clear that the Congress, in constructing the royalty distribution proceeding, sought an expeditious and orderly procedure controlled by the specific provisions of the copyright law. The Congress did not intend, and in fact precluded, the interruption of the proceeding following any interim or interlocutory orders issued by the Tribunal.

Ludicrous results would necessarily flow from the Tribunal's granting of the stay or concurrence in the NAB argument that judicial review is now authorized and appropriate. If the proceedings are stayed until the final conclusion of the appellate process, the delay will be of unpredictable duration, but highly likely to extend beyond the statutory deadline of this proceeding. Presumably, it will be argued that the judicial review in some fashion acts to suspend the clear language of Section 804(e).

When the appellate process if finally concluded and the Tribunal resumes the proceeding, it would in due course, because of the complexity of the subject matter, necessarily publish additional orders. Presumably, one or more of the 450 claimants would have an objection to the provisions of such orders and argue that the Tribunal should stay the proceeding until the claimant could obtain judicial review. If the Tribunal were to grant the relief requested by the NAB, it would be acting in an arbitrary manner if in the future it did not permit each claimant an equal opportunity to stay the proceeding pending judicial review. A cable royalty distribution proceeding would thus continue for years—a result that the Congress clearly feared and acted to preclude in the drafting of the governing provision of the copyright law.

In considering the various arguments advanced by the petitioner, the Tribunal must take note of the structure of this agency established by the Congress. The Tribunal is composed of five Commissioners nominated by the President to serve specified and staggered terms. The Congress has directed that the Commissioners shall directly perform all statutory functions and consequently all proceedings before the Tribunal are conducted before the entire membership of the Tribunal.

The current terms of two Commissioners expire during 1982. Based on the experience of other agencies, it would not be unusual if one or more Commissioners did not serve a full term. If the Tribunal were to accept the petitioner's theories concerning the timing of judicial review, it would not be unlikely that the Tribunal would be rendering a "final determination" in the current distribution proceeding at a time when a majority of the Tribunal's membership would not have particiapted during substantial periods of the cable distribution proceeding.

The Tribunal need not consider at this time whether it would be a denial of due process for the adjudication of claims to be determined in a proceeding where a majority of those required by statute to make the adjudication did not particpate for substantial periods. It is enough to say that such a proceeding would not promote the search for an informed and equitable distribution of cable royalties. It would be a result alien to the intent of Congress, and one that cannot be accepted by the Tribunal.

Even in the absence of the specific requirements of the copyright law which bar the relief sought by NAB, the Tribunal has concluded that the petitioner has failed in both law and equity to establish any justification for its request. The Supreme Court has held that the determination of ripeness for judicial review has two parts: "first to determine whether the issues tendered are appropriate for judicial resolution, and second to asses the hardship to the parties if judicial relief is denied at that stage." *Toilet Goods Association Inc. v. Gardner*, 387 US 158, 162 (1967).

As to the first of these questions, we note that any judicial review at this stage of the December 19 Order would require the court to speculate as to how the Tribunal may proceed in the remaining months of this proceeding and how the statements in the Order may be applied finally, if at all, to the adjudication of any particular claim. We believe that consideration of any underlying legal issues will be facilitated on review if they are examined in the context of a specific application to the claims being adjudicated.

The NAB petition correctly states that the December 19 Order was issued following formal procedures before the Tribunal, including oral argument on certain issues. However, the Supreme Court has held that the presence of these factors is not dispositive of the appropriateness of judicial resolution and may be "outweighted by other considerations" *Cf. Toilet Goods*, 162.

Nor will the absence of review at this time prejudice the interests of the petitioner. The Order merely controls the conduct of the current phase of the royalty distribution proceeding. It places no new obligations on the broadcaster claimants, and does not regulate or control their day-to-day operations. *Cf. Abbott Laboratories v. Gardner*, 387 US 136, 152 (1967).

As requested by the petitioner, we have reviewed the factors in *Virginia Petroleum Jobbers Association v. FPC*, 104 US App. D.C. 106, 259 F. 2d 921, 925 (D.C. Cir. 1958) "considered by the courts in determining whether justice requires that administrative action be stayed pending judicial review". These are whether there is a likelihood of probable success on the merits, whether petitioner will suffer irreparable damage if the stay is not granted, whether substantial harm will be caused to the interested parties and whether the public interest calls for denial of the stay.

NAB states that "None of these factors is in itself dispositive; each must be balanced against the other equitable considerations which *Virginia Petroleum* requires the court to consider." The Tribunal does not need to balance the identified factors since it has not been persuaded that NAB's petition meets the standard of any of these factors, or "other equitable considerations."

Concerning probability of success on the merits, *Virginia Petroleum* states that "Without such a substantial indication of probable success, there would be no justification for the court's intrusion into the ordinary process of administration and judicial review." We have already discussed our view that judicial review of the December 19 Order is barred by the copyright law since it is not a final decision. However, even if a court were to conclude that it has jurisdiction and that the Order is ripe for review, NAB has failed in its memorandum to establish any basis for a conclusion at the present time that there is a significant probability of success on the issues that it wishes to pursue.

This is the first cable distribution proceeding. There are no agency or judicial precedents. There has been no judicial construction of the relevant provisions of the copyright law. The interrelationship of various sections of the complex. All these factors preclude any finding of "probable success" let along "a substantial indication of probable success."

With regard to irreparable injury, *Virginia Petroleum* says:

> The key word in this consideration is *irreparable*. Mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough. The possibility that adequate compensatory or other corrective relief will be available at a later day, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.

259 F. 2d at 925.

The petition states that "the Tribunal's decision virtually impacts the whole fabric of the cable television industry. There is every indication that the regulated parties will conduct their day-to-day business affairs with reliance upon the Tribunal's interpretation of Section 111(d)(4) of the Copyright Act."

The Tribunal does not regulate the cable television industry. It does not regulate the broadcasting industry of the motion picture industry. It lacks any general rulemaking jurisdiction over those business entities whose programs are transmitted by cable systems. Its only jurisdiction in the current proceeding is to resolve disputes among certain copyright owners concerning the distribution of royalty fees paid by cable operators for the secondary transmission of certain copyrighted programs during 1978.

The copyright law was passed October 19, 1976 and the cable provisions became effective January 1, 1978. the record before the Tribunal suggests that broadcasters and program suppliers may be reviewing their contractural arrangements in light of the new legislation. Regardless of the December 19 Order, or indeed regardless of what final determination the Tribunal may make in the current preceeding, the allocation of rights among the various parties will be the subject of negotiations among the parties and will ultimately be determined by whatever contractual arrangements are reached.

Concerning the impact of the requested stay on other parties and the public interest, these considerations have been essentially addressed by the Congress during its consideration of the copyright law. A protracted and disjointed distribution proceeding is adverse to the rights of claimants to copyright royalties. The Congress has obviously determined that the public interest is served by the expeditious and uninterrupted progress of the proceeding.

The Order of December 19 governs the terms and scope of "a pre-hearing memorandum", a pre-hearing conference, and one phase of an evidentiary hearing. We have not voted to reject any claim—all claims are still pending. The Order does not preclude, as the proceeding continues, the issuance of additional orders on subjects relevant to the proceeding, including the issues discussed in the NAB memorandum. Indeed, it would not be surprising if the Tribunal in due course were to issue additional orders which may be of greater significance to the ultimate allocation of royalty fees than the items enumerated in the December 19 Order.

Request for Continuance.—The NAB requests that all proceedings scheduled in the December 19 Order be postponed to a date three weeks after the publication of the Tribunal's action on the petition for a stay.

The Tribunal in the exercise of its discretion usually is sympathetic to reasonable requests for extension of time. It is unable to do so in this instance because the relief requested is inconsistent with the statutory requirement for an expeditious proceeding. There is much work to be done in this proceeding in the limited time remaining to the Tribunal. The Tribunal may grant a continuance, but there is no way for the Tribunal to receive a continuance.

It is therefore ordered that the petition of NAB for a stay of the December 19 Order pending an appeal and for a continuance for three weeks of the proceedings scheduled in the December 19 Order are denied.

Mary Lou Burg,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 80-3358 Filed 1-31-80; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement For River Des Peres, Mo.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for River Des Peres, Missouri.

SUMMARY: 1. *Proposed Action.* The proposed action is to prepare a Draft Environmental Impact Statement for the River des Peres, Missouri, General Investigation Study regarding flooding and related land resource problems. Nonstructural measures will address controlling the future land use and type of future development in the floodplain area to: Prevent or reduce flood damages; create opportunities to enhance, conserve and/or preserve environmental values; and provide outdoor recreation opportunities. Structural measures will provide a means to prevent or reduce flood damages and streambank erosion.

2. *Alternatives.* Alternatives studied will include applicable nonstructural and structural measures such as: Floodplain evacuation; floodplain regulation; fish and wildlife management; open space acquisition; diversion ditches; levees/floodwalls; barrier dam; detention basins; floodproofing; channel modifications; aquatic habitat structures; fish ponds; linear parks; combined linear park and detention sites; and the consequences of no action.

3. *Scoping Process.*

a. *Public Involvement Program.* The public involvement program began during the St. Louis Metropolitan Area, Missouri and Illinois Study (St. Louis Metro Study, Sept. 1977). Public input received during the St. Louis Metro Study regarding water resource related problems and needs led to the River des Peres project being initiated as an interim study. In November 1978, representatives of Federal, State, and local agencies as well as private interests made a field reconnaissance of the study area to review the problems and needs of the area. Throughout the remainder of the study, meetings and workshops will be scheduled to inform the interested public about study progress, and to receive opinions and comments as input to be considered in selecting the development plan. To insure an opportunity for as many as possible to express an opinion, additional input will be received via telephone and correspondence contacts. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated into the Corps of Engineers' existing planning process.

b. *Significant Issues.* Significant issues addressed in the Draft Environmental Impact Statement will include: A description of natural resources, wildlife and aquatic habitat, endangered species, linear park development, and archeological and historical sites; and an analysis of the

impact on the environment regarding the alternative of the future with project conditions.

c. *Lead Agency and Cooperating Agency Responsibilities.* The St. Louis District, U.S. Army Corps of Engineers, is the lead agency responsible for preparing the Draft Environmental Impact Statement. Coordination will be maintained with the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the Heritage Conservation and Recreation Service, the U.S. Geological Survey, the Soil Conservation Service, the state of Missouri, the Metropolitan St. Louis Sewer District, the city of St. Louis, St. Louis County, the East-West Gateway Coordinating Council, local municipalities, and environmental groups.

d. *Environmental Review and Consultation Requirements.* The completed Draft Environmental Impact Statement will be made available to appropriate Federal, state, and local agencies; representatives of environmental groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting.* The scoping process was initiated during the St. Louis Metro Study. This scoping process will continue as formal public meetings, workshops, and coordination meetings will be scheduled at intermediate points throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation.* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the third quarter of fiscal year 1983 (June, 1983).

ADDRESS: Questions concerning the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 Tucker Blvd., North, St. Louis, Missouri 63101.

Dated: January 24, 1980.

Robert J. Dacey,

Golonel, CE, District Engineer.

[FR Doc. 80-3181 Filed 1-31-80; 8:45 am]

BILLING CODE 3710-65-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that a subgroup of the Command, Control, and Communications Sub-Panel of the Chief of Naval Opererations (CNO) Executive Panel Advisory Committee will meet on February 20–21, 1980, from 9:00 a.m. to 5:00 p.m. each day, at the Pentagon, Washington, D.C. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of command, control, and communications systems and the command and control Master Plan. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Telephone no. (703) 756–1205.

Dated: January 25, 1980.

P. B. Waker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-3191 Filed 1-31-80; 8:45 am]

BILLING CODE 3810-71-M

Department of the Navy

Secretary of the Navy's Advisory Committee on Naval History; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Secretary the Navy's Advisory Committee on Naval History will meet on March 27, 1980, at 9:00 a.m., in room 4D710, the Pentagon, Washington, D.C.

The purpose of the meeting is to review the naval historical activities of the past eighteen months and to make comments and recommendations on these activities to the Secretary of the Navy.

Depending on available space, public attendance may be limited to those persons who have given written notice of their intention to attend. Such notice should be given at least 5 days prior to the meeting.

For further information about this notice and the Secretary of the Navy's Advisory Committee on Naval History, contact: Captain K. C. Spayde, Jr., U.S. Navy, Deputy Director of Naval History, Building 220, Washington Navy Yard, Washington, D.C. 20374, telephone No. (202) 433–2379.

Dated: January 25, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 80-3400 Filed 1-31-80; 8:45 am]

BILLING CODE 3810-71-M

Naval Discharge Review Board; Hearing Locations

In November 1975, the Naval Discharge Review Board commenced to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C. area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following Naval Discharge Review Board itinerary for February 1980 through June 1980 has been approved, but remains subject to modification if required:

3 through 16 February 1980—Portland, OR; San Francisco, CA
3 through 14 March 1980—Memphis, TN; Dallas, TX; Kansas City, MO
17 through 28 March 1980—Boston, MA; Albany, NY
21 April through 2 May 1980—Chicago, IL; Minneapolis, NM
4 through 16 May 1980—San Diego, CA; San Francisco, CA
16 through 27 June 1980—Atlanta, GA; New Orleans, LA; Tampa, FL

Any former member of the Navy or Marine Corps who desires a discharge review, either in Washington, D.C., or in a city nearer to his or her residence, should file an application with the Naval Discharge Review Board, using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application which location is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address: Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that, since the foregoing itinerary is subject to modification and since, following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled, the submission of an application to the

Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and/or their representatives will be notified by mail of the date and place of their hearing when personal appearance has been requested.

For further information concerning the Naval Discharge Review Board, contact: Captain James C. Price, U.S. Naval Reserve, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203, telephone No. (202) 696–4881.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant, Judge Advocate General (Administrative Law).

[FR Doc. 80-3399 Filed 1-31-80; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Venezuela Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out involves the extension of the Agreement Between the International Atomic Energy Agency, the government of the Republic of Venezuela and the Government of the United States of America for the Application of Safeguards in accordance with Section 33 of that Agreement.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the extension of this safeguards transfer agreement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 30, 1980.

Frederick F. McGoldrick,

Acting Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-3554 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Domestic Crude Oil Allocation program Entitlement Notice for November 1979

AGENCY: Department of Energy, Economnic Regulatory Administration.

ACTION: November 1979 entitlement notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for November 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by January 31, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by February 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 6128I, Washington, D.C. 20461 (202) 254–8660

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Room 6A–127, Washington, D.C. 20585 (202) 252–6744

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for November 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, middle distillate imports, eligible petroleum substitutes, and imported naptha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); December 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for November 1979 is calculated to be .218041.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of November 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .618943 of a barrel of deemed old oil.

The issuance of entitlements for the month November 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of November 1979 is hereby fixed at $20.12, which is the exact differential as reported for the month of November between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of November 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of November 1979 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of November 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this

column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Bacon Oil Compqny, et al,* 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the November 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its November 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the Government made no purchases of imported crude oil.

For the month of November 1979, imports of residual fuel oil eligible for entitlements issuances totaled 22,526,477 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	3,548,163	22°
California upper tier crude oil	4,782,316	25°

The total number of entitlements required to be purchased and sold under this notice is 23,030,983.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for November 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes [1]
Lower tier	56,442,273	$6.59	12.0
Upper tier	85,424,633	14.26	18.1
Exempt domestic:			
Alaskan	39,696,367	21.81	8.4
Heavy oil	8,420,462	19.70	1.8
Naval petroleum reserve	3,421,694	26.84	0.7
Newly discovered	6,572,180	33.67	1.4
Stripper	50,152,952	29.49	10.6
Tertiary	325,592	23,34	0.07
Total domestic	250,456,153	17.65	53.18
Total Imported	220,542,880	27.02	46.82
Total uncontrolled (exempt domestic and imported)	329,132,127	26.71	69.9
Total reported crude oil receipts	470,999,033	22.04	
Total reported crude oil runs to stills	457,213,503		

[1] Volumes may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for November 1979 must be made by January 31, 1980.

On or prior to February 10, 1980, each firm which is required to purchase or sell entitlements for the month of November 1979 shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of November. The monthly transaction report forms for the month November have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by January 31, 1980 are requested to contact the ERA at (202) 254–3336 to expedite consummation of these transactions. For firms that have failed to consumate required entitlement transactions on or prior to January 31, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before March 3, 1980.

Issued in Washington, D.C. on January 28, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Notice of Entitlements for Domestic Crude Oil

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
-Consol'd-Sales	−55,501	0	0	0	0	0	[1]55,501
A-Johnson	0	22,472	0	−27,285	0	0	22,472
Adm	0	9,383	0	0	0	0	9,383
Akron-Ohio	0	5,433	0	0	0	0	5,433
Allied	39,892	57,297	0	0	0	0	17,405
Amer-Petrofina	358,132	934,249	0	0	0	0	576,117
Amerada-Hess	1,606,965	3,503,649	0	45,119	0	0	1,896,684
Ames-Iowa	0	3,150	0	0	0	0	3,150
Amoco	10,349,217	6,242,942	0	0	0	4,106,275	0
Anchor	194	35,431	0	0	20	0	35,237
Anschutz	0	35,152	0	35,152	0	0	35,152
Arco	2,311,873	5,200,986	0	0	10,553	0	2,889,113
Arizona	88,474	32,973	0	0	2,294	[1]55,501	0
Asamera	115,819	107,617	0	0	0	8,202	0
Ashland	1,315,895	2,734,193	0	0	0	0	1,418,298
Basin	−22,167	52,721	0	0	−2,726	0	74,888
Bayou	29,178	29,855	0	0	0	0	677
Beacon	43,459	303,194	217,492	0	2,689	0	259,735
Belcher	0	137,936	0	137,936	0	0	137,936
Bi-Petro	0	27,718	0	0	0	0	27,718
Bruin	178,612	99,425	0	0	0	79,187	0
C&H	0	362	0	0	0	0	362
Calcasieu	88,052	94,651	0	0	0	0	6,599

Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total Issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Calumet	16,762	17,520	0	0	0	0	758
Canal	125,823	53,018	0	0	0	72,805	0
Carbonit	149,108	64,852	0	0	0	84,256	0
Caribou	64,689	37,994	0	0	0	26,695	0
Castle	0	21,956	0	21,956	0	0	21,956
Central	0	13,867	0	13,867	0	0	13,867
Champlin	1,888,651	808,802	0	0	82,628	1,079,849	0
Charter	405,489	458,614	−4,391	0	0	0	53,125
Charter-Bahamas	0	391,658	0	391,658	0	0	391,658
Chevron	6,402,143	7,668,571	0	11,421	101,376	0	1,266,428
Cibro	0	228,737	0	69,670	0	0	228,727
Citgo	1,736,736	1,677,339	0	0	0	59,397	0
Claiborne	74,032	26,677	0	0	0	47,355	0
Clark	297,281	744,306	0	0	0	0	447,025
Coastal	150,567	1,377,271	0	60,786	0	0	1,226,704
Coastal-Petro	0	45,752	0	0	0	0	45,752
Colonial	0	24,303	0	24,303	0	0	24,303
Conoco	2,314,107	2,125,272	0	0	23,022	188,835	0
Consumers-Power	0	61,985	0	61,985	0	0	61,985
Copano	39,802	24,188	0	0	0	15,614	0
Coral	0	192,261	0	0	0	0	192,261
Corco	0	651,454	0	169,187	0	0	651,454
CRA-Farmland	309,529	538,017	0	0	0	0	228,488
Cross	58,948	67,501	0	0	0	0	8,553
Crown	245,974	602,276	0	0	0	0	356,302
Drystal-Oil	123,650	81,026	0	0	0	42,624	0
Crystal-Ref	0	19,734	0	0	0	0	19,734
Delta	209,992	297,603	0	0	0	0	87,611
Demenno	4,378	35,141	0	0	1,420	0	30,763
Detroit-Ed	0	43,457	0	43,457	0	0	43,457
DFSC	0	8,616	0	8,616	0	0	8,616
Diamond	540,416	324,269	0	0	0	216,147	0
Dillman	0	220	0	0	0	0	220
Dorchester	9,143	11,679	0	0	0	0	2,536
Dow	63,857	80,150	0	0	0	0	16,293
E-Seaboard	0	70,852	0	70,852	0	0	70,852
Eco	14,403	34,135	0	0	1,673	0	19,732
Eddy	47,740	26,926	0	0	0	20,814	0
Energy-Coop	0	591,902	0	0	0	0	591,902
Enterprise	0	9,714	0	9,714	0	0	9,714
Ergon	20,058	79,927	0	0	0	0	59,869
Erickson	77,112	87,739	0	0	0	0	10,627
Essex-Union	0	1,440	0	0	0	0	1,440
Evangeline	30,494	15,151	0	0	0	15,343	0
Exxon	11,348,636	8,553,615	0	424,825	0	2,795,021	0
Ez-Serve	2,483	0	0	0	0	2,483	0
Farmers-Un	127,354	224,447	0	0	0	0	97,093
Fletcher	312,311	202,398	0	0	2,653	109,913	0
Flint	5,804	5,288	0	0	0	516	0
Friendswood	62,375	56,601	0	0	0	5,774	0
Funding	39,224	35,343	0	0	0	3,881	0
Gary	198,882	80,491	0	0	0	118,391	0
Getty	1,191,939	1,263,598	0	0	0	0	71,659
Giant	2,515	32,114	0	0	0	0	29,599
Gibson	0	27,946	0	0	0	0	27,946
Glacier-Park	99,782	32,605	0	0	0	67,177	0
Gladieux	79,599	82,937	0	0	0	0	3,338
Golden-Eagle	0	81,863	0	0	0	0	81,863
Goldking	243,284	136,061	0	0	0	107,223	0
Good-Hope	4,549	341,669	0	0	0	0	337,120
Guam	0	217,074	0	0	0	0	217,074
Gulf	8,016,985	6,012,498	0	21,107	24,533	2,004,487	0
Gulf-Energy	41,007	24,749	[5]0	0	0	16,258	0
Gulf-Sts	133,604	80,973	0	0	0	52,631	0
Hiri	0	438,685	0	0	0	0	438,685
Howell	171,465	237,446	0	0	0	0	65,981
Hrr	0	28,395	0	0	0	0	28,395
Hudson-Oil	38,900	125,706	0	0	0	0	86,806
Hunt	245,600	224,765	0	0	0	20,835	0
Huntway	−38,011	29,431	0	0	651	0	67,442
Husky	869,660	869,660	[5]543,217	0	0	0	0
Independent-Ref	185,981	99,675	0	0	0	86,306	0
Indiana-Farm	45,543	127,143	0	0	0	0	81,600
Indust-Fuel	28,603	9,967	0	0	0	18,636	0
Inter-Process	44,628	161,056	0	0	0	0	116,428
Irving	0	20,103	0	20,103	0	0	20,103
Kenco	32,707	24,619	0	0	0	8,088	0
Kentucky	16,136	15,887	6,495	0	0	249	0
Kern	233,398	154,643	0	0	5,617	78,755	0
Kerr-McGee	1,180,626	794,443	0	0	0	386,183	0
Koch	875,544	894,855	0	18,541	0	0	19,311
Lagloria	335,425	218,091	0	0	0	117,334	0
Lake-Charles	27,228	35,262	0	0	0	0	8,034
Lakeside	7,392	19,479	0	0	0	0	12,087
Laketon	82,965	133,711	72,726	0	0	0	50,746
Little-Amer	432,649	563,364	0	0	0	0	130,715

Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Los Angeles-Ca	0	1,474	0	0	0	0	1,474
Louisiana-Land	713,054	280,202	0	0	0	432,852	0
Macmillan	79,249	90,546	0	0	6,173	0	11,297
Madison-Chatham	0	67	0	0	0	0	67
Mallard	102,620	30,374	0	0	0	72,246	0
Manatee	0	4,899	*0	0	0	0	4,899
Marathon	4,415,588	3,088,541	0	0	0	1,327,047	0
Marion	73,799	148,687	0	0	0	0	74,888
Metropolitan	0	182,720	0	182,720	0	0	182,720
Mid-Amer	776	22,327	0	0	0	0	21,551
Midwest-Solv	0	2,029	0	0	0	0	2,029
Mobil	5,859,811	4,700,907	0	26,884	47,178	1,158,904	0
Mobile-Bay	1,981	83,097	0	0	0	0	81,116
Mohawk	303,693	183,744	0	0	11,127	119,949	0
Monoco	0	10,950	0	10,950	0	0	10,950
Monsanto	378,791	211,361	0	0	0	167,430	0
Morrison	16,615	7,689	0	0	0	8,926	0
Mountaineer	4,688	1,310	0	0	0	3,378	0
Mt-Airy	115,725	98,627	0	0	0	17,098	0
Murphy	1,058,749	829,871	0	0	0	228,878	0
N-Amer-Petro	111,410	155,870	0	0	0	0	44,460
Nashville-Tenn	0	13,688	0	0	0	0	13,688
Natl-Coop	260,051	354,306	0	0	0	0	94,255
Navajo	474,432	211,691	0	0	0	262,741	0
Nevada	2,439	19,815	0	0	0	0	17,376
New-Edgington	249,241	168,332	0	0	29,767	80,909	0
New-Engl-Power	0	33,269	0	33,269	0	0	33,269
Newhall	83,679	121,269	0	0	7,676	0	37,590
Northeast-Petro	0	56,517	0	56,517	0	0	56,517
Northland	21,017	21,017	14,486	0	0	0	0
Okc	138,555	48,064	0	0	0	90,491	0
Okla-Ref	36,334	110,472	0	0	0	0	74,138
Oxnard	14,165	25,505	0	0	2,119	0	11,340
Peerless	0	55,112	0	0	0	0	55,112
Pennzoil	543,568	373,459	0	0	0	170,109	0
Pester	137,999	157,884	0	0	0	0	19,885
Petraco-Valley	0	20,528	0	0	0	0	20,528
Petro-Heat-Pa	0	11,965	0	11,965	0	0	11,965
Phillips	2,321,958	1,776,690	0	0	1,634	545,268	0
Phillips-PR	0	169,046	0	169,046	0	0	169,046
Pioneer	91,045	40,651	0	0	0	50,394	0
Placid	629,282	310,340	0	0	0	318,942	0
Plateau	250,146	140,736	0	0	0	109,410	0
Port	−3,217	9,246	0	0	0	0	12,463
Powerine	135,721	218,020	0	0	13,974	0	82,299
Pride	176,676	98,030	0	0	0	78,646	0
Quaker-St	28,937	185,031	0	0	0	0	156,094
Quitman	4,469	52,581	0	0	0	0	48,112
Rahway	0	798	0	0	0	0	798
Rancho-Ref	0	26,975	0	0	0	0	26,975
Resco	0	9,608	0	0	0	0	9,608
Reserve-Syn	0	5,028	0	0	0	0	5,028
Richards	139	37	0	0	0	102	0
Road-Oil	0	40,222	0	0	0	0	40,222
Rock-Island	166,488	309,929	0	0	0	0	143,441
Saber-Tex	52,560	124,667	0	0	0	0	72,107
Sabre-Cal	−5,212	11,364	0	0	−787	0	16,576
San-Joaquin	0	106,137	0	0	0	0	106,137
Scallop	0	187,587	0	187,587	0	0	187,587
Scanoil	0	38,947	0	38,947	0	0	38,947
Schulze	676	1,864	0	0	0	0	1,188
Seaview	0	174,989	0	0	0	0	174,989
Sector	63,238	30,398	0	0	0	32,840	0
Seminole	11,943	88,778	0	0	0	0	76,835
Sentry	0	152,678	51,787	0	0	0	152,678
Shell	8,102,172	6,086,754	0	0	39,197	2,015,418	0
Shepherd	28,024	68,839	0	0	0	0	40,815
Sigmor	24,837	146,266	0	0	0	0	121,429
Silver-Eagle	3,463	2,968	0	0	0	495	0
Siapco	161,724	94,775	0	0	0	66,949	0
So-Hampton	95,057	103,332	0	0	0	0	8,275
Sohio	1,197,954	3,103,004	0	0	0	0	1,905,050
Somerset	22,898	28,143	0	0	0	0	5,245
Sound	0	59,133	0	0	0	0	59,133
Southern-Union	55,255	190,355	0	0	0	0	135,100
Southland	309,902	187,414	22,761	0	0	122,488	0
Southwestern	9,086	4,092	0	0	0	4,994	0
Sprague	0	130,212	0	130,212	0	0	130,212
Steuart	0	39,369	0	39,369	0	0	39,369
Sunland	4,956	84,599	0	0	187	0	79,643
Sunoco	3,886,564	3,346,066	0	26,979	0	540,498	0
Swann	0	25,127	0	25,127	0	0	25,127
T&S	13,018	26,019	0	0	0	0	13,001
Tarricone	0	28,231	0	28,231	0	0	28,231
Tenneco	1,410,035	601,193	0	0	3,581	808,842	0

Notice of Entitlements for Domestic Crude Oil—Continued

[November 1979]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total Issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Tesoro	233,372	416,529	0	0	0	0	183,157
Texaco	7,870,974	5,924,243	[2]27,465	171,723	24,358	1,946,731	0
Texas-American	52,484	54,750	0	0	0	0	2,266
Texas-Asph	35,975	12,059	0	0	0	[4]23,916	0
Texas-City	426,641	655,516	0	0	0	0	228,875
Thagard	52,211	75,457	0	0	4,115	0	23,246
Thriftway	54,921	36,430	0	0	0	18,491	0
Thunderbird	76,646	75,488	0	0	0	1,158	0
Tipperary	55,967	47,019	0	0	0	8,948	0
Tonkawa	95,383	63,683	0	0	0	31,700	0
Tosco	1,066,550	1,164,069	0	0	28,829	0	97,519
Total-Petroleum	−34,043	542,518	0	0	0	0	576,561
UCC-Caribe	0	177,252	0	177,252	0	0	177,252
Uni-Ref	9,232	129,886	0	0	0	0	120,654
Union-Carbide	0	15,045	0	15,045	0	0	15,045
Union-Oil	2,527,708	2,692,512	0	0	35,945	0	164,804
Untd-Ref	109,943	216,110	0	0	0	0	106,167
US-Oil	14,168	116,454	0	0	1,129	0	102,286
USA-Petrochem	84,929	112,995	0	0	5,954	0	28,066
Val-Verde	5,237	4,033	0	0	0	1,204	0
Vickers	151,016	427,193	0	0	0	0	276,177
Vicksburg	7,600	36,458	0	0	0	0	28,858
Waller	0	6,541	0	6,541	0	0	6,541
Warrior	39,008	45,393	24,532	0	0	0	6,385
West-Coast	14,537	56,484	0	0	2,073	0	41,947
Western	113,687	70,136	0	0	0	43,551	0
Winston	99,464	109,225	0	0	0	0	9,761
Wireback	0	417	0	0	0	0	417
WITCO	24,426	134,300	0	0	692	0	109,874
Wyoming	0	73,678	0	0	0	0	73,678
Yetter	0	345	0	0	0	0	345
Young	59,413	61,034	37,046	0	0	0	1,621
Total	106,291,022	106,291,022	1,013,616	2,971,334	521,324	23,030,983	23,030,983

[1] See discussion in Notice.

[2] Correction of error in previous month for entitlements issued pursuant to the regulation issued May 24, 1979 (44 FR 31162, May 31, 1979) and amended August 31, 1979 (44 FR 52170, September 7, 1979) which provides entitlements benefits for imports of middle distillates for the months May 1979 through October 1979.

[3] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), *remanded* F.2d (No. 10-18 TECA, August 10, 1978).

[4] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.*, v. *FEA*, Civ. Action No. 4-75-268 (N.D.Tex., filed October 31, 1975).

[5] No entitlement purchase obligation is imposed on this company in the current list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Texas, 12/14/79.

[6] No entitlement purchase obligation is imposed on this company in the current list with respect to the start-up inventory, pursuant to a Temporary Restraining Order issued by the U.S. District Court for the Northern District of Fla., 1/18/80.

[FR Doc. 80-3346 Filed 1-30-80; 8:45 am]

BILLING CODE 6450-01-M

Oceana Terminal Corp. et al.; Action Taken on Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

FOR FURTHER INFORMATION CONTACT: Herbert Maletz, New York Audit Group Manager, Northeast District, 252 Seventh Avenue, New York, New York 10001.

SUPPLEMENTARY INFORMATION: On August 22, 1979, the DOE executed a Proposed Consent Order with Oceana Terminal Corporation, Cibro Sales Corporation, Cibro Petroleum Products, Inc., Cibro Terminal, Inc., Cibro Petroleum/Bx., Inc., Cibro Petroleum/Bklyn., Inc., Cibro Petrol/L.I., Inc., Cibro Gasoline Corporation, Cibro Petroleum/Westchester, Inc. of Bronx, NY. Under 10 CFR 205.199(c) a Proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the Proposed Order.

At the conclusion of the thirty-day comment period, the ERA had received no public comments.

Accordingly, the ERA had concluded that the Consent Order as executed between the DOE and Cibro is an appropriate resolution of the compliance proceedings which it described, and it shall become effective as proposed, without modification, upon publication of this Notice.

Issued in Philadelphia, PA on January 16, 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80-3390 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Petroleum Heat and Power Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director,

Enforcement, Department of Energy, 150 Causeway, Boston, Massachusetts 02114.

SUPPLEMENTARY INFORMATION: On July 31, 1979 the DOE executed a proposed Consent Order with Petroleum Heat and Power Co., Inc. of Stamford, Connecticut. Under 10 CFR 205.199(c) a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order.

At the conclusion of the thirty-day comment period, the ERA had received no public comments.

Accordingly, the ERA had concluded that the Consent Order as executed between the DOE and Petroleum Heat and Power Company is an appropriate resolution of the compliance proceedings which it described, and it shall become effective as proposed, without modification, upon publication of this Notice.

Issued in Philadelphia, PA on January 16, 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80-3351 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order

Pursuant to 10 CFR Section 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of Proposed Remedial Order issued to the following firm, charging them with pricing violations, connected with the retail sale of gasoline during the time periods stated:

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 16th day of January 1980.

Herbert M. Heitzer,

District Manager, Northeast District Enforcement.

[FR Doc. 80-3352 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Firm	Location	Amount	Audit period
Anthony Spagnolia, SPAG's Ashland	550 W. Main St., Clarksburg, W. Va.	$120.00	Aug. 1 to Dec. 20, 1979.

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or lawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast District, 1421 Cherry Street, Philadelphia, PA 19102, Telephone Number (215) 597-2633.

Firm Name, Firm Address, Audit Date

Young's Exxon Service, 764 N. King St., Northampton, MA—12-3-79
Legate's Service Station, 301 Montcalm St., Chicopee, MA—12-4-79
Bibeau Service Station, 532 High St., Holyoke, MA—12-4-79
Ernie's Texaco, 72 King St., Northampton, MA—12-5-79
Turnpike West, Mass Turnpike, Westboro, MA—12-13-79
Kramp's Exxon, Washington St., (Rte. 3), Hanover, MA—12-6-79
Bob's Mobil Station, 681 Dickinson St., Springfield, MA—12-4-79
Kusek Kar Kare, 63 Center St., Chicopee, MA—12-6-79
Superior Auto Sales, 1333 Westfield St., W. Springfield, MA—12-7-79
Mass. Pike Exxon, Mass Turnpike, Charlton, MA—12-11-79
Columbia Road Gulf, 888 Dorchester Ave., Dorchester, MA—12-12-79
Ed's Mobil, 1232 Wash. St., Newton, MA—12-13-79
Newton Sunoco, 875 Wash. St., Newtonville, MA—12-13-79
Natick Pike Citgo, Box 27, Cochituate, MA—12-13-79
Jim's Automotive Center, 575 East St., Ludlow, MA—12-11-79
Quabbin Service Center, North Main St., Belchertown, MA—12-13-79
Hadley Service Center, 72 Russell St., Hadley, MA—12-14-79
Dave's Filling Station, 758 Union St., W. Springfield, MA—12-14-79
Ludlow Westbound, P.O. Box 392, Ludlow, MA—12-14-79
Mass Pike East, Charlton, MA—12-14-79
A&L Auto Clinic, Rte. 20 & South St., Auburn, MA—12-17-79
Maury's Service Station, 480 Sumner Ave., Springfield, MA—12-14-79
Breault's Auto Service, 1270 Grafton St., Worcester, MA—12-26-79
Tarka's Exxon, College Highway, Southampton, MA—12-19-79
Plaza Auto Clinic, 1300 St. James Ave., Springfield, MA—12-28-79
Hampden Gulf Service, 42 Somers Road, Hampton, MA—12-12-79
Testa's Texaco, 899 Washington St., Newtonville, MA—12-17-79
Newtonville Gulf, 911 Washington St., Newtonville, MA—12-17-79
Framingham Turnpike Mobil, Mass Pike, Framingham, MA—12-28-79
Maggie's Sunoco, Rte. 1, Freeport, ME—12-5-79
Bart's Exxon, 100 Main St., Topsham, ME—12-4-79
Leclerc & Sons Shell, 15 Main St., Topsham, ME—12-4-79
Carney's Exxon, Mallett Drive, Freeport, ME—12-4-79
Cahill's Chevron, Court St., Bath, ME—12-5-79

Tony's Circle Getty, Rte. 28, Danforth Circle, Derry, NH—12–5–79
University Exxon, Dover Road, Durham, NH—12–9–79
Wickford Tire Sales, 8230 Post Road, N. Kingston, RI—12–27–79
Kleber's Garage, Briston & Bensalem Rds., Croyden, PA—12–4–79
Laird's Gulf, 949 Montgomery Ave., Narbeth, PA—12–5–79
Carrow's Sunoco, Montgomery Ave., & Woodbine Rd., Narberth, PA—12–5–79
Jones' Arco, 59th & Market Sts., Philadelphia, PA—12–5–79
Albert Lawrence Sunoco, 46th & Walnut Sts., Philadephia, PA—12–5–79
Don's Mobil, West Chester Pike & St. Albans Rd., Newtown Square, PA—12–6–79
Watkin's Shell, Rt. 413 & Trenton Rd., Levittown, PA—12–7–79
Neshaminy Mall Shell, Bristol Rd. & Neshaminy Blvd., Neshaminy, PA—12–7–79
Jerry's Texaco, 5700 Grand Avenue, Neville Island, PA—12–10–79
Shower's Exxon, Rd. 1, Milton, PA—12–11–79
Bob's Mobil Service, Baltimore Pike & Sproul Rd., Springfield, PA—12–11–79
Shamolin Exxon Servicenter, Inc., Shamokin & Sunbury Sts., Shamnokin, PA—12–12–79
Ernie & Bill's Auto Service, Rts. 1 & 413, Langhorne, PA—12–12–79
Duny's Mobil, 228 Braod St., W. Milton, PA—12–13–79
Parker's Exxon, Rts. 11 & 15, Port Treverton, PA—12–14–79
Bethel Park Sunoco, Bethel Church & Library Rds., Bethel Park, PA—12–18–79
Kruemmling & Schmeis Arco, Lancaster Ardmore Avenues, Ardmore, PA—12–18–79
Pisiechko's Sunoco, Lancaster & Woodside Avenues, Ardmore, PA—12–21–79
Concord Exxon, 2902 Concord Pike, Wilmington, DE—12–18–79
Elliot's Shell, 818 York Road, Baltimore, MD—12–21–79
Dick Himmel's Texaco Service, Inc., 782 Elmwood Ave., Buffalo, NY—12–11–79
James Facen Arco, 1829 Genesee Street, Buffalo, NY—12–21–79
James Exxon, 100 B. Main St., Sutton, WV—12–17–79
Epperly Exxon, US 50, WV 16, Ellenboro, WV—12–19–79
Cipoletti's Exxon, 1400 Commerce Street, Wellsburg, WV—12–7–79
Richardson Mobil, 8652 Buffalo Avenue, Niagara Falls, NY—12–10–79
Parkside Service Station, 340 4th Avenue, Brooklyn NY—12–3–79
Luigi's Service Station, 1420 86th Street, Brooklyn, NY—12–3–79
2481 Central Park Ave. Service Station, 2481 Central Park Ave., Yonkers, NY—12–5–79
G&S Service Station, 605 Merrick Road, Rockville Centre, NY—12–4–79
Jim Hamburger Service, Mill Road & Peninsula Blvd. Hewlitt, NY—12–4–79
New Dorp Service Center, 2485 Hylan Blvd., Staten Island, NY—12–5–79
Liberty & Sutphin Service Station, 97–44 Sutphin Blvd., Jamaica, NY—12–7–79
Stynan Associates Amityville, Inc., Bayview Avenue & Merrick Rd., Amityville, NY—12–7–79
Merrick Super Shell, 1650 Merrick Road, Merrick, NY—12–5–79
J&A Exxon, 499 Old Country Road, Hicksville, NY—12–3–79
Plainview Manor Service Station, 587 Old Country Road, Plainview, NY—12–3–79
Westchester Gulf, 1866 Westchester Ave., Bronx, NY—12–11–79
Willie Matthews Shell Service Center, 1776 Park Ave., New York, NY—12–11–79
Dreyers Estates Service Station, 187–39 Hillside Ave., Jamaica, NY—12–11–79
Richmond Road Service, 977 Narrows Road, Staten Island, NY—12–10–79
E&M Service Station, 2150 Hylan Blvd., Staten Island, NY—12–5–79
Rothco Service Station, 5101 Northern Blvd., Woodside, NY—12–14–79
Joe's Exxon, 720 W. Broadway, Woodmere, NY—12–20–79
GJC Service, 5420 West Henrietta Road, West Henrietta, NY—12–20–79
Tradesmen Auto, 1159 Utixa Ave., Brooklyn, NY—12–12–79
McGuire's Service Station, 3755 E. Tremont Ave., Bronx, NY—12–12–79
Gold Automotive, 15–04 149 Street, Whitestone, NY—12–12–79
Bill & Mack Service Station, 1166 Castle Hill Ave., Bronx, NY—12–12–79
A&S Service Station, 153–70 South Conduit Ave., Ozone Park, NY—12–14–79
M&R Service Station, 7702 Flatlands Ave., Brooklyn, NY—12–12–79
Henry's Service Station, 1205 West Broadway, Hewlitt, NY—12–17–79
Goodwill Service Station, 945 Broadway, Woodmere, NY—12–31–79
AMZ Service Station, 651 Merrick Ave., East Meadow, NY—12–31–79
T&M Service Station, 1723 Richmond Road, Staten Island, NY—12–7–79
Automotive Center of 31–65 Vernon, 31–65 Vernon Blvd., Astoria, NY—12–20–79
Grasmere Service Center, 2050 Clove Road, Staten Island, NY—12–20–79
George's County Service, 325 Merrick Ave., Merrick, NY—12–14–79
Noemy Service Station, 1419 Bruckner Blvd., Bronx, NY—12–6–79
RVL Model Service, 518 Merrick Rd., Rockville Centre, NY—12–11–79
T's Auto Service, 121–22 101 Ave., Richmond Hill, NY—12–26–79
Walt's Auto Repair, 3530 Webster Ave., Bronx, NY—12–27–79
Gulf Bushwick Service Station, Bushwick & Flushing Ave., Brooklyn, NY—12–27–79
Steve's Service Station, 2294 Forest Ave., Staten Island, NY—12–27–79
Oron Service Station, 745 Richmond Ave., Staten Island, NY—12–27–79
J. Cicero, 2000 Victory Blvd., Staten Island, NY—12–27–79
Olympic Service Station, 4911 Avenue H, Brooklyn, NY—12–12–79
Big B Auto, Inc., 15 Ocean Avenue., Brooklyn, NY—12–20–79
Merrick Service Station, 185 Merrick Road, Merrick, NY—12–26–79
Hicksville Exxon, 240 Old Country Road, Hicksville, NY—12–28–79
Miller Brothers Exxon, Dennison Parkway & Cedar, Corning, NY—12–28–79

Issued in Philadelphia, PA on the 16th day of January 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement.

[FR Doc. 80–3416 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December, 1979. The Consent Orders represent resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than $500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of $500,000 or more, notice will be separately published in the **Federal Register.** These Consent Orders are concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, telephone number (415)556–7200.

Firm name and address	Refund amount	Product	Recipients of refund
Albina Fuel Co. 3426 NE Broadway Portland, OR 97204.	$68,921	PS–300	School districts.
	75,745		Commercial.
	5,751		Other.
	9,596	PS–400M	School districts.
	82,368		Commercial.
	636		Other.
	1,108	PS–400I	School districts.
	37,974		Commercial.
	87,451		Other.
	10,450	#2 diesel	Commercial.
Total	380,000		

Issued in San Francisco, California on the 14th day of January, 1980.

June F. Wallach,

Acting District Manager Office of Enforcement, Western District Economic Regulatory Administration.

[FR Doc. 80-3412 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of December. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firm's prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;
2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not lees than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than one and one half inches high;
3. Properly maintain records required under the aforementioned regulations; and
4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact June F. Wallach, Acting District Manager, U.S. Department of Energy, Office of Enforcement, Western District, 111 Pine Street, San Francisco, California 94111, telephone number (415) 556-7200.

Firm Name, Address, Audit Date

Flores Shell, 3600 E. Third, Los Angeles, CA 90063—11-26-79
A & B Brake & Drum, 9177 E. Las Tunas, Temple City, CA 91780—11-29-79
Fred's Exxon, 2136 Hacienda Blvd., Hacienda Heights, CA—11-29-79
Hassan's Exxon, 934 N. Hacienda, La Puente, CA—11-29-79
H. Beckman Chevron, 1506 N. Normandie, Los Angeles, CA—11-30-79
Jim's Chevron Service, 901 N. Alameda, Los Angeles, CA 90012—11-30-79
Felix Chevron Service, 1209 N. Main Street, Los Angeles, CA 90012—11-30-79
Harvy's Service Center (Mobil), 1277 N. Western Ave., Hollywood, CA 90029—11-30-79
Dixons Texaco, 6750 S. Rosemead, Pico River, CA—11-30-79
Ruiz Mobil Center, 137 N. Oxnard Blvd., Oxnard, CA 93030—11-30-79
Mo's Chevron Service, 866 E. California, Pasadena, CA 91106—12-3-79
San Gabriel Arco Service, 1901-1921 S. Del Mar, San Gabriel, CA 91776—12-3-79
Verma Chevron Service, 873 E. Valley Blvd., Colton, CA 92324—12-3-79
McNemar's Exxon, 805 E. Valley Blvd., Colton, CA 92323—12-3-79
Ed Tarolli Union 76, 1490 University Ave., Riverside, CA 92507—12-4-79
Clark's Exxon, 3400 University Ave., Riverside, CA 92501—12-4-79
Yim S Union, 308 E. Willow, Long Beach, CA 90806—12-4-79
Karians Texaco, 892 N. Garfield, Montebello, CA—12-4-79
Paige-Texaco Service, 1196 Los Angeles Ave., Simi Valley, CA 93065—12-4-79
Al's Service Center, 1853 E. Palmdale Blvd., Palmdale, CA 93350—12-4-79
Rosewood Super Service, 500 N. Larchmout, Los Angeles, CA 90004—12-5-79
Norman Union 76, 1808 University Ave., Riverside, CA 92507—12-5-79
A-1 Exxon, 1295 University Ave., Riverside, CA—12-5-79
A-1 Exxon, 1300 Blaine Street, Riverside, CA—12-5-79
University Car Wash, 1810 University Ave., Riverside, CA 92507—12-5-79
Orlando's Service Station, 4870 Bellflower Blvd., Lakewood, CA 90713—12-5-79
Joyce Petroleum Corp.—Mobil, 1200 E. Artesia, N. Long Beach, CA—12-5-79
Suree's Exxon, 1800 Ximeno Ave., Long Beach, CA 90815—12-5-79
Dave Sexton's Chevron, 5739 N. Bellflower, Lakewood, CA—12-5-79
Parker Mobil Service, 7200 Avalon, Los Angeles, CA—12-5-79
Garo's Texaco, 10324 Zelzah, Northridge, CA 91324—12-5-79
Bacon's Store, 13905 Sycamore Rd., Lytle Creek, CA 92358—12-5-79
Miracle Mile Exxon, 2050 N. Miracle Mile Strip, Tucson, AZ 85705—12-5-79
Anderson's Chevron, First & Grant, Tucson, AZ 85719—12-5-79
Citrus Shell, 877 E. Alosta, Azusa, CA 91702—12-7-79
David's Shell, 1221 Artesia Blvd., Manhattan Beach, CA—12-7-79
Tom Preurtt Chevron, 22890 Washington, Colton, CA 92324—12-7-79
Ron Palmer Chevron, 2505 E. Highland Ave., Highland, CA—12-7-79
J. C. Baumbeck Chevron, 858 So. Oxnard Blvd., Oxnard, CA 93030—12-7-79
Hal Dikes Chevron Service, 2199 So. Victoria Ave., Ventura, CA—93303—12-7-79
Joe Nassaney Mobil, 17836 Devonshire, Northridge, CA 91324—12-7-79
Terry Heiden Chevron, 17011 Devonshire, Northridge, CA—12-7-79
Hollymont Car Wash, 1666 N. Vermont Ave., Los Angeles, CA 90027—12-10-79
Martin's Chevron, 3604 Redondo Beach Blvd., Torrance, CA—12-10-79
George's Chevron, 6219 S. Vermont, Los Angeles, CA 90044—12-10-79
Keith Enco, 20500 San Fernando Rd., Newhall, CA—12-10-79
Chris Houser Chevron, 957 E. Palmdale, Palmdale, CA 93550—12-10-79
Vanlon Shell, 1358 E. Palmdale, Palmdale, CA 93550—12-10-79
Ben's Exxon, 2402 E. Highland, Highland, CA—12-10-79
Oaks Texaco, 3050 E. Thousand Oaks Blvd., Thousand Oaks, CA 91360—12-10-79
C. E. Rasher Chevron Service, 20904 Devonshire Street, Chatsworth, CA 91311—12-10-79
John's Friendly Mobil, 855 Wendy Drive, Newbury Park, CA 91320—12-10-79
Dick's Friendly Mobil Service, 1099 E. Los Angeles Ave., Simi Valley, CA 93065—12-10-79
Lake Lindero Exxon, 30245 Canwood Rd., Agoura, CA 91301—12-10-79
O'Leary's Texaco Service, 18470 Devonshire St., Northridge, CA—12-10-79
Mike MacLaughlin Chevron, 16156 Devenshire Street, Granada Hills, CA—12-10-79
Rob's Chevron, 1152 Los Ardoles, Thousand Oaks, CA 91360—12-11-79
Lloyd's Chevron Service, 4480 Sunset Blvd., Los Angeles, CA 90027—12-11-79
Hal Hanna Mobil Service, 20505 Sherman Way, Canoga Park, CA 91306—12-11-79
B & M Service Station, 7151 Lindley Ave., Reseda, CA 91335—12-11-79
Husain Mobil, 4507 W. Artesia, Lawndale, CA 90260—12-12-79
Monte's Exxon, 17350 Hawthrone Blvd., Torrance, CA 90504—12-12-79
Rudy's Arco, 2401 Artesia Blvd., Redondo Beach, CA 90279—12-12-79
4th Street Shell, 1521 E. 4th, Ontario, CA 91762—12-12-79
Matulik's Exxon, 1998 E. Highland Ave., San Bernardino, CA 92404—12-12-79
Art Chevron, 2400 Lincoln Blvd., Venice, CA 90291—12-12-79
Gary's Automotive Service, 16900 Sherman Way, Van Nuys, CA 91406—12-12-79
Fitt & Walker, 11062 Balboa Blvd., Granada Hills, CA—12-12-79
Gary Walker Union Service, 17000 Rinaldi St., Granada Hills, CA 91344—12-12-79
Hank's Automotive Center, 16961 Rinaldi Street, Granada Hills, CA 91344—12-12-79
Bob Candee Chevron Service, 10690 Balboa Blvd., Granada Hills, CA—12-12-79
Steve Marshall's Chevron, 9101 Reseda Blvd., Northridge, CA 91324—12-12-79
G & G Mobil, 7208 Reseda Blvd., Reseda, CA 91335—12-12-79
Tony Saso Chevron Service, 9106 Balboa Blvd., Northridge, CA 91324—12-12-79
Chevron Station, 15255 Sherman Way, Van Nuys, CA 91406—12-12-79
Elmore's Mobil Service, 32 S. 22nd Street, Banning, CA 92220—12-12-79
De Young Chevron, 3029 S. Robertson, Los Angeles, CA 90034—12-13-79

Classic Chevron Service, 334 N. Verdugo Rd., Glendale, CA 91206—12–13–79
Bert Mennes Chevron, 5230 Sepulveda Blvd., Torrance, CA 90505—12–13–79
Hanks Freeway Mobil Service, 110 E. Palmdale Blvd., Palmdale, CA 93550—12–13–79
Palmdale Freeway Shell, 135 W. Palmdale Blvd., Palmdale, CA 93550—12–13–79
Brentwood Mobil Service, 694 S. Palm Canyon Dr., Palm Springs, CA 92262—12–13–79
F.L. Vick Texaco Dealer, 1700 E. Vista Chino, Palm Springs, CA 92272—12–13–79
Victoria Texaco Service, 2439 S. Victoria Ave., Ventura, CA 93003—12–13–79
Marv's Chevron Service, 7100 Melrose Ave., Los Angeles, CA 90046—12–14–79
Joe & Tom's Chevron, 1869 N. Hillhurst, Los Angeles, CA 90027—12–14–79
Chou Exxon, 3411 W. Florence, Los Angeles, CA—12–14–79
Don Wheaton Chevron Service, 9094 W. Washington, Culver City, CA—12–14–79
Lee's Shell Service, 1553 W. Manchester, Los Angeles, CA—12–14–79
Isaacs Chevron Service, 8687 Baseline, Alto Loma, CA 91701—12–14–79
Don Walters Exxon, 555 Vinton, Pomona, CA 91767—12–14–79
La Verne Texaco, 2010 Bonita Ave., La Verne, CA 91750—12–14–79
Desert Exxon Service, 4633 E. Ramon Rd., Palm Spring, CA 92262—12–14–79
Beverly Petroleum Inc., 401 S. Beverly Drive, Beverly Hills, CA 90212—12–17–79
George Kubeisy Chevron, 20050 Van Owen Street, Canago Park, CA—12–17–79
Sunrise Shell, Inc., 1690 E. Ramon Rd., Palm Springs, CA 92262—12–17–79
Al's Chevron, 2600 W. Valley Blvd., Alhambra, CA 91803—12–18–79
Harout Arco, 1550 W. Colorado, Pasadena, CA 91105—12–18–79
Coscrow Chevron, 11960 W. Washington Blvd., Culver City, CA—12–18–79
Ron Chevron Service, 2602 S. Western, Los Angeles, CA—12–18–79
Claremont Mobil, 747 S. Indian Hill, Claremont, CA 91711—12–18–79
Hollypark Car Wash, 3350 W. Century Blvd., Inglewood, CA 90303—12–18–79
Tarzana Car Wash, 19348 Ventura Blvd., Tarzana, CA 91356—12–18–79
Jakop's Texaco, 9500 Resede Blvd., Northridge, CA—12–18–79
Woodland Hills Chevron, 5536 Canoga Ave., Woodland Hills, CA—12–18–79
Andre Haddad Chevron, 15709 Van Owen Street, Van Nuys, CA—12–18–79
Terry Texaco, 9858 Balboa Blvd., Northridge, CA—12–18–79
Palm Desert Exxon, 69–800 Highway 111, Rancho Mirage, CA 92270—12–18–79
Chuck Morgan Chevron Service, 10830 N. National, Los Angeles, CA 90064—12–19–79
Ed's Chevron Service, 5930 Monterey Rd., Los Angeles, CA 90024—12–19–79
George's Chevron Service, 9815 National Blvd., Los Angeles, CA—12–19–79
Joe's Chevron, 2850 E. Palmdale Blvd., Palmdale, CA 93550—12–19–79
Cuco's Arco Service, 801 S. Oxnard Blvd., Oxnard, CA 93030—12–19–79
Peterson Shell Service, 200 S. Azusa Ave., West Covina, CA 91791—12–20–79
Bud Yates Shell, 1808 White, La Verne, CA 91750—12–20–79
Ray's Super Shell, 2295 N. Garey, Pomona, CA 91767—12–20–79
George Farris Chevron, 301 S. Lincoln, Venice, CA—12–20–79
Hassan Joher Mobil, 4544 E. Pax. Const. Highway, Long Beach, CA 90804—12–26–79
Joher Mobil, 490 W. Anaheim Street, Long Beach, CA 90813—12–26–79
Parkside Olympic Service, 2200 19th Avenue, San Francisco, CA 94116—12–3–79
Highland Arco Service, 3711 Mission Street, San Francisco, CA 94110—12–6–79
Robert A. Wood Exxon, 7201 Stockton, Sacramento, CA 95823—12–6–79
Saf and Sav Automotive, 1151 Mac Arthur Blvd., Oakland, CA 94610—12–3–79
Julien's Union 76 Service, 1601 "A" Street, Antioch, CA 94509—12–5–79
George's Union 76, 1499 University Avenue, Berkeley, CA 94702—12–3–79
Loi Le Exxon Service, 1568 Carlson Blvd., Richmond, CA 94804—12–3–79
Moe's Union, 1503 Carlson Blvd., Richmond, CA 94804—12–3–79
Ben's Chevron, 4838 MacDonald Avenue, Richmond, CA 94804—12–4–79
Ben's Chevron, 1615 Carlson Blvd., Richmond, CA 94804—12–4–79
Rich's Union, 1830 Solano Avenue, Berkeley, CA 94707—12–5–79
Quiett's Texaco, 1599 Tara Hills Drive, Pinole, CA 94564—12–5–79
Al Horvath Union 76, 401 Parker Avenue, Rodeo, CA 94572—12–6–79
Hillsdale Union, 2800 El Camino, San Mateo, CA—12–3–79
Len Stopper Chevron, 610 N. El Camino, San Mateo, CA—12–4–79
Palo Alto Exxon, 830 E. Charleston Road, Palo Alto, CA—12–5–79
Mike's Union 76, 234 El Camino, Redwood City, CA—12–5–79
Alba's Arco Service, 1995 Warburton Avenue, Santa Clara, CA—12–6–79
Coyer J. King Jr. Chevron, 403 So. Saratoga Avenue, San Jose, CA 95129—12–6–79
Furlow's Union 76, 1060 Fresno Street, Fresno, CA 93706—12–3–79
A–1 Super Shell, 3550 Mission Street, San Francisco, CA 94110—12–10–79
Givisto Service, 4249 Mission Street, San Francisco, CA 94110—12–11–79
Tony's Service Station, 4199 Mission Street, San Francisco, CA—12–11–79
Joe & Larry's Union, 2501 Sacramento Street, Berkeley, CA 94702—12–11–79
Pinole Valley Shell, 2690 Pinole Valley Road, Pinole, CA 94564—12–12–79
Pinole Valley Union, 2995 Pinole Valley Road, Pinole, CA 94564—12–10–79
Rodeo Service, 650 Parker Avenue, Rodeo, CA 94522—12–10–79
Luchine's Exxon Service, 678 San Pablo Avenue, Rodeo, CA 94572—12–10–79
C. Desmond & Sons, 1000 Loring Avenue, Crockett, CA 94525—12–10–79
Jack Culver Chevron, 14501 San Pablo Avenue, San Pablo, CA 94806—12–14–79
El Sobrante Shell, 3621 San Pablo Dam Road, El Sobrante, CA 94803—12–12–79
T. B. Newby Standard, 606 Saratoga Avenue, San Jose, CA 95129—12–11–79
Bill Steffen Chevron, 19795 Stevens Creek Blvd., Cupertino, CA 95014—12–10–79
Williams & Lovdahl Texaco, 495 S. Camino Real, San Carlos, CA 94070—12–10–79
Busta Monte's Auto Service, 600 South Van Ness, San Francisco, CA 94110—12–18–79
Bill Sharp—Union Oil Dealer, 1400 Van Ness, San Francisco, CA 94110—12–19–79
Hablet's Auto Service, 3865 Irving's Service, San Francisco, CA 94112—12–20–79
Buchen's Texaco, 2509 San Pablo Dam Road, San Pablo, CA 94806—12–18–79
Mike Silva's Chevron Serv., 11690 San Pablo Avenue, El Cerrito, CA 94530—12–20–79
Mike's Texaco Service, 2900 Homestead Road, Santa Clara, CA 95051—12–17–79
Hamilton Service Center, 890 Hamilton Avenue, Campbell, CA 95008—12–27–79
Julio Shell, 899 Valencia Street, San Francisco, CA—12–27–79
Texaco Car Barn, 95 Ocean Avenue, San Francisco, CA—12–27–79
41st and Irvin Chevron, 4000 Irving Street, San Francisco, CA 94112—12–21–79
7th and Lincoln Chevron, 1200 7th Avenue, San Francisco, CA 94107—12–26–79
Wally Damm Chevron, 3548 Dam Road, El Sobrante, CA 94803—12–26–79
Steve's Union, 3160 Carlson Blvd., El Cerrito, CA 94530—12–26–79
Craig's Texaco, 12500 San Pablo Avenue, Richmond, CA 94805—12–27–79
David Prowse Mobil, 707 So. Mathilda Avenue, Sunnyvale, CA—12–26–79
O'Brien Country Store, 33096 Redwood Hwy., O'Brien, OR 97534—12–1–79
Jim's Chevron, 433 S. Ellensburg, Gold Beach, OR 97444—12–3–79
Winter's Mobil, 1137 NE Oregon, Box 131, Port Orford, OR 97465—12–1–79
Chappell Chevron, 665 2nd St., Bandon, OR 97411—12–3–79
Winchester Bay Chevron, Hwy. 101, P.O. Box 116, Winchester Bay, OR 97467—12–4–79
Garth Pelton's Chevron, Hwy 101 & 14th St., Reedsport, OR 97467—12–4–79
Marv's Chevron, 648 SW Coast Hwy., Newport, OR 97365—12–5–79
Ken Larsen Chevron, Hwy. 101 & Dunes Rd., Lincoln City, OR 97367—12–5–79
Interstate Texaco, 4920 N. Interstate, Portland, OR 97217—12–5–79
Marty's Chevron, 1004 E. First, Newburg, OR 97132—12–5–79
Jeff's Chevron Service, 2333 N.E. Fremont St., Portland, OR 97212—12–5–79
Hood River Chevron, I–80N & Bridge Road, Hood River, OR 97031—12–3–79
Glenndale Auto, 5129 SW 101, Lincoln City, OR 97367—12–5–79
Jim's Chevron, P.O. 297, Hebo, OR 97122—12–6–79
Wheeler Motor Service, Box 37, Hwy. 101, Wheeler, OR 97147—12–6–79
Nestucca Marina, 34560 Brooten Road, Pacific City, OR 97135—12–6–79
Wilsonville Chevron, 9140 SW Wilsonville Rd., Wilsonville, OR 97070—12–7–79
Bill's Chevron, 2320 NE Hwy 101, Lincoln City, OR 97367—12–10–79
John's Chevron, 1202 Commercial, Anacortes, WA 98221—12–27–79
Herb's Texaco, 5th & Canal, Redmond, OR 97756—12–10–79
Interstate Shell Service, 4616 N. Interstate, Portland, OR 97217—12–10–79
Jack Cain Chevron, 13110 NE Sandy Blvd., Portland, OR 97230—12–27–79

Nick's Exxon Station, 5200 168th SW, Lynnwood, WA 98036—12–12–79
Keith's Corner Service, 4711 Sunnyside Blvd., Marysville, WA 98270—12–14–79
Olson's Resort, P.O. Box 216, Sekiu, WA 98381—12–3–79
Bob's Mobil, 1055 S. Riverside, Medford, OR 97501—12–30–79
Fair Grounds Texaco, 780 Union Ave., Grants Pass, OR 97601—12–1–79

Issued in San Francisco, California on the 10th day of January, 1980.

June F. Wallach,

Acting District Manager, Office of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 3413 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Michael E. Sweeney d.b.a. Exeter Shell Service, Inc.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Michael E. Sweeney, d/b/a/ Exeter Shell Service, Inc., 84 Portsmouth Avenue, Exeter, New Hampshire. This Proposed Remedial Order Charges Exeter Shell with pricing violations in the amount of $12,123.63 connected with the resale of motor gasoline during the period January 1, 1974 through April 30, 1974 in the State of New Hampshire.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from James Dowd, Audit Director, Department of Energy, Northeast District, 150 Causeway Street, Boston, Massachusetts 02114. On or before March 3, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Dated: January 16, 1980.

Herbert M. Heitzer,

District Manager, Office of Enforcement, Northeast District.

[FR Doc. 80–3414 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER80–195]

Appalachian Power Service Corp.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on Janaury 21, 1980, tendered for filing on behalf of its affiliates, Appalachian Power Company (Appalachian), Ohio Power Company (Ohio), and Wheeling Electric Company (Wheeling), Modification No. 9 dated January 1, 1980 to the Operation Agreement dated June 1, 1971 among Appalachian, Ohio, Wheeling, Monongahela Power Company and West Penn Power Company designated Appalachian Rate Schedule FERC No. 55, Ohio Rate Schedule FERC No. 73 and Wheeling Rate Schedule FERC No. 5.

Section 1 of Modification No. 9 provides for connection services as follows: (1) When the supplying party is the AEP parties, an increase in the demand charge for Short Term and Limited Term Power from $0.70/kW-week and $3.75/kW-month to $0.85/kW-week and $4.50/kW-month respectively and Short Term and Limited Term Power transmission charges for third party transactions from $0.175/kW-week and $0.75/kW-month to $0.24/kW-week and $1.100/kW-month respectively, (2) when the supplying party if the APS parties an increase in the demand charge for Short Term Power and Limited Term Power from $0.70/kW-week and $3.75/kW-month to $0.85/kW-week and $4.50/kW-month respectively and Short Term and Limited Term Power transmission charges for third party transactions from $0.175/kW-week and $0.75/kW-month to $0.20/kW-week and $0.85/kW-month respectively, and (3) when the supplying party is the APS parties a cap of $0.002 per kilowatt per hour for the 10% adder of the out-of-pocket cost of providing Short Term Operating Capacity, Short Term Energy, Limited Term Operating Capacity and Limited Term Energy. All of the aforementioned Schedules proposed to become effective January 1, 1980. Applicant states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from this Modification for such period.

Applicant's Exhibit I which was included with the filing of this Modification, demonstrate that the increase in revenues, which would have resulted had the Modification been in effect during the twelve-month period ending December 1979, would have been $3,053,826.28 (i.e., from $75,143,470.10 to $78,197,296.38).

Copies of this filing were served upon Allegheny Power Service Corporation, to the Public Utilities Commission of Ohio, to Virginia State Corporation Commission, to Public Service Commission of West Virginia and to Public Service Commission of Pennsylvania.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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. 80–3359 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–197]

Boston Edison Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, Boston Edison Company ("Edison") tendered for filing one supplemental Exhibit A to a Service Agreement for the Town of Hingham, Massachusetts, under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service ("the Tariff"). The Exhibit A specifies the amount and duration of transmission service required by Hingham under the Tariff.

Edison requests an effective date for the Exhibit A of November 1, 1979, the date on which service commenced.

Edison states that it has served the filing on the Town of Hingham and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3360 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-198]

Carolina Power & Light Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that Carolina Power & Light Company on January 22, 1980, tendered for filing changes in its electric service agreement with the Town of Farmville to provide metering pulse information under Company's additional facilities plan.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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. 80-3361 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP75-62]

Cities Service Gas Co.; Settlement Conference

January 25, 1980.

Take notice that on January 31, 1980, at 9:30 a.m., a further and hopefully final session of the settlement conferences that began on December 6, 1979, will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Parties to the instant proceeding should arrive prepared to discuss the outline of settlement proposal presented by Cities Service and the reactions to the outline of settlement proposal expressed at the January 14, 1980 session.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3362 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-194]

Edison Sault Electric Co.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that Edison Sault Electric Company (Edison), on January 21, 1980, tendered for filing a Supplemental Agreement No. 3 between Edison and Cloverland Electric Cooperative, Inc. (Cloverland) dated November 1, 1979, which agreement will supplement an existing Contract for Electric Service, dated February 1, 1977, between the same two parties. The contract between the parties, dated February 1, 1977, has been designated Rate Schedule FERC No. 8 (Docket No. ER77-477). The proposed supplemental agreement provides for a change in the wheeling rate schedule as provided in the contract, dated February 1, 1977, under subsection (d) wheeling change, Section 5, Rate.

Copies of the filing were served upon Cloverland Electric Cooperative, Inc. and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said agreement, 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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 agreement are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3363 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-193]

Florida Power Corp.; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, Florida Power Corporation ("Florida Power") tendered for filing one Interconnection Agreement ("Agreement") between Florida Power and the Cities of Kissimmee and St. Cloud, Florida ("Joint Cities") dated December 1, 1979. The Agreement provides for the following interconnection services: emergency energy, short-term firm capacity and energy, economy energy and long-term firm capacity and energy. Florida Power asks that the sixty (60)-day notice requirement be waived so that the Agreement, in accordance with its terms, may be permitted to become effective on December 1, 1979.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before February 19, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests 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 filed by Florida Power are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3364 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-199]

Florida Power & Light Co.; Filing

January 25, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on January 22, 1980,

tendered for filing an executed Agreement, entitled "Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and Orlando Utilities Commission."

FPL states that under the Agreement FPL will transmit power and energy for the Orlando Utilities Commission (Orlando) as is required by Orlando in the implementation of its interchange agreements with the City of Homestead, Florida, the Lake Worth Utilities Authority, the Fort Pierce Utilities Authority, the Tampa Electric Company, the City of Vero Beach, Florida, the New Smyrna Beach Utilities Commission, and the Jacksonville Electric Authority.

FPL requests an effective date of no later than 60 days after the date of filing. According to FPL, copies of the filing were served upon Orlando's Assistant Manager for Electric Operations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before February 19, 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. 80-3365 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-172]

Great Lakes Gas Transmission Co. Application

January 24, 1980.

Take notice that on January 7, 1980, Great Lakes Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP80-172, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a compressor station in order that increased volumes of natural gas may be delivered to TransCanada PipeLines Limited (TransCanada) at Sault Ste. Marie, Ontario, Canada (Sault Ste. Marie), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to add a new 2,200 horsepower compressor station to transport additional volumes requested by TransCanada for delivery at the interconnection of existing facilities of Applicant and TransCanada near Sault Ste. Marie.

TransCanada's contract with Applicant dated September 12, 1976, as amended, provides for the transportation of up to 815,000 Mcf of gas per day to be delivered by Applicant at St. Clair, Michigan (St. Clair) and Sault Ste. Marie in such volumes to each delivery point as TransCanada shall designate from time to time, it is stated. TransCanada has informed Applicant that it would require deliveries of additional volumes of gas up to a maximum of 33,000 Mcf per day at Sault Ste. Marie effective November 1, 1980. Applicant states that it currently delivers to TransCanada up to a maximum of 55,000 Mcf per day at this delivery point. After installation of the proposed compression facilities, Applicant asserts, it would be able to meet TransCanada's requirements of up to 88,00 Mcf per day at Sault Ste. Marie. A corresponding reduction in volumes would be made to TransCanada at the St. Clair delivery point, it is stated; hence, no new volumes of natural gas beyond those previously authorized to be imported and exported are involved in this application. Applicant states all volumes would continue to be transported pursuant to the terms and conditions of Applicant's Rate Schedule T-4.

In order to effect the delivery of additional natural gas at Sault Ste. Marie, Applicant proposes to construct the new compressor station which would include the installation of two 1,100 horsepower turbine compressor units and related facilities at Brevort in Mackinac County, Michigan. Applicant proposes to commence construction of the proposed facilities the summer of 1980 in order to commence deliveries of additional volumes by November 1, 1980, as requested by TransCanada. Applicant states that the cost of the proposed facilities is estimated at 2,440,777, which would be provided from internally generated funds together with borrowing from banks under short-term lines of credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3366 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-17]

Illinois Power Co.; Supplemental Application

January 25, 1980.

Take notice that on January 15, 1980, Illinois Power Company (Applicant) filed an Amendment to its application in Docket No. ES80-17 seeking a supplemental order pursuant to Section 204 of the Federal Power Act authorizing the increase of the principal amount of short-term notes to $175,000,000 that may be issued by Applicant to December 31, 1981 from $125,000,000 previously authorized by the supplemental order of the Commission issued December 28, 1979 in Docket No. ES80-17.

The net proceeds from the issuance of the notes will be added to working capital for ultimate application toward the cost of gross additions to utility

properties and/or to reimburse Applicant's treasury for construction expenditures. Applicant's construction program, as now scheduled, calls for expenditures of approximately $1,355,000,000 for the five-year period of 1979–1983 after giving effect to participation of 20% by certain electric cooperatives in the ownership of the Clinton Nuclear Power Station.

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 Capital Street, N.E., Washington, D.C. 20426, in acordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 11, 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. 80-3367 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2976]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $34,000.00.

Project Description—The Keystone Dam Project would consist of: (1) an existing 240-foot-long and 20-foot-high earth dam; (2) a proposed powerhouse containing one generator rated at 470-kW; (3) an existing reservoir with a storage capacity of 130 acre-feet at normal power pool elevation of 678 feet m.s.l.; (4) an existing 13.8 kV transmission line; and (5) appurtenant facilities. The estimated average annual output of the proposed project would be 3,187,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee during the terms of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979).

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3368 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2977]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Corresponsence with the Applicant on this matter shoud be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the

cost of the proposed studies would be $16,000.00.

Project Description—The Union Street Dam Project would consist of: (1) an existing 200-foot-long and 15-foot-high concrete dam; (2) a 250 foot long earth dike; (3) an existing reservoir with a storage capacity of 9,500 acre-feet at normal power pool elevation of 590 feet m.s.l.; (4) a proposed powerhouse containing one generating unit rated at 200 kW; (5) and appurtenant facilities. The estimated annual output of the proposed project would be 1,509,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing applicatiion must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3366 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2978]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $4,000.00.

Project Description—The Brown Bridge Dam Project would consist of: (1) an existing 2400-foot-long and 15-foot-high earth embankment; (2) an existing powerhouse containing two generators each rated at 400 kW; (3) an existing reservoir with a storage capacity of 325 acre-feet at normal pool elevation of 797.5 feet m.s.l.; (4) an existing 13.8 kV transmission line 13 miles long; and (5) appurtenant facilities. The estimated annual output of the proposed project would be 2,887,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtain directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10

for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3370 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2979]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months. during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $15,000.00.

Project Description—The Boardman Dam Project would consist of: (1) an existing 700-foot-long and 18-foot-high earth dam; (2) an existing 200-foot-long, 18-foot-wide and 15-foot-high concrete bridge-dam structure; (3) an existing reservoir with a storage capacity of 81 acre-feet at normal pool elevation of 654.8-feet m.s.l.; (4) an existing 13.8 kV transmission line; (5) an existing powerhouse containing two generators, each rated at 485 kW, for a total installed capacity of 970 kW; and (6) appurtenant facilities. The estimated annual output of the proposed project would be 6,582,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3371 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2980]

Light and Power Board, City of Traverse City; Application for Preliminary Permit

January 24, 1980.

Take notice that an application was filed on October 3, 1979, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r), by the Light and Power Board of the City of Traverse City for a preliminary permit. The project is located on the Boardman River in the county of Grand Traverse near Traverse City, Michigan. Correspondence with the Applicant on this matter should be addressed to: William P. Strom, Executive Director/Secretary, Light and Power Board of the City of Traverse City, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Purpose of the Project—The Light and Power Board of the City of Traverse City would sell the total power generated at the project to customers of the Light and Power Department of Traverse City.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it proposes to conduct economic and environmental studies, prepare application for necessary state and federal permits, and to develop preliminary and final designs of the project. The Applicant estimates the cost of the proposed studies would be $15,000.00.

Project Description—The Sabin Dam Project would consist of: (1) an existing concrete dam, 110-feet-long and 20-feet-high, (2) an existing powerhouse containing two generators, each rated at 335 kW, for a total installed capacity of 670 kW; (3) an existing reservoir with a

storage capacity of 37 acre-feet at normal power pool elevation of 613.8-feet m.s.l.; (4) an existing 13.8 kV transmission line; and (5) appurtenant facilities. The estimated annual output of the proposed project would be 3,315,000 kWh.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and other necessary information for inclusion in an application for license.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 31, 1980 either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 30, 1980. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33 (a) and (d), (as amended, 44 Fed. Reg. 61328, October 25, 1979.)

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Invervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practie and Procedure, 18 CFR, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 31, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3372 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-512]

Long Island Lighting Co.; Filing

January 25, 1980

The filing Company submits the following:

Take notice that on January 7, 1980, Long Island Lighting Company (LILCO) submitted the following documents in the above styled-proceeding:

1. Data concerning cost of providing service.

2. Statement which states how the rate was developed.

3. LILCO's Case-in-Chief.

Copies of this filing have been served upon the parties to this proceeding.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 15, 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 application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3373 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-108]

Missouri Public Service; Order Accepting Rates for Filing, Suspending Proposed Rate Increase, and Establishing Procedures

January 22, 1980.

On November 27, 1979, Missouri Public Service Company (MPS) submitted for filing a proposed rate increase for firm power service to eight municipal customers.[1] The proposal would increase revenues from those customers by $484,258 (14.5 percent) annually, based on projected revenues for the 12-month period ending January 25, 1981. MPS requests that its proposed rates be allowed to become effective on January 26, 1980, with respect to the cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, and Rich Hill, and "as soon as possible by contract" with respect to the cities of Odessa and Gilman City.

Notice of MPS' filing was issued on December 4, 1979, with protests or petitions to intervene due by December 24, 1979. The cities of Odessa and Galt filed letters of protest on December 18 and 24, 1979, respectively. Odessa contends that the rate increase, as to Odessa, should be rejected because its contract with MPS, which expires on March 11, 1984, is a fixed-rate contract with no provision for unilateral change. Galt objects to the rate increase because it would result in increased rates for the city's residents, 75 percent of whom are on fixed incomes, and because it follows MPS' 1978 rate increase in Docket No. ER79-89.

Our reviews of MPS' filing indicates that the proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, with respect to the cities other than Odessa and Gilman City, we shall accept MPS's proposed rates for filing and suspend them for three months to become effective April 27, 1980, subject to refund. We shall also hold a hearing concerning the justness and reasonableness of the rates proposed by MPS.

The contracts for the cities of Odessa and Gilman City have previously been found to provide for fixed rates over fixed terms with no reservation of power to unilaterally change the existing rates.[2] In its present filing, MPS has not sought to supplant its contractual obligations to these cities. The tendered

[1] Cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, Rich Hill, Odessa, and Gilman City, Missouri. See Attachment A for rate schedule designations.

[2] *Missouri Public Service Co.*, Docket No. ER79-89, Jan. 31, 1979, mimeo at 3.

rate schedule is expressly made subject to the existing fixed-rate contracts and MPS does not propose to increase rates to the two cities until expiration of their respective contracts.[3] This comports with the *Mobile-Sierra* doctrine.[4]

Consistent with orders issued by the Federal Power Commission in *Alabama Power Co.*, 46 FPC 1386 (1971), *reconsideration den.*, 47 FPC 280 (1972), *aff'd sub nom., Municipal Electric Assoc. of Alabama* v. *FPC*, 485 F.2d 967 (D.C. Cir. 1973), we shall waive Section 35.3 of the Regulations to permit MPS to file proposed rates more than 120 days before their proposed effective dates for service to Odessa and Gilman City. However, no change in rate may become effective as to these customers until the expiration, or renegotiation of their respective contracts and the filing of superseding service agreements under Section 205(d). MPS's filing of new service agreements will afford the Commission a renewed opportunity to inquire into the lawfulness of the rate schedule and to suspend the effectiveness of the rate and service agreement pending such investigation.

We note that MPS has functionalized general plant on a basis other than functional wage and salary ratios. In accordance with our policy on this matter, MPS shall have the burden—in the hearing to be ordered in this proceeding—of showing that the use of labor ratios is unreasonable as applied to the company.[5]

We also note that both MPS' present and proposed rates contain a tax and license rider which adjusts the customers' bills for gross receipts, franchise, occupational, and license taxes. However, MPS states that there are no such taxes or fees currently in effect. Before this rider could be implemented MPS would have to make a timely filing under § 35.13 of our Regulations under the Federal Power Act.[6]

The Commission orders:

(A) The rates proposed by MPS for the cities of El Dorado Springs, Galt, Harrisonville, Liberal, Pleasant Hill, and Rich Hill are accepted for filing and suspended for three months, to become effective April 27, 1980, subject to refund.

(B) The 120 days notice requirement of § 35.3(a) of our Regulations is hereby waived with regard to the filing of proposed rate schedules applicable to the Cities of Odessa and Gilman City. Any rate change for service to these customers may only become effective upon the expiration, or renegotiation of their respective contracts and the filing, subject to Section 205(e) review, of a superseding service agreement for each contract.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and its Regulations under the Federal Power Act (18 CFR ch. 1 (1979)), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by MPS in this proceeding.

(D) The staff shall serve top sheets in this proceeding on or before April 20, 1980.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing discovery conference in this proceeding to be held within 35 days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. This conference will be for the purpose of expediting discovery and resolving any initial controverises relating to data requests and discovery. In addition, the presiding judge shall convene a formal settlement conference to be held within 10 days of the service of top sheets. The presiding judge is authorized to established procedural dates and to rule upon all motions (except motions to consolidate or serve and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Missouri Public Service Co. [Docket No. ER80-108]

Rate Schedule Designations

Filed: November 27, 1979.
Dated: Undated.

Designation	Description	Other party
Supplement No. 6 to Rate Schedule FPC No. 35 (supersedes Supplement No. 3 thereto).	Rates	El Dorado Springs, Mo.
Supplement No. 7 to Rate Schedule FPC No. 35 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FERC No. 38 (supersedes Supplement No. 4 thereto).	Rates	Galt, Mo.
Supplement No. 7 to Rate Schedule FERC No. 38 (supersedes Supplement No. 5 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FERC No. 39 (supersedes Supplement No. 4 thereto).	Rates	Harrisonville, Mo.
Supplement No. 7 to Rate Schedule FERC No. 39 (supersedes Supplement No. 5 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 36 (supersedes Supplement No. 3 thereto).	Rates	Liberal, Mo.
Supplement No. 7 to Rate Schedule FPC No. 36 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 34 (supersedes Supplement No. 3 thereto).	Rates	Pleasant Hill, Mo.
Supplement No. 7 to Rate Schedule FPC No. 34 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 6 to Rate Schedule FPC No. 37 (supersedes Supplement No. 3 thereto).	Rates	Rich Hill, Mo.
Supplement No. 7 to Rate Schedule FPC No. 37 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 5 to Rate Schedule FPC No. 29 (supersedes Supplement No. 1 thereto).	Rates	Gilman City, Mo.
Supplement No. 6 to Rate Schedule FPC No. 29 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.
Supplement No. 5 to Rate Schedule FPC No. 31 (supersedes Supplement No. 1 thereto).	Rates	Odessa, Mo.
Supplement No. 6 to Rate Schedule FPC No. 31 (supersedes Supplement No. 4 thereto).	Fuel clause	Do.

[FR Doc. 80-3374 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. CP77-71, CP77-118, and CP77-125]

Natural Gas Pipeline Co. of America, etc.; Notice Scheduling Oral Argument Before the Commission

January 17, 1980.

In the matter of Natural Gas Pipeline Co. of America, Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company and Texas Gas Transmission Corporation.

Notice is hereby given that an oral argument will be held before the Commission in the above-captioned proceedings commencing at 10 a.m. on

[3] As noted *supra*, Odessa's contract expires on March 11, 1984; Gilman City's contract expires on October 27, 1982.

[4] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); and *Federal Power Commission* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[5] *See, Black Hills Power & Light Co.*, Docket No. ER79-429, Aug. 6, 1979; *Southern California Edison Co.*, Docket No. ER79-150, Mar. 15, 1979; and *Central Kansas Power Co.*, Docket No. ER79-90, Jan. 31, 1979.

[6] 18 C.F.R. § 35.13 (1979).

February 19, 1980 in Hearing room A of the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C. The argument has been scheduled by the Commission on its own motion to assist the Commission in its resolution of the issues involved.

Of particular interest to the Commission is the broad range of policy questions addressed by the parties in their briefs. The Commission does not seek further argument regarding the specific factual circumstances of the subject transaction for which a certificate is sought. The existing record is deemed adequate for the Commission to speak to the pending applications. However, the Commission may choose to consider and decide the broader policy issues surrounding the transportation of industry owned reserves, however acquired.

The specific issues on which the Commission seeks oral argument are as follows:

1. Does Title I of the Natural Gas Policy Act of 1978 (NGPA) implicitly prohibit in-place sales of reserves? Can the unit price of the gas sold be ascertained with reasonable certainty at time of sale?

2. Will industry acquisition of gas reserves circumvent the legislative scheme embodied in Title IV of the NGPA?

3. What is and will be the impact on system gas supply of industrial purchase of, exploration for, and development of gas reserves?

4. Is pipeline capacity threatened now or in the future? What categories of user owned gas should have first call on pipeline capacity? Should NGPA curtailment priorities be adopted?

5. How should the length of long term transportation certificates be decided? Case by case? Fixed terms established by rule? Limits established by rule with case by case determination?

Any party to these proceedings desiring to participate in the oral argument shall so notify the Secretary of the Commission not later than February 5, 1980, including a statement of the time deemed necessary for that party's presentation.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-3375 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-26 (PGA80-2, IPR80-2, GRI80-2, AP80-1, LFUT80-1, and TT80-1)]

Natural Gas Pipeline Co. of America; Change in Rates

January 25, 1980.

Take notice that on January 21, 1980, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective March 1, 1980:

Fortieth Revised Sheet No 5
Twelfth Revised Sheet No. 5A
Third Revised Sheet No. 5B
First Revised Sheet No.5C
First Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under various sections of the General Terms and Conditions of its tariff and various articles of the Stipulation and Agreement in Docket No. RP78-78 (hereinafter settlement) which was approved by Commission letter order issued October 4, 1979. The overall effect of the filed for adjustments to Natural's DMQ-1 sales rate is an increase of $0.04 in the demand component and a decrease of 0.50¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. Rate reductions were also made to storage Rate Schedules MS-2, LS-1, LS-2 and LS-3.The annualized revenue decrease amounts to approximately $3.81 million. the various components are summarized below:

	Rate schedule DMQ-1 rate adjustment		Annualized jurisdictional revenue increase (decrease)
	Demand	Commodity	
Purchased Gas Cost Adjustment:			
Producer Supplier		5.86¢	$59.47
Pipeline Supplier		(0.49)	(4.97)
Deferred Purchased Gas Cost		(7.82)	(79.37)
Total PGA		(2.45)¢	$(24.87)
Gas Research Institute		(0.01)¢	(.10)
Louisiana First Use Tax		0.76¢	7.71
Advance Payments		(0.27)¢	(2.74)
Transportation Adjustment	$0.05	1.55¢	17.83
Tax Adjustment	$(0.01)	(0.08)¢	(1.25)
Storage Service			(.39)
Total	$0.04	(0.50)¢	$(3.81)

The filing also reflects projected incremental pricing surcharges (MSAC) of $4,300 for the six month period beginning March 1, 1980. Natural states it had only one sale-for-resale customer that had MSAC. All of Natual's remaining sale-for-resale customers reported zero MSAC due to actions taken by their state regulatory commissions. Natural's four direct industrial customers have either furnished exemption affidavits or are exempt based on information contained in Natural's records.

Natural also filed to amend the GRI surcharge of 0.48¢ effective as of January 1, 1980, since Natural sells gas on a 14.65 psia pressure base corrected to 1000 Btu. Natural states that under its billing basis and using the system Btu of 1025 included in its currently effective rates the GRI surcharge of 0.48¢ should be converted to 0.47¢

Natural requests waiver of the Commission regulations to the extent, if any, required to put the propose tariff sheets into effect on March 1, 1980.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

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 NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Feb. 12, 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 part must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3376 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 803]

Pacific Gas & Electric Co.; Issuance of Annual Licenses

January 25, 1980.

On November 18, 1976, Pacific Gas and Electric Company (Company), Licensee for the DeSabla-Centerville Project No. 803, located on West Branch Feather River, Butte Creek, and Philbrook Creek in Butte County, California filed an application for new license pursuant to the Federal Power Act and Commission regulations thereunder.

The license for Project No. 803 was issued effective October 12, 1929 for a period ending October 11, 1979. In order to authorize the continued operation and maintenance of the project, pending the Commission's action on the Company's

application, it is appropriate and in the public interest to issue an annual license to the Company.

Take notice that an annual license has been issued to the Company for a period of October 12, 1979 to October 11, 1980, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 803, subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before October 12 a new annual license will be in effect each year thereafter, effective October 12 of each year, until such time as a new license is issued, or other appropriate action is taken by the Commission, without further notice being given by the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3377 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Projects Nos. 2929, 2969, 2995, and 3004]

Pennsylvania Hydroelectric Development Corp., et al.; Consolidating Proceedings and Denying Petition to Intervene

January 24, 1980.

In the matter of Pennsylvania Hydroelectric Development Corporation, Borough of Weatherly, Pennsylvania, Borough of Lehighton, Pennsylvania, Delaware River Basin Commission.

The four applicants in the above-captioned proceedings have each filed an application for a preliminary permit to study the installation of hydroelectric generating facilities at the Francis E. Walter Dam, located on the Lehigh River in Carbon County, Pennsylvania. The applications were all filed during the last eight months. Public notice of only one of the applications has been given.

To ease the procedural burden on the applicants and the Commission from conducting four separate proceedings for these competing applications, these dockets are being consolidated. This will, among other things, automatically make all of the applicants parties to each others' proceeding until the applications are acted upon without requiring them to incur the expense of filing multiple petitions to intervene. The one currently outstanding petition to intervene, that filed by the Delaware River Basin Commission (applicant for Project No. 3004) in the proceeding involving the Pennsylvania Hydroelectric Development Corporation's application (Project No. 2929), is denied as moot.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3378 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-196]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

January 25, 1980.

The filing Company submits the following:

Take notice that on January 21, 1980, the Office of the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed Schedules 5.03, 7.03, 8.04, and 9.02 to the Interconnection Agreement between CEI and the PJM Group dated September 30, 1965.

The schedules provide for replacing the traditional percentage adders used in pricing Emergency, Extended Emergency, and Short Term Energy and Operating Capacity transactions, with cost justified fixed adders based upon identifiable costs. The demand rates for Extended Emergency transactions are changed from a daily to an hourly basis.

The Schedules also provide for increasing the demand rate for supply of Short Term Power from $500 to $800 per megawatt per week. The demand rate for transmitting Short Term Power purchased from another system is increased from $125 to $200 per megawatt per week.

No new facilities will be installed nor will existing facilities be modified in connection with the Schedules. The filing party has requested a waiver of any otherwise applicable Rules and Regulations not already complied with and has requested an effective date of April 1980.

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 February 19, 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. 80-3379 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 1025]

Safe Harbor Water Power Corp.; Granting Intervention

January 24, 1980.

On April 21, 1977, Safe Harbor Water Power Corporation filed an application for a new license for its existing Safe Harbor Project No. 1025. Notice of the application was issued with a due date of December 6, 1978, for the filing of protests or petitions to intervene.

On September 14, 1979, the Susquehanna River Flood Committee (SRFC) filed a late petition to intervene. SRFC states that it is an association of landowners having property located along the reservoir impounded by the Safe Harbor Project. SRFC states that its members desire Safe Harbor to adopt certain operating procedures that would assure that the Safe Harbor Project is properly operated during times when the Susquehanna River is frozen to prevent recurrent ice damage to SRFC's members' properties. SRFC states that in past years, Safe Harbor has been negligent in operating its project during periods of ice movement, causing ice to jam up onto SRFC's members' properties.

SRFC states that because the association was not formally organized until February, 1979, and because it represents an important public interest that is not adequately represented in this proceeding, its late intervention should be granted.

Safe Harbor opposes the granting of the petition to intervene on the ground that the operation of the Safe Harbor Project does not contribute to the ice jams above the project. Safe Harbor also asserts that SRFC's interests are unrelated to the application for new license for the Safe Harbor Project. Safe Harbor also argues that SRFC has not provided enough facts which demonstrate its interest in this proceeding.

It appears that SRFC's participation in this proceeding may be in the public interest. SRFC has raised an issue related to operation of the Safe Harbor Project. This subject is considered and addressed in relicensing proceedings. With regard to Safe Harbor's suggestion that SRFC should file a complaint under § 1.6 of the Commission's Regulations in lieu of filing its petition to intervene,

SRFC has chosen the relicensing proceeding as the forum to consider its concerns. It is therefore inappropriate at this time to second-guess SRFC and no further comment is necessary.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR 3.5(a) (1978), as promulgated by Federal Energy Regulatory Commission rulemaking RM78–19 (issued August 14, 1978), Petition is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. 16 U.S.C. 791(a)–825(r). Participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80–3380 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP80–71]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

January 25, 1980.

Take notice that Sea Robin Pipeline Company (Sea Robin), on January 22, 1980, tendered for filing, as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Substitute Fourth Revised Sheet No. 5
Substitute Third Revised Sheet No. 6
Substitute Fourth Revised Sheet No. 7
Substitute Original Sheet No. 7–A
Substitute Original Sheet No. 7–B
Substitute Original Sheet No. 7–C
Substitute Original Sheet No. 7–D
Substitute Original Sheet No. 12
Substitute Original Sheet No. 13
Substitute Original Sheet No. 14
Substitute Original Sheet No. 15
Substitute Original Sheet No. 16
Substitute Original Sheet No. 17
Substitute Original Sheet No. 18
Substitute Original Sheet No. 19
Substitute Original Sheet No. 20
Substitute Original Sheet No. 21
Substitute Original Sheet No. 22

Sea Robin states it has revised Sections 1, 3, 4 and 5 of its FERC Gas Tariff, Original Volume No. 1. These revisions are being made to take account of (1) the changes to the incremental pricing regulations adopted in Order No. 49–A, issued December 27, 1979 in Docket No. RM79–14 and (2) the changes in the regulations relating to computation of the carrying charge component of the PGA provision (Sections 1.9 and 4.9), which changes were adopted in Order No.47, issued September 10, 1979, Order No. 47–A, issued November 8, 1979, and Order No. 47–B, issued December 26, 1979, all in Docket No. RM77–22.

These revisions will not cause any change in the rates which became effective on January 1, 1980. Sea Robin requests that these changes be made effective as of December 1, 1979, the date that tariff provisions implementing incremental pricing must be made effective under Order No. 49. Sea Robin requests that the Commission waive its regulations to the extent necessary to allow the tendered tariff sheets to become effective as requested.

Copies of the proposed tariff sheets will be mailed to Sea Robin's customers and interested state 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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 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. 80–3381 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–151]

Transcontinental Gas Pipe Line Corp.; Amended Notice of Application

January 25, 1980.

Take notice that on December 21, 1979, Transcontinental Gas Pipeline Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80–151 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The notice issued January 9, 1980, in the instant docket failed to include Applicant's notation that in its comments filed in Docket No. RM79–74 wherein the Commission promulgated Subpart G of Part 284 of the regulations under the NGPA, it requested the Commission to clarify its proposal "to expressly recognize that this particular condition (Section 284.103(d)(1) concerning crediting of revenues in excess of 1 per cent per Mcf to Account No. 191) would apply only in the event that a pipeline's rate settlement agreement does not contain a provision governing the treatment of transportation revenues." It is stated that in its final rule, the Commission took note of Applicant's request and provided that an application for a blanket certificate "may call to the Commission's attention any provision of a previous settlement which may conflict with the requirements of § 284.103(d)." The Commission further explained, it is stated, that the provisions of § 284.103(d) would apply to all transactions covered by the certificate "unless otherwise provided in the order."

Applicant states that Article X of its Agreement as to Rates in Docket No. RP77–108, approved by Commission letter order issued October 11, 1979, is in conflict with § 284.103(d). Therefore, Applicant requests that the Commission's order herein specifically provide that Article X of Applicant's agreement governs with respect to revenues received for transportation service rendered under the instant blanket authorization so long as the Docket No. RP77–108 rates are in effect.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons having heretofore filed after issuance of the

notice of January 9, 1980, in this proceeding need not do so again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-3382 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-30 (PGA80-2, IPR80-2, AP80-1, LFUT80-1, and TT80-1)]

Trunkline Gas Co.; Change in Tariff

January 25, 1980.

Take notice that on January 15, 1980 Trunkline Gas Company (Trunkline) tendered for filing Thirty-First Revised Sheet No. 3-A and Second Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A PGA Rate Adjustment in accordance with (A) Section 18 of the General Terms and Conditions; and (B), Article VII (Transportation Revenues and Credits) of the Agreement as to Rates and Related Matters in Docket No. RP78-11 which reflects increases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(2) A Louisiana First Use Tax (LFUT) Rate Surcharge in accordance with Section 20 of the General Terms and Conditions; and

(3) An Advance Payment tracking adjustment pursuant to Article V of the Agreement as to Rates and Related Matters in Docket No. RP78-11, and

(4) A purchased Gas Transmission and Compression tracking adjustment pursuant to Article VI of the Agreement as to Rates and Related Matters in Docket No. RP78-11.

(5) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customer in accordance with Section 21 of the General Terms and Conditions.

An effective date of March 1, 1980 is proposed.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 15, 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. 80-3383 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP 80-30-]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

January 25, 1980.

Take notice that United Gas Pipe Line Company (United), on January 22, 1980, tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Substitute Fourth Revised Sheet No. 74-B
Substitute Fifth Revised Sheet No. 74-C
Substitute Fourth Revised Sheet No. 74-D
Substitute Fifth Revised Sheet No. 74-E
Substitute Fifth Revised Sheet No. 74-F
Substitute Original Sheet No. 74-F1
Substitute Original Sheet No. 74-F2
Substitute Original Sheet No. 74-P
Substitute Original Sheet No. 74-Q
Substitute Original Sheet No. 74-R
Substitute Original Sheet No. 74-S

United States it has revised Sections 19 and 23 of its FERC Gas Tariff, First Revised Volume No. 1. These revisions are being made to take account of (1) the changes to the incremental pricing regulations adopted in Order No. 49-A, issued December 27, 1979 in Docket No. RM79-14 and (2) the changes in the regulations relating to computation of the carrying charge component of the PGA provision (Section 19.9), which changes were adopted in Order No. 47, issued September 10, 1979, Order No. 47-A, issued November 8, 1979, and Order No. 47-B, issued December 26, 1979, all in Docket No. RM77-22.

These revisions will not cause any change in the rates which became effective on January 1, 1980. United requests that these changes be made effective as of December 1, 1979, the date that tariff provisions implementing incremental pricing must be made effective under Order No. 49. United requests that the Commission waive its regulations to the extent necessary to allow the tendered tariff sheets to become effective as requested.

Copies of the proposed tariff sheets will be mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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 February 12, 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. 80-3384 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-9547, et al.]

United Gas Pipe Line Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 25, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket numer, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 12, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
1/10/80	United Gas Pipe Line Company.	G-9547, *et al.*	Report.
1/15/80	Northern Natural Gas Company.	RP71-107	Report.
1/15/80	Northern Natural Gas Company.	G-19040	Report.

[FR Doc. 80-3385 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-112]

Upper Peninsula Power Co.; Order Accepting for Filing and Suspending Proposed Rate Changes, Summarily Disposing of an Issue, Granting Intervention and Establishing Procedures

January 21, 1980.

Upper Peninsula Power Company (Upper Peninsula) on November 29, 1979 filed with the Commission a proposed change in rate schedule WR-1 for service to the Alger-Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, Village of Baraga, City of Gladstone, Village of L'Anse, City of Negaune, and to the Wisconsin Electric Power Company.[1] The proposed rate change would constitute an increase in revenues to Upper Peninsula of $249,558 (6.35%) based on the 12 month period succeeding the proposed effective date of January 31, 1980.

Notice of the filing was issued on December 4, 1979, with responses due on or before December 26, 1979. On December 17, 1979. Wisconsin Electric Power Company (WEP) filed a petition to intervene which raised no susbstantive issues.

Under the holding of Opinion No. 19,[2] accumulated deferred investment tax credits (ADITC) must be distributed proportionately throughout the capital structure or eliminated entirely. As part of its filing, Upper Peninsula has improperly included ADITC as a separate component of its capitalization at the company-claimed overall rate of return.

While Upper Peninsula's treatment of ADITC has no effect on the company's claimed overall rate of return, it results in a lower weighted debt cost. If the interest deduction utilized in computing a Federal income tax allowance were synchronized by using this lower weighted debt cost, the result would be an artificial reduction in the interest deduction and a corresponding increase in the computation of the utility's imputed tax liability. However, since Upper Peninsula has not synchronized its interest deduction to its weighted cost of long-term debt, but rather has used a per books interest deduction, its treatment of ADITC has no immediate dollar effect on its cost of service as filed. Accordingly, we shall summarily dispose of the ADITC issue directing that Upper Peninsula eliminate ADITC as a separate component of its capital structure. We shall not, however, require Upper Peninsula to refile its cost of service pending our ultimate determination of the just and reasonable rates.[3]

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall therefore accept Upper Peninsula's submittal for filing and suspend the proposed rates, for four months, to become effective May 30, 1980, subject to refund after hearing and decision thereon. WEP's participation in this proceeding may be in the public interest and we shall grant its petition to intervene.

The Commission orders:

(A) The rates proposed by Upper Peninsula Power Company are hereby accepted for filing and suspended for four months, to become effective May 30, 1980, subject to refund at the outcome of this proceeding.

(B) Summary disposition is hereby ordered of Upper Peninsula's inclusion of ADITC as a separate component of its capital structure.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Upper Peninsula Power Company.

(D) Winsonsin Electric Power Company's petition to intervene is hereby granted in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by intervenor shall be limited to the matters set forth in its petition to intervene and *Provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

(E) Staff shall serve top sheets in this proceeding on or before April 25, 1980.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within 10 days of the serving of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Upper Peninsula Power Co.

Rate Schedule Designations—Docket No. ER80-112

Filed: November 29, 1979

Descriptions: (a) WR-1—Wholesale Service to Electric Utilities. (b) Fuel Clause Adjustment

Wisconsin Electric Power Company; Rate Schedule FPC No. 2. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Wisconsin Electric Power Company; Rate Schedule FPC No. 3. (a) Supplement No. 13 (Supersedes Supplement No. 12). (b) Supplement No. 14 (Supersedes Supplement No. 10).

Village of Baraga; Rate Schedule FPC No. 6. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Village of L'Anse; Rate Schedule FPC No. 7. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

City of Negaune; Rate Schedule FPC No. 11. (a) Supplement No. 10 (Supersedes Supplement No. 9). (b) Supplement No. 11 (Supersedes Supplement No. 7).

City of Gladstone; Rate Schedule FPC No. 13. (a) Supplement No. 9 (Supersedes Supplement No. 8). (b) Supplement No. 10 (Supersedes Supplement No. 6).

Alger-Delta Cooperative Electric Association; Rate Schedule FPC No. 14. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

Ontonagon County Rural Electrification Association; Rate Schedule FPC No. 15. (a) Supplement No. 12 (Supersedes Supplement No. 11). (b) Supplement No. 13 (Supersedes Supplement No. 9).

[FR Doc. 80-3386 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

[1] *See* Attachment A for rate schedule designations.

[2] *Carolina Power and Light Company,* Opinion No. 19 isued August 2, 1978, slip at p. 10.

[3] *El Paso Electric Company,* Docket No. ER79-526, suspension order issued September 24, 1979, mimeo at 3-4; *see Alabama Power Company,* Opinion No. 54, issued August 1, 1979; *Public Service Company of New Mexico,* Docket Nos. ER79-478 and ER79-479, order on rehearing issued December 18, 1979; *New England Power Company,* Docket Nos. ER80-66, ER80-67 and ER80-68, suspension order issued December 31, 1979.

Office of Hearings and Appeals

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 12 Through November 16, 1979

Notice is hereby given that during the week of November 12 through November 16, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Requests for Exception

Bennett's Standard, Middleton, Wis. DEO–0325, motor gasoline

Bennett's Standard filed an Application for Exception from the provisions of 10 CFR 211.102 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. On July 26, 1979, the DOE issued a Proposed Decision and Order denying Bennett's exception request. After considering the Statement of Objections which Bennett's filed to the Proposed Decision and Order, the DOE reaffirmed its finding that Bennett's will not experience a severe financial hardship in the absence of the requested exception relief. The DOE noted that the firm incurred a loss during its 1978 fiscal year solely as a result of its decision to award cash bonuses to its employees. The DOE also found that the change in the allocation base period did not prevent Bennett's from realizing the economic benefits of its capital investment. Accordingly, Bennett's Application for Exception was denied.

Champlin Petroleum Co., Fort Worth, Tex., DXE–7989, crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Champlin to sell at upper tier ceiling prices 83.95 percent of the crude oil produced from the State of New Mexico No. 18 Property.

Equipment, Inc., Lafayette, La., DXE–6154, crude oil

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Equipment, Inc. to sell (1) 37.14 percent of the crude oil produced from the Hayes No. 1 Well at market price levels not to exceed $28.63 per barrel and the remaining 62.81 percent of the production from that well at upper tier ceiling prices, and (2) 100 percent of the crude oil produced from the Hayes A–1 Well at market price levels not to exceed $93.34 per barrel.

The Farley Co., Hartford, Conn., DEE–7899, temperature restrictions

The Farley Company filed an Application for Exception from the provisions of 10 CFR, Part 490, in which the firm sought a temporary exception on behalf of The Exchange from the heating set back requirements for periods when buildings are unoccupied. In considering the request, the DOE found that temporary exception relief was necessary to enable the firm to install automatic night set back controls. Accordingly, temporary exception relief was granted.

Gulf Oil Corp., Houston, Tex., DXE–8084, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Gulf to sell at upper tier ceiling prices 100 percent of the crude oil produced from the E. G. Robinson, *et al.*, Unit.

Gulf Oil Corp., Houston, Tex., DEE–7936, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Gulf to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Ruth Fleming, *et al.*, "A" Lease.

Pennzoil Producing Co., Houston, Tex., DXE–7852, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Pennzoilto sell at upper tier ceiling prices 85.12 percent of the crude oil produced from the Perry Sand Waterflood Unit, North Segment.

Petroleum, Inc., Wichita, Kans., 262, crude oil

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Petroleum, Inc. to sell at upper tier ceiling prices 65.71 percent of the crude oil produced from the Crowder Lease.

Standard Oil Co. (Indiana), Chicago, Ill., DEE–7370, crude oil

Standard Oil Company (Indiana) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Standard to sell at upper tier ceiling prices 57.83 percent of the crude oil produced from the South Middle Ground Shoal Unit.

Remedial Order

Bulk Sales Corp., Somerville, N.J., DRO–0237, motor gasoline

On June 8, 1979, the Northeast Enforcement District issued an Interim Remedial Order for Immediate Compliance (IROIC) to the Bulk Sales Corporation. In that IROIC, the Northeast Enforcement District alleged that Bulk Sales failed to supply the D. J. Witman Company with the volume and grade of motor gasoline due the firm in March 1979. Subsequent to the issuance of the IROIC, Bulk Sales voluntarily supplied Witman. The proceeding against Bulk Sales was therefore dismissed.

Interlocutory Order

Office of Special Counsel; Atlantic Richfield Co.; Gulf Oil Corp.; Standard Oil Co. of Calif.; Standard Oil Co. of Ind.; Louisiana Land and Exploration Co., Washington, D.C., BRZ–0011, crude oil

The Office of Special Counsel of the DOE and several firms involved in enforcement proceedings pending before the Office of Hearings and Appeals filed submissions regarding the deposition of a witness to be designated by the Special Counsel. In considering the submission, the Office of Hearings and Appeals noted that Texaco, Inc., another firm involved in the enforcement proceeding, had already been authorized to take the deposition of OCS's witnesses and that the Texaco deposition was expected to conclude shortly. The Office of Hearings and Appeals therefore determined that the rights of other parties to take the deposition of that witness should be determined after the Office had an opportunity to examine the transcript of the Texaco deposition and consider the need for further depositions.

Supplemental Orders

American Petrofina, Inc., Dallas, Tex., BEX–0008, motor gasoline

The DOE issued a Supplemental Order in order to clarify the intent of a temporary exception granted to Fina Jobbers Association, Inc. *American Petrofina, Inc.*, Case No. DMR–0072 (September 14, 1979). The DOE stated that the obligations of American Petrofina, Inc. to supply its base period customers in accordance with the allocation levels set forth in the September 14, 1979 Order were not subject to any conditions.

Occidental Petroleum Corp., Los Angeles, Calif., BEX–0009, crude oil

Occidental Petroleum Corporation and its wholly owned subsidiary, The Permian Corporation filed an Application for an Extension of a Stay of certain provisions of a Decision and Order issued by the Office of Hearings and Appeals to Energy Cooperative, Inc. (EIC) on October 3, 1979. The October 3 Order required in part that Permian supply ECI with 1,835,000 barrels of crude oil during the period October 1 through December 31, 1979 at a price not to exceed Permian's weighted average acquisition cost of crude oil during the preceding three months. The Order itself, however, provided for a stay of those provisions in order to all Permian and Occidental to submit objections to the terms of the October 3 Order which affected Occidental and Permian. In support of its request, Occidental stated that ECI has not shown that it will suffer irreparable injury if a stay of the proceedings requiring Permain to supply ECI with 1,835,000 barrels is extended, or that public policy objectives require that ECI be granted immediate relief with respect to the provisions affecting Permian. At the culmination of a hearing in the matter which was held on October 31, 1979, the Presiding Officer found that the requirements of Paragraphs (8) and (9) of the October 3 Order merited further consideration. Accordingly, Paragraphs (8) and (9) of the October 3 Order issued to ECI were stayed pending further order by the Office of Hearings and Appeals.

Protective Orders

The following firm filed an Application for Protective Order. The application, if granted,

would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Location and Case No.

Service Oil Co., Inc., Washington, D.C., DEZ–0008.

Interim Orders

The following firms were granted Interim Exception Relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Location, and Case No.

Thompson's Texaco, Washington, D.C.; DEN–2706.
Atlantic Richfield Co., Dallas, Tex.; BEN–0002.
Cave Springs Chevron No. 8044, Dunsmuir, Calif.; DEN–6878.
Fasgo, Inc., Washington, D.C.; DEN–7922.
The Carport, San Rafael, Calif.; DEN–5570.
Pine Grove Exxon, Pioneer, Calif.; BEN–0003.
Sharon Motors, Sharon Springs, N.Y.; DEN–6724.
J & B Automotive, Patchogue, N.Y.; DEN–6585.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The Requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

Ozark County Gas Co., Branson, Mo.; DEE–2513.
Auto Row Texaco, San Jose, Calif.; DEL–8233.
Bassett's 66 Service, Bartonville, IL; DXE–8242.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Francis & Gottlieb, DEE–5752
Mobil Oil Distributor, DEE–4085; DES–4085
Round's Service Station, DEE–7096
A. J. Harris, Inc., DEE–5754
Astro Oil & Gas Co., DEE–3377; DES–3377, DST–3377; DST–0047
Currier's Garage, DEE–5672
General Aluminun Corporation, DEE–7730
Save OK Oil & Gas of Lakeland, DEE–2048
Spinx Oil Company, DEE–2840; DES–2840
Fasgo, Inc., DES–7922
Pinehurst Citgo, DST–3524
The Carport, DES–5570
Acomi Corporation, DES–0208
Black Gold Marine, Inc., DEE–7452
Bongiorno's Texaco, DEE–4015
Chevron USA, Inc., DEA–0605; DES–0605; DST–0605; DEA–0606; DES–0606; DST–0606
Cibro Petroleum Products, DEE–8287
Demetriou, Del Guercio & Lovejoy, BFA–0006
Edmondson Oil Company, DEE–3136; DST–3136
Elson & Winland Sunoco, DEE–6805
Ernie's Texaco, DEE–7090
Gary Kelley Chevron, DEE–3238
H. M. Anrew, DEE–4928
Heinz Hall for the Performing Arts, DEE–7652
Henry Peterson, DEE–5831
Jerry's Chevron, DRO–0298
Lyon Oil Company, DEE–6149
Mallard Resources, DSG–0065
Mary Kay Thompson, DEE–7782
McMahon Oil Co., Inc., DEE–6692; DES–6692
R. W. Mathews & Sons, DEE–7711
Richard Ham, BEE–0256
Richome Oil & Gas, BRO–0008
Robert A. Williams d/b/a/ Heights Shell, DRO–0291
Saveway Super Service Stations, Inc., DES–3522; DST–3522
Shoreline Petroleum Co., BEE–0251
Silco Oil Company, DEE–2702
Stan-Ann Oil Company, DEE–6408
Suffolk Oil Company, BEE–0220; BEL–0220
The Washington Post, BFA–0027
Tri–C Arco, BEO–0098
W. A. Egan Company, DEE–2736; DST–2736
William N. Tipka, DEE–8310

Copies of the full text of these 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., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

[FR Doc. 80-3410 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of December 3 through December 7, 1979

Notice is hereby given that during the week of December 3 Through December 7, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Amdahl Corp., Bethesda, Md., BFA–0047, freedom of information

Amdahl Corporation filed an Appeal from a partial denial by the Assistant to the Manager Oak Ridge Operations, Department of Energy, of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director acted properly in withholding proposal pricing data pursuant to Exemption 4.

Commonwealth Oil Refining Co., Inc., Washington, D.C., DEA–0628, crude oil

Commonwealth Oil Refining Co., Inc. (Corco) filed an Appeal from an Order issued to it by the Economic Regulatory Administration (ERA) of the DOE on August 30, 1979. The ERA Order denied Corco's request for an emergency allocation of crude oil pursuant to Section 211.65 of the DOE Buy/Sell Program. Corco requested in its Appeal that the ERA Order be reversed and that it be granted an emergency allocation of crude oil during the last four months of 1979. In considering the Corco Appeal, the DOE found that the ERA had correctly concluded that it was not in a position to consider Corco's overall financial position in determining whether the firm qualified for an emergency allocation of crude oil. The DOE also found that Corco had been offered crude oil at representative world market prices. Accordingly, the Corco Appeal was denied.

Kinetic research, Inc., Goleta, Calif., BFA–0041, freedom of information

Kinetic Research, Inc. filed an Appeal from a partial denial by the Deputy Director of the Office of Procurement Operations of the Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE held that a proposal was properly withheld under Exemption 4 because it contained confidential financial and commercial data. The Kinetic Research Appeal was therefore denied.

Marathon Oil Co., Findlay, Ohio, DEA–0508 through DEA–0516, motor gasoline

Marathon Oil Company (Marathon) filed Appeals from nine Temporary Assignment Orders issued to the firm by Region IV ERA. The Appeals, if granted, would result in the rescission of the Orders. In considering the Appeals, the DOE determined that the Region appeared to have issued the Orders solely on the basis of the applicants' low allocation fraction. The DOE held that an allocation fraction below .75 is a threshold requirement for the issuance of an assignment order but that the Region must make a further finding that the firm is experiencing "dire circumstances" before an assignment order may be issued. In addition, the DOE determined that Marathon had not been given an adequate opportunity to submit comments to the Region prior to the issuance of the Orders. Specifically, the Region failed to notify Marathon of the firm's right to comment when Marathon was given telephone notification of the Orders. Furthermore, Region IV informed Marathon that the firm had already been selected as a supplier for the Orders, thereby rendering any comments which the firm might submit meaningless. In light of these facts, the Orders were remanded to the Region and Marathon was given an opportunity to comment. After considering these comments, the Region shall reissue, modify, or rescind the Orders.

Remedial Order

Anthony Fava d.b.a. Tony Fava Sports Center, Vineland, N.J., DRO–0307, motor gasoline

Anthony Fava d.b.a. Tony Fava Sports Center objected to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 5, 1979. In the IROIC, the New Jersey DOE found that Fava was charging prices for motor gasoline which exceeded its maximum permissible prices. The U.S. DOE found that Fava had filed its Statement of Objections two months after it was due. The DOE therefore concluded that the IROIC should be issued as a final Order.

Louise Barge, Decatur, Ga., and David Krathen, Ft. Lauderdale, Fla., DEE–6468, DEE–7656, Emergency Building Temperature Restrictions

Louise Barge and David Krathen filed Applications for Exception from the provisions of 10 CFR 490 in which they sought permission to lower the minimum cooling temperature below 78° F in the offices. In considering the request, the DOE found that exception relief was necessary to alleviate a serious health risk.

Continental Construction Corp., Milwaukee, Wis., DEE–7558, Emergency Building Temperature Restrictions

Continental Construction Corporation filed and Application for Exception from the provisions of 10 CFR 490 in which the firm sought permission to lower the minimum summer temperature to 72° F and raise the maximum winter temperature to 70° F in its business establishment. In considering the request, the DOE found that exception relief was necessary to alleviate a serious health risk to one of Continental's employees.

San-Ann Service, Inc., Boaz, Ala., DEE–2330, motor gasoline

San-Ann Service, Inc., filed an Application for Exception from the provisions of 10 CFR 212 in which the firm sought the assignment by the DOE of a new, lower priced supplier to furnish San-Ann with additional volumes of motor gasoline. In considering the request the DOE found that San-Ann had not experienced a significant price disparity during the base period which would justify the granting of exception relief. Accordingly, exception relief was denied.

Siesta Shell Service, Sarasota, Fla., BEO–0025, motor gasoline

Siesta Shell Service filed an Application for Exception from the provisions of 10 CFR 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request the DOE found that the firm failed to demonstrate either that it had experienced an anomolous base period or that it was currently experiencing any financial hardship. Accordingly, exception relief was denied.

Requests for Modification and/or Rescission

Acomi Corp., Washington, D.C., BMR–0008, motor gasoline

Acomi Corporation filed an Application for Modification or Rescission from the requirements of a prior order of the Office of Hearings and Appeals. In considering the Application, the DOE determined that Acomi had failed to demonstrate that the Application was based on significantly changed circumstances. The application was therefore denied.

Young Refining Corp., Douglasville, Ga., BMR–0004, crude oil

Young Refining Corporation filed an Application for Modification of a Supplemental Decision and Order issued to the firm on June 19, 1979. The Supplemental Decision and Order had the effect of immediately implementing exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program) which was tentatively found appropriate for Young in a Proposed Decision and Order issued on the same date. Young's request for modification, if granted, would have resulted in the issuance of a further order increasing the monthly amount of exception relief from $266,754 to 100 percent relief from any obligation to purchase entitlements during the months of September through November 1979. In considering the request, the DOE found that the firm had failed to show the existence of significantly changed circumstances which formed a proper basis for a modification of the Supplemental Order. Accordingly, Young's request for additional exception relief was denied.

Requests for Special Refund Proceedings

Office of Enforcement (Albert B. Alkek: Vickers Energy Corp.), Washington, D.C., BEZ–0013, BEZ–0014, special refund procedures

The Office of Enforcement filed two Petitions for the Implementation of Special Refund Procedures pursuant to 20 CFR, Part 205, Subpart V. Both Petitions related to Consent Orders the firms entered into with the DOE concerning alleged violations of DOE Mandatory Petroleum Price Regulations. The first Consent Order relates to $3,240,000 submitted to the DOE by Albert B. Alkek. These funds are temporarily being held in a Treasury account. The second Consent Order concerns $2,850,000, which is being placed in escrow by Vickers Energy Corporation pending DOE distribution. The Office of Hearings and Appeals agreed to accept jurisdiction of these proceedings under 10 CFR, Part 205, Subpart V, to determine the persons entitled to specific refunds from the amounts stated above.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Happy Valley Exxon, DEN–7945; Lochgelly, W. Va.
Roarda, Inc., DEN–3342; Washington, D.C.
Service Oil Co., DEN–8286; Washington, D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed Applications for Exception, Stay, Temporary Stay and/or Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the request be denied.

Company Name, Case No., and Location

Southern Bell Telephone & Telegraph, DEL–0002; Ft. Lauderdale, Fla.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:
Name and Case No.
C&B Warehouse Distributing Inc., BEA–0064
Community Fuel, DEE–6979
Crest Intl. Pet. Corp., DEE–6953
Don's Mobil, DEE–5661
Yokoyama Bros., Inc., DEE–5093
Archer Oil Company, DEE–7386
Ballentine Gulf, DEE–7224
Blue Grass Oils, Inc., DEE–3620; DST–3620
Bd. of Public Works of Bamberg, S.C., DEE–0344
Bob Webb's Arco, DEE–6686
Bonnie Brae Conoco, DEE–4646; DST–4646
City of Carterville, Ga., BEE–0375
Evans Oil Company, DRC–0017
Cibro Pet. Products, DEA–0329
Don's Shell, DST–3616
Huntway Ref. Co., BES–0022
Roarda, Inc., DES–3342; BEL–0003
Tesoro Pet. Corp., DRO–0382
Vi's Corner Gas, DEE–5083; DES–5083
Herndon Phillips 66, DEE–4797
Ladysmith Gulf, DEE–7263
Lenny's Sunoco, BRO–0060
McLoon Farms—New-Castle, DEE–4297
McNaugton's Grocery, DEE–6828
Middlesex Auto Center, DEE–5690
Quality Oil Company, DEE–5841; DES–5841
Roberts Exxon, DEE–4274
Russian River C. of C., DEE–6276; DES–6276
Schultz Oil Company, BEE–0134
Snyder's Mini Mart, DEE–5577; DES–5577
Stop-N-Go Food Stores, DEE–3875; DST–3875
T&J Auto Laundry, FRO–0254
Watts Labor Community Action Committee, DEE–5461
Thomas & Horne Oil Co., Inc., DEE–2705
Wayne F. Johnson, Inc., DEE–7540
Chevron USA, Inc., DEN–4508
Downtown Exxon, DEE–5491
Exxon Co., USA, DRA–0570
H. S. & L., Inc., DEE–4574; DES–4574; DST–4574
Navajo Ref. Co., DXE–3716
Perry's Service St., DEE–4903
Poweram Oil Co., Inc., DRO–0388
Pryor Interprises, DEE–2202
F–S Services, Inc., DEE–4263; DES–4263; DST–4263
G. Ali Mansoori, BRA–0042
Jim Bowers Exxon, DEE–3534
Perris Valley Airport, DEE–5049
Robert E. Augustine, BRA–0051
Western Manufacturing Company, DEE–5987
Barksdale Texaco, DEE–3981
Benjamin Buikanyo, DEE–3262
Colesville Exxon, DEE–8083
Jim's Skelly Service, DEE–3048
John Johnson, DEE–6906
Robert E. Lamburn, DEE–7018

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Mangement: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

January 24, 1980.

[FR Doc. 80–3411 Filed 1–31–80; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed With the Office of Hearings and Appeals; Week of December 7, 1979, Through December 14, 1979

Notice is hereby given that during the week of December 7, 1979 through December 14, 1979 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 the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director Office of Hearings and Appeals.

January 24, 1980.

Date	Name and location of applicant	Case No.	Type of submission
Dec. 7, 1979	Gulf Oil Corporation, Houston, Texas	BMR–0016	Request for Modification. If granted: The November 17, 1979, Decision and Order issued to Ashland Oil, Inc., regarding Gulf Oil Corporation's crude oil supply obligations to Ashland Oil, Inc., would be modified.
Dec. 7, 1979	Kenneth H. White Company, Troy, Michigan	BRD–0019	Motion for Discovery. If granted: Discovery would be granted to Kenneth H. White Company in connection with the Statement of Objections (Case No. DRO–0341), submitted in response to the Proposed Remedial Order issued to Consumers Power Company.
Dec. 7, 1979	Petroleum Energy Producing Corporation, Chicago, Illinois.	BEE–0497	Exception from Reporting Requirements. If granted: Petroleum Energy Producing Corporation would not be required to file Form EIA–23.
Dec. 10, 1979	Balcooil Company, Inc., Bridgeport, Ohio	DEE–0473	Allocation Exception. If granted: Balcooil Company, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	B.O.P. Corporation, Hamilton, Kansas	BEE–0492	Price Exception. If granted: B.O.P. Corporation would receive an exception which would permit the firm to resell crude oil at prices in excess of those permitted under 10 CFR Part 212.
Dec. 10, 1979	Chronister Oil Company, Springfield, Illinois	BEE–0475	Allocation Exception. If granted: Chronister Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Riverside Oil, Inc., Evansville, Indiana	BEE–0476	Allocation Exception. If granted: Riverside Oil, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Scullin Oil Company, Sunbury, Pennsylvania	BEE–0474	Allocation Exception. If granted: Scullin Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Vickers Petroleum Corporation, Wichita, Kansas	BES–0018 and BST–0018.	Requests for Stay and Temporary Stay. If granted: Vickers Petroleum Corporation would receive a stay and temporary stay of the provisions of 10 CFR 212.83, pending a final determination on the Application for Exception which the firm intends to file.
Dec. 10, 1979	Western Biomass Services, Bellingham, Washington.	BEE–0471	Allocation Exception. If granted: Western Biomass Services would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 10, 1979	Western Oil of Nebraska, Inc., Grand Island, Nebraska.	BEE–0472	Allocation Exception. If granted: Western Oil of Nebraska, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Bratz Skelly Service, Centerville, Iowa	BEE–0489	Allocation Exception. If granted: Bratz Skelly Service would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 11, 1979	Cities Service Company, Tulsa, Oklahoma	BRH–0094 and BRD–0094.	Motion for Discovery; Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Cities Service Company in connection with the Statement of Objections submitted in response to the August 21, 1979 Proposed Remedial Order (Case No. RCSF00401), issued to Cities Service Company by the DOE Office of Special Counsel.
Dec. 11, 1979	Jim's Marathon, Palatine, Illinois	BRW–0001	Proposed Remedial Order finalization. If granted: A Proposed Remedial Order issued to Jim's Marathon on September 21, 1979, would be issued as a final Remedial Order.
Dec. 11, 1979	Marcum Oil Company, Savannah, Missouri	BEE–0483	Allocation Exception. If granted: Marcum Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Daniel Monaco, Groton, Connecticut	BEA–0098	Appeal of Assignment Order. If granted: The September 28, 1979, Assignment Order issued to Hendel's, Inc., by the Economic Regulatory Administration, Region I, would be modified.
Dec. 11, 1979	Palatine Service, Palatine, Illinois	BRW–0002	Proposed Remedial Order finalization. If granted: A Proposed Remedial Order issued to Palatine Service on September 17, 1979, would be issued as a final Remedial Order.
Dec. 11, 1979	Self Enterprises, Inc., Alamitos, California	BEE–0490	Allocation Exception. If granted: Self Enterprises, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 11, 1979	Walter Wholesale Company, Denver, Iowa	BEE–0491	Allocation Exception. If granted: Walter Wholesale Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	Chapman Service Center, Friendswood, Texas	BEE–0502	Allocation Exception. If granted: Chapman Service Center would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	Dale Olson Oil Company, Sioux Falls, South Dakota.	BEE–0501	Allocation Exception. If granted: Dale Olson Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 13, 1979	G & M Fuel Oil Co., Inc., Stowe, Pennsylvania	BEH–0158	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted in response to a Proposed Decision and Order (Case No. 03–DEE–0909), issued to G & M Fuel Oil Company, Inc.

Date	Name and location of applicant	Case No.	Type of submission
Dec. 13, 1979	Richard P. Cruikshank, Northbrook, Illinois	BES-0033	Request for Stay. If granted: Richard P. Cruikshank would receive a stay of the provisions of 10 CFR Part 211, pending a determination on its Statement of Objections (Case No. BEO-0426), to a Proposed Decision and Order.
Dec. 13, 1979	Travelers Construction, Inc., Oklahoma City, Oklahoma.	BEE-0504, BEL-0504, BES-0504.	Allocation Exception, Request for Stay and Temporary Exception. If granted: Travelers Construction, Inc., would receive an exception, a stay and a temporary exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Dec. 14, 1979	Atlantic Richfield Company, Los Angeles, California	BEA-0091	Appeal of Assignment Order. If granted: The June 25, 1979, Assignment Order issued to Millikan and Servas, Inc., by the Economic Regulatory Administration, Region X, regarding Millikan and Servas, Inc.'s, supply obligations to R. F. Canemah, Inc., would be rescinded.
Dec. 14, 1979	Energy Cooperatives, Inc., Rosemont, Illinois	BEE-0508, BES-0508, BEL-0508, and BSG-0009.	Allocation Exception; Request for Stay; Petition for Special Redress. If granted: Energy Cooperatives, Inc., would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an additional supply of crude oil in order to continue the operation of its refinery. The firm would receive a stay and temporary exception pending a final determination on its Application for Exception.
Dec. 14, 1979	Ergon Refining, Inc., Vicksburg, Mississippi	BEE-0499	Allocation Exception. If granted: Ergon Refining, Inc., would receive an exception from the provisions of 10 CFR 211.65, which would permit the firm to receive an allocation of crude oil.
Dec. 14, 1979	Getty Refining & Marketing Company, Tulsa, Oklahoma.	BES-0062	Request for Stay. If granted: Getty Refining and Marketing Company would receive a stay of the October 11, 1979, Assignment Order issued to Getty Refining and Marketing Company by the Economic Regulatory Administration, Region VII, pending a final determination on its Appeal of the Order (Case No. BEA-0062).
Dec. 14, 1979	Murray Oil Company, Allocation Exception	BEE-0507	Allocation Exception. If granted: Murray Oil Company would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Nov. 14, 1979	Office of Enforcement (Panhandle), Kansas City, Missouri.	BFF-0003	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with the May 15, 1979, Consent Order issued to Panhandle Eastern Pipeline Company.

List of Cases involving the Standby Petroleum Product Allocation Regulations for motor gasoline

Week of December 7 Through December 14, 1979

If granted: The following firms would receive an exception which would increase their base period allocation of motor gasoline.

December 7, 1979.

Brooklea Service, BEE-0465, New Hampshire.
Du-Cor Service Stations, Inc., BEE-0494, New York.
Executive Auto Service, BEE-0498, Massachusetts.
H & G Bantam Market, BEE-0466, West Virginia.
Mike Capone's Gulf, BEE-0468, Louisiana.
Village Gro, BEE-0496, North Carolina.

December 10, 1979.

Bing's Arco Mini Mart, BEE-0477, Virginia.
Bow Mobil, BEE-0469, New Hampshire.
L. C. Hudson Co., Inc., BEE-0478, Missouri.
Mooney's Gulf Service, BEE-0479, Louisiana.
Pacific Oil Heat, Inc., BEE-0480, Massachusetts.
Ruthinowski & Warner Auto., BEE-0470, New York.
Wakefield, Paul J., BEE-0493, South Dakota.

December 11, 1979.

A. G. Inc., Town Line Service, DEE-6541, Massachusetts.
Classic Auto Service, BEE-0485, Ohio.
Community Fuel, BEE-0486, Connecticut.
Ed's Pit Stop, BEE-0488, Massachusetts.
Gold Oil Company, DEE-4344, Illinois.
Meador, Charles "Buddy", BEE-0484, West Virginia.

December 12, 1979.

Parkway Service, BEE-0487.
South End Gulf Service, BEE-0482, Florida.
Stewart Swerling, BEE-0495, Massachusetts.

December 13, 1979.

Don Harrell's Grocery, BEE-0582, Arkansas.
Grisson Grocery, BEE-0581, Arkansas.
Mull Oil Co., BEE-0500, North Carolina.
TJ's South Road Mobil, BEE-0503, New York.

December 14, 1979.

Dow Jones & Co., Inc., BEE-0506, New Jersey.
Howard & Darell's Shell, BEE-0505, Michigan.

[FR Doc. 80-3415 Filed 1-31-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-7]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: January 29, 1980.

Cutoff Date: March 14, 1980.

Notice is hereby given that the applications listed in the attached appendix below are hereby accepted for filing. They will be considered to be ready and available for processing after March 14, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 14, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on March 14, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on March 14, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP-790511AB (New) Morovis, Puerto Rico, Morovis Radio Associates, Req: 1580 kHz, 1 kW, DA-1, U.

BP-790515AE KAKC, Tulsa, Oklahoma, Mark/Way, Inc., Has: 970 kHz, 1 kW, DA-2, U Req: 970 kHz, 1 kW, 2.5 kW-LS, DA-2, U.

BP790523AB (New) Bullhead City, Arizona, Holiday Broadcasting Co., Req: 1000 kHz, 1 kW, Day.

BP-790618AJ KGFL, Clinton, Arkansas, Victor R. Weber & Sidney R. King, d.b.a. Weber-King Radio, Has: 1110 kHz, 250 W, Day, Req: 1110 kHz, 1 kW, Day.

BP-790618AR WLQH, Chiefland, Florida, White Construction Company, Has: 940 kHz, 500 W, Day, Req: 940 kHz, 1 kW, Day.

BP-790619AB KWOK, Wagoner, Oklahoma, Sherman Enterprises, Inc., Has: 1530 kHz, 250 W, Day, Req: 1530 kHz, 500 W, Day.

BP-790620AA (New) Penn Yan, New York, Robert Raide, tr/as Broadcast Facilities, Req: 850 kHz, 500 W, DA-Day.

BP-790621AA KTYN, Burlington, North Dakota, Kitten Radio, Inc., Has: 1430 kHz, 5 kW, Day (Minot, North Dakota), Req: 1430 kHz, 5 kW, DA-N U (Burlington, North Dakota).

BP-790629AB (New) Alpharetta, Georgia, North Fulton Broadcasting, Inc., Req: 1400 kHz, 250 W, 1 kW-LS, U.

BP-790705AF (New) Guayama, Puerto Rico, Radio Musical, Inc., Req: 1540 kHz, 250 W, Day.

BP-790713AE (New) Concord, New Hampshire, Tully-Warwick Corporation, Req: 1320 kHz, 5 kW, DA-Day.

[FR Doc. 80-3403 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 79-219]

Computer Tape of Radio Deregulation Data Made Available

A computer tape containing the Commission's data for Michigan and Ohio stations which were used in the Radio Deregulation Proceeding has been made available to interested parties through the National Technical Information Service. This data was also previously included in BC Docket No. 79-219 on January 11, 1980 (see item 16, Report No. 15448). A copy of the tape can be obtained from: National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151.

Requests should specify "The Ohio-Michigan Radio Deregulation Data File." The price is $210.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-3402 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1210]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

January 25, 1980.

Docket or RM No.	Rule No.	Subject	Date received
BC 78-101	73.636(a)	Amendment of § 73.636(a) of the Commission's rules (Multiple Ownership of Television Stations).	
		(Filed by Jeffrey H. Olson, Nolan A. Bowie & Wilhelmina Reuben Cooke for The National Association for the Advancement of Colored People, The Office of Communication of the United Church of Christ, The National Council of LaRaza, The National Organization for Women, The National Media Committee and Citizens Communications Center).	Jan. 17, 1980.
		(Filed by David Honig, Research Director for The National Black Media Coalition)	Jan. 17, 1980.
CC 78-219	63.54 and 64.601	Revision of the processing policies for waivers of the telephone company-cable television "cross ownership rules". Sections 63.54 and 64.601 of the Commission's rules and regulations.	
		(Filed by John W. Pettit & Joe D. Edge, Attorneys for The State of Alaska and The Alaska Public Broadcasting Commission).	Jan. 18, 1980.
		(Filed by Charles S. Walsh & Arthur H. Harding, Attorneys for Kansas Cable Television Assn., Missouri Broadband Communications Assn., Nebraska Cable Communications Assn, Oklahoma TV Cable Assn., Inc. and Mid-America CATV Assn.).	Jan. 18, 1980.
		(Filed by Robert W. Ross & Michael B. Issacs, Attorneys & Kathyrn Hilton Creech, Senior Vice President Industry Affairs for National Cable Television Association, Inc.).	Jan. 18, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 19, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-3404 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1212]

Petition for Reconsideration on Declaratory Ruling

January 30, 1980.

Docket or RM No.	Rule No.	Subject	Date received
	73	Reconsider refusal to issue a declaratory ruling or the application of the *Cheyenne* policy which permits the filing of competing applications when a Class A licensee seeks a modification of its license to a Class B/C channel.	
		Filed by M. Scott Johnson, Attorney for Aurio Matos, Arzuaga & Davila Associates, Radio Musical, Inc. and Enrique Leon.	Jan. 21, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 19, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-3401 Filed 1-31-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COUNCIL ON THE AGING

Long-Term Care Committee

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Thursday, February 28, 1980 from 9:30 a.m. to 12:30 p.m. in Room 503–507A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion with Federal officials on the implementation of the 1980 workplan of the Committee.

Further information on the Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 24, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3480 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-92-M

Senior Services Committee Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Monday, March 3, 1980 from 8:30 a.m. to 2:30 p.m. in room 727H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion of the Committee's ongoing employment study; a briefing on progress made in developing a small business initiative; an update on energy issues relating to the elderly; and, a discussion of future study options.

Further information on the Council and the Committee may be obtained from the Federal Council on the Aging, Washington, D.C., 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 23, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3482 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-92-M

Social Security Task Force

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of the older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Task Force will hold a meeting on Monday, March 3, 1980 from 3:30 p.m. to 5:30 p.m. in room 727H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion of several issues concerning the social security benefit structure and its impact on women.

Further information on the Council and the Task Force may be obtained from the Federal Council on the Aging, Washington, D.C., 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: January 23, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80-3481 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-92-M

FEDERAL LABOR RELATIONS AUTHORITY

Federal Service Impasses Panel

Privacy Act of 1974; Systems of Records

Pursuant to sections 301 and 303 of Reorganization Plan No. 2 of 1978 (3 CFR, 1978 Comp., p. 327) and sections 7104 and 7119 of the Federal Service Labor-Management Relations Statute (92 Stat. 1196, 1208), the Federal Labor Relations Authority and the Federal Service Impasses Panel replaced the Federal Labor Relations Council and the Federal Service Impasses Panel, established under Executive Order 11491 (3 CFR, 1966–1970 Comp., p. 864). The systems of records maintained by the Council and the Panel, pursuant to the Privacy Act of 1974, notice of which was published in the **Federal Register** on September 20, 1977 (42 FR 47402), are being maintained by the Federal Labor Relations Authority and the Federal Service Impasses Panel.

Dated: January 28, 1980.

By the Federal Labor Relations Authority.

Samuel A. Chaitovitz,

Executive Director.

By the Federal Service Impasses Panel.

Howard W. Solomon,

Executive Director.

[FR Doc. 80-3553 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-19-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *10* days after publication of this notice in the **Federal Register.** Any person desiring a hearing in the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 9522–33.

Filing Party: Stanley Ol Sher, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9522–33 amends the organic agreement of the Med-Gulf Conference to (1) rearrange and update the structure and language of the basic agreement, (2) more clearly

define the scope and jurisdiction of the respective rate sections, (3) increase the admission fee for each section from $5,000 to $10,000, (4) delete specific authorizations for substituted service by land, (5) increase the faithful performance guarantee from $8,000 to $50,000, and (6) clarify and modify procedures for taking various actions, voting, meetings and self-policing.

By Order of the Federal Maritime Commission.

Dated: January 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3388 Filed 1-31-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issue of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Royal Hawaiian Cruises, Inc., One Maritime Plaza, Suite 2160, San Francisco, California 94111.

Dated: January 29, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-3417 Filed 1-31-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 25, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (consumer finance and insurance activities; Nevada): to engage through its indirect subsidiary, Nationwide Financial Corporation of Nevada, in conducting previously approved activities including making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in an expanded service area; and in conducting the additional activity of consumer personal lending. Credit related life, accident and health insurance may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the office will be expanded to include the entire State of Nevada.

2. CITICORP, New York, New York (consumer finance and insurance activities; New Mexico, Nevada, Arizona and California): to engage through its indirect subsidiaries, Citicorp Person-to-Person Financial Center, Inc. and Nationwide Financial Corporation of New Mexico in conducting previously approved activities including purchasing and servicing for its own account sales finance contracts; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in expanded service areas. New activities to be conducted from each office include making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes and the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes. Credit related life, accident and health may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the Office in San Diego, California will be expanded to include the entire States of California, Nevada and Arizona. The service area of the Sacramento, California office will be expanded to include the entire State of Nevada. The Albuquerque, New Mexico office service area will be expanded to include the entire State of New Mexico.

B. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (commercial finance; Illinois, Indiana, Ohio, and Michigan): to engage through its subsidiary, Congress Financial Corporation, in origination of loans secured by accounts receivable, inventory, machinery and equipment and/or other commercial finance collateral, to businesses and corporations. These activities would be conducted from an office located in Chicago, Illinois serving the states of Illinois, Indiana, Ohio, and Michigan.

C. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FLAGSHIP BANKS, INC., Miami Beach, Florida (data processing activities; Florida): to continue to engage through its subsidiary Flagship Services Corporation, in the activity of acting as a bank data processing center for providing bank data processing services for affiliate and non-affiliate banks. This activity will be conducted from offices in Miami, Florida, serving Dade, Broward and Palm Beach Counties.

Board of Governors of the Federal Reserve Systems, January 24, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3348 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 C.F.R. § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than February 21, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106:

1. FIRST FINANCIAL GROUP OF NEW HAMPSHIRE, INC., Manchester, New Hampshire (mortgage banking activities; New Hampshire): to engage through its direct subsidiary, First Mortgage Corporation, formerly Manchester Mortgage Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. These activities will be conducted from offices in Manchester, New Hampshire, serving the State of New Hampshire.

2. INDUSTRIAL NATIONAL CORPORATION, Providence, Rhode Island (mortgage banking activities; California): to engage through its indirect subsidiary, Mortgage Associates, Inc., in the origination and sale of residential mortgages and the servicing of residential mortgage loans. These activities would be conducted from an office in Sacramento, California, servicing Butte, Colusa, Fresno, Glenn, Madera, Merced, a portion of Placer, Sacramento, San Joaquin, Shasta, Solano, Stanislaus, Sutter, Tehama, Yolo, and Yuba counties, California.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (consumer finance and insurance activities; Arizona and California): to engage through its indirect subsidiaries, Citicorp Person-to-Person Financial Center and Nationwide Financial Corporation of California, in conducting previously approved activities including making or acquiring loans and other extensions of credit, secured or unsecured, for consumer and other purposes; purchasing and servicing for its own account sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; acting as agent for the sale of credit life, accident and health insurance and property and casualty insurance directly related to extensions of credit in expanded service areas. Credit related life, accident and health may be underwritten by Family Guardian Life Insurance Company, an affiliate. The service area of the office in Scottsdale, Arizona will be expanded to include the entire State of Arizona. The service area of the Concord, California office will be expanded to include the entire States of Nevada and California.

C. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

MOR AMERICA FINANCIAL CORPORATION, Cedar Rapids, Iowa (consumer finance and credit insurance activities; Wisconsin): to engage, through its wholly-owned subsidiary, The Morris Plan of Wisconsin, Inc., Eau Claire, Wisconsin, in the following activities: making loans under chapter 138 and chapter 421, laws of Wisconsin; and selling credit related life and accident and health insurance under chapter 424, laws of Wisconsin. These activities would be conducted from three *de novo* offices in Green Bay, Fond du Lac, and Appleton, all in Wisconsin, serving areas within a fifteen mile radius of each of the three sites.

D. *Federal Reserve Bank of San Francisco* (Harry Green, Vice President) 400 Sansome Street, San Francisco, California 94120: This is a republication of a previous notice (44 FR 3667).

SECURITY PACIFIC CORPORATION, Los Angeles, California (finance and credit related insurance activities; Louisiana): to engage through its subsidiary American Finance Corporation of Louisiana, Inc., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from an office of American Finance Corporation of Louisiana, Inc. located at 122 Arlington Drive, Lake Charles, Louisiana 70605, serving the State of Louisiana. Comments on this application must be received by February 11, 1980.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 21, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-3349 Filed 1-31-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-80-3]

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 Arizona Corporation Commission involving electric and gas 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 Federal executive agencies before the Arizona Corporation Commission involving the application of the Arizona

Public Service Company for increases in its gas and 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: January 25, 1980.

R. G. Freeman, III,

Administrator of General Services.

[FR Doc. 80-3194 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM-M

[E-80-4]

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 North Carolina 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 Federal executive agencies before the North Carolina Utilities Commission involving the application of the Carolina Power and Light Company 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: January 25, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-3195 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM-M

[Intervention Notice 107; Docket No. 3006]

Texas Power and Light Co., the Public Utility Commission of Texas; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utility Commission of Texas concerning the application of the Texas Power and Light Company for an increase in electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, within 30 days of the publication of this notice in the **Federal Register**, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a), Federal Property and Administration Services Act, 40 U.S.C. 481(a)(4))

Dated: January 22, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-3193 Filed 1-31-80; 8:45 am]

BILLING CODE 6820-AM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

National Immunization Records Work Group; Open Meeting

The following meeting will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: February 21, 1980.
Time: 9 a.m. to 3 p.m.
Place: Building 1, Room 207, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia.
Purpose: To explore possible activities (joint and individual) to be undertaken by participants to promote the concept, the production, and the use of a family-maintained standardized immunization record within every State.

Additional information may be obtained from: Alan R. Hinman, M.D., Director, Immunization Division, Bureau of State Services (6-210), Center for Disease Control, Atlanta, Georgia 30333, telephones: FTS: 236-3741. Commercial: 404/329-3741.

Dated: January 23, 1980.

William H. Foege,

Director, Center for Disease Control.

[FR Doc. 80-3396 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-86-M

Museum Services Institute National Museum Services Board; Meeting

The National Museum Services Board (NMSB) will hold an open meeting February 8-9 in Washington, D.C. to discuss future policy directions of the Institute of Museum Services (IMS), including the Institute's Cornerstone Grants Program, budget request, and regulations pertaining to the fiscal year 1980 grants program. The NMSB will also consider IMS' transition to the newly created Department of Education.

The Board will meet from 9:00 a.m. to 4:30 p.m. February 8 in the Secretary's Conference Room of the Department of Education Building, Room 4000, 400 Independence Avenue, S.W. and from 9:00 a.m. to 12:30 p.m., February 9 at Dumbarton Oaks, 1703 32nd Street, N.W.

For further information, contact Loretta Ingraham, 202/472-2117.

Dated: January 29, 1980.

Lee Kimche,

Director.

[FR Doc. 80-3486 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-24-M

Office of Education

National Advisory Council on Vocational Education, Public Hearing

Note.—This document originally appeared in the **Federal Register** for January 7, 1980. It is reprinted in this issue at the request of the issuing agency.

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of public hearings.

SUMMARY: This notice sets forth the schedule and purpose of two forthcoming hearings of the National Advisory Council on Vocational Education and describes the functions of the Council. Notice of these hearings is required under the Federal Advisory Committee Act, (5 United States Code, Appendix I, Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: (a) February 21 and 22, 1980; (b) March 13 and 14, 1980.

ADDRESSES: (a) The Court Room of the Criminal Justice Center, Sam Houston

State University, Avenue I and 16th Street, Huntsville, Texas; (b) Room 1194, State Office Building, 350 McAllister Street, San Francisco, California.

The National Advisory Council on Vocational Education was established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is directed to:

(a) Advise the President, Congress, the Secretary, and the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(b) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(c) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On Thrusday, February 21, 1980, from 9:00 a.m. to 4:30 p.m. and on Friday, February 22, 1980, from 9:00 a.m. to 12:30 p.m., the National Advisory Council on Vocational Education, in conjunction with the National Institute of Education, will hold the third of four regional hearings on the status of vocational education in correctional institutions. This hearing will be held in the Court Room of the Criminal Justice Center (Avenue I and 16th Street) of Sam Houston State University in Huntsville, Texas. The fourth and final hearing will be held in San Francisco, California on Thursday, March 13, 1980, from 9:00 a.m. to 4:30 p.m. and on Friday, March 14, 1980, from 9:30 a.m. to 12:30 p.m. in Room 1194 of the State Office Building at 350 McAllister Street.

The purpose of these hearings is to examine the adequacy of vocational education programs for youth and adult offenders, and to explore ways to improve both the programs themselves and access to them. Specifically, the hearings will address the issues of: (1) federal policy as it relates to vocational education in corrections; (2) the use of federal funds for vocational programs and operations; (3) legislative provisions for corrections in the Vocational Education Amendments of 1976 and other acts; (4) the legal, attitudinal, and procedural barriers to providing access to quality vocational programs; (5) programs and activities which have found solutions to the barriers; and, (6) recommendations for change.

Records shall be kept of the four Council hearings and shall be developed into a final report and made available to the public through the office of the National Advisory Council on Vocational Education, located at 425 13th Street, NW., Suite 412, Washington, D.C. 20004. In addition, the submittal of written testimony directly to the National Advisory Council is encouraged and will be accepted through April 14, 1980.

Anyone interested in testifying at the hearings, and anyone seeking more information should call Ralph Bregman or Sarah Bennett at the National Council office (202) 376–8873.

Signed in Washington, D.C. on December 17, 1979.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 80-435 Filed 1-4-80; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado; Wilderness Study Area Recommendations and Commencement of Public Comment Period on Intensive Wilderness Inventory

This notice announces the beginning of the public review and comment period on the intensive wilderness inventory of public lands in Colorado. Pursuant to Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) and in accordance with procedures outlined in the Bureau of Land Management (BLM) *Wilderness Inventory Handbook*, the State Director of Colorado through this notice, announces his Wilderness Study Area recommendations. The results of the initial wilderness inventory for Colorado were announced through notices in the **Federal Register** August 31, 1979, October 12, 1979, November 3, 1979, and December 13, 1979, and resulted in 1,316,804 acres of public land in Colorado being intensively inventoried.

Public Review Period

Beginning on the date of this announcement and running until April 30, 1980, the public is invited to review and provide comments on the State Director's Wilderness Study Area recommendations contained in this notice.

Following this, the comments will be analyzed and evaluated, and a final intensive inventory decision will be issued by the State Director in the summer of 1980. This final decision will announce those inventory units having wilderness characteristics and those which do not. Those having wilderness characteristics will become Wilderness Study Areas, and these, over the next 10 years, will be studied through the Bureau planning system to determine their suitability or nonsuitability for designation as "Wilderness Areas" by Congress.

All comments must be received by the BLM no later than 4:00 p.m., April 30, 1980 at the addresses contained in this announcement.

Wilderness Inventory Information

To facilitate public review and comment on the intensive phase of the wilderness inventory, the following information is available upon request:

Statewide map: Displays the boundaries of all intensive inventory units and shows BLM's proposed Wilderness Study Areas in rust colored shading. The scale is 1:500,000 and covers all of western Colorado. Available at no cost in the BLM Colorado State Office and in all BLM Colorado District Offices.

Summary document: Entitled *BLM Proposed Wilderness Study Areas*, this report contains summary narratives describing each intensive inventory unit. Also included are individual large scale, black-and-white maps of each inventory unit. Available at no cost in the BLM State Office and in BLM District Offices.

Intensive inventory reports: These reports, found in both the State and District Office files, detail the results of fieldwork and discuss specifically how wilderness criterion were evaluated in each inventory unit. These are accompanied by topographic maps and color photos. These reports can be reviewed in the BLM State Office of BLM District Offices.

Open Houses

The BLM will host five open houses which will include formal presentations of the review process and will provide the opportunity for exchange of information with the public.

The schedule for these meetings is as follows:

February 12—Craig, 7 p.m.; BLM Little Snake Resource Area Headquarters, 1 Block South of Highway 40 on Mack Lane (West side of Craig).

February 13—Grand Junction, 1 p.m. and 7 p.m.; BLM Grand Junction District Office, 764 Horizon Drive.

February 14—Montrose, 1 p.m. and 7 p.m.; Montrose County Courthouse Annex, South 1st and Cascade.
February 20—Canon City, 1 p.m. and 7 p.m.; Ramada Inn, Highway 50 and Dozier Avenue.
February 21—Denver, 1 p.m. and 7 p.m.; Regency Inn, Waterloo Room, 3900 Elati (I-25, Exit 108, 38th Ave.).

Written Comments

Persons wishing to submit comments other than at the open houses are encouraged to send them to: Wilderness, Colorado State Office, Bureau of Land Management, Main Post Office Building, P.O. Box 2266, Denver, CO 80201.

In addition, comments may be sent to the BLM District Offices listed in this announcement.

All comments, either written or verbal, must be received by the BLM at one of these offices no later than 4:00 p.m., April 30, 1980.

Toll Free Telephone

A toll free telephone has been installed in the BLM State Office in Denver. Calls may be made to it from anywhere within Colorado at no cost to the caller. Callers will receive a recorded message which will give pertinent data regarding the review process. Denver area local calls dial 837-3613; remainder of Colorado dial 1-800-332-3805.

Additional Information

Information on the wilderness review process and inventory units can be obtained by contacting BLM personnel at the following locations:

Canon City District Office, 275-7494, 3080 East Main Street, Canon City, Colo. 81212; District Manager: Mel Clausen. Wilderness Specialist: Phillip Neal.
Craig District Office, 824-3417, 455 Emerson Street, P.O. Box 248, Craig, Colo. 81625; District Manager: Marvin Pearson. Wilderness Specialist: Vaughn Baker.
Grand Junction District Office, 243-6552, 764 Horizon Drive, Grand Junction, Colo. 81501; District Manager: Dave Jones. Wilderness Specialist: Wade Johnson.
Montrose District Office, 249-7791, Highway 550 South, P.O. Box 1269, Montrose, Colo. 81401; District Manager: Marlyn Jones. Wilderness Specialist: Jon Sering.

In Denver contact:

Colorado State Office, Colorado State Bank Bldg., Room 700, 1600 Broadway, Denver, Colo. 80202; State Wilderness Coordinator: Harold Belisle—*837-3393.* Wilderness Specialist: Sally Collins—*837-3393.*

Intensive Inventory Recommendations.—*Craig District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-010-001 [1]	X		11,777	Northwestern Colorado, North of U.S. 40 (Moffat-Uintah Counties).
CO-010-002	X		14,008	Northeast of Dinosaur (Moffat County).
CO-010-003			13,740	East of Dinosaur (Moffat County).
CO-010-006B		X	8,353	West of Craig (Moffat-Rio Blanco Counties).
CO-010-007A	X		5,077	West of Meeker (Rio Blanco County).
CO-010-007B		X	8,679	West of Meeker (Rio Blanco County).
CO-010-007C	X		12,274	Northwest of Meeker (Rio Blanco County).
CO-010-046	X		17,740	South of Rangely (Rio Blanco County).
CO-010-00N1, N2, N3, N4A, N4B, N4C, N4D, N4E, N5, N6A.		X	16,140 (10 units)	Adjacent to Southern Boundary of Dinosaur National Monument (Moffat County).
CO-010-155	X		9,595	North of Kremmling (Grand County).
CO-010-168		X	9,870	Northeast of Hot Sulpher Springs (Grand County).
CO-010-178		X	8,590	North of State Bridge (Grand-Eagle-Routt Counties).
CO-010-208	X		14,484	Northwest Colorado Along Utah Border (Moffat-Daggett Counties).
CO-010-208E		X	8,368	Extreme Northwest Colorado (Moffat County).
CO-010-210		X	6,600	Northwest Colorado (Moffat County).
CO-010-210D		X	16,960	Northwest Colorado (Moffat County).
CO-010-214	X		32,680	Extreme Northwest Colorado (Moffat-Daggett Counties).
CO-010-230	X		17,480	Northwest Colorado (Moffat County).
CO-010-218, 218A, 224, 224A, 226, 227, 228, 229D, 271/N6B.		X	39,680 (9 units)	Adjacent to Northern and Eastern Boundaries of Dinosaur National Monument (Moffat County).
UT-080-104 [2]		X	4,520	Adjacent to Western Boundary of Dinosaur National Monument (Moffat-Daggett Counties).
UT-080-110 [2]		X	5,254	West of Dinosaur National Monument (Moffat-Daggett Counties).
UT-080-114 [2]		X	2,071	Adjacent to Western Boundary of Dinosaur National Monument (Moffat County).

Craig District totals:
Proposed as WSA: 10 units, 148,853 acres.
Not proposed as WSA: 29 units, 168,111 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] Units CO-010-001A and CO-010-001B were joined to form one unit, CO-010-001, after intensive inventory fieldwork.
[2] Inventoried by Utah BLM under cooperative agreement.

Intensive Inventory Recommendations.—*Montrose District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-030-053A	X		2,440	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-057	X		6,070	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-063	X		2,520	Adjacent to Gunnison National Forest (Gunnison County).
CO-030-085	X		400	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-086	X		880	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-088	X		1,120	Adjacent to Uncompahgre National Forest (Hinsdale County).
CO-030-089	X		50,060	Adjacent to Gunnison National Forest (Gunnison-Hinsdale Counties).
CO-030-208	X		33,860	Southwest of Lake City (Hinsdale County).
CO-030-210		X	5,980	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-211	X		1,890	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-212		X	80	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-213	X		720	Adjacent to Gunnison National Forest (Hinsdale County).
CO-030-217	X		6,700	Southeast of Ouray (Ouray-San Juan-Hinsdale Counties).
CO-030-229A	X		5,820	South of Silverton (San Juan County).
CO-030-229B	X		4,200	South of Silverton (San Juan-La Plata Counties).
CO-030-230B [1]	X		5,640	South of Silverton (San Juan County).
CO-030-238B [2]	X		2,240	Southwest of Silverton (San Juan County).
CO-030-241	X		15,780	Northeast of Silverton (San Juan-Hinsdale Counties).
CO-030-251	X		7,360	West of Durango (Montezuma County).
CO-030-252	X		6,320	West of Durang (Montezuma County).
CO-030-253		X	720	Adjacent to eastern Mesa Verde National Park (Montezuma County).
CO-030-262		X	6,240	Southwest of Cortez (Montezuma County).
CO-030-263		X	12,413	West of Cortez (Montezuma County).
CO-030-265	X		9,160	Southwest of Cahone (Dolores-Montezuma Counties).
CO-030-265A	X		5,320	Southwest of Dove Creek (Dolores County).
CO-030265D [3]	X		8,385	West of Cahone (Dolores-Montezuma Counties).
CO-030-286	X		22,500	Northeast of Dove Creek (San Miguel-Dolores Counties).
CO-030-290	X		29,601	West of Naturita (Montrose-San Miguel Counties).
CO-030-300	X		8,814	North of Nucla (Montrose County).
CO-030-310A [4]	X		1,660	South of Gateway (Mesa-Montrose Counties).
CO-030-332	X		400	North of Ouray (Ouray County).
CO-030-353	X		13,943	Southwest of Delta (Montrose County).
CO-030-363 [5]	X		47,490	West of Delta (Mesa-Delta-Montrose Counties).
CO-030-370A [4] [5]	X		6,640	Northwest of Delta (Mesa-Delta Counties).
CO-030-370B [4]	X		10,720	Adjacent to Grant Mesa National Forest (Delta County).
CO-030-388	X		21,660	North of Montrose (Montrose-Delta Counties).

Montrose District totals:
Proposed as WSA: 31 units, 339,853 acres.
Not proposed as WSA: 5 units, 68,177 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] Initial inventory unit CO-030-230A and a portion of unit CO-030-230 have been combined into one unit, CO-030-230B.
[2] Initial inventory units CO-030-238 and CO-030-238A and a portion of CO-030-230 have been combined into one unit, CO-030-238B.
[3] Initial inventory unit CO-030-265 has been divided into two units, CO-030-265 and CO-030-265D.
[4] Initial inventory unit CO-030-370A has been divided into two units, CO-030-370A and CO-030-370B.
[5] These units span district boundaries, and the acreage here reflects only that portion of the inventory unit in the Montrose District.

Intensive Inventory Recommendations.—*Canon City District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO-050-002	X		6,468	South of Buena Vista (Fremont-Park Counties).
CO-050-010		X	12,950	Northwest of Cotopaxi (Fremont County).
CO-050-013	X		16,800	Southwest of Canon City (Fremont County).
CO-050-014	X		11,700	West of Canon City (Fremont County).
CO-050-016	X		26,210	Northeast of Canon City (Teller-Fremont-El Paso Counties).
CO-050-017	X		10,200	Southwest of Canon City (Fremont-Custer Counties).
CO-050-033	X		160	South of Westcliff (Custer County).
CO-050-131	X		2,300	Adjacent To Rio Grand National Forest (Saguache County).

Intensive Inventory Recommendations.—*Canon City District—Continued*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO–050–132B	X		870	Adjacent to Rio Grande National Forest (Saguache County).
CO–050–135	X		1,644	Adjacent to Great Sand Dunes National Monument (Alamosa County).
CO–050–137	X		1,020	Adjacent to Rio Grande National Forest (Alamosa County).
CO–050–139B	X		720	Adjacent to Rio Grande National Forest (Alamosa County).
CO–050–140		X	9,114	Northeast of Antonito (Conejos County).
CO–050–141	X		8,440	Northeast of Antonito (Conejos County).
CO–050–142		X	3,300	Southeast of Antonito (Conejos County).

Canon City totals:
Proposed as WSA: 12 units, 86,532 acres.
Not proposed as WSA: 3 units, 36,646 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

Intensive Inventory Recommendations.—*Grand Junction District*

Inventory unit No.	Proposed as WSA	Not proposed as WSA	Approximate acreage	General location
CO–070–001 [1]		X	10,200	Northeast of Grand Junction (Garfield County).
CO–070–009	X		29,890	Northwest of Grand Junction (Garfield-Mesa Counties).
CO–070–015		X	17,120	North of Grand Junction (Garfield County).
CO–070–015A		X	13,000	Northwest of Grand Junction (Mesa County).
CO–070–015B		X	12,800	North of Grand Junction (Garfield County).
CO–070–031		X	28,740	Northeast of Grand Junction (Mesa-Garfield Counties).
CO–070–066	X		29,600	North of Grand Junction (Mesa County).
CO–070–103 [3]	X		4,600	Northwest of Delta (Mesa-Delta Counties).
CO–070–103A	X		2,100	Southeast of Grand Junction (Mesa County).
CO–070–113	X		18,150	West of Grand Junction (Mesa County).
CO–070–113A	X		49,190	West of Grand Junction (Mesa County).
CO–070–130		X	21,130	South of Grand Junction (Mesa County).
CO–070–130A		X	8,000	South of Grand Junction (Mesa County).
CO–070–132	X		26,120	North of Gateway (Mesa County).
CO–070–132A		X	3,120	Southwest of Grand Junction (Mesa County).
CO–070–132B [2]		X	6,720	Southwest of Grand Junction (Mesa County).
CO–070–138		X	8,360	Northeast of Gateway (Mesa County).
CO–070–150 [3]	X		31,990	West of Delta (Mesa-Delta-Montrose Counties).
CO–070–150A		X	11,550	Southeast of Grand Junction (Mesa County).
CO–070–176 [3]	X		17,480	South of Gateway (Mesa-Montrose Counties).
CO–070–316		X	8,550	North of Rifle (Garfield County).
CO–070–338		X	4,660	West of Glenwood Springs (Garfield County).
CO–070–372		X	4,200	Southwest of Carbondale (Pitkin County).
CO–070–392	X		330	Northwest of Aspen (Pitkin County).
CO–070–421		X	6,950	West of State Bridge (Eagle County).
CO–070–425	X		3,360	Northeast of Glenwood Springs (Garfield-Eagle Counties).
CO–070–430	X		15,000	North of Gypsum (Eagle County).
CO–070–433	X		12,000	North of Eagle (Eagle County).

Grand Junction District totals:
Proposed as WSA: 13 units, 239,810 acres.
Not Proposed as WSA: 15 units, 228,822 acres (this is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs).

[1] As noted in the January 17, 1980 issue of the FEDERAL REGISTER, inventory unit CO–070–001, Prairie Canyon, underwent an accelerated inventory and was found not to contain wilderness characteristics.
[2] Initial Inventory Unit CO–070–132 has been divided into two units, CO–070–132 and CO–070–132A.
[3] These units span district boundaries and the acreage here reflects only that portion of the inventory unit in the Grand Junction District.

Colorado State totals:
Proposed as WSA: 63 units,[1] 815,048 acres.
Not Proposed as WSA: 53 units, 501,756 acres. [2]

[1] The inventory units spanning district boundaries, while given separate numbers, will be counted as 3 rather than 6 units since joint inventories were conducted on these, resulting in a statewide total of 63 units.
[2] This is an approximate figure and includes boundary adjustments as well as units not proposed as WSAs.

Dated: January 30, 1980.

Dale R. Andrus,

State Director, Bureau of Land Management, Colorado.

[FR Doc. 80–3192 Filed 1–31–80; 8:45 am]

BILLING CODE 4310–84–M

Montana; Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River

This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Applications must be sent to the Lewistown District, Bureau of Land Management, Lewistown, Montana between February 4 and March 10, 1980. Other requirements of commerical outfitting and guiding operations remain as outlined in the **Federal Register**, Vol. 44, No. 62, Thursday, March 29, 1979, entitled "Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River".

John F. Fields,

District Manager.

[FR Doc. 80-3177 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

[Nev-065862]

Nevada

January 24, 1980.

By quitclaim deed executed November 2, 1979, the Sierra Nevada Girl Scout Council, Inc. reconveyed the following described land to the United States:

Mount Diablo Meridian, Nevada

T. 17 N., R. 20 E.
Sec. 2, E½ of Lot 2 of NE¼.

The purpose of this notice is to inform the public that the Bureau of Land Management has accepted title to the above-described land on behalf of the United States. The land regained public land status on January 22, 1980.

Charles E. Hancock,

Acting Chief, Division of Technical Services.

[FR Doc. 80-3176 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Preparation of Alturas Resource Area Management Plan, Susanville, Calif.

Notice is hereby given in accordance with the Code of Federal Regulations Title 43 Part 1601.3 that the Alturas Resource Area of the Susanville District is starting the preparation of a Resource Management Plan for the Alturas Resource Area.

The General Issues which have been identified at this time which will be addressed in the plan are: (1) Competitive Forage Demand; (2) Wilderness; (3) Wild Horse and Burro Management; (4) Land Withdrawal Review; (5) Land Tenure Adjustments; (6) Archaeological and Historical Resources; (7) Wildlife Habitat Management; (8) Endangered Species; (9) Forest Product Production; (10) Geothermal Leasing; (11) Mineral Resource Development; (12) Material Site Development; (13) Off-Road Vehicle Designations; (14) Economics.

The disciplines to be represented on the interdisciplinary team are: Range Conservationist, Wildlife Biologist, Forest Specialist, Hydrologist, Soil Scientist, Recreation Planner, Geologist, Archaeologist, Botanist, Wilderness Specialist, Lands Specialist and Economist.

Public Participation activities will take place at least five times throughout the planning process; during identification of issues, comment on planning criteria, upon publication of a draft plan and draft environmental impact statement with protest period and a public notice of any significant change made to the plan as a result of a protest. Public participation activities will include requests for written comments, meetings, workshops, tours and similar events scheduled and held to foster public reactions and suggestions. The dates, times and locations of public participation activities will be announced by local media and mailings to interested parties prior to each activity.

Rick Schwabel, Alturas Area Manager, may be contacted for further information at the Alturas Resource Area Office, Centreville Road, P.O. Box 771, Alturas, California 96101 or (916) 233-4666. Documents relevant to the planning process will be located at the Alturas Resource Office during regular office hours.

Herman Kast,

Acting District Manager.

[FR Doc. 80-3180 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Boise District Idaho, Grazing Advisory Board; Meeting

In accordance with Public Law 92-463 the Federal Advisory Committee Act, and Public Law 94-579, the Federal Land Policy and Management Act, notice is given that the Boise District Grazing Advisory Board will meet on March 12, 1980. The meeting will begin at 9:00 a.m. in the Green Room of the Owyhee Plaza, 11th and Main Streets, Boise, Idaho.

The agenda for the meeting will include:

1. Discuss and make recommendations on the Range Betterment program for 1980.
2. Use of advisory board funds and project proposals for 1980.
3. A review of proposed allotment management plans recommended in the Owyhee Grazing Environmental Statement.
4. Election of new officers.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 and 4:30 p.m. or file written statements for the Board's consideration. Statements must be on agenda topics only. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702, prior to the meeting. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office. They will be available for public inspection during regular business hours within 30 days following the meeting.

D. Dean Bibles,

District Manager.

January 24, 1980.

[FR Doc. 80-3418 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

McCain Valley Resource Conservation Area; Designation of Western McCain Valley as Limited for Off-Road Vehicle Use

Pursuant to the McCain Valley Recreation Activity Management Plan, provisions of 43 CFR 8342.2, and Section 701 of the Federal Land Policy and Management Act, the public lands located generally to the west of the Bureau of Land Management's public road known as McCain Valley Road are designated for off-road vehicle use as either: (1) limited to existing areas and trails, or (2) limited to designated areas and trails. Public lands located to the east of McCain Valley Road were previously designated as closed to off-road vehicle travel in **Federal Register** Notice Vol. 44, No. 179, pages 53314-53315, September 13, 1979.

Public lands where off-road vehicle travel is limited to existing areas and trails are located to the west of McCain Valley Road and north, west and south of the Bureau's Lark Canyon Campground in: T. 16 S., R. 7 E., SBM., Sec. 32; and T. 17 S., R. 7 E., SBM., Sec. 4, 5, and 9.

Public lands where off-road vehicle travel is limited to designated areas and trails are: (1) within the campground boundary of Lark Canyon Campground; (2) south of the established closed off-road vehicle area in T. 17 S., R. 7 E., SBA., Sec. 23, 24, and 26; and (3) west of McCain Valley Road in T. 15 S., R. 6 E.,

SBM., Sec. 27, 33, 34, and 35; T. 16 S., R. 6 E., SBM., Sec. 2, 3, 4, 9, 10, 11, 13, 14, 15, 21, and 28; and T. 16 S., R. 7 E., SBM., Sec. 19, 20, and 29.

The public lands within these designated areas will remain open to other resource and recreation uses. All designations will be effective immediately and will remain in effect until further notice.

Areas of McCain Valley designated as limited to existing areas and trails are identified by signs posted along McCain Valley Road and along the area's northern boundary. The border fence of McCain Valley serves as the western and southern boundary of the existing areas and trails area. In areas limited to designated areas and trails, open areas and trails will be posted open. Areas and trails not posted open are closed to off-road vehicle use. Off-road vehicle use within Lark Canyon Campground is limited to access to and from campsites only. Off-road vehicle use within Cottonwood and White Arrow Campgrounds is prohibited. Leaflets identifying the affected areas are available at each developed campground in McCain Valley, the Bureau's Riverside District Office, 1695 Spruce Street, Riverside, California 92507, the El Centro Resource Area Office, 333 South Waterman, El Centro, California 92243, or from BLM Rangers patrolling McCain Valley. Any person who violates or fails to comply with the above designations is subject to arrest as prescribed in 43 CFR 8340.0–7. Penalties for violations may be a fine of not more than $1000.00 or imprisonment for not more than 12 months, or both.

Richard D. Freel,

Acting Riverside District Manager.

[FR Doc. 80–3138 Filed 1–31–80; 8:45 am]

BILLING CODE 4310–84–M

Tentative Sales Nos. 67 and 69; Gulf of Mexico; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 80–2054 appearing on page 5405 in the issue of Wednesday, January 23, 1980, in the first column of page 5406, the "OCS Official Protraction Diagrams" list contained several typographical errors. The list is printed correctly below:

OCS Official Protraction Diagrams

Gulf of Mexico [1]	Latest approval or revision date
NG 14–3—Corpus Christi	1/27/76
NG 14–6—Port Isabel	1/27/76
NG 15–1—East Breaks	1/27/76

OCS Official Protraction Diagrams—Continued

Gulf of Mexico [1]	Latest approval or revision date
NG 15–2—Garden Banks	12/2/76
NG 15–3—Green Canyon	12/2/76
NG 15–4—Alaminos Canyon	3/26/76
NG 15–5—Keathley Canyon	12/2/76
NG 15–6—Walker Ridge	12/2/76
NG 16–1	12/2/76
NG 16–2	12/2/76
NG 16–3—The Elbow	12/2/76
NG 16–4	12/2/76
NG 16–5	12/2/76
NG 16–6	12/2/76
NG 17–1—St. Petersburg	12/2/76
NG 17–4—Charlotte Harbor	12/2/76
NH 15–12—Ewing Bank	12/2/76
NH 16–4—Mobile	12/21/77
NH 16–5—Pensacola	12/2/76
NH 16–7—Viosca Knoll	12/2/76
NH 16–8—Destin Dome	12/2/76
NH 16–9—Apalachicola	1/15/76
NH 16–10—Mississippi Canyon	12/2/76
NH 16–11—De Soto Canyon	12/2/76
NH 16–12—Florida Middle Ground	12/2/76
NH 17–7—Gainesville	1/27/76
NH 17–10—Tarpon Springs	12/2/76

[1] $2.00 per map.

BILLING CODE: 1505–01–M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southern Region of the Appalachian National Scenic Trail Advisory Council will be held at the East Tennessee State University in Johnson City, Tennessee on February 15, from 1 p.m. to 5 p.m., and February 16, from 2:30 p.m. to 5 p.m. The agenda for the meeting will include the Trail protection program and Comprehensive Planning for the project.

The Council has been re-established by Pub. L. 95–248 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to administration of the Appalachian National Scenic Trail. The Council was originally established by Pub. L. 90–543.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, West Virginia 25425, at Area Code 304–535–2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, N.W., Washington, D.C. and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, W. Va.

Dated January 30, 1980.

Jean Henderer,

Chief, Office of Cooperative Activities, National Park Service.

[FR Doc. 80–3583 Filed 1–31–80; 8:45 am]

BILLING CODE 4310–70–M

Office of the Secretary

[INT FEIS 80–6]

Availability of the Final Environmental Impact Statement Crossman Peak Radar Proposal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (EIS) of the Federal Aviation Administration's proposed radar installation on Crossman Peak near Lake Havasu City, Arizona.

SUMMARY: Pursuant to Section 102(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an EIS concerning the Federal Aviation Administration's proposed radar installation on Crossman Peak near Lake Havasu City, Arizona. The environmental statement analyzes the impacts of the proposal and a two-site alternative, consisting of Cherum Peak near Kingman, Arizona and Harquahala Peak near Wenden, Arizona.

SUPPLEMENTARY INFORMATION: A limited number of copies of the EIS are available upon request at the following offices:

Arizona State Office (911), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602) 261–5127.

Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 (602) 761–4231.

Yuma District Office, P.O. Box 5680, Yuma, Arizona 85364 (602) 726–2612.

In addition to the above locations, copies of the draft EIS will be available for public reading and review at the following locations:

Office of Information, Bureau of Land Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (202) 343–5717.

Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401 (602) 757-3161.

James H. Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-3387 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-84-M

Extension to the Diligent Development Period on Federal Coal Leases

AGENCY: Office of the Assistant Secretary—Land and Water Resources, Interior.

ACTION: Request for public comments on policy options for exercising the Secretary's discretion to extend the 10 year diligent development period for Federal coal leases.

SUMMARY: Notice is hereby given of policy options the Department of the Interior currently is considering to exercise the Secretary's discretion in granting extensions to the 10 year diligent development period on Federal coal leases issued prior to August 4, 1976. Comments on the preliminary recommendations being considered for policy adoption should be submitted to the Office of Coal Leasing, Planning and Coordination no later than March 14, 1980.

(1) *Purpose.* A clear need exists to enable the Secretary to rule consistently on applications to extend the 10 year diligent development period on Federal coal leases issued prior to August 4, 1976 (43 CFR 3475.4(b)). As currently written, this section of the Federal coal management regulations provides no guidance to lessees on how the Secretary would use this discretion in granting extensions to the 10 year diligent development period. Clearly, the Federal Government's intent in allowing for an extension of the diligent development period should be to recognize only those lessees who genuinely plan to develop Federal coal and have a compelling reason for being unable to do so prior to June 1, 1986. Lessees on about 300 Federal coal leases issued prior to August 4, 1976, have yet to submit mine plans for approval, a fact suggesting the existence of a large pool of potential applicants who may apply for extensions to the diligent development period. Clear policy guidelines on diligence extensions are needed to enable lessees to gain a better understanding of what is required from them if their applications are to be successful, and to relieve the Interior Department from a potentially severe administrative burden.

(2) *Background.* The Secretary of the Interior's June 1, 1979, decision renewing the Department's commitment to enforce the 1976 diligence regulations requires all coal leases issued before August 4, 1976, to achieve diligent development by June 1, 1986 (43 CFR 3400.0-5(m)(2)) or risk cancellation. "Diligent development" requires the lessee to achieve timely preparation for, and initiation of, coal production on the logical mining unit (LMU) in which the Federal coal leases are contained. For leases issued before August 4, 1976, commercial quantities of coal—defined as one-fortieth of the LMU reserves (43 CFR 3400.0-5(i))—must actually be produced prior to June 1, 1986.

Prior to the August 1976 enactment of the FCLAA, the Department of the Interior developed a set of regulations on diligent development of Federal coal leases. Comments received and considered by various Interior agencies and the Assistant Secretaries led to a consensus regarding the desirability of allowing for extensions beyond the diligent development period under certain circumstances. Section 43 CFR 3475.4(b) of the Federal coal management regulations issued on July 19, 1979, restates the earlier regulations on this subject, and grants the Secretary necessary authority to extend the diligent development period.

Under 43 CFR 3475.4(b)(2), three basic situations are acknowledged permitting the Secretary discretionary authority to grant one extension, for up to 5 years, to the diligent development period. Specifically, the extension may be granted if any one of the following criteria applies:

(a) The lessee demonstrates a need for additional time to resolve technical problems associated with the development of an advanced technology utilizing the coal under lease; or

(b) The lessee requires extra time because of the magnitude of the project, defined as a mine in which the production from the LMU of which the leases are a part is expected to be at least two million tons if an underground mining operation or five million tons if a surface mining operation, during the first year after achievement of diligent development; or

(c) The lessee has obtained a firm contract to sell the first one-fortieth of the LMU reserves after the 10 year period.

Section 43 CFR 3475.4(b)(2) of the regulations requires that the lessee produce the first one-fortieth of the LMU reserves before the end of the extended term, regardless of the reason for granting an extension.

(3) *Policy Recommendations Under Consideration.* The Department of the Interior's current assessment of policy options in extending diligent development is limited to the discretionary provisions under 43 CFR 3475.4(b)(2). The intent of presenting the Secretary with policy options to deal with applications for an extension to the diligent development period on Federal coal leases is to assure a consistent policy on this subject that is equitable, reasonable, and neither arbitrary nor capricious. Such a policy would benefit lessees in particular by indicating how the Secretary would be likely to exercise his discretion in ruling on extension applications. To this end, public comment on the alternatives currently proposed for consideration by the Interior Department is essential to the policy analysis process.

Among the principal policy recommendations and options initially under review within Interior are the following:

(a) To provide a more concrete basis for the Secretary in determining whether to grant an extension under 43 CFR 3475.4(b)(2), the Interior Department is considering ways to require lessees to submit specific evidence with their application demonstrating good faith efforts in bringing into production Federal leases for which more time is needed to achieve diligent development. These methods of demonstrating good faith include:

1. For extension applications under 43 CFR 3475.4(b)(2)(i), the Secretary should require documentation of a lessee's substantial legal or financial commitment to build, underwrite, or otherwise participate in construction of a facility utilizing coal-based advanced technology, and/or proof that the coal under lease is needed to support such a facility. A flexible interpretation of the term "advanced technology" has been proposed to include coal mining methodologies and transport, as well as older synthetic fuels technology (such as the Lurgi process) which may not have attained mature commercial development.

2. Under subdivision (ii) of 43 CFR 3475.4(b)(2), the applicant for an extension should submit proof in the form of a mining plan deemed complete by the Office of Surface Mining, Reclamation, and Enforcement, together with evidence directly relating the magnitude of the proposed mine to difficulties in achieving diligent development by June 1, 1986, to the appropriate Area Mining Supervisor, U.S. Geological Survey.

3. Contracts to sell one-fortieth of the LMU reserves in the first year of full production should be arm's length agreements signed by both parties and binding on both parties to qualify an

applicant for an extension under 43 CFR 3475.4(b)(2)(iii).

(b) Other potential policies under review include:

1. The Secretary should not consider lease acquisition costs in modifying or lessening the requirements for obtaining an extension.

2. Applications under 3475.4(b)(2)(iii) should be submitted no later than a certain cut-off date to prevent last minute attempts at obtaining contractual agreements by lessees who have not taken serious steps to develop their leases over most of the 10 year period since promulgation of the diligence regulations.

3. The Secretary should condition approval of an extension of diligent development on the lessee's formal agreement to the diligence regulations on all his leases, if he has not already done so.

4. As an option meant to encourage the early relinquishment of undeveloped leases for potential recycling in future competitive lease sales, the Department could require an applicant to surrender leases which he is unlikely to be able to develop as a condition for receiving an extension on those that will achieve production. The objective of this option would be to make available certain lands for competitive leasing prior to or around the June 1, 1986, diligent development cut-off date and to enable the Interior Department to have leases relinquished that should not be developed because of environmental and/or socio-economic concerns.

5. To encourage competition in western coal markets, the Secretary could as an option encourage new entrants by allowing them an extension conditioned on their agreeing to meet one of the three criteria under 3475.4(b)(2) within 2 years of submitting their extension applications (but not later than June 1, 1986).

6. New entrants would be defined as lessees meeting the Department of justice's antitrust review criteria whose only Federal leases belong in the same LMU as the lands in the extension application. A sub-option would be to exclude all but post-1976 assignees from the "new entrants" category so as not to reward lessees who have had the opportunity but have done little to develop their leases.

7. To discourage speculation, extensions granted under 3475.4(b)(2) would carry a proviso forbidding assignment of the lease before the end of the extended term.

8. For applications for an extension to the diligent development period that are linked with pending lease assignments, approval thereof will be granted simultaneously with approval of the transfer of record title to the lease.

9. The Department is also considering whether to grant a full 5 year extension in all cases or a shorter period based on actual time needed to produce one-fortieth of the LMU reserves.

ADDRESS: Comments should be sent to the Director, Office of Coal Leasing, Planning and Coordintion, Room 3411, Main Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Andrew Strasfogel or Charles Rech, Office of Coal Leasing, Planning and Coordination, (202) 343–4191.

Dated: January 29, 1980.

James W. Curlin,

Deputy Assistant Secretary, Land and Water Resources.

[FR Doc. 80–3479 Filed 1–31–80; 8:45 am]

BILLING CODE 4310–10–M

Office of Surface Mining Reclamation and Enforcement

Public Disclosure of Comments Received From Federal Agencies on the Texas Permanent Regulatory Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Announcement of Public Disclosure of Comments on the Texas Program from EPA, DOA, and Other Federal Agencies.

SUMMARY: Before the Secretary of Interior may approve the Surface Mining Control and Reclamation Act of 1977, the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies, and is today announcing their public disclosure.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, telephone: (816–374–3920).

OSM Headquarters, Department of the Interior, Room No. 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone: (202–343–4728).

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Suite 125, 1121 East S.W. Loop 323, Tyler, Texas 75703.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Building, 1419 3rd Street, Floresville, Texas 78114.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Riedke, Assistant Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, telephone: (816–374–3920); or

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone: (202–343–4225).

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Texas permanent regulatory program submitted by Texas for his review on July 20, 1979. See 44 FR 44281 (July 27, 1979), 44 FR 66764 (November 20, 1979), 44 FR 75733 (December 21, 1979) and 45 FR 3398 (January 17, 1980). In accordance with 30 CFR 732.13(b)(1), the Texas Program may not be approved until the Secretary has 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 program as proposed. In this regard, the following Federal agencies were invited to comment on the Texas Program:

Department of Agriculture
- Soil Conservation Service
- Forest Service
- Agriculture Stabilization and Conservation Service
- Science and Education Administration

Advisory Council on Historic Preservation
Department of Labor
- Mine Safety and Health Administration

Environmental Protection Agency
Water Resources Council
Department of Energy
Department of the Interior
- Red Basin Inter-Agency Committee
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Heritage Conservation and Recreation Service
- Bureau of Reclamation
- Fish and Wildlife Service
- National Park Service

U.S. Geological Survey
Council on Environmental Quality
U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

U.S. Environmental Protection Agency
Mine Safety and Health Administration
Fish and Wildlife Service
Soil Conservation Service
Heritage Conservation and Recreation Service
Bureau of Mines
Forest Service
Geological Survey
Advisory Council on Historic Preservation

These comments are available for review and copying, during business hours, at the locations listed above under "Addresses."

Dated: January 29, 1980.

Carl C. Close,

Assistant Director State and Federal Programs.

[FR Doc. 80-3439 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-05-M

Reopening of Public Comment Period on Montana Amended Program Submission for the Regulation and Control of Surface Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of reopening of public comment period on the Montana Amended Program Submission for the regulation and control of surface coal mining.

SUMMARY: OSM is reopening the period for review and comment on the proposed Montana regulatory program until February 6, 1980. This action amends procedures announced on November 20, 1979 (44 FR 225, page 66761) which provided for a public comment period until December 24, 1979. The new period provides additional opportunity for the public to review and comment on amendments to the proposed regulatory program submitted by Montana, and on summaries of meetings between OSM and Montana on these amendments.

DATES: All comments must be received on or before 5:00 p.m. on February 6, 1980, to be considered in the Secretary's decision on the proposed Montana regulatory program.

ADDRESSES: The proposed Montana regulatory program, as amended, is available for review during regular business hours at:

The Office of Surface Mining, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202; or

OSM Headquarters, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240

Written comments should be delivered by 5:00 p.m. on February 6, 1980 to:

The Office of Surface Mining, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202; or

OSM Headquarters, Department of the Interior, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240

SUPPLEMENTARY INFORMATION: The new period for public comment is necessary to allow additional opportunity for the public to review and comment on amendments to the proposed regulatory program and summaries of meetings between OSM and Montana on these amendments. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: January 29, 1980.

Carl C. Close,

Acting Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 80-3440 Filed 1-31-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket 29186 (Sub-1)]

Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor—Trackage Rights—Over Indiana Harbor Belt Railroad Co. and Consolidated Rail Corporation in IL and IN

Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Milwaukee Road), 516 West Jackson Boulevard, Chicago, Cook County, IL 60606, represented by William C. Sippel, Assistant General Solicitor and William L. Phillips, Assistant General Solicitor, 516 West Jackson Boulevard, Suite 888, Chicago, IL 60606, hereby gives notice that on the 18th day of January, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for trackage rights over the main line of the Indiana Harbor Belt Railroad Company (IHB) between North Harvey, IL and Gibson, IN and over a line of Consolidated Rail Corporation (Conrail) between Gibson, IN and Terre Haute, IN.

This proceeding is related to AB-7 (Sub-No. 87F).

Applicant proposes to operate its own trains with its own locomotives and crews over the main line of the IHB between North Harvey, IL (Milepost 13.7) and a connection with Conrail at the east end of Gibson Yard in Hammond, IN (Milepost 4.3), a distance of 11.7 miles, then over a line of Conrail to Terre Haute, IN (Milepost 70.1), a distance of 167.2 miles; and over a line of Conrail between M.P. 85.2 and M.P. 84.6 at Danville, IL, a distance of 0.7 of a mile for a grand total distance over IHB/Conrail between North Harvey, IL and Terre Haute, IN of 179.6 miles. The IHB main line runs in an east-west direction through Cook County, IL and Lake County, IN. Conrail's line runs in a north-south direction through Lake, Newton, Benton, Warren and Vigo Counties, IN and Vermillion and Edgar Counties, IL.

Milwaukee Road presently operates its through train over the involved IHB line under authority of Service Order No. 1395 dated August 28, 1979, and over the involved Conrail lines under authority of Service Order No. 1390 dated July 31, 1979.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protest may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation-Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29186 (Sub-No. 1) and the original and two copies thereof shall be file with the Secretary, Interstate Commerce Commission, Washington, DC 20424.

The Commission has adopted the following Special Rules of Procedure for this Proceeding:

1. The proceeding will be conducted under modified procedure in accordance with the following provisions:

(a) Applicants' verified statements will be due 45 days after the date of the filing of the application is published in the **Federal Register.**

(b) Verified statements by all other parties shall be due 20 days thereafter.

Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may filed such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of

Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-3357 Filed 1-31-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Indian and Native American Programs; Native American Grantees Under Section 302 of the Comprehensive Employment and Training Act of 1973, as Amended

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this Notice is to inform the public of the estimated Fiscal Year 1981 funding levels of Native American Grantees funded under the Comprehensive Employment and Training Act (CETA) of 1973, as amended, and the procedures for designating Native American Grantees.

FOR FURTHER INFORMATION CONTACT: William J. McVeigh, Manpower Development Specialist, Division of Indian and Native American Programs, Office of National Programs, 601 D Street, NW., Room 6414, Washington, D.C. 20213. Telephone (202) 376-7282.

SUPPLEMENTARY INFORMATION: Indian and Native American Programs under the Comprehensive Employment and Training Act of 1973, as amended, are administered nationally by the Division of Indian and Native American Programs (DINAP), Office of National Programs, Employment and Training Administration, Department of Labor, 601 D Street, NW., Room 6402, Washington, D.C. 20213, Telephone (202) 376-6102. Mr. Alexander S. MacNabb is the Director, DINAP.

The estimated funding levels for Fiscal Year 1981 are: $51,080,000 for Title II-D; $80,975,000 for Title III; $40,880,000 for Title VI; and $15,227,000 for the Summer Youth Employment Program under Title IV. Funding levels for other youth programs cannot be estimated at this time.

The details of applying for a grant are spelled out in 20 CFR 688.10 through 688.23. Applicants for a grant in Fiscal Year 1981 must submit certain documentation to DINAP by March 1, 1980. Applicants will be notified whether they have been designated a grantee by June 1, 1980.

Signed at Washington, D.C., this 17th day of January 1980.

Alexander S. MacNabb,

Director, Division of Indian and Native American Programs, Office of National Programs.

[FR Doc. 80-3105 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-238-C]

Chestnut Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Chestnut Coal Company, Inc., P.O. Box 878, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 23 mine located in Sequatchie County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3109 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-297-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, Dante, Virginia 24237, has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its McClure No. 1 Mine located in Russell County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The mine has been designed for two active longwall sections and supporting continuous miner units.

2. Large quantities of methane gas in the coal bed and adjacent strata are anticipated for the mine.

3. Bureau of Mines and DOE in conjunction with the company have drilled five vertical methane drainage holes into the coalbed. It is anticipated that vertical ventilation gob drainage holes will be necessary to bypass large amounts of methane from the return airways during extraction of longwall blocks.

4. Inherent roof conditions and maximum overburden of 2000 feet will limit the number of airways that can be developed safely.

5. For these reasons, petitioner proposes the following alternative method to guarantee the safety of the miners affected.

(a) All entries will be used for airways.

(b) A carbon monoxide (CO) detection system, approved by MSHA, will be installed in all belt entries near each belt tailpiece to constantly monitor the atmosphere for the presence of CO.

(c) A communication and monitoring system will be installed on the surface and attended by a fully trained responsible person while persons are underground.

(d) A maintenance program will be established which will include weekly functional tests and calibration tests every 30 days.

(e) Stoppings separating the belt haulage entry from intake and return aircourses will be erected and maintained in accordance with MSHA guidelines.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3110 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-175-C]

L & H Mining Co., Inc.; Petition for Modification of Application Mandatory Safety Standard

L & H Coal Company, Inc., Honaker, Kentucky 41639, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #7A Mine, located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 35" to 47" with irregularities in roof and floor conditions.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Regulations and Variances.

[FR Doc. 80-3106 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-174-C]

Newsome Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Newsome Coals, Inc., Grethel, Kentucky 41631, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #5 mine located in Floyd County, Kentucky. The petiton is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. Petitioner states he is mining coal seams ranging from 28" to 34" in height.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3107 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-176-C]

T. & R. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

T. & R. Coal Company, Inc., Harold, Kentucky 41635, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its #5 mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follow:

1. Petitioner states he is mining coal seams ranging from 28" to 40" in height.

2. Petitioner states that if installed on its existing equipment, lighting equipment would come in contact with the roof and be torn away.

3. Petitioner states miners crawl on hands and knees and their line of sight has a direct conflict with the light ray given off by luminaires, causing a diminution of safety.

4. For these reasons, the petitioner requests a modification of the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3108 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-240-C]

Walnut Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Walnut Coal Co., Inc., P.O. Box 878, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 25 mine located in Sequatchie County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Office of Standards, Regulations and Variances.

[FR Doc. 80-3111 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-241-C]

Virginia Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Virginia Mining Company, Inc., P.O. Box 878, Jasper, Tennessee 37347, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 18 mine located in Marion County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner states that if compliance with the standard is effected, a system failure would result in a sudden change in light intensity which would temporarily blind miners in the area, and that such failures occur frequently.

3. Petitioner further states that its foreman's performance will be impaired by application of the standard since he is required to travel continually from lighted to dark areas.

4. Petitioner further states that application of the standard to its mine would require side installation of lighting equipment, resulting in miners facing continuous glare, and causing maintenance problems.

5. For these reasons petitioner believes that compliance with the standard will result in diminution of safety to miners, and therefore requests variance from application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before March 3, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-3112 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Safety Subgroup Meeting

Notice is hereby given that the Safety Subgroup of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on February 19, 1980 in the Federal Building, Room 4022, 550 Main Street, Cincinnati, Ohio. The meeting will begin at 8:30 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting agenda will include a discussion of the NIOSH Safety Research Strategies and Initiatives and drafting of recommendations to be presented to the Full Committee at the February 28-29 Meeting.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 10 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 28th day of January 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-3441 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 80-4; Exemption Application No. D-1385]

Exemption From the Prohibitions for Certain Transactions Involving Alfa Profit Sharing Retirement and Savings Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a 50% interest in a parcel of real property owned by the Alfa Profit Sharing Retirement and Savings Plan (the Plan) to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Stander 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) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 7, 1979, notice was published in the **Federal Register** (44 FR 70598) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the sale of a 50% interest in a parcel of real property owned by the Plan (the Property) to Deiter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to 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. In addition the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing 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)(3) of the Act and section 4975(c)(1)(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 Procedures 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), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a 50% interest in a two acre unimproved parcel of real property located in the Township of Montville, Morris County, New Jersey by the Plan to Dieter P. Gerlach and Ilse M. Gerlach, parties in interest with respect to the Plan, for the greater of $37,500.00 cash or the fair market value of their undivided one-half interest in the Property at the time of sale.

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 transaction which is the subject of this exemption.

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

Ian D. Lanoff,

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

[FR Doc. 80-2879 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1425]

Proposed Exemption for Certain Transactions Involving the Bradford Marine, Inc., Profit-Sharing Plan of Fort Lauderdale, Fla.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the Bradford Marine, Inc. Profit-Sharing Plan (the Plan) of its one-half interest in real property of Ocala, Florida and the sale by the Plan of its one-third beneficial interest in real property of the Samuel T. Decker Trust (Decker), to Mr. Charles R. Blickle, a party in interest to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Mr. Charles R. Blickle and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 10, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1425. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Newman, of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a)(1), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Charles R. Blickle, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are

summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan, a profit sharing plan, had assets totaling $284,704.60 as of December 31, 1978 for the benefit of 48 participants. Investment decisions are made by Plan trustees, Mr. Charles R. Blickle and Mr. Hugh Donaldson.

2. On April 27, 1973, the Plan acquired an undivided one-fifth interest in Decker, a trust formed in 1969 to invest in real estate. Subsequent transactions have resulted in the Plan's present one-third interest in Decker at a total cost of $62,230. Decker currently holds a one-half undivided interest in 56.67 acres of land in Ocala, Marion County, Florida and a 100% interest in 241 acres of unimproved land also located in Marion County, Florida.

3. On September 9, 1974, the Plan acquired an undivided one-half interest in 56.67 acres of unimproved land located in Ocala, Marion County, Florida for $60,506. (The other one-half interest was acquired by Decker.)

4. The Plan has received little or no income from either investment.

5. Since early 1975, the Plan trustees have worked with several local registered real estate brokers in an attempt to sell the Plan's interests in Decker and the Ocala real property. There have been no offers for either property interest.

6. As of February 9, 1979, the Plan's interests in the Ocala land and Decker were appraised by an independent appraiser to have fair market values of $70,000 and $74,719, respectively. Mr. Blickle has offered to purchase these properties for cash at the appraised value provided the sales prices are not less than the fair market value of the properties at the time of the purchase.

7. The applicant represents that the criteria of section 408(a) of the Act will be satisfied by the proposed sales because: (1) they will be one time transactions for cash; (2) they will allow the Plan to sell the properties for a profit at a price determined by an independent appraisal; (3) they will not require the Plan to pay any real estate commissions; and (4) they will allow the Plan to eliminate a large percentage of Plan assets which produce no income.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons within ten days of the publication of the notice of Pendency in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the code shall not apply to the cash sale of the Plan's one-half undivided interest in a 56.67 acre tract in Ocala, Marion County, Florida, for $70,000 and the cash sale of the Plan's undivided one-third beneficial interest in the Samuel T. Decker Trust for $74,719, to Charles R. Blickle, provided that the sales prices are not less than the fair market value of the property interests at the time of the sales.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes material terms of the transactions to be consummated pursuant to the exemption.

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

Ian D. Lanoff,

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

[FR Doc. 80-2861 Filed 1-31-80; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1633]

Proposed Exemption for Certain Transactions Involving the National Security Bank Profit Sharing Plan located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $500,000 to the National Security Bank Profit Sharing Plan (the Plan) by the National Security Bank of Chicago (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 20, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Consititution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–1633. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Consititution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18741, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application of file with the Department for the complete respresentations of the applicant.

1. The Plan is a profit sharing plan with 100 participants. As of December 31, 1978 the Plan had total net assets of approximately $700,000. The trustees of the Plan (the Trusees) are Mr. Walter McNeely, President of the Employer and Mr. Frank Julian, Cashier of the Employer is a national bank and a member of the Federal Reserve System.

2. The Employer proposes to lend $500,000 to the Plan for a period of two years (the Loan). The interest rate on the Loan is to be equal to the discount rate charged to member banks of the Federal Reserve System by the Federal Reserve Bank of Chicago for short-term loans, but not higher than 12 percent perannum. The Plan will, on the same day as the Loan is made, invest the proceeds of the Loan in $500,000 worth of U.S. treasury notes (Treasury Notes) with a time period corresponding to the Loan. The Treasury Notes will be pledged by the Plan as security for the Loan. The Plan will receive as a net return the amount equal to the difference between the rate the Plan receives on the Treasury Notes and the rate the Plan is required to pay on the Loan. The Loan will not be made if at the time of its making the rate of interest which the Plan is required to pay to the Employer is equal to or more than the rate of interest on the Treasury Notes that would be purchased by the Plan.

3. The applicant represents that the Loan will satisfy the criteria of section 408(a) of the Act as follows: (1) the Trustees of the Plan represent that the Loan is in the best interests of the Plan; (2) the Loan will allow the Plan to receive a positive cash flow without the direct investment of Plan assets; and (3) the Loan is for a short term with Treasury Notes as collateral.

Notice to Interested Persons

Notice will be made within 20 days of the publication of the notice of pendency in the **Federal Register** to each participant currently employed by the Employer by hand delivery or by an insertion in such employee's pay envelope. Persons who are currently receiving benefits or who have terminated their employment with the Employer and who are entitled to benefits from the Plan will be notified by mail. The notice will contain a copy of the notice of pendency as published in the **Federal Register** and a statement informing interested persons of their right to comment or request a hearing within the period set forth in the notice of pendency.

Tax Consequences of Transaction

The Internal Revenue Service has previously held that the loaning of money by an employer to its plan at a rate less than the fair market rate will constitute a contribution to the plan to the extent of the difference between the rate at which the money is loaned and the fair market rate. The deductibility and other effects of such a contribution must be determined in accordance with generally applicable Federal income tax rules.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exempton, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a two year loan of $500,000 by the Employer to the Plan which will be secured by Treasury Notes.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

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

Ian D. Lanoff,

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

[FR Doc. 80–2860 Filed 1–31–80; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 80–3; Exemption Application No. L–1435]

Exemption From the Prohibitions for Certain Transactions Involving the Quad-City Builders-Local 111 Training Program Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the Quad-City Builders-Local 111 Training Program Trust (the Plan) of a parcel of real property improved by a building (the Property) from Mr. Dan Schlapkohl, a party in interest with respect to the Plan, and an extension of credit by Mr. Schlapkohl to the Plan with respect to the purchase.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Stander 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) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 7, 1979, notice was published in the **Federal Register** (44 FR 70596) 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) for the purchase by the Plan of the Property from Mr. Dan Schlapkohl, a party in interest with respect to the Plan, and an extension of credit by Mr. Schlapkohl to the Plan with respect to the purchase. 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.

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 does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. 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.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Futhermore, 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 the procedures set forth in ERISA Procedures 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 shall not apply to (1) the purchase by the Plan from Mr. Dan Schlapkohl, a principal owner of the All Steel Building Corporation, a contributing employer with respect to the Plan, of a certain parcel of real property known as Lot 6, Turkey Hollow Industrial Park, 3rd Addition to the City of Rock Island, Illinois, improved by a building thereon, and (2) an extension of credit by Mr. Dan Schlapkohl to the Plan with respect to the above purchase.

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 transaction which is the subject of this exemption.

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

Ian D. Lanoff,

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

[FR Doc. 80–2859 Filed 1–31–80; 8:45 am]

BILLING CODE 4510–29–M

Office of Pension and Welfare Benefit Programs

[Application No. D–444]

Proposed Exemption for Certain Transactions Involving the Herman Frankel Co. Retirement Profit Sharing Plan and Trust and Administrative Services, Inc., Retirement Profit Sharing Plan and Trust Located in Orchard Lake, Mich.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale on June 25, 1976 by the Herman Frankel Company Retirement

Profit Sharing Plan and Trust (Frankel Plan) and the Administrative Services, Inc. Retirement Profit Sharing Plan and Trust (ASI Plan, collectively referred to as the Plans) of their respective undivided interests in a parcel of undeveloped real estate to Suburban Communities Inc. (Suburban) a party in interest with respect to the Plans. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, Suburban and Mr. Herman Frankel as a co-owner of an undivided interest in the property.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 17, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. D–444. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department of Labor, telephone (202) 523–6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on March 11, 1976 by Marcus Plotkin and Jack M. Schultz, attorneys representing the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Frankel Plan is a profit sharing plan having only one participant, Mr. Herman Frankel (Frankel). The ASI Plan is also a profit sharing plan having 12 participants. Frankel is the trustee for both Plans.

2. Frankel owns one hundred (100) percent of the outstanding stock of Herman Frankel Company (sponsoring employer of the Frankel Plan), Suburban and Administrative Services, Inc. (sponsoring employer for the ASI Plan).

3. Suburban is in the real estate development business of purchasing, subdividing and improving real property. Prior to passage of the Act there had been an understanding among the Plans and their employer creators to invest in raw land and hold the property jointly until such time as it became economically beneficial to develop the property for residential and/or multiple dwelling use, then when the economic conditions were appropriate, resell to the developer. The Plans never intended on developing the property for its rezoned use, and moreover, the Plans do not have the expertise or financial capability of accomplishing such development. The purpose of the investment by the Plans was to obtain the appreciation in land value.

4. On December 15, 1967, the Frankel and ASI Plans purchased undivided fourteen (14) percent interests in a parcel of undeveloped real property from Suburban for $12,292. The terms of the sale transactions provided for a payment of $8,640 in cash with the balance payable over 5 years with interest at 7 percent per annum. The undivided interests were purchased on the basis of independent appraisals. Simultaneously with the purchases by the Frankel Plan and the ASI Plan, Frankel individually purchased and undivided forty (40) percent interest in the same property. Suburban continued to hold the remaining thirty-two (32) percent interest. The land sale contracts executed at that time contained a provision that the seller, Suburban, might at some future time seek to rezone the property for development and that all owners of undivided portions of the subject real property were obligated to pay their pro rata share of any costs incurred by such actions. The applicant represents that the Plans did not incur any zoning costs relative to the development of the subject real property.

5. Late in 1975 it became apparent to the parties that it was economically essential to develop the subject property. While the exemption application was pending the applicant represented that time was of the essence and that it would be detrimental to the participants of the Plans if the transactions were not consummated immediately. Therefore, on June 25, 1976, pursuant to an independent appraisal, the Frankel Plan and the ASI Plan each sold their respective undivided interests back to Suburban for $40,640. Other than the appreciation in value, these assets have been non-income producing during the period they were held by the Plans. There was no real estate commission charged to the Plans in connection with the transaction for which exemptive relief is sought.

6. With respect to the advisability of the sale to Suburban it is alleged to be financially advantageous to Plan participants and beneficiaries inasmuch as the Plans had a ready and willing buyer to develop the property which enhanced its sales value. It is alleged that if an unrelated party could have been found in light of the seventy-two (72) percent majority ownership, the price such a party would have agreed to would not have approached the realized sale price. Additionally, the expense of legal proceedings to partition the property should the Plans not have sold to Suburban would also have adversely affected the value of their respective undivided interests. Therefore it was in the best interest of the Plans and their participants and beneficiaries to sell the undivided interests to Suburban.

7. In summary, the applicant represents that the criteria of section 408(a) of the Act have been satisfied with respect to the executed sale transaction because: (1) It was a one time transaction for cash; (2) the property was sold for a substantial profit at a price determined to be fair by an independent appraisal; (3) there was no real estate commission paid by either of the Plans in connection with the sale; (4) it permitted the Plans to divest themselves of illiquid, non-income producing assets; and (5) it was understood at the time of acquisition that said undivided interests would be repurchased by Suburban at some future date for residential development. The trustee represents that at the time the subject transaction was executed it was appropriate for and in the best interests of the Plans in that it would have been detrimental to the participants to have delayed the execution of the transaction.

Notice to Interested Persons

Within ten working days of publication of the proposed exemption in the **Federal Register**, all present participants in the Frankel Plan and the ASI Plan will receive by personal delivery or first class mail a written summary and description of the transaction, a copy of the notice of pendency and a written statement informing them of their right to comment on the proposed exemption, and the right to request that a hearing be held.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale on June 25, 1976 by the Frankel and ASI Plans of their respective undivided interests in a parcel of undeveloped real estate to Suburban for $40,640 which was paid in cash.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 28th day of January 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 80-3409 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-6487]

Brin Machinery & Equipment Corp., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 27, 1979 which was filed on behalf of workers and former workers producing electrical push buttons at Brin Machinery and Equipment Corporation, Newark, New Jersey. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Brin Machinery and Equipment Corporation produced electrical push buttons exclusively for the NuTone Division of Scovill Incorporated. NuTone does not import electrical push buttons.

During April 1979, NuTone purchased Brin Machinery and Equipment. NuTone closed the Newark plant in mid-December 1979 and transferred all operations to its Harrodsburg, Kentucky plant.

Conclusion

After careful review, I determine that all workers of Brin Machinery and Equipment Corporation, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3114 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6356]

Cal-Sew Apparel, Inc., Los Angeles, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing women's tops and blouses at Cal-Sew Apparel, Incorporated, Los Angeles, California. The investigation revealed that the plant produced primarily ladies' blouses and sportswear prior to going out of business in August 1979. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's misses' and children's blouses and shirts decreased absolutely in the January-September period of 1979 compared to the same period of 1978.

A survey was conducted by the Department of Labor of the manufacturers for whom Cal-Sew Apparel, Incorporated performed contract work. None of these manufacturers imported ladies' blouses or sportswear or contracted work out to foreign sources in 1978 or 1979. All but one of the manufacturers repored increases in sales of ladies' blouses and sportswear in 1979 as compared to 1978, and the remaining manufacturer reported that its sales had not been affected.

Conclusion

After careful review, I determine that all workers of Cal-Sew Apparel, Incorporated, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3115 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6546]

Chrysler Corp., Winfield Foundry, Detroit, Mich.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 6, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Union, United Automobile, Aerospace and Agricultural Workers of America, in part, on behalf of workers and former workers producing castings at the Winfield Foundry of Chrysler Corporation, Detroit, Michigan. The investigation revealed that the Winfield Foundry is part of the Huber Foundry of Chrysler Corporation.

The petitioning group of workers was included in a determination issued on November 6, 1979 (revised December 26, 1979) which certified as eligible to apply for adjustment assistance all workers at the Huber Foundry of Chrysler Corporation, Detroit, Michigan. Since all workers identified in this petition, newly separated, totally or partially, from employment on or after August 28, 1978 (impact date) and before November 6, 1981 (expiration date of the certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently, this investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3116 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6515]

Coronet Manufacturing Co., Union City, N.J., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing men's and women's sweaters at Coronet Manufacturing Company, Union City, New Jersey. The investigation revealed that the firm primarily produces women's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 compared with 1977.

A survey of manufacturers of Coronet Manufacturing Company revealed that some manufacturers decreased purchases from Coronet and increased purchases of imported sweaters in the January-October period of 1979 compared with the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Coronet Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Coronet Manufacturing Company, Union City, New Jersey who because totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3117 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6559]

Delaware Trucking Co., Inc., Muncie, Ind.; Negative Determination Regarding Application for Reconsideration

By letter of January 14, 1980, a worker 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 transporting Chrysler auto parts at Delaware Trucking Company, Inc., Muncie, Indiana. The determination was published in the **Federal Register** on January 8, 1980, (45 FR 1699).

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 worker pointed out that the Delaware Trucking Company transported Chrysler automotive parts only and did not transport automobiles. The worker also indicated that while Delaware Trucking Company was completely independent of Chrysler it was 100 percent dependent on Chrysler for business since it only hauled Chrysler parts. Therefore, when Chrysler employees lost their jobs, workers at the Delaware Trucking Company lost theirs.

A review of the case filed indicates that the Department denied trade adjustment certification based on the fact that Delaware Trucking Company, Inc., is an independent firm and that Chrysler has no controlling interest in it nor does Delaware have a controlling interest in Chrysler. The employees of Delaware Trucking Company could not be considered as employees of Chrysler Corporation. Finally, the workers at the trucking company were engaged in the provision of trucking services.

Nothing in the application for reconsideration refutes the basis for the Department's original determination that workers of the Delaware Trucking Company, Inc., at Muncie, Indiana, do not produce an article and are not employees of a firm which produces an article.

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 law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Ecomonic Research.

[FR Doc. 80-3118 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6228]

Dickerson Trucking Co., Inc., Dehue, W.Va.; Negative Determination Regarding Application for Reconsideration

By letters of January 5 and 9, 1980, the union and counsel for the workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of that company. The determination was published in the **Federal Register** on December 11, 1979 (44 FR 71474).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the trucking of coal is an integral part of production of coal and that such hauling activities are subject to and dependent upon the production schedules of the coal companies. The union also claims that the employees of at least one of Dickerson's customers receives trade adjustment assistance. Further, counsel for the workers claims that workers of the Dickerson Coal Company should be certified eligible for trade adjustment assistance since that firm controlled one of its customers.

The Department's review revealed that the Dickerson Trucking Company, Inc., is engaged in providing the service of transportation of coal and, as such, does not produce an article within the meaning of Section 222(3) of the Trade Act.

In its further review, the Department confirmed that the Dickerson Trucking Company is an independent company providing a service and is not controlled by its customers. The Department's use of the term "control" does not mean control by production schedules or market forces but financial and administrative control such as personnel actions and payroll transactions. Workers providing services, like transportation services, may only be certified if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related by ownership to the firm providing the service, or a firm related by control with the reduction in demand for services originating at a production facility whose workers independently meet the statutory criteria for certification and that reduction must relate directly to the product impacted by imports. The Department did not find that workers of the Winding Shoals Coal Company—a customer of Dickerson Trucking Company—had been certified for trade adjustment assistance. Further, the Metco Mining Corporation whose workers receive trade adjustment assistance (TA-W-5133A) is an independent company not related in any way to the Dickerson Trucking Company.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error 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 24th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3119 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6502]

E & F Associates, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing slacks and skirts at E & F Associates, Newark, New Jersey. The investigation revealed that the name of the firm is E & F Associates, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the

manufacturers for which E & F Associates, Incorporated produces women's slacks and skirts did not use foreign contractors or purchase imported women's slacks and skirts. The manufacturers increased their total domestic contract work in the first 10 months of 1979 compared with the same period in 1978, and experienced increased total sales.

Conclusion

After careful review, I determine that all workers of E & F Associates, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3120 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6531]

Giardin Dress Co., Inc., Bloomfield, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Giardin Dress Company, Incorporated, Bloomfield, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increase 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 the absolute decline in sales or production.

U.S. imports of ladies' dresses declined absolutely in the first nine months of 1979 compared to the same period of 1978.

A Departmental survey was conducted with the manufacturers from whom Giardin received contract work in 1977, 1978 and 1979. One of the manufacturers ceased contract work with Giardin in mid-1978; however, production at Giardin increased in both quantity and value in the third and fourth quarters of 1978 compared to the same quarters of 1977. The other manufacturer increased contract work with Giardin in 1979 compared to 1978, and in 1978 compared to 1977. None of the manufacturers from whom Giardin received contract work relied on imports or foreign contractors to fulfill their demand for ladies' dresses in 1977, 1978, or 1979.

Conclusion

After careful review, I determine that all workers of Giardin Dress Company, Incorporated, Bloomfield, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3122 Filed 1-31-80; 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 February 11, 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 February 11, 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 24th day of January 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
Boardwalk, Inc., d.b.a. Park Place Sportswear (workers).	Pawtucket, R.I.	1/15/80	1/9/80	TA-W-6,841	Suits, dresses, and sportswear.
Famous Maid Brassiere Corp. (ILGWU)	Brooklyn, N.Y.	1/18/80	1/14/80	TA-W-6,842	Brassieres.
Fred Leathers (workers)	New York, N.Y.	12/26/79	12/15/79	TA-W-6,843	Leather coats and suede coats and jackets.
Frolic Footwear, a Division of Wolvering World-wide, Inc. (UFCW, Booth & Shoe Division).	Jonesboro, Ark.	1/18/80	1/31/79	TA-W-6,844	Ladies' shoes.

Appendix 202)—Continued

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
(The) Goodyear Tire & Rubber Co. (URW)	Topeka, Kans.	1/18/80	1/14/80	TA-W-6,845	Earthmovers, passenger and truck tires.
International Silver Co. (workers)	Los Angeles, Calif	1/17/80	1/9/80	TA-W-6,846	Warehouse and shipping and distribution.
(The) Valley Camp Coal Co., Alexander Mine (UMWA).	Moundsville, W. Va.	1/15/80	1/10/80	TA-W-6,847	Mining of coal.
Washburn Wire Co. (UMWU)	East Providence, R.I	1/7/80	1/1/80	TA-W-6,848	Alloy steel rods and wire.

[FR Doc. 80-3113 Filed 1-31-80; 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

Interested persons are invited to submit matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 25th day of January 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
Ford Motor Co., Ford Mahwah Assembly Plant (workers).	Mahwah, N.J	1/23/80	1/16/80	TA-W-6,849	Light trucks, Granada-Monarch, Fairmont-Zephyr automobiles.
Ford Motor Co., Los Angeles Assembly Plant (UAW).	Pico Rivera, Calif	1/23/80	1/11/80	TA-W-6,850	LTD automobiles.
Inland Steel Co., Indiana Harbor Works (USWA).	East Chicago, Ind	1/14/80	1/7/80	TA-W-6,851	Basic steel, sheet.
Standard Products Co., Cee Bee Division (workers).	Brooklyn, N.Y	1/21/80	1/16/80	TA-W-6,852	Plastic trim for automobiles.

[FR Doc. 80-3121 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In FR Doc. 80-983 appearing on page 2421-2422 in the Federal Register of January 11, 1980, the Appendix under petitioners Margaret's Doll Clothing Co., Inc., TA-W-6717, NuCar Driveway, Inc., TA-W-6718, Reid Stevens, Inc., TA-W-6719, the year received is corrected to read 1980.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3128 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6478 and 6479]

Island Creek Coal Co., V. P. Mine No. 3, Vansant, Va., and Beatrice Mine, Keen Mountain, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to worker petitions received on November 2 and 19, 1979 which were filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Island Creek Coal Company's V.P. Mine No. 3, Vansant, Virginia (TA-W-6578) and at the Island Creek Coal Company's Beatrice Mine, Keen Mountain, Virginia (TA-W-6479). In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the abolute decline in sales or production.

Evidence developed during the course of the investigation with respect to Island Creek Coal Company's V.P. Mine No. 3 (TA–W–6478), indicated that all production declines are attributable to a loss of export sales. Therefore, imports of coal or coke could not have contributed importantly to employment declines at the V.P. Mine No. 3.

Evidence developed during the course of the investigation with respect to Island Creek Coal Company's Beatrice Mine (TA–W–6479), indicated that production increased.

Production at the Beatrice Mine either increased or remained steady during each of the first three quarters of 1979 compared with the respective quarters of 1977. Due to distortions in 1978 data, caused by the United Mine Workers' strike and the strike against the Norfolk and Western Railroad, production data for 1978 was not used in comparison with 1979 production figures.

Conclusion

After careful review, I determine that all workers of the Island Creek Coal Company, V.P. Mine No. 3, Vansant, Virginia and Beatrice Mine, Keen Mountain, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80–3123 Filed 1–31–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6481]

Judy Wayne, Inc., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 29, 1979 in response to a worker petition received on November 20, 1979 which was filed on behalf of workers and former producing women's knit dresses and separates at Judy Wayne, Incorporated, New York, New York. The investigation revealed that the firm produced women's dresses, skirts, jackets, blouses and pants. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or producion.

U.S. imports of women's and misses' dresses decreased abosolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's and misses' and children's skirts decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's blouses and shirts decreased absolutely in the first nine months of 1979 when compared with the same period in 1978.

U.S. imports of women's, misses' and children's slacks and shorts decreased absolutely in the first nine months of 1979 when compared with 1978.

A sample of customers of Judy Wayne, Incorporated were surveyed by the Department of Labor. Most of the customers who reduced purchases of dresses, skirts, jackets, blouses and pants from the subject firm did not increase purchases of imports during the period under investigation.

Conclusion

After careful reveiw, I determine that all workers of Judy Wayne Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80–3124 Filed 1–31–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6493]

Kinnerit Contracting Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's clothing at Kinnerit Contracting, Incorporated, New York. The investigation revealed that the plant produces primarily ladies' blouses and skirts. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's and misses' dresses increased both absolutely and relative to domestic production in 1978 compared to 1977.

Information collected during the investigation revealed that Kinnerit Contracting, Incorporated performed the majority of its contract work in 1977 and 1978 for one manufacturer. That manufacturer's sales of ladies' blouses and skirts declined in 1978 compared to 1977 and in the first 8 months of 1979 compared to the same period in 1978.

A survey conducted by the Office of Trade Adjustment Assistance of that manufacturer's customers revealed that several customers decreased purchases of ladies' blouses and skirts from that manufacturer and increased imports of ladies' blouses and skirts in 1978 compared to 1977 and in 1979 compared to 1978. These customers accounted for

a substantial proportion of that manufacturer's sales decline in 1978 and 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses and skirts produced at Kinnerit Contracting, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kinnerit Contracting, Incorporated, New York, New York who became totally or partially separated from employment on or after November 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3125 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6351]

Lebow Bros., Inc., Baltimore, Md.; 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 the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 8, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing for Lebow Brothers, Incorporated. In the following determination, without regard to whether any of the other criteria have been met for workers producing men's suits and sportcoats, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Lebow Brothers' sales of suits and sportcoats increased, in value, from 1977 to 1978, and again in the first 10 months of 1979 compared to the same period in 1978. A Department of Labor survey revealed that customers of Lebow Brothers that decreased purchases of suits and sportcoats from Lebow and increased purchases of imported suits and sportcoats accounted for an insignificant portion of the firm's sales.

For workers producing men's slacks all of the criteria have been met.

U.S. imports of men's and boys' trousers and shorts increased absolutely and relative to domestic production from 1977 to 1978.

Lebow Brothers' sales of men's slacks declined from 1977 to 1978. Lebow Brothers discontinued the production of slacks in July 1979. A Department of Labor survey revealed that customers representing a significant portion of Lebow's slacks sales decreased purchases from Lebow and increased purchases of imported slacks in the first 10 months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's tailored slacks produced at Lebow Brothers, Inc., in Baltimore, Maryland contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lebow Brothers, Incorporated in Baltimore, Maryland engaged in employment related to the production of men's tailored slacks who became totally or partially separated from employment on or after June 1, 1979 and before August 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3126 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6536]

Manila Mining Co., Madison, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 4, 1979 in response to a worker petition received on November 9, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at Manila Mining Company, Madision, West Virginia. The petition alleges that imports of coke caused layoffs at the mine.

On July 19, 1979 workers of Manila Company were denied eligibility to apply for adjustment assistance (TA-W-5569). The petition alleged that Manila Company produced metallurgical coal and that imports of coke caused layoffs at the mine. The investigation revealed that Manila Mining Company produced only non-metallurgical steam coal. The investigation also revealed that imports of steam coal are negligible.

All production at Manila Mining Company ceased when the mine closed premanently on June 1, 1979. No production has occurred since the determination regarding TA-W-5569 was issued.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-6536) and since the current petition presents no additional information pursuant to the previous determination (TA-W-5569) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-3127 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6086]

Neal Coal, Inc., Formerly E&J Coal Co., Summersville, W. Va.; Revised Determination on Reconsideration

On January 10, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Neal Coal, Inc., Summersville, West Virginia. This determination was published in the **Federal Register** on January 22, 1980, (45 FR 4483).

The petitioner claims that he was denied trade adjustment assistance while workers at another firm were certified eligible to apply for trade adjustment assistance despite the fact that both firms sold all their coal to the same coal company for cleaning, grading and shipping.

The Department's review revealed that the coal mined by Neal Coal was sold to only one customer which sold most of its coal on the export market. The Department concluded, given the export orientation of the customer, that increased competitive imports cannot be considered to have contributed importantly to a loss of sales or production at Near Coal, Inc.

The Department found in its reconsideration that both the Alabama Fuel Company, Summersville, West Virginia, whose workers were certified eligible for trade adjustment assistance (TA-W-5550) and Neal Coal, Inc., Summersville, West Virginia, sold all their coal to the same company for cleaning, grading and shipping. This company sells a major share of its coal to the export market with the remainder being sold on the spot market where a large part goes to domestic steel makers who were found to have substituted imported coke for their decreased purchases of metallurgical coal.

Neal Coal, Inc., laid off its workers in January, 1979, and closed the mine a short time thereafter.

U.S. imports of metallurgical coal are negligible. However, the Department considers coke to be metallurgical coal at a later stage of processing. Hence, imports of coke as well as imports of metallurgical coal are considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased both absolutely and relative to domestic production in 1978 compared to 1977 and in 1977 compared to 1976.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of coke contributed importantly to the total or partial separation of workers and former workers at Neal Coal, Inc., Summersville, West Virginia. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers engaged in mining coal at Neal Coal, Inc., Summersville, West Virginia, who became totally or partially separated from employment on or after September 10, 1978, and before May 10, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3129 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6381]

Sparkle Mills, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on November 2, 1979 which was filed on behalf of former workers producing men's knit shirts and sweaters at Sparkle Mills, Incorporated, New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans, and pullovers increased in quantity each year from 1975 to 1978.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased in quantity each year from 1974 to 1978.

A survey conducted by the Department revealed that some customers who reduced purchases from Sparkle Mills, Incorporated in 1978 and the first nine months of 1979 increased purchases of imported men's knit shirts and sweaters during the same period. Sparkle Mills, Incorporated closed on September 1, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit shirts and sweaters produced at Sparkle Mills, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sparkle Mills, Incorporated, New York, New York who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3130 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6318]

T & B Leather Fashions, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed on behalf of workers and former workers producing leather coats and jackets at T & B Leather Fashions, Inc., New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977. Imports as a percentage of domestic production were 139.9 percent in 1978. Imports declined absolutely in the first three quarters of 1979 compared to the same period in 1978.

A U.S. Department of Labor survey revealed that customers were increasing purchases of imports while decreasing purchases from T & B Leather Fashions, Inc.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather coats and jackets produced at T & B Leather Fashions, Inc., New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of T & B Leather Fashions, Inc., New York, New York who became totally or partially separated from employment on or after April 28, 1979 are eligible to apply for

adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3131 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6272, TA-W-6272-A]

Torrington Co., Excelsior Plant, Torrington, Conn. and Piedmont-Oconee Needle Plant, Walhalla, S.C.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 25, 1979 in response to a worker petition received on September 25, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing sewing machine needles and knitting machine needles at the Torrington Company, Excelsior Plant, Torrington, Connecticut (TA-W-6272). The investigation was expanded to include workers and former workers producing knitting machine needles at the Torrington Company, Piedmont-Oconee Needle Plant, Walhalla, South Carolina (TA-W-6272-A). It is concluded that all of the requirements have been met.

U.S. imports of sewing machine needles increased relative to U.S. production in January-September 1979 compared to the same period in 1978. U.S. imports of knitting machine needles increased relative to U.S. production in January-September 1979 compared to the like period in 1978.

Imports of sewing machine needles by the Torrington Company increased relative to company production in January-September 1979 compared to the same period in 1978. Imports of knitting machine needles by the Torrington Company increased relative to company production in January-September 1979 compared to the like period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with sewing machine needles and knitting machine needles produced at the Excelsior Plant and at the Piedmont-Oconee Needle Plant of the Torrington Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Torrington Company, Excelsior Plant, Torrington, Connecticut (TA-W-6272) and all workers of the Torrington Company, Piedmont-Oconee Needle Plant, Walhalla, South Carolina (TA-W-6272-A) who became totally or partially separated from employment on or after September 22, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3132 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6321]

U.S. Steel Corp., Fairless Works; Fairless Hills, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 25, 1979 which was filed by the United Steelworkers of America Local 5030 on behalf of workers and former workers producing carbon steel pipe at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania. The investigation revealed that the petition was intended to cover workers producing welded carbon steel pipe and tubing. It is concluded that all of the requirements have been met.

All employees of the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania engaged in employment related to the production of pipe and tubing who became totally or partially separated from employment on or after November 15, 1975 and on or before April 4, 1976 were previously certified eligible to apply for adjustment assistance on August 12, 1977 (TA-W-1437).

Imports of welded carbon steel pipe and tubing increased absolutely in 1978 compared to 1977 and continued to increase in the first three quarters of 1979 compared to the like 1978 period.

The Department of Labor conducted a survey of some of the customers of pipe and tubing of the Fairless Works. Several of the respondents reported reduced purchases of pipe and tubing from the Fairless Works and increased purchases from foreign sources in the first ten months of 1979 compared to the like 1978 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with welded carbon steel pipe and tubing produced at the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Fairless Works of the U.S. Steel Corporation in Fairless Hills, Pennsylvania engaged in employment related to the production of carbon steel pipe and tubing who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3133 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6650]

U.S. Steel Corp., American Bridge Division, Shiffler Plant, Pittsburgh, Pa.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 20, 1979 in response to a worker petition received on December 17, 1979 which was filed on behalf of workers and former workers producing structural steel sizes and shapes at the U.S. Steel

Corporation, American Bridge Division, Shiffler Plant, Pittsburgh, Pennsylvania.

In a letter, the petitioner requested withdrawal of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 3134 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6419]

Wheeling-Pittsburgh Steel Corp., Allenport, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 16, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing seamless steel tubing at the Allenport, Pennsylvania plant oft he Wheeling-Pittsburgh Steel Corporation. The investigation revealed that the plant also produces hot and cold rolled sheet. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of seamless steel tubing declined absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the same period in 1978.

A Department of Labor survey revealed that the customers which decreased purchases from the Allenport plant and incrased purchases of imported seamless steel tubing represented an insignificant proportion of the firm's decline in sales.

Conclusion

After careful review, I determine that all workers of the Allenport, Pennsylvania plant of the Wheeling-Pittsburgh Steel Corporation engaged in employment related to the production of seamless steel tubing are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3135 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6439]

Allied Chemical Corp. Harewood Mine and Preparation Plant, Montgomery, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at the Harewood Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Montgomery, W. Va.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage or processing, imports of both coke and metallurgical coal can be considered in determining import injury to workers producing metallurgical coal at Allied Chemical's Harewood Mine and Preparation Plant.

U.S imports of metallurgical coal decreased absolutely and relative to domestic production in 1978 compared to 1977 and in January–September 1979 compared to January–September 1978. U.S. imports of coke decreased absolutely and relative to domestic production in January–September 1979 compared to the same period of 1978.

Evidence developed during the course of the investigation revealed that none of the customers of Allied Chemical's Harewood mine purchased imported metallurgical coal and only one customer purchased imported coke. That customer represented an insignificant proportion of the mine's sales in 1977 and 1978 and has not purchased coal from Harewood since April 1978, one year before layoffs at the mine and preparation plant took place.

A secondary survey of Allied Chemical's coke plant customers was conducted. None of Allied's customers increased their reliance on imported coke in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of the Harewood Mine and Preparation Plant of Allied Chemical Corporation's Semet-Solvay Division, Montgomery, W. Va. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 25th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3443 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6511]

Angie's Dress Shop, Inc., East Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at Angie Dress Shop, East Newark, N.J.

The investigation revealed that the name of the firm is Angie's Dress Shop, Incorporated and that it also produces choir robes and ministerial robes. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturers for which Angie's Dress Shop, Incorporated produced women's dresses did not purchase imported dresses and did not use foreign contractors.

Declines in production of women's dresses at Angie Dress Company, Incorporated account for the total production declines at the firm in 1978 compared with 1977 and in the first 3 quarters of 1979 compared with the same period in 1978. The manufacturers for which Angie's Dress Shop produced dresses were surveyed regarding their purchases and production of dresses. None of the manufacturers used foreign contractors or purchased imported dresses. Sales of dresses by each of the manufacturers were increasing during the second half of 1978. Angie's Dress Shop reduced its production of dresses and began production of choir robes, ministerial robes and other religious garements in the third quarter of 1978.

Conclusion

After careful review, I determine that all workers of Angie's Dress Shop, Incorporated, East Newark, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 3444 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6410]

Bethlehem Steel Corp., Vernon, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 16, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners, reinforcing bars, wire and wire products, carbon steel bars, alloy bars and structural shapes at the Vernon, Calif. plant of Bethlehem Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that except in the case of workers producing wire and wire products, employment declines at the Vernon plant were temporary and attributable to normal business fluctuations.

Employment at the Vernon plant increased in 1978 compared to 1977 and in the first 11 months of 1979 compared to the first 11 months of 1978. Employment increased in every quarter of 1978 and in each of the first three quarters of 1979 when compared to the like quarter of the previous year.

The wire mill at the Vernon plant was closed in December 1978. Workers producing wire and wire products at the Vernon plant were certified eligible to apply for adjustment assistance on August 19, 1977; that certification expired on August 19, 1979 (see TA-W-1498). All workers separated from the Vernon plant as a result of the closure of the wire mill would thus have been covered under that certification.

Production of reinforcing bars, alloy bars and industrial fasteners increased or remained stable in January—November 1979 compared to the same period in 1978. These products accounted for nearly 100 percent of the Vernon plant's 1979 output.

Conclusion

After careful review, I determine that all workers of the Vernon, Calif. plant of Bethlehem Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 20th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3446 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6455]

Bodin Apparel, Inc., Miami, Fla.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 21, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, pants, blazers, tenniswear and knitted cloth at Bodin Apparel, Incorporated, Miami, FL. The investigation revealed that the plant produces women's coordinated sportswear which includes pants, skirts, blouses, dresses, blazers and sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's skirts; women's, misses' and children's blouses and shirts; women's, misses' and children's coats and jackets; and women's misses' and children's dresses increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 1977 to 1978.

U.S. imports of women's misses' and children's slacks and shorts decreased both absolutely and relative to domestic production from 1977 to 1978 and in the January–September period of 1979 compared to the same period in 1978.

The Department conducted both a random sample survey of the customers of Bodin Apparel and a survey of major customers of Bodin Apparel. The random sample survey revealed that customers' imports of women's sportswear increased absolutely and

satisfied a larger percentage of total customer demand in the first eleven months of 1979 compared to the like period in 1978. The survey conducted with major customers revealed that, in aggregate, major customers' purchases of imported women's sportswear increased absolutely and satisfied a larger percentage of total customer demand in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coordinated sportswear, which includes pants, skirts, blouses, dresses, blazers and sweaters, produced at Bodin Apparel, Incorported, Miami, Fla. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bodin Apparel, Incorporated, Miami, Florida who became totally or partially separated from employment on or after November 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, DC., this 25th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3447 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6542]

Cannon Corp., Milroy, Ind.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on December 6, 1979 in response to a worker petition received on December 3, 1979 which was filed on behalf of workers and former workers producing interior decorative trim parts for automobiles at Cannon Corporation, Milroy, Indiana. The plant also produces typewriter and copy machine parts, instruction plates for refrigerators, trailor markings and decals, and safety plates for microwave ovens. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Total company sales of typewriter and copy machine parts, instruction plates for refrigerators, trailor markings and decals, and safety plates for microwave ovens increased in 1978 as compared to 1977 and in the first eleven months of 1979 as compared to the first eleven months of 1978.

Total company sales of interior decorative trim for automobiles increased in 1978 as compared to 1977. Sales declined in the first eleven months of 1979 as compared to the first eleven months of 1978.

The Department of Labor conducted a survey with customers which purchased automotive trim parts from Cannon Corporation. Results indicated that none of the respondents purchased imported interior decorative trim parts for automobiles in 1977, 1978 or during the first eleven months of 1979.

Industry sources indicate that U.S. imports of interior decorative trim parts for automobiles are negligible.

Conclusion

After careful review, I determine that all workers of Cannon Corporation, Milroy, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3448 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6293]

Champion International Corp., Champion Building Products Div., McCloud Sawmill, McCloud, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 30, 1979 in response to a worker petition received on October 23, 1979 which was filed by the International Woodworkers' Union on behalf of workers and former workers producing dimension lumber at Champion Building Products, McCloud, California. The investigation revealed that Champion International Corporation, Champion Building Products Division, McCloud Sawmill, McCloud, California produces softwood lumber. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of softwood lumber decreased absolutely during the first three quarters of 1979 compared with the same period in 1978.

The exhaustion of primary growth timber supplies available for use by the McCloud sawmill is the reason for the recent downturn in operations at, and eventual closure of, that facility.

Customers who were surveyed reported that, to the extent that they imported lumber, such lumber was not to be regarded as competitive with the softwood lumber purchased from the McCloud sawmill.

Conclusion

After careful review, I determine that all workers of Champion International Corporation, Champion Building Products Division, McCloud Sawmill, McCloud, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3449 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6595]

Courtney Garments, Inc., Hayti, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assitance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 11, 1979 in response to a worker petition received on November 20, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' wool coats and blazers at Courtney Garment Company, Incorporated, Hayti, Missouri. In January, 1978, this firm's name was changed to Courtney Garments, Incorporated. The investigation revealed that the plant produced women's coats and jackets. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Courtney Garments' parent corporation, Rice Coat and Suit Company, is transferring production from Courtney Garments to Courtney Apparel, Incorporated, a newly established corporation owned by Rice.

In November 1979, Courtney Garments, Incorporated was permanently closed, due to its lack of proximity to Rice Coat and Suit Company. Courtney Apparel will perform the coat production previously done by Courtney Garments and will utilize the production equipment from the Courtney Garments' plant.

To compensate for the closing of Courtney Garments, there was increased production of coats by Rice in the fourth quarter of 1979 compared to the fourth quarter of 1978, a period that normally reflects a seasonally low level of production. Courtney Apparel is scheduled to open in April, 1980 to coincide with the peak season of production.

Total company sales by Rice Coat and Suit Company was constant in 1978 compared to 1977 and increased in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of Courtney Garments, Incorporated, Hayti, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3450 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6656 & 6656A]

Daber Inc., Chesapeake, Va., Norcar Inc., Woodland, N.C.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 26, 1979 in response to a worker petition received on December 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts at Daber Incorporated, Chesapeake, Virginia. The investigation was expanded to include Daber's wholly owned subsidiary—Norcar Incorporated, Woodland, North Carolina. It is concluced that all of the requirements have been met.

U.S. imports of men's and boys' woven sport shirts increased both absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in January–September 1979 compared to the same period of 1978. U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased both absolutely and relative to domestic production in 1978 compared to 1977.

Company imports of men's sport shirts increased in 1978 compared to 1977 and in 1979 compared to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Daber Incorporated, Chesapeake, Virginia and Norcar Incorporated, Woodland, North Carolina contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Daber Incorporated, Chesapeake, Virginia and Norcar Incorporated, Woodland, North Carolina who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3451 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6517]

Dickerson Sportswear, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses and sportswear at Dickerson Sportswear, Incorporated, Newark, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of women's dresses, suits and other sportswear at Dickerson Sportswear, Incorporated increased in 1978 compared with 1977, in the first 11 months of 1979 compared with the same period in 1978, and in the second and third quarters of 1979 compared with the same quarters in 1978. Production was lower in the first quarter of 1979 than in the first quarter of 1978.

The only manufacturer for which Dickerson Sportswear performed less contract work in that quarter did not used foreign contractors or purchase imported women's sportswear. That manufacturer increased its total domestic contract work in the first 11 months of 1979 compared with the same 1978 period, and experienced increased sales.

Conclusion

After careful review, I determine that all workers of Dickerson Sportswear, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3452 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6518]

Diolinda Sportswear, Inc., Newark, N.J., Certification 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 aply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garments Workers' Union on behalf of workers and former workers producing ladies' blouses at Diolinda Sportswear, Incorporated, Newark, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's blouses and shirts increased in 1978 compared with 1977, both absolutely and relative to domestic production.

Manufacturers for which Diolinda Sportswear performs contract work were surveyed regarding their purchases of women's shirts and blouses. One of the manufacturers reduced its work with Diolinda Sportswear in the first 3 quarters of 1979 compared with the same period in 1978, and began purchasing imported blouses in 1979. Another manufacturer which also reduced its work with Diolinda Sportswear in the first 3 quarters of 1979 compared with the same 1978 period reduced its total domestic contract work for women's blouses and experienced a decrease in its sales. Customers of this manufacturer increased their purchases of imported women's blouses in the first 3 quarters of 1979 compared with the same 1978 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's blouses produced at Diolinda Sportswear, Incorporated, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Diolinda Sportswear, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-3453 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6667]

D'Leo Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 14, 1979 which was filed on behalf of workers and former workers producing women's coats at D'Leo Fashions, Incorporated, Hoboken, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in the January–September period of 1979 compared with the same period of 1978.

D'Leo Fashions, Incorporated is a garment contractor that began producing women's outer coats in May 1978. Production is seasonal for D'Leo Fashions, lasting from May to November of a given year. Sales by D'Leo Fashions increased in the 1979 season compared with the 1978 season. Seasonal layoffs recurred October 26, 1979.

Conclusion

After careful review, I determine that all workers of D'Leo Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 3454 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6529]

Donora Sportswear Co., Inc., Donora, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to a worker petition received on November 28, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's outerwear at Donora Sportswear Company, Incorporated, Donora, Pennsylvania. The investigation revealed that the plant also produces women's raincoats. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Donora Sportswear produces men's outercoats and women's raincoats. Production of all garments at Donora Sportswear increased in 1979 compared with 1978. Production increased in December 1978 compared with December 1977 and compared with November 1978. Production increased in each quarter of 1979 compared with the same quarter of 1978. Sales and production are equivalent as Donora Sportswear produces only to order.

Conclusion

After careful review, I determine that all workers of Donora Sportswear Company, Incorporated, Donora, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3455 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6443]

Empire Button Manufacturing Co., Inc., Union City, N.J.; Certification 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 asistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 12, 1979 which was filed by the International ladies' Garment Workers' Union on behalf of workers and former workers producing buttons at Empire Button Manufacturing Company, Inc., Union City, New Jersey. The investigation revealed that the company maintained a retail outlet, Polly Button, in New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of buttons increased absolutely in 1978 compared to 1977 and increased in the first three quarters of 1979 compared to the first three quarters of 1978.

A survey of customers who purchased buttons produced by Empire Button Manufacturing Company, Inc. revealed that some customers decreased purchases from Empire Button and increased purchases of imported buttons in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with butttons produced at Empire Button Manufacturing Company, Inc., Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Empire Button Manufacturing Company, Inc., Union City, New Jersey engaged in employment related to the production of buttons who became totally or partially separated from employment on or after November 8, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic research.

[FR Doc. 80-3456 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6563]

Evenspun Yarn Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 3, 1979 which was filed on behalf of workers and former workers producing raw spun yarn at Evenspun Yarn Incorporated, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That 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.

Imports of non-cellulosic yarn, and not imports of sweaters, must be considered in determining import injury to workers producing non-cellulosic yarn at Evenspun Yarn Incorporated, Philadelphia, Pennsylvania.

U.S. imports of non-cellulosic yarn decreased absolutely in the January–September period of 1979 compared with the same period of 1978.

A Departmental survey of customers of Evenspun Yarn Incorporated revealed that customers either did not import yarn or decreased purchases of imported yarn during the January–November period of 1979 compared with the same period of 1978.

Conclusion

After careful review, I determine that all workers of Evenspun Yarn Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3457 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6504]

Felicia Frocks, Inc., Newark, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing raw spun yarn at Felicia Frocks, Newark New Jersey. The investigation revealed that the name of the firm is Felicia Frocks, Incorporated, and that it produces women's dresses, skirts, blouses and jackets. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased in 1978 compared with 1977, both absolutely and relative to domestic production.

U.S. imports of women's, misses', and children's skirts, blouses and shirts, coats and jackets increased in 1978 compared with 1977, both absolutely and relative to domestic production.

Felicia Frocks, Incorporated produced a variety of women's wear for a number of manufacturers in 1977, 1978 and 1979. Several manufacturers, accounting for most of the production at Felicia Frocks, were surveyed regarding their contract work for women's wear with foreign and domestic sources. Respondents indicated that they reduced contract work for Felicia Frocks and reduced total domestic contract work in the first 11 months of 1979 compared with the same period in 1978, and increased contract work with foreign sources in the same period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, skirts and blouses produced at Felicia Frocks, Incorporated, Newark, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Felicia Frocks, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3458 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6505]

Gasby Fashions, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979, in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses, skirts and pants at Gasby Fashions, Incorporated, Newark, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturers providing most of the work to Gasby Fashions, Incorporated have not used foreign contractors and have not purchased imported women's sportswear. The manufacturers experienced an increase in their total sales of blouses, skirts, pants and other sportswear in the first 11 months of 1979 compared to the same period of 1978, and increased their total work with domestic contractors.

Conclusion

After careful review, I determine that all workers of Gasby Fashions, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3459 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6414]

Irving Greenberg, Inc., New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 21, 1979 in response to a worker petition received on November 14, 1979 which was filed on behalf of workers and former workers producing men's trousers at Irving Greenberg, Incorporated, New York, New York. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's, and boys' dress and sport trousers and shorts declined in quantity in January-September period of 1979 compared to January–September 1978.

A survey conducted by the Department revealed that most customers surveyed who reduced purchases from Irving Greenberg, Incorporated in 1978 and 1979 did not purchase imported men's trousers during the same period. Customers surveyed who increased import purchases in 1978 and 1979, while decreasing purchases from Irving Greenberg, Incorporated during the same period, accounted for an insignificant percent of the total sales

decline experienced by Irving Greenberg during this period.

Conclusion

After careful review, I determine that all workers of Irving Greenberg, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3460 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6457]

Giamo, Inc., Miami, Fla.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 21, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's blouses, pants, blazers, tenniswear and knitted cloth at Giamo, Incorporated, Miami, Florida. The investigation revealed that the plant produces ladies' shorts, tops, jackets, warm-up suits and tennis dresses. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's blouses and shirts; women's, misses' and children's slacks and shorts; women's, misses' and children's coats and jackets; and women's, misses' and children's dresses decreased in the January-September period of 1979 compared to the same period in 1978.

The Department conducted a random sample survey of Giamo's customers. The survey revealed that customers which decreased purchases from Giamo did not purchase imported ladies' tennis or active sportswear which includes shorts, tops, jackets, warm-up suits and tennis dresses, in the January-November period of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Giamo, Incorporated, Miami, Florida are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3461 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6490]

Gingert Laces, Inc., Haledon, N.J.; Certification 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 to Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing knitted lace scarves at Gingert Laces, Incorporated, Haledon, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of handkerchiefs and scarves remained constant in 1978 compared to 1977 and were greater in 1978 than the average of the previous four years.

The Department conduced a survey of Gingert Laces, Incorporated's customers for their purchases of knitted lace scarves. One manufacturer, that had decreasing sales did not import. Retail customers of this manufacturer were surveyed. Some of these firms indicated they had increased purchases of imported knitted lace scarves relative to their purchases of domestic knitted lace scarves.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with knitted lace scarves produced at Gingert Laces, Incorporated, Haledon, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gingert Laces, Incorporated, Haledon, New Jersey who became totally or partially separated from employment on or after January 13, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3462 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6465, 6466]

Hyde Athletic Industries, Inc., Kutztown, Pa., Macungie, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing athletic shoes at the Kutztown, Pennsylvania (TA-W-6465) and Macungie, Pennsylvania (TA-W-6466) plants of Hyde Athletic Industries. It is concluded that all of the requirements have been met.

U.S. imports of athletic footwear increased as a percentage of domestic production in the January-September period of 1979, compared with the same period of the previous year.

The Department of Labor conducted a survey of customers which purchased bowling shoes, cleated athletic shoes and running shoes from Hyde Athletic Industries. Several of the customers

which purchased bowling shoes, many of the customers which purchased cleated athletic shoes, and some of the customers which purchased running shoes decreased such purchases and increased purchases of imported athletic shoes in the January–November period of 1979, compared with the same period of the previous year.

Company imports of running shoes and running shoe uppers increased in the August–December period of 1979, compared with the same period of the previous year.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with bowling shoes and cleated athletic shoes produced at the Kutztown, Pennsylvania plant of Hyde Athletic Industries and with running shoes produced at the Macungie, Pennsylvania plant of Hyde Athletic Industries contributed importantly to the decline in sales or production and to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at the Kutztown, Pennsylvania plant of Hyde Athletic Industries who became totally or partially separated from employment on or after February 1, 1979, and all workers at the Macungie, Pennsylvania plant of Hyde Athletic Industries who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3463 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6467]

Indian Coal Land Co., Beckley, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at Indian Coal Land Company, Beckley, West Virginia. The investigation revealed that Indian Coal Land Company is headquartered in Beckley, West Virginia and all of its mines are located in Fayette County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the customers of Indian Coal Land Company. Respondents to the survey indicated that in 1977, 1978, and 1979 they did not purchase imported metallurgical coal or coke. Most respondents indicated that they increased purchases of metallurgical coal from domestic sources in 1979 compared with 1978. The one customer which decreased purchases of metallurgical coal from domestic sources reported that all coal was sold for export.

Conclusion

After careful review, I determine that all workers of Indian Coal Land Company, Beckley, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3464 Filed 1-31-80; 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 February 11, 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 February 11, 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 28th day of January 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Banj-O/Mfg. (ACTWU)	Scranton, Pa	1/23/80	1/14/80	TA-W-6,853	Men's and boy's suits, sportcoats, vests and outerwear.
Cappellari, Inc. (company)	Summersville, W. Va	1/23/80	11/26/79	TA-W-6,854	Metallurgical coal.
Car-Fi International, Inc. (company)	Burbank, Calif	1/23/80	1/15/80	TA-W-6,855	Amplifiers and graphic equalizers as components for automobile stereos.
Chrysler Corp., Export/Import Division (workers).	Brownstown, Mich	1/18/80	1/13/80	TA-W-6,856	Automobile parts—exporting.
Deansgate, Inc. (ACTWU)	New Orleans, La	1/23/80	1/17/80	TA-W-6,857	Men's suits, pants, and coats, and ladies' jackets, skirts, and pants.
Dick Green Chrysler-Plymouth, Inc.—East (workers).	Detroit, Mich	1/23/80	1/14/80	TA-W-6,858	Sales and service of Chrysler Corp. cars, replacement part sales.
Everlock Detroit, Inc. (workers)	Sterling Heights, Mich	1/18/80	1/14/80	TA-W-6,859	Threaded industrial fasteners.
Federal Screw Works (UAW)	Detroit, Mich	1/23/80	1/17/80	TA-W-6,860	Bolts, steel for nuts, nuts.
Firestone Tire & Rubber Co. Area Plant (URW).	Memphis, Tenn	1/23/80	1/15/80	TA-W-6,861	Passenger tires.
General Industries, Electronics Co. (workers)	Forrest City, Ark	1/23/80	1/9/80	TA-W-6,862	Fractional horsepower electric motors.
K & R Handbags, Inc. (International Leather Goods Union).	Poughkeepsie, N.Y	1/23/80	1/18/80	TA-W-6,863	Ladies' handbags.
Ken Snyder, Inc. (company)	Detroit, Mich	1/23/80	1/14/80	TA-W-6,864	Sales of used cars.
Ogden Food Service (workers)	Warren, Mich	1/23/80	1/21/80	TA-W-6,865	Industrial food service at Chrysler Warren Truck plant.
St. Joe Lead (teamsters)	Herculaneum, Mo	1/23/80	1/16/80	TA-W-6,866	Lead and lead alloys.
Textile Prints Corp. (workers)	Branford, Conn	1/23/80	1/15/80	TA-W-6,867	Commission textile printer.
Uniroyal, Inc. (company attorney)	Detroit, Mich	1/25/80	1/23/80	TA-W-6,868	Bias and radial tires.

[FR Doc. 80-3445 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W -6444 and -6448]

Itmann Coal Co., Mine No. 1, Mine No. 2, Mine No. 3, Mine No. 4, Preparation Plant, Wyoming County, W. Va.; Negative 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 the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on October 29, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at the Mine No. 1 (TA-W-6444), Mine No. 2 (TA-W-6445), Mine No. 3 (TA-W-6446), Mine No. 4 (TA-W-6447) and Preparation Plant (TA-W-6448) of the Itmann Coal Company, Wyoming County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey revealed that neither of Itmann's domestic customers purchased any imported metallurgical coal in 1978 or 1979. One of these customers increased and the other decreased their purchases of imported coke in 1979 compared to 1978. The one that increased purchases of imported coke, however, had a large increase in its purchases of domestic coke that decreased its relative reliance on imported coke in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of the Mine No. 1, Mine No. 2, Mine No. 3 and Mine No. 4 and Preparation Plant of the Itmann Coal Company, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3465 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6492]

Jones & Laughlin Steel Corp., Louisville, Ohio Plant, Louisville, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 27, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel in sheets and coils at the Louisville, Ohio plant of the Jones & Laughlin Steel Corporation. The investigation revealed that the plant primarily produces stainless steel hot and cold rolled sheet and strip. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Employment of production workers at the Louisville, Ohio plant remained stable in 1978 compared to 1977. Plant sales of stainless steel products increased in 1978 compared to 1977, and in January–November 1979 compared to the same period in 1978.

Imports of stainless steel hot and cold rolled sheet and strip declined both absolutely and relative to domestic production in the first three quarters of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of the Louisville, Ohio plant of the Jones & Laughlin Steel Corporation are denied eligibility to

apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-3466 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6469]

Judson Steel Corp., Northern Division, Vancouver, Wash.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 23, 1979 which was filed on behalf of workers and former workers engaged in fabricating and installing reinforcing steel at the Judson Steel Corporation, Northern Division, Vancouver, Washington. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the Northern Division of the Judson Steel Corporation fabricates and installs reinforcing steel as a subcontractor in construction projects. Imports of fabricated reinforcing steel are negligible. There is no evidence that the Northern Division lost any bids to foreign fabricators.

Conclusion

After careful review, I determine that all workers of Judson Steel Corporation, Northern Division, Vancouver, Washington are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3467 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6522]

Kanner Dress Co., Inc., Elizabeth, N.J.; Certification Regarding Elibility 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 elibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 3, 1979 in response to a worker petition received on November 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Kanner Dress Company, Incorporated, Elizabeth, New Jersey. It is concluded that all of the requirements have been met.

Imports of women's, misses' and children's dresses, skirts, coats, suits, jackets, and blouses each increased absolutely and relative to domestic production in 1978 compared to 1977.

Kanner Dress Company, Incorporated produces a variety of women's apparel, including dresses, skirts, blazers, suits and blouses.

Kanner Dress Company, Incorporated imports a variety of women's apparel competitive with the items produced at the Elizabeth, New Jersey plant. Imports increased in 1978 compared to 1977 and in the first eleven months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses, skirts, blazers, suits and blouses produced at Kanner Dress Company, Incorporated, Elizabeth, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kanner Dress Company, Incorporated, Elizabeth, New Jersey who became totally or partially separated from employment on or after November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3469 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6533 and TA-W-6535]

K-W Equipment Rental Co., Inc., Buffalo, N.Y., and Kulp-Waco Corp., Buffalo, N.Y.; Negative 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 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 group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 in response to worker petitions received on November 20, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers of K-W Equipment Rental (TA-W-6533) and Kulp-Waco (TA-W-6535) engaged in the rental of tractors, trailers, straight and fork trucks to Bethlehem Steel Corporation. The investigation revealed that the correct names of the firms are K-W Equipment Rental Company, Inc. and Kulp-Waco Corporation. Both firms are owned by Integrated Transportation, Inc., a holding company.

K-W Equipment Rental Company, Inc., a leasing company, is engaged in providing the service of renting fork trucks and equipment to independent users. Kulp-Waco Corporation is engaged in providing the service of transporting equipment and in the rental of tractors and trailers to several steel companies.

Thus, workers of K-W Equipment Rental Co., Inc., and Kulp-Waco Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for

their services from a parent firm, a firm otherwise related to K–W Equipment Rental Co., Inc., and Kulp-Waco Corporation by ownership, or a firm related by control. In any case, the reduction in demand for serives must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

K–W Equipment Rental Co., Inc., and Kulp-Waco Corporation and their customers have no controlling interest in one another. The subject firms are not corporately affiliated with any company other than Integrated Transportation, Inc.

All workers engaged in the rental of fork trucks and equipment at K-W Equipment Rental Company, Inc. are employed by that firm. All workers engaged in the transporting of equipment and in the rental of tractors and trailers at Kulp-Waco Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by K-W Equipment Rental Company, Inc. and by Kulp-Waco Corporation. All employee benefits are provided and maintained by K–W Equipment Rental Co., Inc., and by Kulp-Waco Corporation. Workers are not, at any time, under employment of supervision by customers of K-W Equipment Rental Company, Inc. or Kulp-Waco Corporation. Thus, K–W Equipment Rental Co., Inc., and Kulp-Waco Corporation, and not any of their customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of K–W Equipment Rental Co., Inc., Buffalo, New York and Kulp-Waco Corporation, Buffalo, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3468 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6450]

McDonnell Douglas Corp., McDonnell Aircraft Co. Division, St. Louis, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 27, 1979 in response to a worker petition received on November 14, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing F–15 aircraft doors at the McDonnell Douglas Aircraft Company, St. Louis, Missouri. The investigation revealed that the correct name of the subject firm is the McDonnell Aircraft Company, which is a division of the McDonnell Douglas Corporation. The investigation further revealed that McDonnell Douglas produces the F–15 aircraft. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that company imports do not account for a significant proportion of the loss of work in the affected departments of McDonnell Aircraft.

The McDonnell Aircraft Company produces the F–15 aircraft. Under an offset agreement, some of the avionics and landing gear doors for the F–15 are produced by foreign subcontractors. The production of avionics and landing gear doors for the F–15 at McDonnell Aircraft in St. Louis does not constitute a significant proportion of the work performed in the affected departments; nor does the foreign production of these components account for a significant proportion of the loss of work in these departments.

Loss of work at McDonnell Aircraft Company in 1979 is predominately attributable to a decreased rate of delivery of the F–15 aircraft to the U.S. Air Force in 1979 compared with 1978, and to the cessation of production in 1979 of the F–4 aircraft which was being produced for foreign customers. The U.S. Air Force was forced by budgetary constraints to reduce the delivery rate of the F–15 aircraft, but this rate reduction will not reduce the total orders for the F–15. The U.S. Air Force has not purchased any substitute aircraft and does not purchase imported fighter aircraft.

Conclusion

After careful review, I determine that all workers of the McDonnell Aircraft Company Division of McDonnell Douglas Corporation, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3470 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6314]

M & M Valley Sportswear, Holsopple, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 30, 1979 which was filed on behalf of workers and former workers producing women's and children's outerwear and sportswear at M and M Valley Sportswear, Holsopple, Pennsylvania. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's slacks and shorts, which include children's snow pants, decreased in January–September 1979 compared to the same period of 1978. U.S. imports of women's misses' and children's coats and jackets decreased in January–September 1979 compared to the same period of 1978. U.S. imports of women's, misses', and children's dresses decreased during January–September 1979 compared to the same period of 1978.

A survey of the manufacturer for which M and M Valley Sportswear performed most of its contract work indicated that this manufacturer did not purchase imports or use foreign contractors during 1978 or during January–September 1979.

A secondary survey of the customers of M and M Valley's primary manufacturer was conducted. Most of the surveyed customers did not increase purchases of imports. Customers that did increase imports increased purchases from other domestic sources in significantly greater quantities.

Conclusion

After careful review, I determine that all workers of M and M Valley Sportswear, Holsopple, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3471 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6495]

Pretty Bags, Inc., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 30, 1979 in response to a worker petition received on November 26, 1979 which was filed on behalf of workers and former workers producing ladies' handbags at Pretty Bags, Incorporated, New York, New York. It is concluded that all of the rquirements have been met.

U.S. imports of handbags increased both absolutely and relative to domestic production in 1978 compared to 1977.

The Department of Labor surveyed the customers of Pretty Bags, Incorporated. The survey results revealed that customers, which represented a substantial portion of Pretty Bags' sales, reduced their purchases from Pretty Bags in 1979 compared to 1978. These customers also increased their purchases of imported handbags in the same time period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at Pretty Bags, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Pretty Bags, Incorporated, New York, New York who became totally or partially separated from employment on or after November 21, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3472 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6470]

Max Rubin Industries, Baltimore, Md.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 28, 1979 in response to a worker petition received on November 27, 1979 which was filed on behalf of workers and former workers producing men's clothing, suits and sport coats, at Max Rubin Industries, Baltimore, Maryland. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sport coats increased absolutely and relative to domestic production in 1978 compared with 1977.

U.S. imports of men's and boys' tailored suits were greater absolutely and relative to domestic production in 1978 than the average level of imports during the preceding four years.

The Department conducted a survey of Max Rubin Industries' customers for their purchases of imported suits and sport coats. Some survey respondents indicated they had decreased purchases from the subject firm and increased purchases of imported suits and sport coats during the period 1977 through 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's clothing, suits and sport coats, produced at Max Rubin Industries, Baltimore, Maryland, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Max Rubin Industries, Baltimore, Maryland who became totally or partially separated from employment on or after November 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3473 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6367]

W. Seitchik & Sons, Inc., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 13, 1979 in response to a worker petition received on November 3, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suits and sportcoats at W. Seitchik & Sons, Inc. Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That 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.

U.S. imports of men's and boys' tailored suits declined both absolutely and relative to domestic production in 1978 compared to 1977. U.S. imports of men's and boys' tailored suits, dress coats and sportcoats declined absolutely in January–September 1979 compared to the same period in 1978.

A Department of Labor survey revealed that customers who decreased purchases from W. Seitchik and Sons and increased purchases of imported men's suits and sportscoats represented an insignificant portion of the firm's sales.

Conclusion

After careful review, I determine that all workers of W. Seitchik & Sons, Inc., Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Adminstration and Planning.

[FR Doc. 80-3474 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Committee Working Group on Community and Labor Adjustment Assistance; Notice of Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. Appr. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor, and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Community and Labor Adjustment Assistance will meet at 2 p.m. on February 12, 1980, in room S4215A, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C.

Discussion will center around the adjustment response developed in addressing the recent major steel plant closings and the applicability of that response as a model for any future closings. Due to the scheduling conflicts of many participants, insufficient time was available to give 15 days advance notice to the Working Group meeting. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C., 20210, telephone (202) 523-6227; or Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2084.

Official records of the meeting will be available for public inspection at room S5315, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 28th day of January 1980.

Dean K. Clowes,

Deputy Under Secretary for International Affairs, U.S. Department of Labor.

[FR Doc. 80-3442 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6320]

United Merchants & Manufacturing, Inc., Cohama Riverdale Decorative Fabrics Division, New York, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 31, 1979 in response to a worker petition received on October 25, 1979 which was filed on behalf of workers and former workers producing decorative fabrics at United Merchants and Manufacturing, Inc., Cohama Decroative Fabrics Division, New York, New York. The investigation revealed that the Cohama Decorative Fabrics Division was merged with two other divisions of United Merchants and Manufacturing to form the Cohama Riverdale Decorative Fabrics Division in July 1979. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric have been 2.0 percent or less of domestic production from 1974–1978. Imports of finished fabric decreased in the first nine months of 1979 compared to the same period in 1978.

The Department surveyed customers of United Merchants concerning their purchases of finished fabric. Customers representing a significant portion of the subject firm's FY 1978 to FY 1979 sales decline did not increase purchases of imported finished fabric during the period under investigations. Those customers that did increase purchases of imports represented an insignificant portion of the firm's sales decline.

Conclusion

After careful review, I determine that all workers of United Merchants and Manufacturing, Inc., Cohama Riverdale Decorative Fabrics Division (formerly the Cohama Decorative Fabrics Division, the Seneca Fabrics Division and the Riverdale Fabrics Division) New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-3475 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6386]

United States Steel Corp., Homestead, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on November 15, 1979 in response to a worker petition received on October 25, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing finished slab, plate, structurals and forgings at the Homestead, Pennsylvania plant of the United States Steel

Corporation. The investigation revealed that the plant produces carbon steel plate, stainless steel plate, structurals, pilings, and forgings, and that slab is only an intermediate stage of production. In the following determination, at least one of the criteria has not been met for the products identified below.

With respect to workers producing structurals and stainless steel plate, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of structurals increased in 1978 compared to 1977. Sales and production of both structurals and stainless steel plate increased in January–October 1979 compared to the same period of 1978.

With respect to workers producing carbon steel plate, forgings and pilings, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of carbon steel plate and pilings both absolutely and relative to domestic shipments in January–September 1979 compared to the same period in 1978.

A Department of Labor survey revealed that customers of the Homestead plant did not increase their reliance on imported carbon steel plate or forgings. The survey failed to reveal any customer that decreased purchases from the plant and increased purchases of imported pilings.

Conclusion

After careful review, I determine that all workers of the Homestead, Pennsylvania plant of the United States Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3476 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6584]

United States Steel Corp., McKees Rocks, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 10, 1979 in response to a worker petition received on December 3, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing railroad axles at the McKees Rocks, Pa. plant ot the United States Steel Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of railroad axles increased in 1978 compared to 1977, and in January–November 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers producing railroad axles at the McKees Rocks, Pennsylvania plant of the U.S. Steel Corporation are denied eligibility to appy for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3477 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6539 & 6583]

United States Steel Corp., Pittsburg Works, Pittsburg, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on December 4, 1979 (TA–W–6539) and December 10, 1979 (TA–W–6583) in response to worker petitions received on November 28, 1979 (TA–W–6539) and December 10, 1979 (TA–W–6583) which were filed by the United Steelworkers of America on behalf of workers and former workers producing wire and wire products and rod (TA–W–6539) and galvanized sheet and pipe and tubing (TA–W–6583) at the Pittsburg Works of the U.S. Steel Corporation in Pittsburg, California. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A. Rods

Imports of carbon steel rod declined both absolutely and relative to domestic shipments in 1978 compared to 1977 and in the first three quarters of 1979 compared to the like 1978 period.

Plant sales of rods increased in 1978 compared to 1977 and continued to increase in the first eleven months of 1979 compared to the like 1978 period.

B. Pipe and Tubing

All employees of the Pittsburg Works producing pipe and tubing who became totally or partially separated from employment on or after November 15, 1975 and before August 26, 1979 were previously certified eligible to apply for adjustment assistance.

Plant sales and production of pipe and tubing increased in the first eleven months of 1979 compared to the like 1978 period.

C. Wire and Wire Products

Imports of carbon steel wire and wire products declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

Plant sales of wire and wire products increased in 1978 compared to 1977 and continued to increase in the first eleven months of 1979 compared to the like 1978 period.

D. Galvanized Sheet

All employees of the Pittsburg Works producing galvanized sheet who became totally or partially separated from employment on or after June 30, 1978 and before January 1, 1979 were previously certified eligible to apply for adjustment assistance.

Imports of galvanized sheet declined both absolutely and relative to domestic shipments in the first three quarters of 1979 compared to the like 1978 period.

Plant sales and production of galvanized sheet increased in the first eleven months of 1979 compared to the like 1978 period.

Conclusion

After careful review, I determine that all workers of the Pittsburg Works of the United States Steel Corporation in Pittsburg, California engaged in employment related to the production of rod, wire and wire products, galvanized sheet, and pipe and tubing are denied eligibility to apply for adjustment assistanse under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-3478 Filed 1-31-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Panel (New Music Performance and Chamber Music Sections); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (New Music Performance and Chamber Music Sections) to the National Council on the Arts will be held Feb. 25, 1980, 9:00 a.m.–5:30 p.m.; Feb. 26, 1980, 9:00 a.m.–5:30 p.m.; Feb. 27, 1980, 9:00 a.m.–5:30 p.m. Feb. 28, 1980, 9:00 a.m.–5:30 p.m.; Feb. 29, 1980, 9:00 a.m.–5:30 p.m.; Mar. 1, 1980, 9:00 a.m.–5:30 p.m.—in Room 1422, Feb. 25–Mar. 1, 1980, and in Room 1426 for a joint meeting of two sections, Feb. 28–Feb. 29, 1980, Columbia Plaza Office Building, 2401 E St., NW., Washington, D.C.

A portion of this meeting will be open to the public on Feb. 28, 1980, from 9:00 a.m.–12:00 a.m. for the discussion of Policy.

The remaining sessions of this meeting on Feb. 25, 9:00 a.m.–5:30 p.m.; Feb. 26, 9:00 a.m.–5:30 p.m.; Feb. 27, 9:00 a.m.–5:30 p.m.; Feb. 28, 12:00 a.m.–5:30 p.m.; Feb. 29, 9:00 a.m.–5:30 p.m.; and Mar. 1, 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subections (c)(4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 25, 1980.

[FR Doc. 80-3179 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Artists' Fellowships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Artists' Fellowships) to the National Council on the Arts will be held February 19, 1980, from 9:30 a.m.–6:00 p.m.; February 20, 1980, from 9:30 a.m.–6:00 p.m.; February 21, 1980, from 9:30 a.m.–6:00 p.m.; and February 22, 1980, from 9:30 a.m.–6:00 p.m., in Room 1115, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

January 25, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-3190 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Craftsmen's Fellowships); Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Craftsmen's Fellowships) to the National Council on the Arts will be held March 10, 1980, from 9:30 a.m.–5:30 p.m.; March 11, 1980, from 9:30 a.m.–5:30 p.m.; March 12, 1980, from 9:30 a.m.–5:30 p.m.; March 13, 1980, from 9:30 a.m.–5:30 p.m.; and March 14, 1980, from 9:30 a.m.–5:30 p.m.; Room 1115, Columbia Plaza Office Building, 2401 E St. N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determinations of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of secion 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

January 25, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80-3175 Filed 1-31-80; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Humanities Advisory Committee; Meeting

January 29, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the National Council on the

Humanities will be conducted at Washington, D.C. on February 21–22, 1980.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., Washington, D.C. Because the proposes meeting on February 21, 1980 and the afternoon session on February 22, 1980 will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

The morning session on February 22, 1980 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting

Reports

A. Introductory Remarks.
B. Program Review and Introduction of New Staff.
C. Chairman's Grants & Grants Departing from Council Recommendation.
D. Application Report.
E. Gifts and Matching Report.
F. FY 1980 Appropriations.
G. FY 1981 Appropriations Request.
H. Reauthorization.
I. Selected Project Evaluations.
J. Jefferson Lecture Arrangements.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-3438 Filed 1-31-80; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co. River Bend Station, Unit 1; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document originally appeared in the **Federal Register** for Friday, January 11, 1980. It is reprinted in this issue at the request of the agency.

Gulf States Utilities Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on October 26, 1979, information requested by the Attorney General for antitrust review as required by 10 CFR Part 50, Appendix L. This information adds Cajun Electric Power Cooperative, Inc. and Sam Rayburn G & T, Inc. as co-owners of the River Bend Station, Unit 1.

The information was filed by Gulf States Utilities Company in connection with their application for construction permits and operating licenses for the River Bend Station, Units 1 and 2. The site for this plant is located in West Feliciana Parish, Louisiana.

The original antitrust portion of the application was docketed on September 24, 1973, and Notice of Receipt of Application for Construction Permits and Operating Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the **Federal Register** on October 23, 1973 (38 FR 29245). The Notice of Hearing was published in the **Federal Register** on October 23, 1973 (38 FR 29243).

Copies of the above stated documents are available for public inspection at the Comission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana 70775.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Reactor Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Cajun Electric Power Cooperative, Inc. and Sam Rayburn G & T, Inc., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before March 10, 1980.

Dated at Bethesda, Maryland, this 26th day of December 1979.

For the Nuclear Regulatory Commission.

L. S. Rubenstein,

Acting Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 80-397 Filed 1-10-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-592 and STN 50-593]

Arizona Public Service Co., et al.; Withdrawal of Application for Construction Permits and Facility Licenses

On March 31, 1978, the Nuclear Regulatory Commission docketed an application submitted by Arizona Public Service Company on behalf of itself and Southern California Edison Company, El Paso Electric Company, San Diego Gas & Electric Company, Nevada Power Company, Department of Water and Power of the City of Los Angeles, City of Anaheim, City of Burbank, City of Glendale, City of Pasadena, and City of Riverside, California. This application, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, requested authorization to construct and operate two pressurized water reactors designated as Palo Verde Nuclear Generating Station, Units 4 and 5 located on a site in Maricopa County, Arizona.

Notice of receipt of this application was published in the **Federal Register** on May 8, 1978 (43 FR 19729). The related notice of hearing was also published in the **Federal Register** on May 8, 1978 (43 FR 19729).

On August 24, 1979, Arizona Public Service Company submitted to the Commission its notice of Withdrawal of Application. On September 27, 1979, the Atomic Safety and Licensing Board issued an order dismissing the proceedings.

Accordingly, the Commission considers the application submitted by Arizona Public Service Company to be withdrawn. Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. In addition, correspondence concerning this application will continue to be maintained for at least the next six months at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Bethesda, Maryland this 25th day of January, 1980.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 80-3424 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co., Big Rock Point Nuclear Plant; Hearing on Amendment of Facility Operating License

On July 23, 1979, the Nuclear Regulatory Commission published in the Federal Register a notice of a proposed issuance of an amendment to Faciltiy Operating License No. DPR-6 that had been issued to Consumers Power Company (the licensee) for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. 44 FR 43126. The proposed amendment would allow the addition of 3 racks with a close center-to-center spacing of spent fuel assemblies to the facility's spent fuel pool which would allow an increase in storage capacity from 193 to 441 fuel assemblies.

The notice provided that the licensee might file a request for a hearing and that any person whose interest may be affected by the proceeding might file a request for a hearing in the form of a petition for leave to intervene pursuant to 10 CFR 2.714 by August 22, 1979. By that date, petitions to intervene were received from 24 residents of communities surrounding the facility, John A. Leithauser on his own behalf and as attorney for Northwest Coalition, and John O'Neill, II. An Atomic Safety and Licensing Board (the Board) was designated to rule upon intervention petitions and requests for hearings, and to preside over the proceeding in the event that a hearing is ordered. The members of the Board are Dr. Oscar H. Paris, Mr. Frederick J. Shon and Mr. Herbert Grossman who will serve as Chairman of the Board.

On January 17, 1980, this Board granted the petitions of certain of the 24 residents (designated as "Christa-Maria") and of John O'Neill, II. As a result, a hearing to consider the proposed amendment to operating license will be held in Charlevoix County, Michigan at a time and place to be established.

Notwithstanding that limited appearance statements were heard at the special pre-hearing conference held on December 5, 1979, further statements will be heard at the hearing. Members of the public may request permission to make a limited appearance pursuant to § 2.715(a) of the Commission's rules of practice, 10 CFR Part 2. Persons desiring to make limited appearances are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A person making a limited appearance does not become a party but may state his position and raise questions which, if relevant, the Board may require be answered by the parties through evidence on the record. Limited appearances will be received at the time of the evidentiary hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board.

For further details with respect to this action, see the application for amendment dated June 26, 1979, and the supporting safety and environmental analyses submitted by the licensee's letter dated April 23, 1979, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Mich. 49720.

It is so ordered.

Dated at Bethesda, Maryland this 24th day of January, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 80-3429 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amedment No. 34 to Facility Operating License No. DPR-67 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications (TS) for operation of St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

This amendment deletes the fuel enrichment limit from TS 5.3.1 (Reactor Core/Fuel Assemblies) and adds a fuel enrichment limit to TS 5.6.1 (Fuel Storage/Criticality). This places the enrichment limit in the appropriate part of the TS.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 4, 1979, as supplemented December 12, 1979, (2) Amendment No. 34 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23rd day of January, 1980.

For The Nuclear Regulatory Commission

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-3430 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co., Maine Yankee Atomic Power Station; Postponement of Special Prehearing Conference

January 25, 1980.

The Atomic Safety and Licensing Board on January 4, 1980, issued an order convening a special prehearing conference in the above-identified proceeding on February 12, 1980, in Bethesda, Md. (45 FR 2439, January 11, 1980).

Petitioner Sensible Maine Power has requested that we postpone the special prehearing conference to a date beyond April 27, 1980. For good cause shown, the special prehearing conference will be rescheduled to a date as soon thereafter as practicable for all parties. A notice designating the time and place of the postponed special prehearing conference will be issued in the near future.

It is so ordered.

Dated at Bethesda, Maryland, this 25th of January 1980.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman.

[FR Doc. 80-3427 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-568 and STN 50-569]

New England Power Co.; Withdrawal of Application for Construction Permits and Facility Licenses

On September 8, 1976, the Nuclear Regulatory Commission docketed an application submitted by New England Power Company on behalf of itself and 30 other utilities. The application, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed an application to construct and operate two pressurized water reactors, designated as NEP-1 and NEP-2, on a site located in Washington County at Charlestown, Rhode Island.

Notice of receipt of this application was published in the **Federal Register** on October 12, 1976 (41 FR 44763). The related notice of hearing was also published in the **Federal Register** on October 12, 1976 (41 FR 44761).

On December 17, 1979, the applicants filed a motion to withdraw their application. On December 26, 1979, the Atomic Safety and Licensing Board issued an order granting the applicants' motion to withdraw their application.

Accordingly, the Commission considers the application submitted by the New England Power Company to be withdrawn. Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC. For historial purposes only, material will be retrained at the Unversity Library, University of Rhode Island, Government Publications Office, Kingston, R.I. 02881. This material may be viewed by interested members of the public. No new material will be forwarded to the University of Rhode Island Library.

Dated at Bethesda, Maryland, this 25th day of January 1980.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 80-3425 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. STN 50-580 and STN 50-581]

Ohio Edison Co., et al. (Erie Nuclear Power Plant, Units 1 and 2); Dismissal of Proceedings

On January 23, 1980, Ohio Edison Company, the Applicant for Erie Nuclear Plant, Units 1 and 2, announced the decision by the co-owners to cancel those units. The Applicant requested the Board to terminate any further proceedings on these dockets.

The proceeding on Erie is hereby dismissed.

It is so ordered.

Dated at Bethesda, Maryland this 28th day of January 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-3426 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

Petitions for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the December 31, 1979, quarterly report on petitions for rulemaking. The report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking.

A copy of this report, designated NRC Petitions for Rulemaking, December 31, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland this 24th day of January 1980.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80-3428 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Order Scheduling an Evidentiary Hearing

January 24, 1980.

There will be an evidentiary hearing commencing at 9:30 a.m., (local time) on February 26, 1980, in Conference Room 1140, U.S. Federal Building, 2800 Cottage Way, Sacramento, California.

The Commission has determined the following issues will be heard:

1. Whether the actions required by subparagraphs (a) through (e) of Section IV of the Commission's Order of May 7, 1979, (44 FR 27779), are necessary and sufficient to provide reasonable assurance that the facility will respond safetly to feedwater transients, pending completion of the long-term modifications set forth in Section II. A contention challenging the correctness of the NRC Staff's conclusion that the actions described in subparagraphs (a) through (e) have been completed satisfactorily will be considered to be within the scope of the hearing. However, the filing of such a contention shall not of itself stay operation of the plant.

2. Whether the licensee should be required to accomplish, as promptly as practicable, the long-term modifications set forth in Section II of the Order.

3. Whether these long-term modifications are sufficient to provide continued reasonable assurance that the facility will respond safely to feedwater transients.

4. The competency of the utility management.

The public is invited. The first two days, February 26 and 27, will be set aside for limited appearance statements. There will be an evening session on Tuesday, February 26, from 7:00 p.m. to 10:00 p.m. to hear limited appearance statements.

Oral statements will be limited to five (5) minutes each but written statements without limitation in length may be submitted.

It is so ordered.

Dated at Bethesda, Md., this 24th day of January 1980.

For the Atomic Safety and Licensing Board.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 80-3423 Filed 1-31-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Termination of ChoiceCare Health Plan's Participation in the FEHB Program; Correction

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: On January 4, 1980, the Office of Personnel Management (OPM) announced termination of participation by ChoiceCare Health Services, Inc., in

the Federal Employees Health Benefits (FFEHB) Program. This document corrects the effective date for employees' or annuitants' change from ChoiceCare to another health plan.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert C. Gettys, Chief, Comprehensive Plans, Compensation Group, 202–632–6127.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 8902, on January 4, 1980, OPM announced termination of participation by ChoiceCare Health Services, Inc., of Ft. Collins, Colorado, in the FEHB Program (FR Document 80–249 at 45 FR 1181). The summary of that document incorrectly indicated the effective date for employees' or annuitants' change to another health plan in that area to be "the first day of the first pay period beginning on or after January 1, 1980." This notice corrects that date to read as follows: "The effective date of the change will be January 1, 1980."

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

January 29, 1980.

[FR Doc. 80-3391 Filed 1-31-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

In the Matter of Central and South West Corp., 2700 One Main Place, Dallas, Texas 75250; Central Power and Light Co., P.O. Box 2121, Corpus Christi, Texas 78403; Southwestern Electric Power Co.; P.O. Box 21106, Shreveport, Louisiana 71156; Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102; West Texas Utilities Co.; P.O. Box 841, Abilene, Texas 79604; Central and South West Services, Inc., 2700 One Main Place, Dallas, Texas 75250.

Central and South West Corp. et al.; Proposal to Expand List of Banks from Which Short-Term Borrowings May Be Made and to Sell Commercial Paper Directly to Certain Institutions as an Alternative to the Sale of Bank Notes or Dealer-Placed Commercial Paper

[Release No. 21389; (70–6163); January 11, 1980]

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, and five of its wholly-owned subsidiaries, Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Central and South West Services, Inc. ("subsidiaries") have filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to said post-effective amendment to the application-declaration which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 30, 1978, October 27, 1978, March 29, 1979, May 9, 1979, June 13, 1979, July 19, 1979, July 31, 1979 and October 24, 1979 in this matter (HCAR Nos. 20608, 20749, 20978, 21041, 21097, 21150, 21166 and 21269) CSW and its subsidiaries were authorized to incur short-term borrowings through December 31, 1980 in a maximum aggregate collective amount of $200,000,000. The short-term borrowings are pursuant to a CSW System money pool under which CSW and its subsidiaries coordinate their short-term borrowings and make borrowings outside the money pool from banks and through the issuance of commercial paper. The money pool consists of funds from the following sources: (i) surplus funds of CSW: (ii) surplus funds of any of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper.

CSW administers the money pool by matching up, to the extent possible, short-term cash surplus and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, borrowings are made from outside the system. CSW is authorized to issue and sell its commercial paper to commercial paper dealers or borrow from banks to meet short-term borrowing needs which cannot be met by the money pool.

It is now proposed to change the list of banks from which CSW and the subsidiaries may borrow by adding First City National Bank of Houston, Houston, Texas, and to increase the aggregate amounts of lines of credit with certain presently authorized banks, as set forth below:

	Amount of presently authorized line	Amount of proposed line	Compensation basis
BANK			
Bankers Trust Co	$25,000,000	$25,000,000	Balances.[1]
First National Bank of Chicago	15,000,000	15,000,000	Balances.[1]
First National Bank in Dallas	6,500,000	6,500,000	$4,000,000 balances [1] and $2,500,000 fees.[2]
Irving Trust Co	5,000,000	10,000,000	Balances.[1]
Marine Midland Bank	5,000,000	10,000,000	Balances.[1]
Republic National Bank	5,000,000	5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[2]
Mercantile-Safe Deposit & Trust Co	5,000,000	5,000,000	Fees.[3]
Security Pacific National Bank	5,000,000	5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[3]
Citibank	5,000,000	5,000,000	Fees.[3]
Chemical Bank	5,000,000	5,000,000	Fees.[3]
First City National Bank of Houston	.....	5,000,000	$2,500,000 balances [1] and $2,500,000 fees.[4]
Bank of Delaware	4,500,000	4,500,000	Balances.[1]
First City Bank of Dallas	2,000,000	4,000,000	Balances.[1]
First National Bank of Denver	3,000,000	3,000,000	Balances.[1]
Harris Trust & Savings Bank	2,000,000	2,000,000	Balances.[1]
SERVICE AREA BANKS			
Central Power & Light Co. (23 local banks)	$39,939,000	$39,939,000	Balances.[1]
Public Service Co. of Oklahoma (2 local banks)	10,000,000	10,000,000	Balances.[1]
Southwestern Electric Power Co. (37 local banks)	24,215,000	26,458,000	Balances.[1]
West Texas Utilities (6 local banks)	11,875,000	11,875,000	Balances.[1]
Total	179,029,000	198,272,000	

[1] Balances maintained in support of lines of credit are generally nonsegregated working funds of the applicants and are not restricted as to withdrawal. These nonsegregated balances generally aggregate approximately 5% to 10% of the line of credit. Substantial usage under these lines of credit could result in increased compensating balance requirements.

[2] Line or designated portion thereof is supported by fee equal annually to 7% of principal amount times the prime rate.

[3] Line or designated portion thereof is supported by fee equal annually to ½ of 1% of principal amount.

[4] Line or designated portion thereof is supported by fee equal to ⅝ of 1% of principal amount.

In addition to the above, CSW and its subsidiaries have made arrangements for borrowings from funds managed by the trust departments of the following banks:

Bank	Amount of agreement	Compensation basis
*Texas Commerce Bank	$10,000,000	None.
Mercantile National Bank at Dallas.	5,000,000	None.
*Republic National Bank	5,000,000	None.
First City National Bank of Houston.	10,000,000	None.
First City Bank of Dallas	5,000,000	None.

*Agreements approved but not currently being used.

CSW also seeks authorization to sell commercial paper directly to certain approved financial institutions. Sale of commercial paper directly to such institutions would be undertaken only if the resulting cost of money was equal to or less than that available from dealer-placed commercial paper or bank borrowings. Direct sales of commercial paper would be made only to institutions on a list furnished in advance to the Commission. Terms for directly-placed notes would be indentical to those of dealer-placed notes.

The fees, commissions and expenses to be incurred in connection with the transactions proposed in the post-effective amendment are estimated at $150. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants 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 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-3170 Filed 1-31-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/02-0029]

Connecticut Capital Corp.; Granting of Application for Transfer of Control of Licensed Small Business Investment Company

On November 14, 1979, a notice was published in the **Federal Register** (44 FR 65689) stating that an Application had been filed with the Small Business Administration pursuant to Section 107.701 of SBA Regulations (13 CFR 107.701 (1979)), for the Transfer of Control of Connecticut Capital Corporation (Connecticut), a Connecticut corporation and a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), with its office presently located at 419 Whalley Avenue, New Haven, Connecticut 06511.

As mentioned in that notice, Connecticut's name is being changed to Asset Capital and Management Corporation, the principal office of which will be located at 608 Ferry Boulevard, Stratford, Connecticut 06497.

Interested parties were given until the close of business on November 29, 1979, to submit written comments on the Application of the SBA.

Notice is hereby given that no comments were received and having considered the Application and all other pertinent information, the SBA approved the Transfer of Control of Connecticut to Asset Capital and Management Corporation effective as of December 21, 1979.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies.)

Dated: January 24, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-3172 Filed 1-31-80; 8:45 am]

BILLING CODE 8025-01-M

Final SBA Procedures Implementing National Environmental Policy Act

AGENCY: Small Business Administration.

ACTION: Final SBA NEPA Procedures.

SUMMARY: The Small Business Administration is publishing its procedures to implement the National Environmental Policy Act, pursuant to Regulations issued by the Council on Environmental Quality (43 FR 55978; November 29, 1978). The procedures include provisions on necessary assessments by SBA of programs and actions as to significant environmental effect; possible preparation by SBA of environmental impact statements; and consideration in appropriate cases of alternatives to mitigate adverse environmental effects. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment.

EFFECTIVE DATE: February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Evelyn Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L St., N.W., Washington, D.C. 20416, (202) 653-6696.

SUPPLEMENTARY INFORMATION: The CEQ Regulations require each Federal Agency to adopt and publish procedures to implement such Regulations in accord with the National Environmental Policy Act and Executive Order 11991 (May 24, 1977). On July 31, 1979, SBA published (44 FR 45002) its proposed procedures on this matter in the **Federal Register** for public comment. No public comments were received.

Comment was received from CEQ recommending that appropriate reference to the pertinent provisions of its regulations be inserted at various places in the procedures. This has been done.

A comment was made by an SBA office that the language exclusion of most SBA procurement assistance actions from requirements under the procedures is not clear. Accordingly, the last two sentences were deleted from paragraph 7d to clarify that SBA would not prepare environmental assessments or environmental impact statements on procurements by other Government agencies.

In cases where an environmental assessment is necessary applicants for assistance from SBA may be requested to provide the assessment or information and analyses to enable SBA to prepare the assessment. The SBA Office of Financing has been designated to develop guidelines for such information.

Accordingly, the following Standard Operating Procedure is adopted.

Dated: December 18, 1979.

A. Vernon Weaver,

Administrator.

National Environmental Policy Act

Introduction

1. *Purpose.* To set forth Agency procedures in accordance with the National Environmental Policy Act.

2. *Personnel Concerned.* Technical personnel in F&I, MA, PA, MSB/COD and Administration.

3. *Distribution.* Standard.

4. *Originator.* Office of Financing.

Contents

Paragraph
1. General.
2. Authority.
3. General Responsibilities.
4. Central Office Responsibilities.
5. Field Office Responsibilities.
6. Applicability to SBA Actions.
7. Categorical Exclusions.

Appendix
1. Environmental Review Requirements.

Compliance With the National Environmental Policy Act

1. *General.* These procedures apply the National Environmental Policy Act (NEPA) to SBA programs and activities. They include the designation of officials who would act as focal points within the decisionmaking process, consideration and identification by SBA of the environmental effects and possible alternatives to mitigate adverse environmental impacts, and preparation and circulation of draft and final environmental impact statements to interested persons and agencies. Certain types of SBA actions are indicated as not ordinarily considered to significantly affect the quality of the environment. In all cases, however, where a proposed SBA action could potentially have a significant effect on the environment, an environmental assessment will be made and an environmental impact statement prepared when appropriate.

2. *Authority.* The National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91–190) and the regulations issued by the Council of Environmental Quality on November 28, 1978 (43 FR 55978–56007; revised 40 C.F.R. Parts 1500–1508) require each Federal Agency to describe and promulgate procedures which will carry out the requirements of NEPA.

NEPA authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment set forth in NEPA; and that procedures be developed to insure that environmental values are given appropriate consideration in decisionmaking along with economic and technical considerations. It also requires that Federal agencies include in recommendations or reports on proposals for legislation, and other Federal actions having individually or cumulatively a significant effect on the quality of the human environment, a statement on environmental considerations. Executive Order 11514, as amended by Executive Order 11991, further specifies that Federal agencies develop their policies, plans and programs so as to help meet national environmental goals, and comply with CEQ NEPA regulations, except as inconsistent with statutory requirements.

3. *General responsibilities.* The responsible SBA official (either in the Central Office or in a field office) will when necessary:

a. Assess the potential environmental impact of recommendations or favorable reports on proposals for (1) legislation significantly affecting the quality of the human environment ("legislative actions") and (2) all other SBA actions which individually or cumulatively significantly affect the quality of the human environment ("administrative actions") as early as possible and in all cases prior to agency decision.

b. Consult with other appropriate Federal, State and local agencies and with the public in making environmental assessments.

c. Identify the issues involved in specific environmental assessments or impact statements.

d. Undertake or provide for initial environmental assessments, when required, with initial technical, economic and other studies.

e. Prepare and circulate, where required, a draft environmental impact statement in time to accompany the proposal through the SBA review process for the action in question. (CEQ § 1502.9(a)).

f. Invite and consider the comments of other Federal agencies and the public. (CEQ § 1503.1–1503.4).

g. Prepare and circulate final environmental impact statements where required, taking into account the comments received. (CEQ § 1502.9(b)).

4. *Central office responsibilities.* a. The Administrator has designated Arthur E. Armstrong, Director, Office of Financing to develop guidelines and information to enable applicants for SBA financial assistance to provide environmental impact information early in the application process, and to be responsible for review of SBA NEPA compliance. This official shall also provide technical assistance to other SBA offices on such compliance. Particular attention will be given to consultation with Council for Environmental Quality (CEQ), the Environmental Protection Agency, and State and local environmental agencies. This official will be involved in the decision process for proposed major SBA program changes and for review of other Central Office actions having environmental effects. (CEQ § 1501.2(d)).

b. The official should be consulted as early in the development of the action as possible. This consultative role of the SBA official may also be necessary in Inter-Agency activities. For example, if the SBA is involved in the development phase of a construction project, the SBA should participate in the evaluation of environmental impact. If however, SBA's involvement begins only after environmental assessments are completed and accepted, then SBA will not require any additional environmental evaluation. The objective of the review will be to evaluate whether the environmental impact of the proposed action would be likely to be significant. If such impact is considered likely to be significant the evaluation would recommend the preparation of an environmental assessment, or if appropriate, an environmental impact statement. Such evaluations (and any resulting environmental assessments or environmental impact statements) shall accompany the proposal through existing agency review processes (CEQ § 1505.1). The Associate Deputy Administrator for Programs or his designee shall determine whether an environmental assessment or environmental impact statement is necessary on such Central Office actions. If an environmental assessment is determined to be necessary, the procedures of subparagraphs 5b and d below shall be followed to the extent applicable.

5. *Field office responsibilities.* a. The processing loan officer (L/O) will make the initial evaluation. If the loan is for a project which is categorically excluded by these procedures, then this should be so stated in the loan officer's report. If the project for which SBA financial assistance is sought is likely to have significant environmental impact, the L/O should refer the file to the district director for evaluation. Note that these reviews should be part of the initial screening process so that if an environmental assessment is deemed appropriate, it can be prepared during the early phase of processing.

b. If the district director finds that the financial assistance application is for a project that is not categorically excluded by these procedures, an environmental assessment shall be prepared on the proposal before any SBA approval actions are taken (CEQ § 1508.9). Applicants for assistance from SBA may be requested to provide: (1) an environmental assessment, or (2) analyses and information for use in preparing environmental assessments. SBA will provide guidelines to enable applicants for SBA financial assistance to submit any required environmental impact information early in the application process, to avoid delays in processing applications (CEQ § 1501.2(d)). However, evaluation of the environmental issues will be the responsibility of SBA. To the extent practicable, information on environmental effects should be obtained from environmental agencies and from the public if an environmental assessment is made.

c. Upon the receipt of an application for a surety bond guaranty, the reviewing officer shall make the determination whether the project involved is categorically excluded under these procedures. It should be noted that those projects which will improve the quality of the environment should be given the same evaluation as those which may affect the environment in a negative fashion.

d. As set forth in CEQ § 1508.9, environmental assessments, when required should identify reasonable alternative actions that will avoid or minimize adverse impacts and should include concise evaluations of both the long and short-range implications of the proposed actions. The environmental factors shall be considered along with the net economic, technical and other benefits of proposed actions, consistent

with other essential considerations of national policy, to restore environmental quality as well as to avoid or minimize undesirable consequences. The assessments shall include a determination as to whether an Environmental Impact Statement (EIS) is required. If a significant environmental impact is found to exist then an EIS will be prepared as set forth in Part 1502 of the CEQ regulations; including a record of decision (CEQ § 1505.2). If however, the assessment finds that the SBA action will not have a significant impact, a finding of "no significant impact" will be made and documented, as required by CEQ Regulations § 1501.4 and 1508.13.

Further, an environmental assessment must also show that the proposed action is in compliance with other applicable environmental review requirements. Such requirements include Floodplain Management (E.O. 11990), Protection of Wetlands (E.O. 11988), National Historic Preservation Act of 1966 as amended, and others as are so designated. (See appendix)

6. *Applicability to SBA actions.* All SBA actions which individually or cumulatively have significant effect on the quality of the human environment are to be reviewed for possible environmental impacts. The types of actions subject to review under this part include:

a. recommendations or favorable reports relating to legislation;

b. new and continuing projects and program activities directly undertaken by SBA or supported in whole or in part through Federal contracts, guarantees, loans, or other forms of funding assistance;

c. making, modification, or establishment of regulations, rules, procedures, and policy; and

d. in those cases where other Federal Agencies or State or local governments have already required and have accepted an environmental assessment or impact statement, the SBA will not require any further environmental evaluation. If requested, however, in connection with SBA assistance, the SBA will participate in the preparation of these evaluations.

An environmental assessment on an SBA form (to be published at a later date) will be made when it appears that the proposed SBA action is not categorically excluded by these procedures and could potentially have significant environmental effects.

7. *Categorical exclusions (CEQ § 1508.4).* The following categories of SBA actions are not ordinarily considered to be Federal actions which significantly affect the quality of the environment. Therefore, generally, the SBA will not be preparing an environmental assessment or an EIS in these cases. It should be noted that the district director at the field level and the designated SBA official at the Central Office level can make the determination that a significant environmental impact exists when a case appears sufficiently likely to warrant an assessment. These determinations should be based on the official's evaluation of the specific circumstances in each situation and must be documented as to the factors causing such determination.

a. *Agency administrative action such as personnel actions.* Should these actions constitute the movement of large groups of people or the construction of building space, an assessment may have to be prepared.

b. *Legislative Reports.* In those cases where legislation is being enacted on SBA programs and could potentially have a significant environmental effect, an assessment may have to be prepared if the SBA report recommends legislation.

c. *Promulgation of rules, regulations, procedures, or interpretations.* In those cases where the new or changed rules, regulations, procedures or interpretations deal with construction projects or land purchases of a value greater than $300,000, then an assessment may have to be prepared.

d. *Procurement Assistance Actions.* No environmental assessments are necessary in the Agency's activities to assure that small business receives its share of existing procurements of other Agencies.

e. *Management and technical assistance actions.* In those cases where management or technical assistance is being provided in support of a construction project in the developmental stage (either funded through the SBA or another government Agency) the SBA may be required to participate in support of a lead agency in the preparation of an environmental assessment.

f. *Small Business Investment Company Program Actions.* In those cases where the SBA is approving an SBIC action of financing construction of facilities or purchase of land, then the SBA may be required to prepare an environmental assessment.

g. *Physical Disaster Loans and guarantees.* In those cases where the SBA may be providing funds in excess of $300,000 to businesses or individuals to restore their property to its original state and restoration work may potentially have significant environmental effects, the district director may require the preparation of an environmental assessment.

h. *Business Loans and guarantees (including EOL loans, HAL, Energy, and disaster loans for economic injury).* In those cases where loan proceeds for: (1) Construction and/or purchase of land exceeds $300,000 or

(2) the loan is in response to a government regulation which pertains to the environmental impact of the business operation.

an environmental assessment may be required.

i. *Surety Bond Guarantees.* Since the SBA becomes involved with the guaranteeing of a small business' ability to satisfy an existing contract, no environmental assessments are necessary. In those cases where the SBA does become involved in the development of a construction project under the Surety Bond Guaranty Program, then the SBA will support an environmental evaluation.

j. *Pollution Control Financing Guaranty Program actions.* In thoses cases where an individual business is being financed in excess of $500,000, an environmental assessment may be required.

k. *Local and Community Development loan and guarantee actions.* In those cases where the loan is being utilized for construction in excess of $300,000, then an environmental assessment may be required.

l. *Portfolio Management and Review actions.* No assessments will be required.

m. *Advocacy Program actions.* No assessments will be required.

n. *Property Sales or Lease Assistance actions.* However, in cases of construction exceeding $300,000 an environmental assessment may be required.

Appendix 1—National Historic Preservation Act of 1966

As amended, 16 U.S.C. §§ 470 et seq.

Administering Agency: Advisory Council On Historic Preservation; Heritage Conservation and Recreation Service, Department of the Interior.

Environmental Review Requirement: Section 106, 16 U.S.C. § 470f.

Regulations: Procedures for the protection of Historic and Cultural properties, 36 CFR Part 800 (Advisory Council Procedures);

36 CFR Part 60—National Register of Historic Places.

36 CFR Part 61—Criteria for Comprehensive Statewide Historic Surveys and Plans.

36 CFR Part 63—Determination of eligibility for Inclusion in the National Register. Executive Order No. 11593, May 13, 1971.

36 CFR 8921, Protection and Enhancement of the Cultural Environment.

Program: The National Historic Preservation Act of 1966 establishes a comprehensive program to protect cultural resources from the adverse effects of Federal activities. The Act creates a National Register of Historic Places to which places of historic, architectural or archaeological significance can be named. Properties listed in or eligible for listing in the National Register are subject to special protections of the Act. The Act also creates an Advisory Council on Historic Preservation and establishes grant and technical assistance programs to benefit the preservation of cultural properties.

[FR Doc. 80-3171 Filed 1-31-80; 8:45 am]
BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Proposed Development of a Coal Gasification Demonstration Plant; Notice of Intent To Prepare an Environmental Impact Statement and Invitation for Public Comment on the Scope of the Document

AGENCY: Tennessee Valley Authority.

ACTION: Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the Tennessee Valley Authority (TVA) intends to prepare an environmental impact statement (EIS) to assess the environmental consequences of constructing and operating a commercial-scale coal gasification demonstration plant which TVA is considering. Of the alternative sites evaluated for the facility, the TVA-owned Murphy Hill power plant

inventory site located in Marshall County, Alabama, at Tennessee River mile (TRM) 370L approximately 11 miles northeast of Guntersville, Alabama, appears to be preferable at this time.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed T. El-Ashry, Director of the Environmental Quality Staff, Office of Natural Resources, Forestry Building, Norris, Tennessee 37828, or call TVA's Citizen Action Office toll free: 1–800–362–9250 (in Tennessee) or 1–800–251–9242 (in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Virginia, Missouri, and Arkansas).

SUPPLEMENTARY INFORMATION: Coal gasification technology makes it possible to produce and utilize coal gas directly as a clean energy source. The medium-Btu gas (MBG) produced can be used in both dispersed power generation technologies and industrial fuel and feedstock applications. This demonstration would help determine whether coal gasification is an economical and environmentally acceptable alternative energy source.

TVA is considering designing, constructing, and operating a commercial-scale coal gasification facility capable of processing up to 20,000 tons of coal feedstock per day. The facility would probably be constructed in a stepwise, modular manner, with the first gasification module capable of processing about 5,000 tons of coal feedstock per day. Subsequent modules would be added as the technology is refined and as a market for the product gas develops. Each module would consist of a number of parallel gasification trains designed to produce MBG from moderately to highly caking eastern United States coals. In addition to the modules, the plant would consist of coal receiving and handling, air separation systems, pollution control, and all necessary auxiliary facilities. The plant and associated pipeline system is estimated to cost $2 to $3 billion.

Coal gasification is a process which involves the reaction of coal with air, oxygen, and steam under high temperatures. This process would produce a raw product gas composed primarily of carbon monoxide, hydrogen, steam, carbon dioxide, and smaller amounts of methane, hydrogen sulfide, and nitrogen. The clean product gas would be composed of hydrogen, carbon monoxide, and methane, while the remaining gaseous components, carbon dioxide, nitrogen, hydrogen, sulfide, and steam would comprise the major emissions from the gasifier. The hydrogen sulfide would be removed from the tail gas in a sulfur recovery plant which would produce elemental sulfur. This sulfur would either be sold or stored. The emissions from the sulfur recovery plant would consist primarily of carbon dioxide, water vapor, and nitrogen and insignificant amounts of sulfur dioxide and nitrogen oxides.

In addition to the above emissions, the gasifiers would generate waste coal ash similar in nature to that produced by a conventional coal-fired boiler. Ash composition depends largely on the characteristics of the input coal, with major ash components being iron, aluminum, and silicon. Other anticipated wastes from the facility would be boiler blowdown from the waste heat recovery system and slurry blowdown from the raw product gas cleanup system. Each of these wastes would be treated with available environmental control technology.

TVA's preliminary evaluations have identified several possible sites for the facility. Based on the economies of scale associated with coal gasification and the costs associated with pipeline transmission, a large nearby market is an important economic consideration. TVA's studies to date indicate that a north Alabama location for the proposed facility would be attractive because of the proximity to large existing industrial gas markets. Of the locations evaluated, the TVA-owned Murphy Hill inventory site in Marshall County, Alabama, appears to be preferable.

Scope and Content of the EIS

In accordance with the National Environmental Policy Act, TVA intends to prepare an environmental impact statement (EIS) on the proposed coal gasification facility. This EIS will be considered by the TVA Board of Directors in taking action with respect to the project. The proposed scope or content of the EIS is discussed below. TVA requests comments on the scope of the document.

TVA proposes to construct and operate a coal gasification facility in order to help determine the economic and environmental acceptability of the technology. TVA intends to evaluate coal gasification processes, including entrained flow and fixed bed processes, and alternative sites. The no-action alternative will be discussed. Although TVA plans to work with the existing gas industry infrastructure in pipeline transmission, the EIS will also address environmental effects of pipeline construction and operation.

In addition to the positive benefit of determining the feasibility of this technology, the following issues will be discussed:

1. Socioeconomic and cultural effects associated with facility construction and operation;
2. Market availability for the product gas;
3. Pipeline construction impacts;
4. Effects of water consumption or water availability;
5. Impacts on terrestrial and aquatic ecology, including threatened and endangered species.
6. Impacts on floodplains, wetlands, and cultural and historical resources;
7. Air and water quality impacts associated with construction and operation of the facility;
8. Carcinogenic and toxic emissions, discharges, and wastes that may be associated with the facility;
9. Associated coal transportation and handling impacts; and
10. Noise and odor impacts.

This list is not intended to be all inclusive; nor is it intended to be a predetermination of impacts. A further evaluation of the proposed action will probably establish that some of these issues will not require a detailed evaluation. As preparation of the EIS proceeds, other unlisted issues may be revealed which will necessitate a detailed analysis.

Comments and Public Scoping Meetings

TVA invites interested persons and agencies to comment on the above suggested scope of the EIS and requests that comments be sent to Dr. Mohamed T. El-Ashry, Director of the Environmental Quality Staff, Office of Natural Resources, Forestry Building, Norris, Tennessee 37828. TVA will consider all comments received by March 21, 1980, in preparing the draft EIS which will be released for public review and comment. Those persons who choose not to comment on the scope of the document but desire a copy of the draft EIS in order to review and comment on it should send their names and addresses to Dr. El-Ashry.

TVA also intends to hold a public meeting in order to solicit additional comments on the scope of the document. Comments received at this meeting will be accorded the same weight as written comments. The meeting will be held on February 19, 1980, at 7:00 p.m. CST at the Wakefield Community Center, Langston, Alabama. A transcript of this meeting will be made by TVA and will be available at the following libraries: Guntersville Public Library, 1299 O'Brig Avenue, Guntersville, Alabama; and Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama.

Dated: January 29, 1980.

Kenneth E. Gray,

Washington Representative.

[FR Doc. 80-3483 Filed 1-31-80; 8:45 am]

BILLING CODE 8120-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Individuals To Serve as Panelists for the Gatt Dispute Settlement Process

In accordance with the agreements negotiated in the Tokyo Round of Multilateral Trade Negotiations (MTN), pursuant of Section 102 of the Trade Act of 1974, and in accordance with Section 2 of the Trade Agreements Act of 1979 (93 Stat. 147), the United States Trade Representative (USTR) is compiling a list of individuals willing and available to serve as panalists to assist in settling disputes which arise in connection with the new agreements.

1. *Dispute Settlement Panels.* The respective MTN agreements and Articles XXIII of the General Agreement provide for the establishment of panels to assist the CONTRACTING PARTIES to settle trade disputes concerning the agreements which remain unresolved after consultation procedures. The purpose of the panels is to make an objective assessment of the facts of the case before them and to examine the applicability and conformity of the case with the General Agreement. The panels will consult regularly with the parties to the dispute and attempt to develop a mutually satisfactory solution. Each panel will consist of three to five members drawn from a list of qualified governmental and non-governmental persons maintained by USTR and the GATT Director General. Panel members will serve in their individual capacities and not as representatives of any government or organization. Panel proceedings will vary in length depending on the agreement and individual case, but are generally between three and fourteen months.

2. *Solicitation of Qualified Panalists.* The USTR is compiling a list of experts to serve as dispute settlement panelists. The USTR will maintain a file and supply names of potential panelists to the GATT Director General as requested. Individuals wishing to serve must be highly experienced in the fields of international trade relations, economic development, and other matters covered by the GATT. Potential panelists must also demonstrate specific expertise in the technical areas of one or more of the MTN codes: subsidies and countervailing duties, antidumping measures, import licensing procedures, customs valuation procedures, government procurement methods, technical barriers to trade (product standards), trade in civil aircraft, and trade in meat and dairy products.

3. *Responses.* Persons who wish to serve on a GATT dispute settlement panel should submit their qualifications in triplicate to W. Douglas Newkirk, Assistant U.S. Trade Representative for GATT Affairs, USTR, 1800 "G" Street, N.W., Washington, D.C. 20506.

W. Douglas Newkirk,

Assistant Special Trade Representative for GATT Affairs.

[FR Doc. 80-3187 Filed 1-31-80; 8:45 am]

BILLING CODE 3190-01-M

WATER RESOURCES COUNCIL

Privacy Act of 1964; Systems of Records; Annual Publication

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 systems of records. The Water Resources Council last published the full text of its systems of records on December 7, 1978, 43 FR page 57470. Since the last publication of the systems, system WRC-3 Operating Personnel Records, has been destroyed because the Council now maintains the Official Personnel Folders. System WRC-4, Payroll Records, has had a change in the system location. The system is now located in the General Services Administration Region 6 Office. GSA holds these records for the Water Resources Council under contract.

The full text of the Water Resources Council systems of records also appears in Privacy Act Issuances, 1978 Compilation, Volume IV, page 894. The volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The price of this volume is $10.50.

Dated at Washington, D.C., on January 24, 1980.

Leo M. Eisel,

Director.

WRC—4

SYSTEM NAME:

Payroll Records—U.S. Water Resources Council (WRC).

SYSTEM LOCATION:

General Services Administration Region 6 Office; copies held by the Council 2120 L Street, NW., Washington, D.C. 20037. (GSA holds records for the Council under contract.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and Present Council employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions; tax forms; W-2 forms; overtime requests; leave data; retirement records. Records are used by Council and GSA employees to maintain adequate payroll infomation for Council employees, and otherwise by Council and GSA employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., generally; 42 U.S.C. 1962a et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employees's compensation.

The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is base on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, U.S. Water

Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Stored in guarded building; released only to authorized personnel.

RETENTION AND DISPOSAL:

Disposition of records will be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037.

NOTIFICATION PROCEDURE:

Contact system manager listed above.

RECORD ACCESS PROCEDURES:

See Council access regulations in 18 CFR section 701.305.

CONTESTING RECORD PROCEDURES:

See Council access regulations in 18 CFR secton 701.307.

RECORD SOURCE CATEGORIES:

The subject individual; the Council.

[FR Doc. 80-3182 Filed 1-31-80; 8:45 am]
BILLING CODE 8410-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From Costa Rica Prohibited

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is prohibited until the Departmnent of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Costa Rica imported on or after February 1, 1980. Such importation shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On December 13, 1979, the BOLD ADVENTURESS, a fishing vessel of the United States, was seized by authorities of the government of Costa Rica approximately 160 miles off the shore of Costa Rica for fishing tuna without Costa Rican authorization. Costa Rica claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on January 14, 1980, the Assistant Secretary of State certified the seizure of the BOLD ADVENTURESS, while fishing in waters beyond the jurisdiction of Costa Rica.

Determination

Under the authority of section 205 (b) and (c) of the Fishery Conservation and Management Act of 1976, on January 28, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Richard J. Davis,

Assistant Secretary of the Treasury.

Dated: Janaury 31, 1980.

[FR Doc. 80-3661 Filed 1—31—80; 12:32 am]
BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, February 6, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed negotiation of a bid for a new building for the Federal Reserve Bank of San Francisco.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 29, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–197–80 Filed 1–30–80; 9:21 am]

BILLING CODE 6210–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR January 29, 1980 p. 6686.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

CI–2: RI76–28, Arkansas Louisiana Gas Company v. Frank J. Hall, *et al.*

Kenneth F. Plumb,

Secretary.

[S–200–80 Filed 1–30–80; 1:10 pm]

BILLING CODE 6450–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCMENT: FR January 29, 1980, p. 6686.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

RP–5: RP79–81, Texas Eastern Transmission Corporation.

Lois D. Cashell,

Acting Secretary.

[S–201–80 Filed 1–30–80; 1:10 pm]

BILLING CODE 6450–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 6686, January 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 30, 1980.

CHANGE IN MEETING: The following items have been added:

Item Number, Docket Number, and Company

CAG–27:RP74–4 and RP79–76, Cities Service Gas Company.

M–11: RM79–76, High Cost Natural Gas Produced from Tight Formations.

CP–4: CP78–123, et al., Northwest Alaskan Natural Gas Transportation Company.

Lois D. Cashell,

Acting Secretary.

[S–202–80 Filed 1–31–80; 1:10 pm]

BILLING CODE 6450–01–M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 4:30 p.m., January 20, 1980.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED: Request for Modification of Bank Board Condition—Far West Financial Corporation and Bell Savings and Loan Association, San Mateo, California.

Announcement is being made at the earliest practicable time.

No. 314, January 30, 1980.

[S–203–80 Filed 1–31–80; 2:47 pm]

BILLING CODE 6720–01–M

6

NUCLEAR REGULATORY COMMISSION.

DATE: February 5, 1980.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Tuesday, February 5

10 a.m.

Briefing on Upgrade of NRC Operations Center (approximately 2 hours, public meeting).

2 p.m.

Briefing on Licensee Regulatory Performance Evaluation (approximately 2 hours, public meeting.

ADDITIONAL INFORMATION: By a vote of 3–0 (Commissioners Gilinsky and Hendie not present) on January 29, 1980, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation Item, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

January 29, 1980.

[S–199–80 Filed 1—30–80; 1:10 pm]

BILLING CODE 7590–01–M

7

TENNESSEE VALLEY AUTHORITY:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 6229, January 25, 1980.

CHANGES IN PREVIOUSLY ANNOUNCED TIME AND PLACE OF MEETING: Because of inclement weather, the previously announced time and place of the

January 30 TVA Board meeting are changed, as follows:

Location Has Been Changed to: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

Time Has Been Changed to: 2:00 p.m., January 30, 1980.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

Dated: January 30, 1980.

[S–196–80 Filed 1–30–80; 11:31 am]

BILLING CODE 8120–01–M

8

CIVIL AERONAUTICS BOARD

The CAB will meet:

TIME AND DATE: 10:00 a.m.—February 5, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 34825, *Aviation Consumer Action Project* v. *Alaska Airlines, Inc., et al.*, review on petition of BCP dismissal of third-party complaint for violation of the Board's Part 221a rules requiring fare summaries. (Memo #9441, OGC)

3. Dockets 33091, 36499, 36590, 37087, 37188, and 36590; Defferal of action on West Palm Beach authority pending completion of Environmental evaluation; *Northeast/Ohio Valley-Florida Show-Cause Proceeding*, draft order on reconsideration. (Memo #9446, BDA, BIA)

4. Docket 33091, *Florida Service Case.* (Memo #9162–A, OGC)

5. Dockets 37370, 36382, 37237, 36458, and 36546; Applications of Alaska, Continental, National, Northwest, and USAir, respectively, for San Diego-Los Angeles Area-Bay Area authority. (BDA)

6. Docket 34681, applications of Empire Airlines and Air North to provide essential air transportation, with subsidy, to Massena, Ogdensburg, Watertown, Plattsburgh, and Saranac Lake/Lake Placid, New York. (BDA)

7. Dockets EAS–336 and EAS–338; Appeals of Essential Air Transportation Determinations filed by Kingman and Prescott and the State of Arizona. (OGC, BDA, OCCR)

8. Docket 34513, Petition of the Port of Astoria for determination of essential air transportation at Astoria/Seaside, Oregon. (BDA)

9. Dockets 36426, 36434, and 36783; 30-day notice of Mississippi Valley Airlines of intent to terminate air transportation at Winona, Minnesota; 90-day notice of Republic Airlines of intent to terminate air transportation at Winona; application of the City of Winona for hyphenation with La Crosse, Wisconsin. (Memo #9134–B, BDA, OCCR)

10. Dockets 36834, EAS–560, United Air Lines' notice of intent to terminate service at Salem, Oregon, under section 401(j)(1) of the Act. (BDA)

11. Dockets 34203 and 34666; Notices of USAir and Ransome Airlines to suspend service at Catskill/Sullivan County, New York. (BDA, OCCR)

12. Docket 37142, Petition of Southeast Airlines for review of staff action denying request for exemption to operate charter flights on behalf of Norwegian Caribbean Lines. (Memo #9444, BDA)

13. Dockets 31892 and 34124; Flight Express Cargo, Inc. and Purolator Sky Courier, Inc.—reissuance of section 418 all-cargo air service certificates. (Memo #9442, BDA)

14. Docket 31874, Rapidair, Inc.—Revocation of Section 418 All-Cargo Air Service Certificate and air taxi authority. (Memo #9443, BDA)

15. Dockets 31651, 31896, 31905, and 31911; Meridian Air Cargo, Inc.; Nor-Cal Aviation, Inc.; Georgia Air Freight, Inc.; and Air Trans Commuter, Inc.—Revocation of Section 418 All-Cargo Air Service Certificates. (Memo #9073–A, BDA)

16. Docket 36596, Finalization of Order 79–9–65, which asked interested persons to show cause why intercarrier agreements fixing standard levels of commissions for sales of domestic air transportation by travel agents and restricting other forms of agent compensation and carrier solicitation of agents should not be disapproved. (BDA)

17. Amendment to Section 385.16 granting the Chief, Domestic Fares and Rates Division, Bureau of Domestic Aviation the authority to grant exemptions from Section 37(c) of the Airline Deregulation Act of 1978. (Memo #9297–A, BDA)

18. Docket 20244, *Aloha Airlines, Inc., Subsidy Mail Rates.* Show-cause order proposing to recapture $695,093 in subsidy from Aloha, reflecting proceeds from 1976 settlement of antitrust case against Hawaiian Airlines, Inc., "on account of" 1968–1969 overscheduling by Hawaiian, damages from which were the primary component of subsidy paid Aloha in 1972. (BDA, OGC, BALJ)

19. Docket 32660, IATA agreements proposing a revised U.S.–Japan fares structure. (Memo #9452, BIA)

20. Docket 36534, Rulemaking to amend Part 223 to permit free/reduced rate of transportation of security guards. (BIA, OGC)

21. Docket 35715, Application of Turks Air Limited for a renewal of its section 402 foreign air permit to operate nonscheduled cargo only service. (Memo #9454, BIA, OGC, BALJ)

22. Docket 32854, Application of North Coast Air Services Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using large aircraft. (BIA, OGC, BALJ)

23. Dockets 33547 and 35802, Holland-America Lijn, N.V. application to renew and transfer its indirect foreign air carrier permit to Holland Amerika Lijn, N.V. (Memo #9448, BIA, OGC, BALJ)

24. Dockets 31099, 31100, 33586, 33642, 34058, 34271, 33898, 33940, 34312, 36921, 34037, 31217, 34245, and 33636; Applications of Braniff, Capitol, Davis, Delta, Lone Star, Northwest, Seaboard, Trans International, Trans World and World for U.S.-West Germany certificate authority. (BIA, OGC, BDA, BALJ)

25. Docket 35473, Application of The Flying Tiger Line, Inc. for authority to serve Travis Air Force Base, California. (Memo #9447, BIA)

26. Dockets 35455, 36185, 35929, 36977, 36157, 36177, and 36373; Application of Braniff Airways, Inc. for removal of certificate conditions pursuant to section 401(e)(7)(8) of the Federal Aviation Act of 1958, as amended. (Memo #9247–B, BIA)

27. Docket 37360, Application of Spanish Main International Airlines. (BIA, OGC, BALJ)

28. Instructional guide for use by Mexican carriers requesting a small aircraft charter permit from the Board. (BIA, OGC, BALJ)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor,

The Secretary. (202) 673–5068.

[S–204–80 Filed 1–30–80; 3:46 pm]

BILLING CODE 6320–01–M

9

COUNCIL ON ENVIRONMENTAL QUALITY

January 31, 1980

TIME AND DATE: Friday, February 8, 1980, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place NW., Washington, D.C., 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Old business.
2. Need for study of groundwater contamination of drinking wells.
3. Briefing on status of agencies NEPA procedures.

CONTACT PERSON FOR MORE INFORMATION:

John F. Shea, III, (202) 395–4616.

[S–211–80 Filed 1–31–80; 11:57 am]

BILLING CODE 3125–01–M

federal register

Friday
February 1, 1980

Part II

Office of Personnel Management

Post Employment Conflict of Interest; Restriction of Activities of Certain Former Federal Employees

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the regulations implementing the restrictions on post employment activity established by Title V of the Ethics In Government Act of 1978. These regulations provide specific guidance to the executive agencies in exercising the administrative enforcement authority; and establish the procedures for making certain determinations and designations under the Act.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: H. Lawrence Garrett at (202) 632–7642.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management ("OPM") is publishing final regulations to supplement and particularize the restrictions on post employment activity established by Title V of the Ethics in Government Act of 1978 ("the Act"). Interim regulations were published in the Federal Register on April 3, 1979 (44 FR 19974–19988). Changes have been made to conform to the amendments made to 18 U.S.C. 207 by Pub. L. 96–28, signed into law on June 22, 1979. In addition, editorial revisions and other changes have been made in order to simplify and clarify the regulations.

(1) Major Revisions

The following summarizes those provisions of the interim regulations that were changed to reflect the amendments made to Title V of the Act by Pub. L. 96–28.

A. The Subsection 207(b)(ii) Prohibition (§ 737.9)—Assistance in Representation

The language of the Act, as originally enacted, prohibited those designated as Senior Employees from providing assistance in representing any person, other than the United States, "concerning" any formal or informal appearance. The original language was not thought to accurately reflect the intention of Congress in that it allowed for two possible but clearly unintended interpretations: (i) that certain otherwise legitimate activities connected with the management of grants and contracts were barred, and (ii) that the "assistance in representing" bar extended both to matters in which the former Senior Employee had personally and substantially participated and matters which, although not having personally and substantially participated in them, had been actually pending under his/her official responsibility. The amendments to the Act provide that 18 U.S.C. 207(b)(ii) applies only to that assistance given within two years after leaving Government service, by "personal presence" at an appearance before the Government—for example, a negotiation or proceeding. The amendments further provide that this two-year bar applies only to matters in which the former employee had "personally and substantially" participated.

B. Limitation of Subsection 207(c) Prohibition (§ 737.11)

Subsection 207(c), as added by the Act, prohibits for one year an appearance by a former Senior Employee before his or her former department or agency. However, 18 U.S.C. 207(e), also added by the Act, in most cases removes that prohibition with respect to an appearance of such an individual before a separate statutory agency or bureau (other than the one he had served) within the parent department or agency.

Amendments to 18 U.S.C. 207(d) enacted by Pub. L. 96–28 give the Director of the Office of Government Ethics ("OGE") the authority to further limit the application of the one-year "cooling-off" bar mentioned above. More particularly, although a former Senior Employee will continue to be prohibited from contact with those non-statutory segments of his or her former department or agency where there is potential for unfair influence, he or she may be permitted appearances before "separate and distinct" components of the former department or agency where there exists no such potential. The new permission is not, however, available for those former Senior Employees who held Executive Level positions or for members of the uniformed services who served in pay grades 0–9 and 0–10. Unlike the provisions of 18 U.S.C. 207(e) regarding separate statutory agencies, those of 18 U.S.C. 207(d) make its benefit available in some instances to the former head of a separate component.

The amendments of Pub. L. 96–28 also make the prohibitions of subsection (c) of 18 U.S.C. 207 inapplicable to appearances, communications or representations made by a former Senior Employee who is an elected representative of a State or local government, or a regular employee of (i) such a government, (ii) a non-profit hospital or medical research institution, or (iii) a degree granting institution of higher education. Such appearances, communications or representations must be made on behalf of such governments or specified organizations in order to be exempt.

C. Modification of Senior Employee Designations (§ 737.25)

Under the original provisions of 18 U.S.C. 207(d)(3) all active duty commissioned officers of a uniformed service assigned to pay grade 0–7 and above were automatically designated by statute as Senior Employees for purposes of subsections (b)(ii) and (c) of 18 U.S.C. 207.

The amendments of Pub. L. 96–28 added a new provision (207(d)(1)(C)) which equalized the treatment of uniformed service officers, in relation to civilian personnel, by specifying that officers serving in pay grades 0–7 and 0–8 shall be made subject to the special restrictions for Senior Employees—(i.e., the two-year assistance bar (207(b)(ii)) and the one-year bar against doing business with one's former agency (207(c))—only if they held positions of "significant decision-making or supervisory responsibility" as designated by the Director, OGE.

Finally, the amendments restricted the civilian employee positions which may be designated, by the Director, OGE, as subject to the special restrictions for Senior Employees, to those positions for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17, or which are established in the Senior Executive Service. Essentially, the amendments codify the policy reflected in OPM's interim regulations published on April 3, 1979 (44 FR 19986).

(2) Analysis of Comments

The interim regulations provided a 45 day period for public comment. OPM received comments from 28 agencies, two law firms and two labor organizations. A number of the comments offered specific recommendations for clarifying or modifying specific provisions of the interim regulations. OPM has proposed modification of certain of the regulations, as discussed below. In addition, guidance issued through the Federal Personnel Manual System will address certain other concerns expressed during the public comment period.

A. General

Two commenters asked that the regulations specifically state that Part 737 does not incorporate or supplant restrictions contained in other laws and regulations or in professional codes of

conduct. The recommendations were adopted and incorporated in the final regulations.

Only one commenter felt that, since 18 U.S.C. 207 can be enforced criminally, it was inappropriate for OPM to propound a definitive interpretation of its provisions, and that OPM should state that it is only providing an advisory interpretation. We believe, however, that it would be inappropriate to require Federal employees to make decisions regarding continued employment with the Government on the basis of unclear constraints or otherwise require them to act at their peril. Congress prescribed a relationship between OPM and the Department of Justice, giving the Director, OGE, the responsibility for developing regulations in consultation with the Attorney General. As to matters involving criminal proscriptions, it was decided early that these regulations should have the concurrence of the Attorney General so as to avoid the anomalous result that a particular activity might be viewed as triggering no administrative enforcement, while possibly triggering criminal enforcement. While criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General, the Attorney General has advised that these regulations are consistent with his interpretation for criminal enforcement responsibilities.

One commenter observed that it seems improper to have agencies advise present and former emloyees as to the requirements of the Act, when agencies also have an obligation to report alleged violations of law to the Department of Justice. (28 U.S.C. 535) OPM sees no such impropriety, but rather regards it the duty of such agencies to advise their employees so as to cause their conduct to conform to the law.

One commenter questioned the absence of any provision in the regulations dealing with a case in which a high-ranking Government official, who awarded a major contract to a private entity, is subsequently hired by the private entity. The regulations do not contain such a provision because the Act does not prohibit such employment, but only restricts the post employment representational activity of a former Government employee in relation to such a contract. Another commenter raised the situation of a former private sector employee, who, as a Government official, awards a contract to his or her former employer. Such a situation is not subject to the provisions of 18 U.S.C. 207 or these regulations, but might trigger 18 U.S.C. 208, given a current interest by such an employee.

One commenter asked for a clarification of when self-representation is permitted under subsections 207 (a), (b) and (c). Self-representation is generally permitted under subsections 207 (a) and (b). OPM will publish Federal Personnel Manual guidance periodically concerning self-representation, and OGE will publish formal advisory opinions concerning self-representation.

It was observed in one comment that since OMB Circular A–76 provides that a contractor must give the right of first refusal for jobs contracted out by an agency to Federal employees, the regulations should address the section 207 problems which might arise. OMB Circular A–76 further provides that the right of first refusal would apply only when consistent with the post employment conflict of interest standards. These regulations, in part, establish the standards controlling whether or not the right of first refusal would apply to a given situation.

B. Definitions

One commenter asked that the regulations be revised to make clear that an independent contractor could never be a "special Government employee" and another asked that it be made clear that a consultant could come within the definition. The definition of "special Government employee" has incorporated the essence of such recommendations.

One comment asked for technical clarifications of the term "Government employee" and questioned the appropriateness of applying the "supervised by" requirement, incorporated by reference to 5 U.S.C. 2104 and 2105, to that term. The Director, OGE, does not consider that the "supervised by" requirement found in 5 U.S.C. 2104 and 2105 contemplates direct supervision by the appointing official in order to find one to be an "officer" or "employee" as defined in sections 2104 and 2105; rather, the requirement encompasses supervision in the broader sense by Federal employees within the department or agency within which they serve.

C. Restrictions on Any Former Government Employee's Acting as Representative as to a Particular Matter in Which the Employee Personally and Substantially Participated

For purposes of § 737.5(b)(3), the act of conveying material to the United States in connection with a formal proceeding or application may be deemed to constitute an "appearance." There was a suggestion in one comment that the scope of this concept be broadened. Another commenter specifically mentioned that the use of the word "appearance" in Example 1 of § 737.5(b)(3) too narrowly construed the meaning of section 207(a) of title 18 U.S.C. OPM considers the provisions to be consistent with the statutory language.

With respect to what constitutes a "particular matter" for purposes of § 737.5(c)(1), one commenter felt that the term should not be deemed to include the formulation of standard terms to be used in contracts to which the Government is a party. The commenter further urged that as to a specific contract, the validity or meaning of standard terms should not be considered as aspects of the particular matter embodied in the contract in which there was substantial participation—but, should be considered merely ancillary under § 737.5(d)(2). Likewise, it was argued that an attorney who passed upon the legality, as opposed to the desirability, of a particular matter's outcome has dealt with only an ancillary aspect of the matter. This same comment was made with respect to § 737.7(b)(3). The recommendation that formulation of standard terms or clauses to be used generally in contracts not be considered a "particular matter" is appropriate under the statute and has been incorporated in the final regulations. OPM considers that advice concerning the validity or meaning of a standard term or clause embodied in a specific contract is an aspect of the "particular matter" and not merely ancillary under § 737.5(d)(2). Moreover, passing upon the legality, as opposed to the desirability, of a particular contract by an attorney does not constitute involvement with an ancillary aspect of a matter but is, rather, involvement which cannot reasonably be separated from the substantive merits of the particular matter. The final regulations do not, therefore, incorporate the recommendation that such involvement be considered merely ancillary.

An objection was raised in one comment as to the formulation of § 737.5(c)(3) with respect to contractual matters. It was urged that involvement in the preliminary dialogue concerning the subject matter of a contract should not be deemed to constitute the same "particular matter" as that enbodied in the executed contract. The text of the final regulations has been altered to further refine the concept concerning the relationship of personal participation to the specificity of a particular matter. In order for such participation to rise to the

level of participation in a particular matter there must be more than the involvement in mere speculative discussion in the formative stages of a matter.

One commenter asked for more detailed guidance as to when a lawsuit, to which the United States is not a party, may be of direct and substantial interest to the United States or to a particular Federal agency for purposes of §§ 737.5(c)(5) and 737.11(e). Such guidance will be published through the formal advisory opinion service on a case-by-case basis.

One commenter felt that there should be some indication of the circumstances in which personal participation should not be deemed "substantial" participation. Such guidance is provided in § 737.5(d).

D. 2-Year Restriction on Any Former Government Employee's Acting as Representative as to a Particular Matter for Which the Employee had Official Responsibility

One commenter felt that an employee should not be considered to have "official responsibility" over that aspect of a particular matter which involves the non-discretionary use of standard contract terms. It was urged that this be considered an ancillary matter under § 737.7(b)(3). OPM believes that if the issue arises in relation to a specific contract then such an aspect would be considered as part of the "particular matter" and not merely ancillary.

One commenter questioned the use of the "actually pending" rule as it is employed in § 737.7(c), and suggested a reformulation of this concept. The concept is accurate as presented; further guidance will be promulgated on a case-by-case basis through the formal advisory opinion service.

It was suggested, correctly, in one comment that the conclusions reached in Example 1 of § 737.7(e) are inconsistent with the rules given in the text. The text of the final regulation has been revised to remove the inconsistency.

E. 2-Year Restriction on a Former Senior Employee's Assisting in Representing as to a Matter in Which the Employee Participated Personally and Substantially

Several Commenters asked for further delineation of permitted activities in the case of a former employee to whom section 207(b)(ii) applies. Such guidance, beyond that presented in the regulations, shall be provided through the formal advisory opinion service.

One commenter inquired as to the propriety of telephone communications during a negotiation, and as to when such communications should be deemed tantamount to "personal presence." This issue is addressed in § 737.5(b)(3) as it relates to § 737.9. A telephone call would normally constitute a communication, not an appearance, and a former Senior Employee could give assistance regarding (but could not make) such a call.

F. 1-Year Restriction on a Former Senior Employee's Transactions With a Former Agency on a Particular Matter, Regardless of Prior Involvement

One commenter urged that the final regulations clearly reflect that the qualifying language of section 207(d)(2) of the Act, as amended by Pub. L. 96–28, following "1954," in section 207(d)(2)(B), is applicable to both subparagraphs (A) and (B). The final regulations so reflect.

Another comment expressed the view that the section 207(d)(2) exemption is inequitable in that former Senior Employees employed by certain non-profit institutions could not conduct themselves in the same manner permitted former Senior Employees employed by an exempted institution. The Congress drew a clear distinction between those institutions, the employees of which would be exempt from the section 207(c) prohibitions and those who would not. OPM cannot, by regulation, go beyond that which is mandated by law.

Concern was expressed in one comment that the use of the word "hired" in § 737.11 might permit an agency to hire ex-employees as consultants, but not on a product contract basis. It was suggested that the regulations should permit any arrangement in which personal service by an ex-employee is contemplated. The final regulations substitutes "employed" for the word "hired."

One commenter felt that Example 3 of § 737.11(h) unduly broadens the statutory exception for "special knowledge." OPM considers that the example in question reflects a reasonable interpretation of the statute in regard to an area that would not normally create any actual or apparent conflict of interest on the part of a former Senior Employee.

G. Designations of Separate Statutory Agencies or Bureaus

One commenter felt that the regulations should contain a definition of " bureau," and urged the view that separate divisions within an agency do not fall within the exemption of section 207(e). The regulations contain clear guidance as to those separate statutory bureaus or agencies which qualify for treatment under section 207(e) of title 18 U.S.C. The final regulations further reflect the treatment of a separate and distinct subject matter component of an agency which may be treated separately for section 207(c) purposes. (See § 737.25(d).)

H. Partners of Present or Former Government Employees

One commenter asked for regulations pursuant to section 207(g) to cover the situation of current employees and their outside partners. The present regulations, however, are limited solely to post employment conflict of interest.

I. Officials of a State; Officials of Corporations Created by an Act of Congress and Public International Organizations

Greater clarification was requested by one commenter as to whether certain banking institutions and their directors are referred to by the provisions of § 737.23(b)(1). OPM will provide such clarification through the formal advisory opinion service when requested.

Another comment expressed concern about the treatment of former employees who join international organizations. Such former employees, except those serving under the conditions set forth in § 737.23(b)(2), would be subject to the restricitions of the law and these regulations.

J. Standards and Procedures for Designating Senior Employee Positions Pursuant to 18 U.S.C. 207(d)

Several comments raised technical questions concerning the designation of Senior Employee positions under section 207(d). One commenter asked about the situation of a consultant who voluntarily serves without pay in a position for which a rate of pay above GS–16 is authorized. The situation of a special Government Employee who serves for less than 60 days in each of two or more positions, but for a total of 60 days or more, was also presented. Such specific situations will be the subject of formal advisory opinions when requested.

One comment suggested that the regulations should not define "supervisory responsibility" in terms of the number of employees supervised, but in regard to the significance of the activities involved. The interim as well as the final regulations were drafted to emphasize the latter criteria rather than the former. Additional guidance was promulgated by OPM's memorandum to Designated Agency Ethics Officials dated April 26, 1979.

K. Administrative Enforcement Proceedings

One comment pointed out that in some cases law-enforcement powers are specifically denied to an agency. OPM considers that such situations will have to be addressed on a case by case basis.

Another commenter stated that the regulations should provide, as an alternative to § 737.27, that employees in units for which there is an exclusive representative should have the right of arbitration and to grieve the matters to be covered through the negotiated grievance procedure. The procedures set forth in § 737.27 are applicable only to former Government employees who are alleged to have violated the provisions of 18 U.S.C. 207. The recommended procedure is considered applicable to current rather than former employees and was not, therefore, adopted.

(3) Additional Sections

§ 737.13 of the interim regulations published on April 3, 1979, sets forth the standards and procedures to be applied in connection with designations of separate statutory agencies or bureaus within a department or agency for purposes of 18 U.S.C. 207(c). The Director, OGE, has determined that of those recommendations received, certain agencies and bureaus qualify for designation as separate statutory agencies. Such agencies and bureaus are designated in the new § 737.31 of the regulations.

§ 737.13 of the final regulations also sets forth the standards and procedures to be applied in connection with the designation of certain agencies, bureaus and offices as separate components within a department or agency for purposes of limiting the application of subsection (c) of 18 U.S.C. 207 pursuant to subsection (d)(1)(C) of that provision. The Director, OGE, has determined that of those recommendations received, certain agencies, bureaus and offices qualify for such designation. They are designated in new § 737.32 of the regulations.

(4) Senior Employee Designations

Interim regulations designating Senior Employee positions within certain departments and agencies were published in the **Federal Register** on September 25, 1979 (44 FR 55147–55160). Editorial revisions have been made and several erroneous designations have been revoked. The previously published designations are incorporated in new § 737.33. The Senior Employee designations listed in § 737.33 do not constitute all of the designations to be made by the Director, OGE, under the provisions of 18 U.S.C. 207(d)(1)(C). Additional designations for those departments and agencies not listed will be issued in the near future as a separate interim regulation to be incorporated in these regulations upon codification. The effective date of the Senior Employee designations listed in § 737.33 is February 28, 1980. OPM has determined this is a significant regulation for the purposes of E.O. 12044.

(5) Text of Law

For the use of readers in understanding the regulations, the text of Title V of the Ethics in Government Act of 1978 is set forth below: The statutory provisions concerning Post Employment Conflict of Interest appear in Title V of the Ethics in Government Act of 1978 (Pub. L. 95–521) as amended by Pub. L. 96–28, the text of which is as follows:

Title V—Post Employment Conflict of Interest

Sec. 501. (a) Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of Former Officers and Employees; Disqualification of Partners of Current Officers and Employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) In connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter invoving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States), by personal presence at any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) as to (i) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d)(1) Subsection (c) of this section shall apply to a person employed—

"(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

"(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O–9 or above as described in section 201 of title 37, United States Code; or

"(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only

positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O–7 or O–8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

"(2) The prohibition of subsection (c) shall not apply to appearances, communications, or representations by a former officer or employee, who is—

"(A) an elected official of a State or local government, or

"(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) and accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization."

"(e) For purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communication solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the **Federal Register**, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

"(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

"(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection."

(b) The item relating to section 207 in the table or sections at the beginning of chapter II of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees."

Applicability

Sec. 502. The amendments made by section 501 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation.

Effective Date

Sec. 503. The amendments made by section 501 shall become effective on July 1, 1979.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is revising Part 737 of Title 5 of the Code of Federal Regulations, to read as follows:

PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

Sec.

737.1 Purpose and policy.
737.3 Definitions.

Subpart B—Substantive Provisions

737.5 Restrictions on any former government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.
737.7 Two-year restriction on any former government employee's acting as representative as to a particular matter for which the employee had official responsibility.
737.9 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.
737.11 One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.
737.13 Limitation of restrictions of 18 U.S.C. § 207(c) to less than the whole of a department or agency.

Sec.

737.15 Exemption for scientific and technological information.
737.17 Exemption for persons with special qualification in a technical discipline.
737.19 Testimony and statements under oath or subject to penalty of perjury.
737.21 Partners of present or former government employees.
737.23 Officials of a State; officials of corporations created by an act of Congress and public international organizations.
737.25 Standards and procedures for designating senior employee positions pursuant to 18 U.S.C. § 207(d).
737.27 Administrative enforcement proceedings.
737.29 Effective date of restrictions.
737.31 Separate statutory agencies; designations.
737.32 Separate components of agencies or bureaus; designations.
737.33 "Senior Employee" designations.

Authority: Pub. L. 95–521, 92 Stat. 1862–1863 (5 U.S.C. Appendix), 92 Stat. 1864–1867 (18 U.S.C. 207).

Note.—The following index of paragraphs is provided for the convenience of the reader; this index will not appear in the CFR.

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(b) Consultation with the Attorney General.
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737.3 Definitions.
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Subpart B—Substantive Provisions

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(2) Participation on ancillary matters.
(3) Role of official responsibility in determining substantial participation.
(e) Agency responsibility in complex cases.
737.7 Two-year restriction on any former government employee's acting as representative as to a particular matter for which the employee had official responsibility.
(a) 18 U.S.C. 207(b)(i).
(b) Official responsibility.
(1) Definition.
(2) Determining official responsibility.
(3) Ancillary matters and official responsibility.
(4) Knowledge of matter pending required.
(5) Self-disqualification.
(c) "Actually pending."
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PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

§ 737.1 Purpose and policy.

(a) *Authority.* Title IV of the Ethics in Government Act of 1978 ("the Act") established the Office of Government Ethics within the Office of Personnel Management ("OPM"). Section 402(a) of the Act provides in part that the Director, Office of Government Ethics ("the Director") shall provide, under the general supervision of OPM, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency as defined in

section 105 of title 5, United States Code, and shall propose, in consultation with the Attorney General, rules and regulations to be promulgated by the President or by OPM. The purpose of this part is to issue regulations recommended by the Director which give content to the restrictions on post employment activity established by title V of the Act (18 U.S.C. 207) for administrative enforcement with respect to former officers and employees of the executive branch; generally to guide agencies in exercising the administrative enforcement authority reflected in section 18 U.S.C. 207(j); to set forth the procedures to be employed in making certain determinations and designations pursuant to the Act; and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207 remains the exclusive responsibility of the Attorney General.

(b) *Consultation with the Attorney General.* In proposing these regulations, the Director consulted with the Attorney General as to the content of regulations governing substantive prohibitions as well as other matters. The Attorney General has advised that such regulations are consistent with his opinion as to the interpretation of the Act.

(c) *Policy and limitations.* These regulations bar certain acts by former Government employees which may reasonably give the appearance of making unfair use of prior Government employment and affiliations.

(1) When a former Government employee who has been involved with a particular matter decides to act as the representative for another person on that matter, such "switching of sides" undermines confidence in the fairness of proceedings and creates the impression that personal influence, gained by Government affiliation, is decisive.

(2) Similarly, when a former high-level employee assists in representing another by personal presence at an appearance before the Government regarding a matter which is in dispute, such assistance suggests an attempt to use personal influence and the possible unfair use of information unavailable to others. Different considerations are involved, however, with respect to assistance given as part of customary supervisory participation in a project funded by a Government contract or grant, since a former employee's knowledge may benefit the project and thus the Government, and regular communications with associates may properly be regarded as inherent in managerial responsibility. Such assistance, when not rendered by personal presence during an appearance, is not covered by the statute.

(3) When a former Senior Employee returns to argue a particular matter to the employee's former agency in the period immediately following the termination of official employment, it appears that Government-based relationships are being used for private ends.

(4) Former officers and employees may fairly be required to avoid such activities in the circumstances specified by statute and in these regulations.

(5) The provisions of 18 U.S.C. 207 do not, however, bar any former Government employee, regardless of rank, from employment with any private or public employer after Government service. Nor do they effectively bar employment even on a particular matter in which the former Government employee had major official involvement except in certain circumstances involving persons engaged in professional advocacy. Former Government employees may be fully active in high-level supervisory positions whether or not the work is funded by the United States and includes matters in which the employee was involved while employed by the Government. The statutory provisions are not intended to discourage the movement of skilled professionals in Government, to and from positions in industry, research institutions, law and accounting firms, universities and other major sources of expertise. Such a flow of skills can promote efficiency and communication between the Government and private activities, and it is essential to the success of many Government programs. Instead, only certain acts which are detrimental to public confidence in the Government are prohibited.

(6) Departments and agencies have primary responsibility for the administrative enforcement of the post employment restrictions found in the Act. The Department of Justice may initiate criminal enforcement in cases involving aggravated circumstances; agency heads are required to report substantiated allegations of violations of 18 U.S.C. 207 to the Department of Justice and the Director, OGE. It is essential that Title V of the Act be enforced so as to advance its objectives, which include improvement in government efficiency, equal treatment for equal claims, greater public confidence in the integrity of their government, elimination of the use of public office for private gain, and securing the integrity of the government's policy-making processes. Departments and agencies should avoid enforcement actions that do not advance these objectives but instead frustrate the Government's ability to employ the skilled persons who are needed to make the programs of the Federal Government succeed. Special attention should be given to the need to preserve the free flow of expertise, especially in scientific, technological and other technical areas, from private activities to the government.

(7) The examples contained in these regulations are intended to give guidance, but are illustrative, not comprehensive. Each agency may provide additional illustration and guidance in its own regulations, consistent with that contained herein, in order to address specific problems arising in the context of a particular agency's operations.

(8) Agencies have the responsibility to provide assistance promptly to former Government employees who seek advice on specific problems. The Office of Government Ethics will provide advice, promptly, upon request, to designated agency ethics officials in such situations, but will first coordinate with the Department of Justice on unresolved or difficult issues.

(9) These regulations do not supplant restrictions that may be contained in laws other than 18 U.S.C. 207 and do not incorporate restrictions contained in the code of conduct of a profession of which an employee may be a member.

§ 737.3 Definitions.

(a) *Statutory definitions.* The following are defined terms which largely repeat portions of the text of the statute. They are set out here to permit a simplified presentation of statutory requirements in the regulations which follow. Other definitions, which supplement the statutory language, are listed in paragraph (b) of this section and are set forth in detail in the substantive regulations.

(1) *"United States" or "Government"* means any department, agency, court, court-martial, or any civil, military or naval commission of the United States, the District of Columbia, or any officer or employee thereof.

(2) *"Agency"* includes an Executive Department, a Government corporation and an independent establishment of the executive branch, which includes an independent commission. (See 18 U.S.C. 6.)

(3) *"Government Employee"* includes any officer or employee of the Executive Branch (as defined in 18 U.S.C. 202 and, e.g., 5 U.S.C. 2104 and 2105); those appointed or detailed under 5 U.S.C. 3374, and a Special Government

Employee, but shall not include an individual performing services for the United States as an independent contractor under a personal service contract.

(4) *"Former Government Employee"* means one who was, and is no longer, a Government employee.

(5) *"Special Government Employee"* means an officer or employee of an agency who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of three hundred and sixty five consecutive days, temporary duties either on a full time or intermittent basis (18 U.S.C. 202).

(6) *"Senior Employee"* means an officer or employee named in, or designated by the Director pursuant to, section 207(d) of title 18 U.S.C. to whom 207(b)(ii) and (c) shall apply (See 737.25 below.)

(7) *"Particular Government matter involving a specific party"* means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest.

(b) *Interpretative definitions.* Other terms defined and interpreted in the substantive regulations are:

(1) "*Acting as Agent or Attorney*": (See § 737.5(b).)

(2) "*Actually Pending*": (See § 737.7(c).)

(3) "*Communicating with Intent to Influence*": (See § 737.5(b).)

(4) "*Direct and Substantial Interest*": (See § 737.11(f).)

(5) "*Participate Personally and Substantially*": (See § 737.5(d).)

(6) "*Particular Matter Involving a Specific Party or Parties*": (See § 737.5(c).)

(7) "*Particular Matter" (without parties)*: (See § 737.11(d).)

(8) "*Official Responsibility*": (See § 737.7(b).)

(9) "*Rate of Pay*": (See § 737.25(b)(4).)

Subpart B—Substantive Provisions

§ 737.5 Restrictions on any former government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.

(a) *Basic prohibition of 18 U.S.C. 207(a).* No former Government employee, after terminating Government employment, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter such employee participated personally and substantially as a Government employee.

(b) *Representation: Acting as agent or attorney, or other representative in an appearance, or communicating with intent to influence.*

(1) *Attorneys and agents.* The target of this provision is the former employee who participates in a particular matter while employed by the Government and later "switches sides" by representing another person on the same matter. [NOTE: The examples in these regulations do not incorporate the special statutory restrictions on Senior Employees, except where the terms "Senior Employee" or "Senior" are expressly used.]

Example 1: A lawyer in the Department of Justice personally works on an antitrust case involving Q Company. After leaving the Department, he is asked by Q Company to represent it in that case. He may not do so.

(2) *Others.* The statutory prohibition covers any other former employee, including managerial and technical personnel, who represents another person in an appearance or, by other communication, attempts to influence the Government concerning a particular matter in which he or she was involved. For example, a former technical employee may not act as a manufacturer's promotional or contract representative to the Government on a particular matter in which he or she participated. Nor could such employee appear as an expert witness against the Government in connection with such a matter. (See § 737.19 for specific rules relating to expert witnesses.)

(3) *Appearances; communications made with intent to influence.* An appearance occurs when an individual is physically present before the United States in either a formal or informal setting or conveys material to the United States in connection with a formal proceeding or application. A communication is broader than an appearance and includes for example, correspondence, or telephone calls.

Example 1: An appearance occurs when a former employee meets with an agency employee personally to discuss a matter; or when he submits a brief in an agency administrative proceeding in his own name.

Example 2: A former employee makes a telephone call to a present employee to discuss a particular matter that is not the subject of a formal proceeding. She has made a communication.

(4) *Government visits to others premises.* Neither a prohibited appearance nor communication occurs when a former Government employee communicates with a Government employee who, at the instance of the United States, visits or is assigned to premises leased to, or owned or occupied by, a person other than the United States which are or may be used for performance under an actual or proposed contract or grant, when such communication concerns work performed or to be performed and occurs in the ordinary course of evaluation, administration, or performance of the actual or proposed contract or grant.

(5) *Elements of "influence" and potential controversy required.* Communications which do not include an "intent to influence" are not prohibited. Moreover, acting as agent or attorney in connection with a routine request not involving a potential controversy is not prohibited. For example, the following are not prohibited: a question by an attorney as to the status of a particular matter; a request for publicly available documents; or a communication by a former employee, not in connection with an adversary proceeding, imparting purely factual information. (See also § 737.11(d) below.)

Example 1: A Government employee, who participated in writing the specifications of a contract awarded to Q Company for the design of certain education testing programs, joins Q Company and does work under the contract. She is asked to accompany a company vice-president to a meeting to state the results of a series of trial tests, and does so. No violation occurs when she provides the information to her former agency. During the meeting a dispute arises as to some terms of the contract, and she is called upon to support Q Company's position. She may not do so. If she had reason to believe that the contractual dispute would be a subject of the meeting, she should not have attended.

(6) *Assistance.* A former employee is not prohibited from providing in-house assistance in connection with the representation of another person.

Example 1: A Government employee administered a particular contract for agricultural research with Q Company. Upon termination of her Government employment, she is hired by Q Company. She works on the matter covered by the contract, but has no direct contact with the Government. At the request of a company vice-president, she prepares a paper describing the persons at her former agency who should be contacted and what should be said to them in an effort in increase the scope of funding of the

contract and to resolve favorably a dispute over a contract clause. She may do so.

(7) *Project responses not included.* In a context not involving a potential controversy involving the United States no finding of a "intent to influence" shall be based upon whatever influential effect inheres in an attempt to formulate a meritorious proposal or program.

Example 1: The employee of Q Company in the previous example is asked to design an educational testing program, which she does and transmits it to the Government. This is not prohibited despite the fact that her well-designed program may be inherently influential on a question of additional funding under the contract. She may not argue for its acceptance.

(c) *"Particular matter involving a specific party or parties."*

(1) *Specific matters vs. policy matters.* The prohibitions of subsections (a) and (b) of 18 U.S.C. 207, are based on the former Government employee's prior participation in or responsibility for a "judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties" in which the United States is a party or has a direct and substantial interest. Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an insolatable transaction or related set of transactions between identifiable parties. Rulemaking, legislation, the formulation of general policy, standards or objectives, or other action of general application is not such a matter. Therefore, a former Government employee may represent another person in connection with a particular matter involving a specific party even if rules or policies which he or she had a role in establishing are involved in the proceeding.

Example 1: A Government employee formulated the policy objectives of an energy conservation program. He is not restricted from later representing a university which seeks a grant or contract for work emerging from such a program.

Example 2: A Government employee reviews and approves a specific city's application for Federal assistance for a renewal project. After leaving Government service, she may not represent the city in relation to that project.

Example 3: An employee is regularly involved in the formulation of policy, procedures and regulations governing departmental procurement and acquisition functions. Participation in such activities does not restrict the employee after leaving the Government as to particular cases involving the application of such policies, procedures, or regulations.

Example 4: An employee of the Office of Management and Budget participates substantially on the merits of a decision to reduce the funding level of a program, which has the effect of reducing the amount of money which certain cities receive to conduct youth work programs. After leaving the Government she may represent any of the cities in securing funds for its youth program, since her participation was in connection with a program, not a particular matter involving specific parties.

Example 5: An agency attorney participates in drafting a standard form contract and certain "standard terms and clauses" for use in future contracts. He is not thereafter barred from representing a person in a dispute involving the application of such a "standard term or clause" in a particular contract in which he did not participate as a Government employee.

(2) *Technical matters.* In connection with technical work, participation in projects generally involving one or more scientific or engineering concepts, in feasibility studies, or in proposed programs prior to the formulation of a contract will not restrict former Government employees with respect to a contract or specific programs entered into at a later date.

Example 1: A Government employee participates significantly in formulating the "mission need" of a project pursuant to OMB Circular No. A–109, and the award of a contract to Z Company, the purpose of which is to propose alternative technical approaches. He is not barred, after leaving Government service, from representing Q Company which later seeks a contract to manufacture one of the systems suggested by the Z Company.

Example 2: A Government employee, who has worked for years on the design of a new satellite communications system, joins C Company. Later, the Government issues a "request for proposals" ("rfp") to construct the new system, which is circulated generally to industry. The employee proposes to act as C Company's representative in connection with its anticipated proposals for the contract. He may do so. The satellite contract became a particular matter when the rfp was being formulated; it would ordinarily not become one involving a specific party or parties until initial proposals or indications of interest therein by contractors were first received. Moreover, if the employee's work for C Company were limited to the formulation and communication of a proposal in response to the rfp, it would not be prohibited to the extent it involved a communication for the purpose of furnishing scientific or technological information to the Government, exempt under 18 U.S.C. 207(f). See § 737.15 below. (See paragraph (3) below as to a case where the employee's own participation may cause a different result.)

(3) *Relationship of personal participation to specificity.* In certain cases, whether a matter should be treated as a "particular matter involving specific parties" may depend on the employee's own participation in events which give particularity and specificity to the matter in question. For example, if a Government employee (i) personally participated in that stage of the formulation of a proposed contract where significant requirements were discussed and one or more persons was identified to perform services thereunder and (ii) actively urged that such a contract be awarded, but the contract was actually awarded only after the employee left, the contract may nevertheless be a particular matter involving a specific party as to such former Government employee.

Example 1: A Government employee advises her agency that it needs certain work done and meets with private firm X to discuss and develop requirements and operating procedures. Thereafter, the employee meets with agency officials and persuades them of the need for a project along the lines discussed with X. She leaves the Government and the project is awarded by other employees to firm X. The employee is asked by X to represent it on the contract. She may not do so.

(4) *The same particular matter must be involved.* The requirement of a "particular matter involving a specific party" applies both at the time that the Government employee acts in an official capacity and at the time in question after Government service. The same particular matter may continue in another form or in part. In determining whether two particular matters are the same, the agency should consider the extent to which the matters involve the same basic facts, related issues, the same or related parties, time elapsed, the same confidential information, and the continuing existence of an important Federal interest.

Example 1: A Government employee was substantially involved in the award of a long-term contract to Z Company for the development of alternative energy sources. Six years after he terminates Government employment, the contract is still in effect, but much of the technology has changed as have many of the personnel. The Government proposes to award a "follow on" contract, involving the same objective, after competitive bidding. The employee may represent Q Company in its proposals for the follow-on contract, since Q Company's proposed contract is a different matter from the contract with Z Company. He may also represent Z Company in its efforts to continue as contractor, if the agency determines on the basis of facts referred to above, that the new contract is significantly different in its particulars from the old. The former employee should first consult his agency and request a written determination before undertaking any representation in the matter.

Example 2: A Government employee reviewed and approved certain wiretap

applications. The prosecution of a person overheard during the wiretap, although not originally targeted, must be regarded as part of the same particular matter as the initial wiretap application. The reason is that the validity of the wiretap may be put in issue and many of the facts giving rise to the wiretap application would be involved. *Other examples:* See § 737.5(b)(1), Example 1, and (c), Example 2.

(5) *United States must be a party or have an interest.* The particular matter must be one in which the United States is a party, such as in a judicial or administrative proceeding or a contract, or in which it has a direct and substantial interest. The importance of the Federal interest in a matter can play a role in determining whether two matters are the same particular matter.

Example 1: An attorney participated in preparing the Government's antitrust action against Z Company. After leaving the Government, she may not represent Z Company in a private antitrust action brought against it by X Company on the same facts involved in the Government action. Nor may she represent X Company in that matter. The interest of the United States in preventing both inconsistent results and the appearance of impropriety in the same factual matter involving the same party, Z Company, is direct and substantial. However, if the Government's antitrust investigation or case is closed, the United States no longer has a direct and substantial interest in the case.

Example 2: A member of a Government team providing technical assistance to a foreign country leaves and seeks to represent a private contractor in making arrangements with the Government to perform the same service. The proposed new contract may or may not be considered a separate matter, depending upon whether the United States has a national interest in maintaining the original contract. The agency involved must be consulted by the former employee before the representation can be undertaken.

(d) *"Participate personally and substantially."*

(1) *Basic requirements.* The restrictions of section 207(a) apply only to those matters in which a former Government employee had "personal and substantial participation," exercised "through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise." To participate "personally" means directly, and includes the participation of a subordinate when actually directed by the former Government employee in the matter. "Substantially," means that the employee's involvement must be of significance to the matter, or form a basis for a reasonable appearance of such significance. It requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participation in a critical step may be substantial. It is essential that the participation be related to a "particular matter involving a specific party." (See paragraph (c) of this section.) (See also § 737.9(f) below.)

Example 1: If an officer personally approves the departmental budget, he does not participate substantially in the approval of all items contained in the budget. His participation is substantial only in those cases where a budget item is actually put in issue. Even then, the former Government employee is not disqualified with respect to an item if it is a general program rather than a particular matter involving a specific party. The former Government employee may, however, have official responsibility for such matters. (See § 737.7(b).)

Example 2: A Government lawyer is not in charge of, nor has official responsibility for a particular case, but is frequently consulted as to filings, discovery, and strategy. Such an individual has personally and substantially participated in the matter.

(2) *Participation on ancillary matters.* An employee's participation on subjects not directly involving the substantive merits of a matter may not be "substantial," even if it is time-consuming. An employee whose responsibility is the review of a matter solely for compliance with administrative control or budgetary considerations and who reviews a particular matter for such a purpose should not be regarded as having participated substantially in the matter, except when such considerations also are the subject of the employee's proposed representation. (See § 737.7(b)(3) below.) Such an employee could theoretically cause a halt in a program for noncompliance with standards under his or her jurisdiction, but lacks authority to initiate a program or to disapprove it on the basis of its substance.

(3) *Role of official responsibility in determining substantial participation.* "Official responsibility" is defined in § 737.7(b)(1). "Personal and substantial participation" is different from "official responsibility." One's responsibility may, however, play a role in determining the "substantiality" of an employee's participation. For example, ordinarily an employee's forbearance on a matter is not substantial participation. If, however, an employee is charged with responsibility for review of a matter and action cannot be undertaken over his or her objection, the result may be different. If the employee reviews a matter and passes it on, his or her participation may be regarded as "substantial" even if he or she claims merely to have engaged in inaction.

(e) *Agency responsibility in complex cases.* In certain complex factual cases, the agency with which the former Government employee was associated is likely to be in the best position to make a determination as to certain issues, for example, the identity or existence of a particular matter. Designated agency ethics officials should provide advice promptly to former Government employees who make inquiry on any matter arising under these regulations.

§ 737.7 Two-year restriction on any former Government employee's acting as representative as to a particular matter for which the employee had official responsibility.

(a) *Basic prohibition of 18 U.S.C. 207(b)(i).* No former Government employee, within two years after terminating employment by the United States, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party (3) if such matter was actually pending under the employee's responsibility as an officer or employee within period of one year prior to the termination of such responsibility.

(b) *"Official responsibility."*

(1) *Definition.* "Official responsibility" is defined in 18 U.S.C. 202 as, "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions."

(2) *Determining official responsibility.* Ordinarily, the scope of an employee's "official responsibility" is determined by those areas assigned by statute, regulation, Executive Order, job description or delegation of authority. All particular matters under consideration in an agency are under the "official responsibility" of the agency head, and each is under that of any intermediate supervisor having responsibility for an employee who actually participates in the matter within the scope of his or her duties.

(3) *Ancillary matters and official responsibility.* "Administrative" authority as used in the foregoing definition means authority for planning, organizing and controlling matters rather than authority to review or make decisions on ancillary aspects of a

matter such as the regularity of budgeting procedures, public or community relations aspects, or equal employment opportunity considerations. Responsibility for such an ancillary consideration does not constitute responsibility for the particular matter, except when such a consideration is also the subject of the employee's proposed representation.

Example 1: An agency's comptroller would not have official responsibility for all programs in the agency, even though she must review the budget, and all such programs are contained in the budget.

Example 2: Within two years after terminating employment, an agency's former comptroller is asked to represent Q Company in a dispute arising under a contract which was in effect during the comptroller's tenure. The dispute concerns an accounting formula, under the contract, a matter as to which a subordinate division of the comptroller's office was consulted. She may not represent Q Company on this matter.

(4) *Knowledge of matter pending required.* In order for a former employee to be barred from representing another as to a particular matter, he or she need not have known, while employed by the Government, that the matter was pending under his or her official responsibility. However, the former employee is not subject to the restriction unless at the time of the proposed representation of another, he or she knows or learns that the matter had been under his or her responsibility. Ordinarily, a former employee who is asked to represent another on a matter will become aware of facts sufficient to suggest the relationship of the prior matter to his or her former agency. If so, he or she is under a duty to make further inquiry, including direct contact with an agency's designated ethics official . where the matter is in doubt.

(5) *Self-disqualification.* A former employee cannot avoid the restrictions of this section on the ground by self-disqualification with respect to a matter for which he or she otherwise had official responsibility. However, self-disqualification is effective to eliminate the restriction of § 207(a).

(c) *"Actually pending."* "Actually pending" means that the matter was in fact referred to or under consideration by persons within the employee's area of responsibility, not that it merely could have been.

Example 1: A staff lawyer in a department's Office of General Counsel is consulted by procurement officers on the correct resolution of a contractual matter involving Q Company. The lawyer renders an opinion resolving the question. The same legal question arises later in several contracts with other companies, but none of the disputes with such companies is referred to the Office of the General Counsel. The General Counsel has official responsibility for the determination of the Q Company matter. The other matters were never "actually pending" under that responsibility, although as a theoretical matter, such responsibility extended to all legal matters within the department.

(d) *Other essential requirements.* All other requirements of the statute must be met before the restriction on representation applies. The same considerations apply in determining the existence of a "particular matter involving a specific party," a representation in an "appearance," or "intent to influence," and so forth as set forth under § 737.5 above.

Example 1: During her tenure as head of an agency, an officer's subordinates undertook major changes in agency enforcement standards involving occupational safety. Eighteen months after terminating Government employment, she is asked to represent Z Company which believes it is being unfairly treated under the enforcement program. The Z Company matter first arose on a complaint filed after the agency head terminated her employment. She may represent Z Company because the matter pending under her official responsibility was not one involving "a specific party." (Moreover, the time-period covered by 18 U.S.C. 207(c) has elapsed.)

(e) *Measurement of two-year restriction period.* The statutory two-year period is measured from the date when the employee's responsibility in a particular area ends, not from the termination of Government service, unless the two occur simultaneously. The prohibition applies to all particular matters subject to such responsibility in the one-year period before termination of such responsibility.

Example 1: The Director, Import/Export Division of A Agency retires after 26 years of service and enters private industry as a consultant. He will be restricted for two years with respect to all matters which were actually pending under his official responsibility in the year before his retirement.

Example 2: An employee transfers from a position in A Agency to a position in B Agency, and she leaves B Agency for private employment 9 months later. In 15 months she will be free of restriction insofar as matters which were pending under her responsibility in A Agency in the year before her transfer. She will be restricted for two years in respect of B Agency matters which were pending in the year before her departure for private employment.

§ 737.9 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.

(a) *Basic prohibition of 18 U.S.C. 207(b)(ii).* No former Senior Employee (see § 737.3(6)), within two years after terminating employment by the United States, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance, (1) before the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter he or she participated personally and substantially.

(b) *Limitation to "representational" assistance by "personal presence" at an appearance.* Section 207(b)(ii) is limited to assistance "in representing" another person by "personal presence" at an "appearance" before the United States. Different in scope from sections 207(a) and 207(b)(i), it does not apply to assistance in connection with an oral or written communication made with an intent to influence which does not involve an appearance. Nor does it bar assistance in preparation for either a formal or informal personal appearance or an appearance by written submission in a formal proceeding where the former employee is not personally present before the Government or a Government employee. The provision is designed to prevent the former Senior Employee from playing any auxiliary role during a negotiation proceeding or similar transaction with the Government so that he or she does not appear to be lending personal influence to the resolution of a matter and cannot do so in fact.

Example 1: A former Senior Employee makes suggestions as to the content of a letter to be sent to the Government on a matter in which he had participated. No violation occurs.

(c) *Managerial and other off-scene assistance.* The statute does not prohibit a former Senior Employee's advice and assistance to his or her organization's representatives which does not involve his or her personal presence at an appearance before the Government. The former Senior Employee's preparation of documents to be presented in any formal or informal proceeding does not constitute personal presence at an appearance, even where submission of such a document might technically constitute an appearance.

Example 1: A former Senior Employee attends a hearing on a matter in which she had participated personally and substantially while in the Government. She speaks with the representative of a private party during the hearing. A violation occurs if the former Senior Employee lends assistance to the representative in that conversation.

Example 2: A Senior Justice Department lawyer personally works on an antitrust case against Z Company. After leaving the Department, she is asked to discuss legal strategy with lawyers representing Z

Company on that same antitrust case, to write portions of a brief and to direct the research of the staff working on the case. Any such aid would not be prohibited by the statute, but would likely be prohibited by professional disciplinary rules.

(d) *Representational assistance.* The statute seeks to prevent a former Senior Employee from making unfair use of his or her prior governmental position by prohibiting all forms of assistance in the representation of another when personally present at an appearance, including giving advice as to how the representation in an appearance should be conducted, supplying information, participating in drafting materials, or dealing with forensic or argumentative matters (such as testimony, methods of persuasion, or strategy of presentation).

(e) *Measurement of restriction period.* The statutory two-year period is measured from the date of termination of employment in the Senior Employee position held by the former employee when he or she participated personally and substantially in the matter involved. (cf. § 737.7(e))

(f) *Other Essential Requirements.* All conditions of the statutory prohibition must be met. Specifically, the former employee, (1) must have been a "Senior Employee," (2) who "participated personally and substantially" (See § 737.5(d) above) in (3) a "particular matter involving a specific party." (See subpart § 737.5(c) above.)

(g) *General Examples:*

Example 1: A Senior Federal Trade Commission Employee, an economist by profession, participates in an investigation involving X Company, and a proceeding is commenced against X Company based on the investigation. After leaving the Commission, he offers to serve as a consultant to the lawyers for X Company on certain economic matters involved in the proceeding. He attends the proceeding and at the close of each day, meets in the lawyers' office to advise them. Such conduct violates the statute.

Example 2: A Senior Employee of the Department of the Treasury participates in a number of projects with universities and financial research institutions funded by Government grants. After leaving the Government, she becomes dean of a graduate school of business which performs work under a number of such grants. She may, in the discharge of her duties, supervise research and advise as to how funds under such a contract should be allocated, whether or not these matters are, as is likely, communicated to her former Department by the graduate school's representatives. (See § 737.11.)

Example 3: A Senior Defense Department official participated personally and substantially in a contract award to F Company for fighter planes. After leaving the Department, the former official goes to work for F Company. Subsequently, F Company desires to renegotiate prices and a pension provision on the fighter plane contract, matters in which dispute is anticipated. The former official could not attend a meeting with Government employees at which such matters will be discussed and give assistance to those representing F Company in the negotiations. He could generally render advice as long as he remained absent from the negotiations.

Example 4: A Senior Justice Department lawyer participated in an antitrust case against Q Company, which is represented by Y law firm. Immediately after leaving the Department, she goes to work with Y law firm, and assists at a trial representing Q Company in a different antitrust case, not involving the allegations in the Government case. Such assistance would not be barred because it does not occur in connection with the same particular matter.

Example 5: A Senior Employee of the Department of Health and Human Services leaves to take a university position. The former official's new duties include various HHS contracts which the university holds. Some of the contracts were awarded by a division within HHS which was under her official responsibility. She is not barred from assistance in negotiations with respect to such contracts, because the restriction applies only to those matters in which she had participated personally and substantially, not to those matters for which she had official responsibility. Note, however, that any participation by her as a representative would be barred by 18 U.S.C. 207(b)(i) as described in § 737.7 above. (But see § 737.11.)

Example 6: A Senior scientist with the Food and Drug Administration was personally and substantially involved in a licensing proceeding concerning a specific drug. After leaving the FDA, he is employed by the manufacturer of the drug. There he engages in research, indicating that the drug is safe and effective, which his employer later presents to FDA in connection with the proceeding. He assists during this presentation. Such assistance would normally be restricted but may be allowed to the extent that the former official is furnishing scientific information to the Government. (See 18 U.S.C. 207(f) and § 737.15 below.)

Example 7: A former Senior Employee of the Federal Communications Commission leaves the agency to join a graduate school faculty. In one of his courses, which from time to time includes Government employees, he discusses, unfavorably to the Commission, a specific licensing case in which he was personally and substantially involved. The restriction does not apply because the conduct does not occur in connection with any representational activities.

§ 737.11 One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.

(a) *Basic prohibition of 18 U.S.C. 207(c).* For a period of one year after terminating employment by the United States, no former Senior Employee (other than a special Government employee who serves for fewer than sixty days in a calendar year) shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with the intent to influence, make any written or oral communication on behalf of anyone to (1) his or her former department or agency, or any of its officers or employees, (2) in connection with any particular Government matter, whether or not involving a specific party, which is pending before such department or agency, or in which it has a direct and substantial interest.

(b) *Transactions exempted from the basic prohibition of 18 U.S.C. 207(c).* The prohibition set forth above shall not apply to an appearance, a communication, or representation by a former Senior Employee, who is:

(1) an elected official of a State or local government, acting on behalf of such government, or

(2) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital or organization.

Example 1: A former Senior Employee of the Federal Highway Administration is appointed to the position of Secretary of Transportation for the State of Kansas. He would not be prohibited from transacting business with his former agency concerning new matters on behalf of the State. He would, however, be restricted as to 207(a) and 207(b) matters.

Example 2: A former Senior Employee of the Department of Housing and Urban Development establishes a consulting firm and is engaged by the City of Los Angeles to aid it in procuring a particular grant. He may not represent Los Angeles before his former Department because his "principal occupation or employment" is not with such city.

Example 3: A former Senior Employee of the Department of Education founds a vocational school for the training of legal paraprofessionals and associated staff. He desires to communicate with officials at his former Department for the purpose of establishing a program of assistance to such institutions. He may not do so, since the vocational school is not an "accredited, degree granting institution of higher education."

(c) *No prior involvement required.* The prohibition contained in this section

applies without regard to whether the former Senior Employee had participated in, or had responsibility for, the particular matter and includes matters which first arise after the employee leaves Government service. The section aims at the possible use of personal influence based upon past Governmental affiliations to facilitate the transaction of business.

(d) *Specific parties unnecessary.* The particular matter in which the former Senior Employee proposes to act before his or her former agency need not be one "involving specific parties," and thus is not limited to disputed proceedings or contracts in which a party has already been identified. However, the restriction does not encompass every kind of matter, but only a particular one similar to those cited in the statutory language, *i.e.,* any judicial or other proceeding, application, request for a ruling or determination, contract, claim, controversy, investigation, charge, accusation, or arrest. Rulemaking is specifically included. Thus such matters as the proposed adoption of a regulation or interpretive ruling, or an agency's determination to undertake a particular project or to open such a project to competitive bidding are covered. Not included are broad technical areas and policy issues and conceptual work done before a program has become particularized into one or more specific projects. The particular matter must be pending before the agency or be one in which the agency has a "direct and substantial interest."

(Note.—Each post employment activity in the examples in this section is assumed to take place within one year of termination of Government employment.)

Example 1: A Senior Employee of the Department of Health and Human Services leaves Government employment for private practice, and shortly thereafter telephones a former associate urging that the Department (a) adopt a new procedure to put a ceiling on hospital costs; (b) not adopt a particular rule proposed for drug testing; and (c) oppose a bill pending in Congress relating to such drug testing. He is prohibited from attempting to influence his former co-worker on any of these matters. The first, not yet pending, is of interest to the Department; the second is pending in the Department; and the third is pending elsewhere, and is of interest to the Department. Note that the former Senior Employee may, however, communicate the same views to Congress, other agencies, the public or the press.

Example 2: A recently retired Senior Employee of the Department of Defense believes that the Department's general emphasis on manned aircraft is not in the national interest. After his departure, he may continue to argue the point to the Department.

(e) *Element of controversy or influence required.* The prohibition on acting as a representative or attempting to influence applies to situations in which there is an appreciable element of actual or potential dispute or an application or submission to obtain Government rulings, benefits or approvals, and not to a situation merely involving, for example: the transmission or filing of a document that does not involve an application for Government benefit, approval or ruling; a request for information; purely social or informational communications; or those required by law or regulations (in situations other than adversary proceedings). Each agency should, after consulting with the Director or the Attorney General, as appropriate, give guidance on the kinds of applications, filings and other matters which are not prohibited by section 207(c).

Example 1: A former Senior Employee of the Internal Revenue Service prepares and mails a client's tax return. This is not a prohibited act. Should any controversy arise in connection with the tax return, the former employee may not represent the client, but may be called upon to state how the return was prepared.

Example 2: A former Senior Employee of the Securities and Exchange Commission prepared and transmitted for filing to the Commission a client's annual report on form 10–K. This is not a violation, because the 10–K is a disclosure report, not intended to obtain a Government benefit or ruling.

Example 3: A former Senior Employee of the Securities and Exchange Commission becomes executive vice-president of a major industrial corporation, registered under the Securities Exchange Act of 1934. Pursuant to Commission regulations, the officers of the corporation are required to sign certain filings on behalf of the corporation, which are transmitted to the Commission. The employee may review, concur or request changes in, and sign any such filing required to be transmitted to the Commission.

(f) *Agency activity or interest in matter.* The restriction applies to the former employee's contacts with his or her former agency in connection with a matter before or of "direct and substantial interest" to the agency.

Example 1: A former Senior Employee of the Securities and Exchange Commission is asked to represent Z Company in a new matter before the Commission, one in which the former employee had no prior involvement. He may not do so.

Example 2: The matter in the foregoing example is referred to the Department of Justice for prosecution, and the former employee is asked for the first time to represent Z Company in the criminal proceeding. The matter is likely to be of direct and substantial interest to the Commission. If so, the former employee may not communicate with the Commission in the matter. However, the former Senior Employee may communicate with the Commission in order to determine whether it asserts a direct and substantial interest in the criminal proceeding. In the event of a negative answer to the question, the former Senior Employee may communicate with the Commission.

Example 3: In connection with an entirely new matter a former Senior Employee of the Securities and Exchange Commission undertakes the representation of Z Company in private litigation brought by Q Company, *(e.g.,* a private action arising under the Securities Exchange Act of 1934). Before the suit was commenced, there was no actual expression of interest by the Commission in the matter. As the litigation develops, an important question of statutory interpretation is raised, and the Commission files a brief as *amicus curiae* (friend of the court). The former Senior Employee may respond to the brief and need not withdraw from representation of Z Company, but he may not otherwise communicate with the Commission in the matter. If the Commission were to commence a proceeding or investigation again, Z Company on the basis of the same facts involved in the private litigation, the former employee could continue his representation in the private litigation, but could not represent Z Company in the Commission's proceeding until after the expiration of one year from the termination of his employment with the Commission.

[Note.—Where an agency becomes a party to a proceeding subsequent to its commencement, the question whether a former Senior Employee may continue representation should ordinarily be decided by the court on a motion for disqualification in the particular circumstances.]

Example 4: In connection with a new matter, a former Senior Employee of the Federal Food and Drug Administration, since retired to private law practice, is asked to consult and assist in the preparation of briefs to be filed with the Administration on a new particular matter. He may do so, but he should not sign briefs or other communications or take any other action that might constitute an appearance.

(g) *Application or proposals for funding of research.* In connection with any application or proposal for Government funding of research, the restrictions of this section do not prevent a former Senior Employee from assuming responsibility for the direction or conduct of such research and from providing scientific or technological information to the Senior Employee's former agency regarding such research. The former Senior Employee may not, however, submit the application on behalf of the applicant or argue for its approval or funding by the agency.

Example 1: A former Senior Employee of the National Institute of Health (NIH), employed by a non-exempt research institute, prepares an application to NIH for a research contract. The application is submitted to NIH by the institute and lists the Senior Employee as principal investigator. The Senior

Employee does not violate 18 U.S.C. 207(c) by preparing the application or by being listed as principal investigator, since these are not representational activities. He may also sign an assurance to NIH, as part of the application, that he will be responsible for the scientific and technical direction and conduct of the project if an award is made. He may also communicate with NIH to provide scientific or technical information on the application, including presentation to NIH personnel at the research site, so long as he does not argue for approval or funding of the application.

(h) *Personal matters.* Unlike the provisions of subsections 207(a) and (b) the restrictions of this section apply when the former Senior Employee seeks to represent himself or herself. However, they do not apply to appearances or communications concerning matters of a personal and individual nature, such as personal income taxes, pension benefits, or the application of any provision of these regulations to an undertaking proposed by a Senior Employee. (See 18 U.S.C. 207(i).) A former Senior Employee may also appear *pro se* (on his or her own behalf) in any litigation or administrative proceeding, involving the individual's former agency. The former employee may not contact his or her former agency in order to secure an item of business, except for (1) discussions in contemplation of being employed by the agency as a consultant or otherwise; or (2) a proposal to furnish scientific or technological information to the Government.

Example 1: Any former Government Employee may contact his or her former agency to seek information or determinations as to matters in question under these regulations or under 18 U.S.C. 207, such as whether a particular matter is considered to have been under the employee's official responsibility, whether a matter is one in which the agency asserts a direct and substantial interest, or whether a current matter is considered to be the same as that in which the employee had been involved.

(i) *Statements based on special knowledge.* The restrictions of the section do not prevent a former Senior Employee from making or providing a statement, which is based on the former Senior Employee's own special knowledge in the particular area that is the subject matter of the statement, provided that no compensation is thereby received, other than that regularly provided by law or regulation for witnesses. (See 18 U.S.C. 207(i).)

Example 1: A former Senior Employee may make any statement of his own views to his former agency on any subject matter in which he has no substantial pecuniary interests, acting on his own behalf.

Example 2: A former Senior Employee is called by his successor at the agency for the purpose of eliciting some information on a matter in which he had been involved in an official capacity. His response is not prohibited.

Example 3: A former Senior Employee may recommend an individual to her former agency for employment, based on her own personal knowledge of the individual's qualifications and character.

(j) *Measurement of one-year restriction period.* The statutory one-year period is measured from the date when the individual's responsibility as a Senior Employee in a particular agency ends, not from the termination of Government service, unless the two occur simultaneously. (See 737.7(e).)

§ 737.13 Limitation of restrictions of 18 U.S.C. § 207(c) to less than that whole of a department or agency.

(a) *Authority.* There are two methods by which the application of the one-year "cooling-off" prohibition of 18 U.S.C. § 207(c) may be limited to less than the entirety of a department or agency. First, 18 U.S.C. 207(e) provides that the Director may by rule designate as "separate" a statutory agency or bureau which exercises functions that are distinct and separate from the remaining functions of the parent department or agency of which it is part. (see 737.31) Second, under the provisions of 18 U.S.C. 207(d)(1)(C), the Director may restrict the application of the prohibition as to a former employee (other than one who served in an Executive Level position or at a uniformed service grade level of 0–9 and above) insofar as it affects his or her communications with persons in an unrelated agency or bureau within his former parent department or agency which has separate and distinct subject matter jurisdiction from the agency or bureau in which he or she served. (see 737.32)

(b) *Distinctions between the 18 U.S.C. 207(e) and 207(d)(1)(C) provisions.* (1) The authority granted by 18 U.S.C. 207(e) is applicable solely to a separate *statutory* agency or bureau, that is, one created by statute or the functions of which are expressly referred to by statute in such a way that is appears that Congress intended that its functions were to be separable. A determination made under this 18 U.S.C. 207(e) does not, however, benefit former heads of the separate statutory agency or bureau. Such a determination does, however, work to the benefit of other employees at Executive Level or at uniformed service grade level of 0–9 or above.

(2) The determination made pursuant to § 207(d)(1)(C) is intended to provide similar recognition of separability where the subordinate agency or bureau has been *administratively* created. A determination of such separability does inure to the benefit of the head of the separate component if he is a Senior Employee designated by the Director. However, the determination is not beneficial to persons, including the head of a separate component, in positions at Executive Level or serving at uniformed service grade level of 0–9 above.

(c) *Separate Statutory Components*

(1) *Procedure.* Each agency shall notify the Director, in writing, of any separate statutory agency or bureau which it desires to submit for such designation under 18 U.S.C. 207(e), providing:

(i) A description of the functions of the agency or bureau, indicating the basis on which such functions are claimed to be distinct and separate from the parent organization;

(ii) The separate statutory basis of the agency or bureau; and

(iii) Identification of those positions in the parent agency with official responsibility for supervision of such separate statutory agency or bureau.

(2) *Standards.* A parent agency may propose as a "separate" statutory agency an agency or bureau (i) created specifically by statute, (ii) the functions of which are expressly referred to by statute in such a way as to indicate that a separate component was intended or (iii) which is the successor to either of the foregoing; but a decision as to the sufficiency of the statutory authority as well as the separability of functions shall be reserved to the Director, OGE.

(3) *Effect of designation.* If a subordinate part of an agency is designated as "separate" by the Director, then Senior Employees of such separate agency and those of the parent agency are not subject to the restrictions of section 207(c) as to each others' agencies—except that the prohibition of section 207(c) remains applicable to the former head of a "separate" subordinate agency and to former Senior Employees of the parent agency whose official responsibility included supervision of the subordinate agency.

Example 1: A former Senior Employee of the Product Agency in Executive Department leaves and joins a law firm which represents Q Corporation. Product Agency has been designated by the Director as separate from Executive Department. The former employee is not restricted from representing the Q Corporation on a new matter before the Executive Department.

(d) *Separate Nonstatutory Components*

(1) *Procedure.* Each agency may notify the Director, in writing, of a component agency, bureau or office having separate and distinct subject matter jurisdiction which it desires to submit for

designation under 18 U.S.C. 207(d)(1)(C), providing:

(i) A description of the subject matter jurisdiction of such component, indicating the basis on which such jurisdiction is claimed to be separate and distinct from certain other agencies, bureaus and offices of the parent agency;

(ii) A description of the nature of the connections and interactions between such component and certain other agencies, bureaus or offices of the parent agency indicating the basis on which the component is claimed to be unrelated;

(iii) A statement of the basis on which it is claimed that no potential exists for use by former Senior Employees of such component of undue influence or unfair advantage with respect to the named other agencies, bureaus or offices of the parent agency, based on past Government service; and

(iv) Identification of those organizational units of the parent agency having administrative or operational authority over such component agency, bureau or office.

(2) *Standards.*

(i) A parent agency may propose as "separate" from other parts of a department or agency any agency or bureau having subject matter jurisdiction separate and distinct from one or more other portions of the department or agency accompanied by a showing that there would be no potential for use of undue influence or unfair advantage based upon past Government service if a former employee of one such subordinate agency or bureau communicated with employees of such other portions of the department or agency.

(ii) A determination under this section rests solely with the Director, OGE, and is available only for those subordinate components which would, but for the lack of a statutory basis, qualify for separate agency treatment under 18 U.S.C. 207(e).

(iii) Where one component has supervisory authority over another, the two components may not be considered separate and distinct for purposes of this section.

(iv) The requirement of "separate and distinct subject matter jurisdiction" may be met in at least two ways. First, the substantive areas of coverage may be distinct. For example, an office or bureau within the parent agency may handle only maritime matters. Second, the regional area of coverage may be different. For example, one regional office may, on appropriate facts, be considered separate and distinct from other regional offices and from the parent agency—except for the bureau or office in the parent agency which is responsible for its supervision.

(v) It is necessary to specify the "unrelated agency or bureau within the same department or agency" as to which it is recommended that post employment communication be permitted. For example, one bureau may involve a subject matter distinct from some, but not all, parts of the parent department. Attempts to fractionalize a department could, however, become deeply complicated and involve difficult judgments and fact-finding. OGE will not usually act on such cases, and submissions should be confined to relatively clear cases.

(3) *Effect of determination.* If a component agency, bureau or office is determined to be separate by the Director, then Senior Employees of such component are not subject to the restrictions of 18 U.S.C. 207(c) and § 737.11 as to the remaining agencies, bureaus or offices of the parent agency (except certain such agencies, bureaus or offices as specified in § 737.32)—except that the prohibition of section 207(c) and § 737.11 shall remain applicable (i) to those former Senior Employees of such component who served in positions designated by 18 U.S.C. 207(d)(1)(A) and (B) and (ii) to former Senior Employees of such component with respect to the parent agency (as defined in § 737.13(e)). Such limited application of 18 U.S.C. 207(c) may be available for the head of a separate component, unlike the limitation of 18 U.S.C. 207(e), as determined by the Director

Example 1: In the Department of Justice, while the Antitrust Division may be "separate" from other Divisions, it is not separate from the immediate office of the Attorney General.

§ 737.15 Exemption for scientific and technological information.

(a) *Exemption.* The making of communications solely for the purpose of furnishing scientific or technological information pursuant to agency procedures is exempt from all prohibitions and restrictions set forth in §§ 737.5–737.11 of these regulations (subsections (a), (b), and (c) of 18 U.S.C. 207). This exemption allows the free exchange of such information regardless of a former Government employee's prior participation in or responsibility for the matter. The former Senior Employee should not argue for the acceptance of a proposal. The exemption is not limited to communications constituting the furnishing of information, but includes those "for the purpose of" doing so. No violation occurs when, for example, a former Government employee working on a project makes contact to determine the kind and form of information required, or the adequacy of information already supplied, so long as agency procedures are satisfied.

Example 1: A project manager, regardless of prior involvement in a particular matter, may contact the Government to determine deficiencies in system design or performance, furnish scientific or technological information relating to a solution or approach to a problem, seek related information from the Government; advise and supervise others who are involved as to such matters; and meet with Government technical experts for such purpose; provided in each case that there is compliance with such agency regulations as have been issued.

(b) *Necessary information.* Scientific and technological information includes feasibility, risk, cost, and speed of implementation, when necessary to appreciate fairly the practical significance of the information. The Government may and should be fully informed of the significance of scientific and technological alternatives.

(c) *Intent to influence.* The furnishing of meritorious or convincing scientific or technological proposals does not constitute an intent to influence. (See § 737.5(b)(7) above.)

(d) *Expert testimony.* This exemption does not include testimony as an "expert" in adversary proceedings in a matter in which the United States is involved or has an interest. Such testimony is governed by regulations set forth in § 737.19. As to assistance as an expert or consultant, see § 737.9(g), Example 7.

(e) *Agency responsibility for procedures.* The primary responsibility for developing procedures to guide activity under this exemption lies with each agency, so that such procedures comport with the particular characteristics of agency programs and needs. Such procedures will be reviewed periodically by the Director. In promulgating procedures, an agency may take into consideration: limiting communications to certain formats which are least conducive to the use of personal influence; segregating, to the extent possible, meetings and presentations involving matters of technical substance from those involving other aspects of the relationship; requiring that the designated agency ethics official be informed of instances where the exemption is used; or employing more restrictive practices in circumstances involving either immediate competition for contracts or applications for grants than in those involving an ongoing project.

§ 737.17 Exemption for persons with special qualification in a technical discipline.

(a) *Applicability.* A former Government employee may be exempted from the restrictions on post employment practices if the head of the agency concerned with the particular matter, in consultation with the Director, executes a certification published in the **Federal Register** that such former Government employee has outstanding qualifications in a scientific, technological, or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and that the national interest would be served by such former Government employee's participation.

(b) *When appropriate.* This exemption should generally be utilized only where the former Government employee's involvement is needed on so continuous and comprehensive a basis that compliance with the procedures adopted for the communication of technical information (see § 737.15), or other actions to isolate the former Government employee from other aspects of the matter, would be burdensome and impractical.

(c) *Certification authority.* Certification should take place at no lower level than the head of the agency, the deputy thereof, or in the absence of both, the acting agency head. Consultation with the Director shall precede any certification. The exemption takes place upon the execution of the certification, provided that it is transmitted to the **Federal Register** for publication.

(d) *Agency registry.* An agency may establish a registry for current employees, wherein the nature of their qualifications in one or more technical fields is certified after review by a supervisor, as a basis for establishing such qualifications in connection with, and to expedite, a later request for certification, should the necessity for such request arise.

§ 737.19 Testimony and statements under oath or subject to penalty of perjury.

(a) *Statutory basis.* Section 207(h) provides:

"Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury."

(b) *Applicability.* A former Government employee may testify before any court, board, commission, or legislative body with respect to matters of fact within the personal knowledge of the former Government employee. This provision does not, however, allow a former Government employee, otherwise barred under 18 U.S.C. 207 (a), (b), or (c) to testify on behalf of another as an expert witness except: (1) to the extent that the former employee may testify from personal knowledge as to occurrences which are relevant to the issues in the proceeding, including those in which the former Government employee participated, utilizing his or her expertise, or (2) in any proceeding where it is determined that another expert in the field cannot practically be obtained; that it is impracticable for the facts or opinions on the same subject to be obtained by other means, and that the former Government employee's testimony is required in the interest of justice.

(c) *Statements under penalty of perjury.* A former Government employee may make any statement required to be made under penalty of perjury, such as those required in registration statements for securities, tax returns, or security clearances. The exception does not, however, permit a former employee to submit pleadings, applications, or other documents in a representational capacity on behalf of another merely because the attorney or other representative must sign the documents under oath or penalty of perjury.

§ 737.21 Partners of present or former government employees.

(a) *Scope.* Section 207(g) of 18 U.S.C. prohibits a partner of a current Government employee from acting as agent or attorney before the United States in a particular Government matter in which such Government employee participates, or did participate, personally and substantially. To the extent such section involves the activities of current Government employees and their partners, it is beyond the scope of these regulations.

(b) *Imputation.* Neither the Act nor these regulations impute the restrictions on former employees to partners or associates of such employees. Imputation of the restrictions of sections 207 (b)(ii) and (c) to partners of former employees would be inappropriate for the additional reason that section 207(b)(ii) itself restricts secondary-level activity, and section 207(c) is directed at the exercise of influence personal to the former Senior Employee.

§ 737.23 Officials of a state; officials of corporations created by an Act of Congress and public international organizations.

For purposes of sections 207 (a), (b) and (c) of title 18 U.S.C.:

(a) An official whose powers are established by the constitution of any State of the United States does not act on behalf of "any other person" or "anyone" when acting in his or her official capacity, but rather constitutes the official authority of the State; and

(b) A former employee does not engage in unlawful activity when he or she acts on behalf of (1) a corporation specifically created by an Act of Congress if any of its directors is currently appointed by the United States; or (2) any public international organization if he or she serves by nomination or request of the United States or on temporary assignment from any agency.

§ 737.25 Standards and procedures for designating senior employee positions pursuant to 18 U.S.C. § 207(d).

(a) *Definitions.* As used in these regulations, "Senior Employee" refers to any person specified in or designated pursuant to 18 U.S.C. 207(d)(1); that is, employed by the United States:

(1) At a rate of pay specified or fixed according to subchapter II of chapter 53 of title 5, U.S.C., generally known as "Executive Level;" or

(2) On active duty as a commissioned officer of a uniformed service in a pay grade of 0–9 or above as described in 37 U.S.C. 201; or

(3) In a position in any pay system for which the basic rate of pay is equal to or greater than that for GS–17 as prescribed by 5 U.S.C. 5332 or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay grade 0–7 and 0–8, as described in 37 U.S.C. 201, and who has significant decision-making or supervisory responsibilities, as designated by the Director, pursuant to paragraph (b) of this section.

(b) *Designation procedures.* The following procedures will be followed in designation of Senior Employee positions pursuant to 18 U.S.C. 207(d)(1)(C):

(1) *Positions at GS–17 and 18 level, Senior Executive Service, and pay grades 0–7 and 0–8 of the uniformed services.* The following are designated effective February 28, 1980, unless exempted as provided in paragraph (b)(2) of this section: all positions classified at GS–17 or above in the General Schedule; those in any other pay system, the rate of pay for which is at least that of grade GS–17; those in the Senior Executive Service; and those active duty uniformed service officers serving in pay grades 0–7 and 0–8. Each

agency head shall submit to the Director, by May 15, 1979 and on every May 15 thereafter, a report consisting of: (i) a description of all positions as set forth in this paragraph; (ii) the agency's recommendation as to those positions that should not be designated, based on standards established in these regulations or any other reason; and (iii) the basis and reasons for each such recommendation. After making such additional inquiries as appear desirable, the Director will determine which positions should be exempt. Notwithstanding the foregoing, the effective date for Executive Level positions, whether or not included in the Senior Executive Service, is July 1, 1979.

(2) *Standards for designation and exemption.* Positions, or classes of positions, which do not have significant decision-making or supervisory responsibility will be exempted from designation. Initial exemptions will be retroactive. Classes of positions which may be considered for exemption are those in which decision-making responsibility does not regularly extend to major policy issues within the agency or in which supervisory responsibility extends to less than all of a directorate, bureau or department which has major policy or operational responsibility. The foregoing may include, without limitation, special assistants, technical and professional advisors to persons who make policy decisions, those involved primarily in research and technical work, and administrative law judges.

(3) *Senior Executive Service.* The establishment of positions within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978 is the responsibility of the Office of Personnel Management. The choice of an individual to enter or not to enter the Senior Executive Service is not a relevant factor in the designation under these regulations of a position held by such person.

(4) *"Rate of pay."* As used in the definition of Senior Employee, the "rate of pay" is that specified by or pursuant to law without regard to the ceiling limitations of section 5308 or section 5373 of title 5 U.S.C.; except that an individual in an executive level or GS–17 or 18 position is deemed to be employed at the rate of pay specified for that position. Increases in pay due to "steps" are not considered in determining pay grade or level.

(c) *Differential designation.* Where appropriate, the Director may designate positions for purposes of 18 U.S.C. 207(c) without designating the positions for purposes of 18 U.S.C. 207(b)(ii).

Example 1: It may be determined that a given position or class of positions will be restricted as to contact in the first post employment year, but not as to assisting in representation.

(d) *Fair notice of designation.* No Senior Employee designation made pursuant to 18 U.S.C. 207(d)(1)(C) will be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director of intention to designate; except as indicated in paragraph (i) of this section, and as to a person first occupying the position after such notice is published. The designation in paragraph (b)(1) of this section and the comparable designation in the interim regulations of April 3, 1979 (44 FR 19974) constitutes notice.

(e) *"Acting" or temporary positions.* An individual may serve in a position designated pursuant to 18 U.S.C. 207(d) for up to 60 days in an "acting" or temporary capacity without being subject to those restrictions which specially apply to such positions, unless such individual (1) was transferred or detailed from another designated position, or (2) without a significant break in continuity, is named permanently to such position.

(f) *Special Government Employee.* A Special Government Employee who serves on 60 days or less in a given calendar year may serve in a designated position without being subject to the restrictions which specially apply to such position. A Special Government Employee is deemed to serve only on those days actually engaged in work for the Government under his or her Special Government Employee arrangement.

(g) *Publication.* Positions designated by the Director pursuant to 18 U.S.C. 207(d)(1)(C) and not exempted will be published in the **Federal Register.**

(h) *Computation of time.* An individual who transfers from a designated position to one that is not designated shall compute the commencement of the time periods contained in 18 U.S.C. 207 (b)(ii) and (c) from the time of such transfer, except as indicated in paragraph (i) below. (See § 737.7(e).)

(i) *Position shifting.* In any case where a person transfers from a designated position to one that is not, the agency head shall within one month transmit to the Director a report reciting the functions of each position, the reason for the transfer, and the identities of the prior holder of the position assumed and the successor, if any, to the position departed. If the Director designates the newly assumed position pursuant to section 207(d)(1)(C) of title 18 U.S.C., such designation shall be effective retroactively to the date of transfer notwithstanding paragraph (d) of this section.

(j) *Revocation of Designations.* In the event the Director determines that a position previously designated should not have been, the designation will be revoked. Except for designations made under paragraph (i) of this section, the revocation may be made retroactive if the initial designation is determined to have been erroneous or if there is a change in standards for designation applicable to the position. Retroactive effect will not be given where the basis for revocation is a change in the functions or importance of a position.

§ 737.27 Administrative enforcement proceedings.

(a) *Basic procedures.* The following basic guidelines for administrative enforcement of restrictions on post employment activities are designed to expedite consultation with the Director as required pursuant to section 207(j) of title 18 U.S.C.

(1) *Delegation.* The head of an agency may delegate his or her authority under this subpart.

(2) *Initiation of administrative disciplinary hearing.* (i) On receipt of information regarding a possible violation of 18 U.S.C. 207, and after determining that such information appears substantiated, the agency head shall expeditiously provide such information, along with any comments or agency regulations, to the Director and to the Criminal Division, Department of Justice. The agency should coordinate any investigation on administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Agency that it does not intend to initiate criminal prosecution.

(ii) Whenever an agency has determined after appropriate review that there is reasonable cause to believe that a former Government employee has violated any of these regulations or 18 U.S.C. 207(a), (b), or (c), it may initiate an administrative disciplinary proceeding by providing the former Government employee with notice as defined in paragraph (a)(3) of this section. Agencies may establish procedures to protect the privacy of former employees as to allegations made prior to a determination of sufficient cause to initiate an administrative disciplinary hearing.

(3) *Adequate notice.* (i) An agency must provide a former Government employee with adequate notice of an intention to institute a proceeding and an opportunity for a hearing.

(ii) Notice to the former Government employee must include:

A. A statement of allegations (and the basis thereof) sufficiently detailed to enable the former Government employee to prepare an adequate defense;

B. Notification of the right to a hearing; and

C. An explanation of the method by which a hearing may be requested.

(4) *Presiding official.* (i) The presiding official at proceedings under this subpart shall be the agency head or an individual to whom the agency head has delegated authority to make an initial decision (hereinafter referred to as "examiner").

(ii) Appropriate qualifications shall be established for examiners.

(iii) An examiner shall be impartial. No individual who has participated in any manner in the decision to initiate the proceedings may serve as an examiner in those proceedings.

(5) *Time, date and place.* (i) The hearing shall be conducted at a reasonable time, date, and place.

(ii) In setting a hearing date, the presiding official shall give due regard to the former Government employee's need for:

(A) Adequate time to prepare a defense properly, and

(B) An expeditious resolution of allegations that may be damaging to his or her reputation.

(6) *Hearing rights.* A hearing shall include, at a minimum, the following rights:

(i) To represent oneself or to be represented by counsel,

(ii) To introduce and examine witnesses and to submit physical evidence,

(iii) To confront and cross-examine adverse witnesses,

(iv) To present oral argument, and

(v) To receive a transcript or recording of the proceedings, on request.

(7) *Burden of proof.* In any hearing under this subpart, the agency has the burden of proof and must establish substantial evidence of a violation.

(8) *Hearing decision.* (i) The presiding official shall make a determination exclusively on matters of record in the proceeding, and shall set forth in the decision all findings of fact and conclusions of law relevant to the matters at issue.

(ii) Within a reasonable period of the date of an initial decision, as set by the agency, either party may appeal the decision to the agency head. The agency head shall base his or her decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(iii) If the agency head modifies or reverses the initial decision, he or she shall specify such findings of fact and conclusions of law as are different from those of the hearing examiner.

(9) *Administrative sanctions.* The agency head may take appropriate action in the case of any individual who was found in violation of 18 U.S.C. 207 (a), (b), or (c) of these regulations after a final administrative decision or who failed to request a hearing after receiving adequate notice, by:

(i) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on any matter of business for a period not to exceed five years, which may be accomplished by directing agency employees to refuse to participate in any such appearance or to accept any such communication; or

(ii) Taking other appropriate disciplinary action.

(10) *Judicial review.* Any person found to have participated in a violation of 18 U.S.C. 207 (a), (b), or (c) of these regulations may seek judicial review of the administrative determination.

(11) *Consultation and review.* Each agency shall submit a copy of its procedures for administrative enforcement to the Director.

§ 737.29 Effective date of restrictions.

(a) *Persons affected.* Any person who holds a Government position after June 30, 1979, becomes subject to any additional restrictions relating to the holder of that position contained in the amendments to 18 U.S.C. 207 as set forth in these regulations. Restrictions which depend on the designation of a position by the Director shall become applicable on the date such designation becomes effective.

(b) *Fair notice of substantive changes.* No change in the substance of these regulations shall become effective with respect to a Government employee who is adversely affected by such change until and unless such employee remains in a position to which such change is applicable for a period of five months following the first publication of a regulation in final form, reflecting or prescribing such change, or unless such employee accepts such a position after the publication.

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and § 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Comptroller of the Currency
- Internal Revenue Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Components:
- United States Fire Administration

Parent Agency: OFFICE OF PERSONNEL MANAGEMENT
Separate Statutory Components:
- Office of Federal Procurement Policy
- Office of Government Ethics

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Education Division
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Law Enforcement Assistance Administration
- Immigration and Naturalization Service
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Civil Preparedness Agency
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Components:
- Federal Energy Regulatory Commission

§ 737.32 Separate components of agencies or bureaus: designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for

purposes of 18 U.S.C. 207(c) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Components:
Health Care Financing Administration
Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Components:
Alaska Railroad
Parent Agency: DEPARTMENT OF LABOR
Separate Components:
Employment and Training Administration
Employment Standards Administration
Labor-Management Services Administration
Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
Defense Communications Agency
Defense Intelligence Agency
Defense Nuclear Agency
National Security Agency
Parent Agency: DEPARTMENT OF STATE
Separate Components:
Foreign Service Grievance Board
International Joint Commission, United States and Canada (American Section)
Parent Agency: DEPARTMENT OF JUSTICE
Separate Components:
Office of United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshal for the same judicial district.
Office of United States Marshal (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.

§ 737.33 "Senior Employee" designations.

(a) In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18 U.S.C., as amended.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF MANAGEMENT AND BUDGET)

Positions: Grade and Title
GS–18 General Counsel
GS–18 Project Director, Federal Statistical Reorganization
GS–18 Deputy Associate Director, Information Systems Policy
GS–18 Deputy Associate Director, Intergovernmental Affairs
GS–18 Domestic Reorganization Coordinator
GS–18 Deputy Associate Director for Economic and Regional Development Organization
GS–18 Deputy Associate Director for Natural Resources, Energy and Environment Reorganization
GS–18 Deputy Associate Director for General Government Reorganization
GS–18 Deputy Associate Director for Budget Review
GS–18 Deputy Associate Director for International Affairs
GS–18 Deputy Associate Director for National Security
GS–18 Deputy Associate Director for Management, National Security and International Affairs
GS–18 Deputy Associate Director for Health and Income Maintenance
GS–18 Deputy Associate Director for Transportation, Commerce and Housing
GS–18 Deputy Associate Director for Natural Resources
GS–18 Deputy Associate Director for Energy and Science
GS–17 Assistant to the Director for Public Affairs
GS–17 Assistant to the Director for Administration
GS–17 Assistant Director for Legislative Affairs
GS–17 Deputy Assistant Director for Legislative Reference
GS–17 Assistant for Planning and Policy Coordination
GS–17 Deputy Assistant Director for Revaluation
GS–17 Deputy Associate Director for Regulatory Policy and Reports Management
GS–17 Chief, Financial Management Branch, Budget Review
GS–17 Chief, Fiscal Analysis Branch, Budget Review
GS–17 Deputy Chief, International Affairs Division
GS–17 Deputy Chief, National Security Division
GS–17 Associate Deputy Chief, National Security Division
GS–17 Deputy Associate Director for Labor, Veterans and Education
GS–17 Deputy Division Chief (Labor), Labor, Veterans and Education
GS–17 Deputy Associate Director for Management, Human Resources, Veterans and Labor
GS–17 Deputy Division Chief, Transportation, Commerce and Housing
GS–17 Deputy Associate Director for Justice, Treasury and General Management
GS–17 Deputy Division Chief, Natural Resources Division
GS–17 Deputy Division Chief, Energy and Science
GS–17 Deputy Associate Director for Management, Natural Resources, Energy and Science
SES Deputy General Counsel

OFFICE OF FEDERAL PROCUREMENT POLICY

GS–18 Associate Administrator for Systems and Technology
GS–18 Associate Administrator for Regulations and Procedure
GS–17 Associate Administrator for Acquisition Law
GS–17 Assistant Administrator for Logistics
GS–17 Assistant Administrator for Regulations
SES Assistant Administrator for Commercial Products
SES Assistant Administrator for Labor Affairs and Personnel

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ECONOMIC ADVISERS)

Positions: No section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (DOMESTIC POLICY STAFF)

Positions: AD Associate Director (11)
AD Counselor to the President on Aging
AD Special Assistant to the President for Consumer Affiars
AD Expert/Drug Policy

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS)

Positions:
GS–18 General Counsel
GS–17 Assistant Special Trade Representatives(4)
GS–18 Assistant Special Trade Representatives(2)

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions:
GS–18 General Counsel
GS–18 Executive Director

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON WAGE AND PRICE STABILITY)

Positions:
GS–18 Special Assistant to the Chairperson for Intergovernmental Affairs
GS–18 Deputy Director
GS–18 General Counsel
SES Deputy General Counsel
GS–17 Assistant Director for Operations
SES Assistant Director, Office of Government Programs and Regulations
SES Assistant Director, Office of Price Monitoring

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:
SES Associate Director for National Security, International and Space Affairs
SES Associate Director for Human Resources and Social and Economic Services
SES Associate Director for Natural Resources and Commercial Services
SES Senior Policy Analyst

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF ADMINISTRATION)

Positions: No Section 207(d)(1)(C) designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:
SES Chief of Staff
SES Counsel to the Vice President and Deputy Chief of Staff
SES Executive Assistant to the Vice President
SES Assistant to the Vice President for National Security Affairs
SES Assistant to the Vice President and Press Secretary

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

GS–18 Executive Assistant to the Secretary

OFFICE OF THE INSPECTOR GENERAL

GS–18 Inspector General
GS–17 Director of Investigation
GS–17 Assistant Inspector General for Investigations
GS–17 Director of Audit
GS–17 Assistant Inspector General for Auditing

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

GS–17 Assoicate Director

OFFICE OF THE GENERAL COUNSEL

GS–18 Deputy General Counsel

OFFICE OF ADMINISTRATIVE LAW JUDGES

Positions: No section 207(d)(1)(C) designations

OFFICE OF PERSONNEL

GS–18 Director

OFFICE OF EQUAL OPPORTUNITY

Positions: No section 207(d)(1)(C) designations

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF OPERATIONS AND FINANCE

GS–18 Director
GS–17 Director, National Finance Center

OFFICE OF THE DIRECTOR, ECONOMICS POLICY ANALYSIS AND BUDGET

SES Deputy Director for Economics, Policy Analysis, and Budget

OFFICE OF BUDGET, PLANNING AND EVALUATION

SES Director
SES Deputy Director for Management and Budget

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

SES Chairman

ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE

GS–18 Administrator
GS–18 Deputy Administrator for Statistics
GS–17 Deputy Administrator for Cooperatives
GS–17 Deputy Administrator for Economics

OFFICE OF THE ASSISTANT SECRETARY FOR RURAL DEVELOPMENT

SES Deputy Assistant Secretary for Rural Development

RURAL ELECTRIFICATION ADMINISTRATION

GS–17 Deputy Administrator

FARMERS HOME ADMINISTRATION

GS–18 Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
GS–17 Deputy Administrator, Rural Development
GS–17 Deputy Administrator, Farm and Family Programs
GS–17 Associate Administrator for Rural Development Policy Management and Coordination

SCIENCE AND EDUCATION ADMINISTRATION

GS–18 Associate Director
GS–17 Administrator, Human Nutrition Center
SES Associate Administrator, Human Nutrition Center
IPA(AD) Head, Competitive Research Grants Office
IPA(AD) Assistant Director, Higher Education
GS–17 Assistant Director for Program Management
SES Chief, International Programs
GS–18 Deputy Director for Extension
GS–17 Associate Deputy Director for Extension
GS–18 Deputy Director, Cooperative Research
GS–17 Associate Administrator, Cooperative Research
GS–17 Deputy Director, Administrative Management
GS–18 Deputy Director for Agricultural Research
GS–17 Associate Deputy Director, Agricultural Research

OFFICE OF THE ASSISTANT SECRETARY FOR CONSERVATION, RESEARCH, AND EDUCATION

SES Deputy Assistant Secretary for Conservation, Research and Education

SOIL CONSERVATION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator for Administration
GS–17 Deputy Administrator for Technical Services
GS–18 Deputy Administrator for Programs

FOREST SERVICE

GS–18 Associate Chief
GS–17 Deputy Chief for Administration
GS–18 Deputy Chief for Research
GS–17 Associate Deputy Chiefs for Research(2)
GS–18 Deputy Chief, National Forest Systems
GS–17 Associate Deputy Chiefs, National Forest Systems(2)
GS–18 Deputy Chief, State and Private Forestry
GS–17 Associate Deputy Chief, State and Private Forestry
GS–18 Deputy Chief for Programs and Legislation
GS–17 Associate Deputy Chief for Programs and Legislation

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

GS–17 Deputy Under Secretary for International Affairs and Commodity Programs
GS–18 Special Assistant for International Scientific and Technical Cooperation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

GS–18 Associate Administrator
GS–18 Deputy Administrator, State and County Operations
GS–17 Deputy Administrator, Management
GS–17 Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

GS–18 Manager
SES Deputy Manager

FOREIGN AGRICULTURAL SERVICE

GS–17 Associate Administrator
GS–17 Assistant Administrator, Commodity Programs

OFFICE OF THE GENERAL SALES MANAGER

GS–17 General Sales Manager

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

SES Deputy Assistant Secretary for Food and Consumer Services

FOOD SAFETY AND QUALITY SERVICE

GS–18 Administrator
SES Associate Administrator
SES Deputy Administrator, Commodity Services
GS–17 Deputy Administrator, Meat and Poultry Inspection Field Operations
SES Deputy Administrator, Administrative Management

FOOD AND NUTRITION SERVICE

GS–18 Administrator
GS–17 Associate Administrator

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND TRANSPORTATION SERVICES

SES Deputy Assistant Secretary for Marketing and Transportation Services

AGRICULTURAL MARKETING SERVICE

GS–17 Deputy Administrator, Marketing Program Operations
GS–17 Deputy Administrator, Packers and Stockyards

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator, Veterinary Services

GS–17 Deputy Administrator, Plant Protection and Quarantine
GS–17 Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

AGENCY: DEPARTMENT OF COMMERCE

Positions:

OFFICE OF THE SECRETARY

SES Special Assistants to the Secretary of Commerce(2)
SES Assistant to the Secretary of Commerce
SES Counsellor to the Secretary of Commerce

Office of Regional Affairs and Regional Coordination

SES Deputy Under Secretary for Regional Affairs
SES Chairperson, Federal Regional Council, Region V

Office of Congressional Affairs

SES Deputy Assistant Secretary for Congressional Affairs

Office of Public Affairs

SES Counsellor to the Secretary and Director, Public Affairs

Office of General Counsel

SES Deputy General Counsel

Office of Assistant Secretary for Policy

SES Deputy Assistant Secretary for Ocean, Resource and Scientific Policy
SES Deputy Assistant Secretary for International Policy Coordination
SES Deputy Assistant Secretary for Domestic Economic Policy and Coordination

Office of Assistant Secretary for Tourism

SES Deputy Assistant Secretary

Office of Minority Business Enterprise

SES Director, Office of Minority Business Enterprise
SES Deputy Director, Office of Minority Business Enterprise
SES Special Assistant for Minority Enterprise
SES Assistant Director for Program Resources

OFFICE OF ASSISTANT SECRETARY FOR MARITIME AFFAIRS

SES Deputy Assistant Secretary

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Policy and Administration

SES Assistant Administrator for Policy and Administration

Maritime Aids

SES Assistant Administrator for Maritime Aids
SES Deputy Assistant Administrator

Operations

SES Assistant Administrator for Operations
SES Deputy Assistant Administrator
SES Director, Office of Ship Construction
SES Director, Office of Shipbuilding Costs

Commercial Development

SES Assistant Administrator for Commercial Development
SES Deputy Assistant Administrator for Commercial Development

Regional Offices

Position: No section 207(d)(1)(C) designations

U.S. Merchant Marine Academy

SES Superintendent

INDUSTRY AND TRADE ADMINISTRATION

Office of Assistant Secretary for Industry and Trade Administration

SES Deputy Assistant Secretary

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

GS–17 Deputy Assistant Secretary
SES Deputy Director

Bureau of Trade Regulation

SES Deputy Assistant Secretary for
SES Deputy Director

Bureau of East-West Trade

GS–17 Deputy Assistant Secretary and Bureau Director
SES Deputy Bureau Director

Bureau of Export Development

SES Deputy Assistant Secretary, National Export Expansion Coordinator & Bureau Director
SES Deputy Director

Bureau of Domestic Development

SES Deputy Assistant Secretary for
SES Deputy Director

Bureau of Field Operations

SES Deputy Assistant Secretary

OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary

Office of the Controller

SES Controller

Office of Budget and Program Evaluation

SES Director
SES Deputy Director, Budget

Office of Procurement and Automatic Data Processing Management

SES Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SES Deputy Assistant Secretary

Office of Planning and Policy Coordination

SES Director
SES Chief Counsel

Office of International Affairs

SES Director

Office of Federal Systems and Spectrum Management

SES Associate Administrator for
SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator
SES Deputy Associate Administrator

Office of Telecommunications Applications

SES Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator
SES Deputy Associate Administrator

OFFICE OF THE CHIEF ECONOMIST

SES Chief Economist
SES Deputy Chief Economist
SES Director for Federal Statistical Policy & Standards

Bureau of Economic Analysis

SES Director
SES Deputy Director

Bureau of the Census

SES Deputy Director

Demographic Fields

SES Associate Director for

Electronic Data Processing

SES Associate Director for

Statistical Standards and Methodology

SES Associate Director for

Field Operations

SES Associate Director for

Economic Fields

SES Associate Director

OFFICE OF ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

SES Deputy Assistant Secretary

Office of Environmental Affairs

SES Deputy Assistant Secretary

Office of Product Standards

SES Deputy Assistant Secretary

National Technical Information Service

SES Director
SES Deputy Director

NATIONAL BUREAU OF STANDARDS

SES Deputy Director
SES Associate Director for International Affairs

Office of Associate Director for Programs, Budget and Finance

SES Associate Director

Institute for Basic Standards

SES Director
SES Deputy Director

National Measurement Laboratory

SES Director
SES Deputy Director for Resources & Operations

National Engineering Laboratory

SES Director

SES Deputy Director

Institute for Computer Sciences and Technology

SES Director
SES Deputy Director
SES Associate Director for Teleprocessing and Supporting Communications Technology
SES Associate Director for Automatic Data Processing Standards

OFFICE OF ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT

(Economic Development Administration)

SES Deputy Assistant Secretary

Office of Chief Counsel

SES Chief Counsel

Office of Special Projects

SES Director

Economic Development Policy and Planning

SES Deputy Assistant Secretary

Economic Development Operations

SES Deputy Assistant Secretary
SES Director, Local Public Works

Office of Public Works

SES Director

PATENT AND TRADEMARK OFFICE

GS–18 Deputy Commissioner

Board of Patent Interferences

Position: No section 207(d)(1)(C) designations

Office of Assistant Commissioner for Patents

GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS–17 Assistant Commissioner

Office of the Solicitor

SES Solicitor
SES Deputy Solicitor

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GS–17 Special Counsel for Law of the Sea

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Office of Policy and Planning

SES Assistant Administrator for Policy and Planning

Coastal Zone Management

SES Assistant Administrator

National Marine Fisheries Service

SES Assistant Administrator for Fisheries
SES Deputy Assistant Administrator

Office of Research and Development

SES Assistant Administrator for Research and Development

Environmental Research Laboratories

SES Director

Office of Sea Grants

SES Director

Oceanic and Atmospheric Services

SES Assistant Administrator
SES Deputy Assistant Administrator

National Weather Service

SES Director
SES Deputy Director

National Ocean Survey

07–08 Director
SES Deputy Director

Environmental Data and Information Service

SES Director
SES Deputy Director

National Environmental Satellite Service

SES Director
SES Deputy Director

NOAA CORPS

07–08 Director

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES Executive Assistants to the Secretary (2)
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING

SES Deputy Assistant Secretary, Multifamily Housing Programs
SES Deputy Assistant Secretary, Single-Family Housing and Mortgagee Activities
SES Deputy Assistant Secretary, Public Housing and Indian Programs
SES Director, Office of Policy and Program Development

OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

SES Deputy Assistant Secretary for Interprogram and Areawide Concerns
SES Deputy Assistant Secretary for Urban Policy

OFFICE OF THE ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION

SES General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection
SES Deputy Assistant Secretary for Neighborhoods and Consumer Affairs
SES Deputy Assistant Secretary for Regulatory Functions/Office of Interstate Land Sales Registration

OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

SES Deputy Assistant Secretary for Operations and Management
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

SES Deputy Assistant Secretary for Research
SES Director, Division of Housing Research
SES Director, Division of Energy, Building Technology and Standards
SES Director, Division of Evaluation
SES Director, Division of Community Conservation Research
SES Deputy Assistant Secretary for Policy Development
SES Director, Division of Government Capacity Building
SES Deputy Assistant Secretary for Economic Affairs
SES Director, Office of Program Planning and Administration

OFFICE OF THE GENERAL COUNSEL

Position: No section 207(d)(1)(C) designations

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS

SES Deputy Assistant Secretary for Legislation and Intergovernmental Relations

OFFICE OF THE INSPECTOR GENERAL

Position: No section 207(d)(1)(C) designations

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President (Mortgage Finance)
SES Vice President (Mortgage Backed Securities)

NEW COMMUNITY DEVELOPMENT CORPORATION

SES Deputy General Manager for New Community Development Corporation

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

SES Administrator
SES Deputy Administrator

FIELD OFFICES

Region I

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Boston Area Office

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, New York Area Office
SES Director, Newark Area Office

Region III

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator
SES Director, Philadelphia Area Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Atlanta Area Office

Region V

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Detroit Area Office
SES Director, Chicago Area Office
SES Director, Columbus Area Office

Region VI

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Dallas Area Office

Region VII

SES Regional Administrator
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator

Region IX

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, San Francisco Area Office
SES Director, Los Angeles Area Office

Region X

SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF STATE

Positions:

FA01 Chief of Mission, Bangkok
FO01 Deputy Assistant Secretary, A/SY
FA01 Chief of Mission, Bucharest
FR01 Deputy Representative, S/AR
FANC Chief of Mission, Canberra
FO01 Assistant Chief of Mission, Berlin
FO01 Principal Officer, Sao Paulo
FA01 Chief of Mission, Bogota
FR01 Deputy Assistant Secretary, H
FR01 Deputy Assistant Secretary, EB/TRA
FO01 United States Representative, USM FAO Rome
FA01 Chief of Mission, Rangoon
FO01 Deputy Chief of Mission, Guatemala
FR01 Deputy Director for Planning, S/P
FA01 Chief of Mission, Khartoum
FO01 Principal Officer, Montreal
FO01 Principal Officer, Guayaquil
RU01 Deputy Assistant Secretary, PA
FO01 Deputy Chief of Mission, New Delhi
FA01 Chief of Mission, Lisbon
FA01 Chief of Mission, La Paz
FA01 Chief of Mission, Berlin
FO01 Deputy Chief of Mission, Vienna
FA01 Chief of Mission, Tunis
FA01 Chief of Mission, Ouagadougou
FA01 Chief of Mission, Ndjamena
FANC Chief of Mission, London
FO01 Inspector General, S/IG
FO01 Deputy Chief of Mission, Warsaw
RU01 Deputy Assistant Secretary, OES
FO01 Principal Officer, Leningrad
FA01 Chief of Mission, Georgetown
FO01 Deputy Assistant Secretary, ARA
FA01 Chief of Mission, Bamako
FO01 Deputy Assistant Secretary, EB/ORF
FA01 Ambassador at Large, S/SLG
FANC Chief of Mission, Buen. Aires
FANC Chief of Mission, Brussels
FA01 Chief of Mission, Add. Ababa
FO01 Deputy Chief of Mission, Buen. Aires
FA01 Chief of Mission, Valletta
FA01 Chief of Mission, Dakar
FO01 Principal Officer, Naples
FA01 Chief of Mission, Suva
FO01 Director of Management Operations, M/MO
FO01 Deputy Chief of Mission, Islamabad
FA01 Chief of Mission, Bujumbura
FO01 Principal Officer, Bombay
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Conakry
FO01 Deputy Chief of Mission, Caracas
FO01 Deputy Chief of Mission, Bern
FA01 Chief of Mission, Kinshasa
FO01 Principal Officer, Sydney
FA01 Chief of Mission, Beirut
FO01 United States Representative, Vienna-MBFR
FA01 Chief of Mission, Maputo
FA01 Chief of Mission San Salv
FO01 Principal Officer, Rio De Jan
FA01 Chief of Mission, Abu Dhabi
FO01 Principal Officer, Toronto
FO01 Deputy Chief of Mission, Panama
FO01 Deputy Chief of Mission, Ankara
FO01 Deputy Assistant Secretary, NEA
FO01 Deputy Chief of Mission, The Hague
RU01 Deputy Assistant Secretary, A/OPR
RU01 Deputy Assistant Secretary, M/MED
FO01 Deputy Chief of Mission, Tripoli
FO01 Director, Asian Develop, Asian DEV BK
FA01 Chief of Mission, Pretoria
FA01 Chief of Mission, Reykjavik
GS–17 Deputy Legal Advisor, L
FO01 Principal Officer, Milan
FA01 Chief of Mission, Port O Spain
FA01 Chief of Mission, Port Louis
FO01 Deputy Chief of Mission, Jakarta
FANC Chief of Mission, Rome
FO01 Deputy Chief of Mission, Moscow
FA01 Chief of Mission, Sofia
FR01 Director Political Military, PM/OD
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief of Mission, Seoul
FO01 Deputy Chief of Mission, Brussels NTO
FANC Chief of Mission, New Delhi
FA01 Chief of Mission, Quito
FO01 Deputy Assistant Secretary, EUR
FO01 Deputy Assistant Secretary, ARA
FR01 Deputy Assistant Secretary, ARA
FO01 Deputy Assistant Secretary, AF
FO01 Deputy Assistant Secretary, OES/ENP
FANC Chief of Mission, Algiers
FA01 Chief of Mission, Kathmandu
FO01 Deputy Assistant Secretary, IO
FO01 Principal Officer, Munich
FR01 Dep US Representative, Vienna-MBFR
FO01 Deputy Chief of Mission, Rome
FA01 Chief of Mission, Lilongwe
FO01 Deputy Assistant Secretary, CA
FR01 Deputy Assistant Secretary, EB
FO01 Principal Officer, Istanbul
FANC Chief of Mission, Niamey
FANC Chief of Mission, Tegucigalpa
FO01 Principal Officer, Johnannesburg
FR01 Deputy Assistant Secretary, AF
FA01 Chief of Mission, PRT–AU–PRN
FANC Chief of Mission, The Hague
RU01 Deputy Director PM, PM/AC
FANC Chief of Mission, Budapest
RU01 Assistant Secretary, EB
FO01 Deputy Assistant Secretary, AF
FANC Chief of Mission, Stockholm
FO01 Deputy Chief of Mission, Tunis
FO01 Dep US Representative, IAEA Vienna
FANC Chief of Mission, Singapore
FO01 Deputy Director, Policy Analysis and Reso, S/P
FA01 Chief of Mission, Nouakchott
FO01 Deputy Chief of Mission, Ankara
FA01 Chief of Mission, Santiago
FO01 Principal Officer, Havana
FA01 Chief of Mission, Kingston
FANC Chief of Mission, Nairobi
FO01 United States Representative, Vienna
FO01 Principal Officer, Frankfurt
FO01 Dep US Representative, USUN
FANC Chief of Mission, Oslo
FA01 Chief of Mission, Tel Aviv
FO01 Principal Officer, Dhahran
FA01 Chief of Mission, Freetown
FA01 Chief of Mission, Lusaka
FA01 Chief of Mission, Luxembourg
FANC Chief of Mission, Mexico D.F
FA01 Chief of Mission, Caracas
FO01 Principal Officer, Vancouver
FA01 Chief of Mission, Kuwait
FO01 Deputy Director of Management Operation, M/MO
FANC Chief of Mission, Tokyo
FANC Chief of Mission, Copenhagen
FO01 Deputy Director INR, INR/DD
GS–18 Deputy Legal Advisor, L
FO01 Deputy Chief of Mission, Stockholm
FA01 Chief of Mission, Jakarta
FO01 Deputy Chief of Mission, Cairo
GS–17 Deputy Director for Coord, INR/DDC
FANC Dep US Representative, IO/OIC/MTN
FA01 Chief of Mission, Prague
FR01 Deputy Assistant Secretary, EB/IFD
FO01 Deputy Inspector General, S/IG
GS–17 Deputy Legal Adviser, L
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Kuala LMPR
FO01 Deputy Chief of Mission, Athens
FO01 Principal Officer, Karachi
FANC Chief of Mission, Panama
FA01 Chief of Mission, Manila
FO01 Deputy Chief of Mission, Tehran
FO01 Deputy Chief of Mission, Pretoria
FO01 Principal Officer, Jerusalem
FA01 Chief of Mission, Gaborone
RU01 Deputy Assistant Secretary, OES/NET
FO01 Deputy Director PM, PM/AS
FO01 Deputy Assistant Secretary, EA
FO01 Dep US Representative, Geneva
FA01 Chief of Mission, Port Moresby
RU01 Deputy Chief of Mission, Brussels
FA01 Chief of Mission, Bridgetown
FO01 Deputy Director for Personnel, PER/FCA
FO01 Deputy Executive Secretary, S/S
FA01 Chief of Mission, Mogadiscio
FA01 Chief of Mission, Montevideo
FO01 US Rep to Tex Sur Body of, US MIS GEN
FR01 Deputy Assistant Secretary, EB/TCA
FO01 Deputy Chief of Mission, Berlin
FR01 Spec Rep of Sec Pan Treaty, S/PTA
FO01 Principal Officer, Melbourne
FO01 Deputy Chief of Mission, Lima
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief of Mission, Helsinki
FO01 Deputy Chief of Mission, Vientiane
FR01 United States Representative, EA/PIA
FO01 Deputy Chief of Mission, Lisbon
FO01 Deputy Chief of Mission, OECD Paris
FANC United States Representative, OECD Paris
FR01 Scientific & Tech Aff Off, UNESCO PRS

FA01 Chief of Mission, Brasilia
FA01 Chief of Mission, Dacca
FR01 Deputy Assistant Secretary, HA/HR
FANC Chief of Mission, Nassau
RU01 Deputy Legal Adviser, L
FO01 Principal Officer, Casablanca
FA01 Chief of Mission, Damascus
FANC Chief of Mission, Wellington
FANC Chief of Mission, Dublin
FO01 Deputy Chief of Mission, Tokyo
FO01 Principal Officer, Hong Kong
FR01 Spec Adv to the Sec for S/MS
FR01 Deputy Assistant Secretary for A/FBO
FA01 Chief of Mission, Accra
FANC Chief of Mission, Yaounde
FANC Chief of Mission, Managua
FO01 Dep US Representative, US MIS GEN
FA01 Chief of Mission, DAR-ES-SAL
GS-18 Director F S Institute, M/FSI
FO01 Deputy Chief of Mission, Canberra
FA01 Chief of Mission, Abidjan
FO01 Deputy Chief of Mission, Seoul
FO01 Deputy Assistant Secretary, NEA
FO01 Dep US Representative, USUN
FA01 Chief of Mission, Nicosia
FO01 Deputy Chief of Mission, London
FO01 Deputy Assistant Secretary, EA
FO01 Principal Officer, Rotterdam
FO01 SA to Sec & Exec Sec of S/S
FR01 Deputy Assistant Secretary, OES/APT
FO01 Assistant Secretary, A
FA01 Chief of Mission, Libreville
FR01 United States Representative, UNESCO PRS
FO01 Deputy Chief of Mission, Manila
FO01 Dep US Representative, ARA/USOAS
FANC United States Representative, US MIS GEN
FA01 Chief of Mission, Amman
FO01 Deputy Assistant Secretary, EUR
FANC Chief of Mission, Bern
FANC Chief of Mission, San Jose
FO01 United States Representative, USUN
FANC Chief of Mission, Jidda
FA01 Chief of Mission, Asuncion
FO01 Coordinator, T/CST
FANC Chief of Mission, Vienna
FANC Chief, US Liaison Office, Beijing
FANC Chief of Mission, Columbo
FO01 Deputy Chief of Mission, Lagos
FA01 Chief of Mission, Santo Dom.

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

OFFICE OF THE SECRETARY

GS-18 Inspector General

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE

GS-18 Deputy Assistant Secretary, Debt Management
GS-18 Deputy Assistant Secretary, Capital Markets Policy
GS-17 Deputy Assistant Secretary, State and Local Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFIARS

GG-18 Deputy Assistant Secretary for International Monetary Affairs
GG-18 Deputy Assistant Secretary for Developing Nations Finance
GG-18 Deputy Assistant Secretary, Trade and Investment Policy
GG-18 Deputy Assistant Secretary, Commodities and Natural Resources

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY

GS-18 Deputy Assistant Secretary, Tax Policy
GS-18 Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

LEGAL DIVISION

GS-18 Deputy General Counsel, Office of the General Counsel
GS-18 Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
GS-18 Deputy to the General Counsel for Tariff Affairs, Office of the General Counsel
GG-18 International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel

OFFICE OF CHIEF COUNSEL—CUSTOMS

SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—COMPTROLLER OF THE CURRENCY

GS-17 Chief Counsel
SES Deputy Chief Counsel

CUSTOMS SERVICE

GS-18 Deputy Commissioner
GS-18 Assistant Commissioner
GS-17 Assistant Commissioner, Regulations and Rulings
GS-17 Assistant Commissioner, Investigations
GS-17 Assistant Commissioner, Administration
SES Assistant Commissioner, Enforcement Support
SES Assistant Commissioner, Office of Security and Audit

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

GS-18 Director
GS-17 Deputy Director
SES Assistant Director, Regulatory Enforcement
SES Assistant Director, Criminal Enforcement
SES Assistant Director, Inspection
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—ATF

GS-17 Chief Counsel
SES Deputy Chief Counsel

BUREAU OF ENGRAVING AND PRINTING

GS-18 Director
GS-17 Deputy Director
SES Legal Counsel

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

GS-18 Commissioner

BUREAU OF THE MINT

GS-18 Director
SES Associate Director for Technology
SES Legal Counsel

BUREAU OF PUBLIC DEBT

GS-18 Commissioner of Public Debt

U.S. SECRET SERVICE

SES Legal Counsel

OFFICE OF THE COMPTROLLER OF THE CURRENCY

GG-17 Deputy Comptroller for Special Examinations
GG-17 Chief National Bank Examiner
GG-17 Deputy Comptroller of the Currency, Special Surveillance
GG-17 Deputy Comptroller, Multinational Banking
GG-17 Deputy Comptroller, Research and Economic Programs
SES Deputy Comptroller for Administration
SES Senior Advisor to the Comptroller
SES Director, Bank Organization and Structure
SES Deputy Comptroller, Customer and Community Programs
SES Deputy Comptroller of the Currency for Interagency Coordination
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—INTERNAL REVENUE SERVICE

SES Deputy Chief Counsel, General
SES Deputy Chief Counsel, Litigation
SES Deputy Chief Counsel, Technical

INTERNAL REVENUE SERVICE

SES Assistant Commissioner (EP/EO)
SES Assistant Commissioner (Compliance)
SES Assistant Commissioner (Technical)
SES Assistant Commissioner (Resources Management)
SES Assistant Commissioner (Planning & Research)
SES Assistant Commissioner (Taxpayer Service & Returns Processing)
SES Assistant Commissioner (Inspection)
SES Assistant Commissioner (Data Services)
SES Regional Commissioner, North Atlantic Region
SES Regional Commissioner, Midwest Region
SES Regional Commissioner, Western Region
SES Regional Commissioner, Southeast Region
SES Regional Commissioner, Central Region
SES Regional Commissioner, Southwest Region
SES Regional Commissioner, Mid-Atlantic Region

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

U.S. SECRET SERVICE

SES Legal Counsel

U.S. CUSTOMS SERVICE

SES Chief Counsel
SES Deputy Chief Counsel

AGENCY: ACTION

Positions:

FR-1 Assistant Director for Policy and Planning
FR-1 Assistant Director for Recruitment and Communications
FR-1 Assistant Director for Compliance
FR-1 Deputy Associate Director for Peace Corps

FR–1 Deputy Director for Peace Corps Programs
FR–1 Regional Director for Latin America
FR–1 Regional Director for Africa
FR–1 Regional Director, North Africa, Near East, Asia and Pacific Regional Office
SES Executive Officer
SES General Counsel
SES Deputy Associate Director for Domestic and Anti-Poverty Operations
SES Assistant Director for Administration and Finance
SES Executive Assistant for Programs

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:
SES Executive Secretary
SES Executive Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:
SES Principal Deputy Executive Director
SES Deputy Executive Director

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:
0–8 Secretary

AGENCY: APPALACHIAN REGIONAL COMMISSION

Positions: No section 207(d)(1)(C) designations

AGENCY: CIVIL AERONAUTICS BOARD

Positions:
SES Managing Director, Office of Managing Director
SES Director, Bureau of Carrier Accounts & Audits
SES General Director, Bureau of Domestic Aviation and Bureau of International Aviation
SES Director, Bureau of Domestic Aviation
SES Deputy Director, Bureau of Domestic Aviation
SES Director, Bureau of International Aviation
SES Deputy Director, Bureau of International Aviation
SES Director, Office of Economic Analysis
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Director, Bureau of Consumer Protection
SES Deputy Director, Bureau of Consumer Protection
SES Director, Office of Human Resources
SES Comptroller, Office of Comptroller
SES Director, Office of Community & Congressional Relations

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:
SES Deputy Executive Director
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement
SES Chief Economist, Division of Economics and Education
SES Deputy Chief Economist, Division of Economics and Education
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets
SES Director, Division of Management, Program Planning and Evaluation
SES Regional Director, Central Region
SES Regional Director, Eastern Region
SES Deputy General Counsel, Office of General Council

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:
SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Engineering and Science
SES Associate Executive Director for Hazard Identification and Analysis
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Enforcement
SES Associate Executive Director for Communications
SES Director, Office of Program Management
SES Director, Office of Strategic Planning

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:
SES Regional Administrator, Region I, Boston
SES Regional Administrator, Region II, New York
SES Regional Administrator, Region III, Philadelphia
SES Regional Administrator, Region IV, Atlanta
SES Regional Administrator, Region V, Chicago
SES Regional Administrator, Region VI, Dallas
SES Regional Administrator, Region VII, Kansas City
SES Regional Administrator, Region VIII, Denver
SES Regional Administrator, Region IX, San Francisco
0–7 Regional Administrator, Region X, Seattle
SES Associate Assistant Administrator for Research and Development
SES Associate Assistant Administrator for Planning and Management
SES Associate Assistant Administrator for Management Reform
SES Associate Assistant Administrator for Program Management and Policy
SES Deputy Assistant Administrator for Management and Agency Services
SES Deputy Assistant Administrator for Resource Management
SES Deputy Assistant Administrator for Planning and Evaluation
SES Deputy Assistant Administrator for Water Enforcement
SES Deputy Assistant Administrator for Mobile Source and Noise Enforcement
SES Deputy Assistant Administrator for General Enforcement
SES DAA/Mobile Source Air Pollution Control
SES Deputy Assistant Administrator for Radiation Programs
SES Deputy Assistant Administrator for Noise Abatement and Control
SES Deputy Assistant Administrator for Water Program Operations
SES Deputy Assistant Administrator for Water Planning and Standards
SES Deputy Assistant Administrator for Solid Waste
SES Deputy Assistant Administrator for Drinking Water
SES Deputy Assistant Administrator for Pesticides Programs
SES Deputy Assistant Administrator for Program Integration and Information
SES Deputy Assistant Administrator for Testing and Evaluation
SES Deputy Assistant Administrator for Chemical Control
SES Deputy Assistant Administrator for Monitoring and Technical Support
SES Deputy Assistant Administrator for Health and Ecological Effects
SES Deputy Assistant Administrator for Air, Land and Water Use
SES Deputy Assistant Administrator for Energy, Minerals, and Industry
SES General Counsel
SES Deputy General Counsel
SES Deputy Inspector-General for Audits
SES Deputy Inspector-General for Inspection
SES Executive Assistant (technical) to the Administrator
SES Assistant to the Deputy Administrator
SES Director of Environmental Review
SES Director of Legislation
SES Director, Registration Division (OTS)
SES Director, Control Action Division (OTS)
SES Director, Premanufacturing Review Divison (OTS)
SES Director, Criteria and Assessment Office—RTP (ORD)
SES Staff Director, Regulatory Council
SES Deputy Staff Director, Regulatory Council

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:
SES Associate General Counsel, Trial Division
SES Executive Director
SES Deputy Executive Director
SES Director, Office of Special Projects and Programs
SES Director, Office of Program Planning and Evaluation
SES Deputy General Counsel

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:
GS–18 General Counsel
GS–17 Deputy General Counsel
GS–17 Senior Vice President, Exporter Credits, Guarantees and Insurance

GS–17 Senior Vice President, Policy Analysis and Communications
GS–17 Senior Vice President, Direct Credits and Financial Guarantees
GS–17 Senior Vice President, International Affairs

AGENCY: FARM CREDIT ADMINISTRATION

Positions:
SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor, Office of Finance
SES Deputy Governor and Chief Examiner
SES Deputy Governor, Office of Administration
SES Director, Administrative Division

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:
SES General Counsel
SES Chief, Broadcast Bureau
SES Chief Scientist
SES Chief, Common Carrier Bureau
SES Chief, Field Operations Bureau
SES Deputy Chief, Broadcast Bureau
SES Executive Director
SES Managing Counsel, Compliance & Litigation Task Force
SES Chief, Private Radio Bureau
SES Chief, Opinions and Review
SES Deputy Chief Scientist
SES Deputy Chief, Common Carrier Bureau
SES Chief, Office of Plans and Policy
SES Deputy General Counsel
SES Chief, Cable Television Bureau
SES Deputy Chief, Cable Television Bureau
SES Deputy Chief, Field Operations Bureau

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:
AD–18 Executive Secretary and Deputy to the Chairman
AD–18 Assistant to Chairman
AD–18 Assistant to Director
GG–17 Director, Office of Employee Relations
GG–17 Director, Office of Personnel Management
AD–18 Controller
AD–18 Director, Division of Management Systems and Financial Statistics
GG–17 Deputy Director, Division of Management Systems and Financial Statistics
GG–17 Director, Corporate Audits
AD–18 Acting General Counsel
AD–18 Director, Division of Bank Supervision
GG–17 Deputy Directors, Division of Bank Supervision(2)
GG–17 Deputy Director, Division of Liquidation
AD–18 Director, Division of Liquidation
AD–18 Director, Division of Research
GG–18 Counsel to the Chairman of Board of Directors
GG–18 Special Assistant to the Chairman
GG–17 Deputy General Counsel

AGENCY: FEDERAL ELECTION COMMISSION

Positions: No Section 207(d)(1)(C) designations

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:
SES Executive Director, Office of the Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation
SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Enforcement
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:
GS–18 General Counsel
GS–18 Director, Office of District Banks
GS–18 Director, Office of Community Investment
GS–18 Director, Office of Economic Research
GS–18 Director, Federal Savings and Loan Insurance Corporation
GS–17 Director, Office of Industry Development
GS–17 Executive Assistant to the Chairman

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:
AD President—Chief Executive Officer
AD Executive Vice President—Chief Operating Officer
AD Executive Vice President—Chief Administrative Officer
AD Senior Vice President—General Counsel
AD Regional Senior Vice President—Los Angeles
AD Executive Vice President—Chief Financial Officer

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:
GS–18 Members of the Panel (7)
SES Executive Director of the Authority
SES Deputy Executive Director of the Authority
SES Chief, Representation and Unfair Labor Practice Division
SES Deputy General Counsel of the Authority

AGENCY: FEDERAL MARITIME COMMISSION

Positions:
SES General Counsel
SES Managing Director
SES Director, Bureau of Ocean Commerce Regulation
SES Deputy Director, Bureau of Ocean Commerce Regulation
SES Deputy General Counsel, Division of Reports, Opinions and Decisions
SES Deputy General Counsel, Division of Legislation, Orders and Legal Research and Assistance
SES Director, Bureau of Hearing Counsel
SES Director, Bureau of Certification and Licensing
SES Director, Bureau of Enforcement
SES Director, Bureau of Industry Economics
SES Secretary

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:
FRO–I Secretary of the Board
FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Management
FRO–I Director, Division of Research and Statistics
FRO–I General Counsel
FRO–I Director, Division of Banking Supervision and Regulation
FRO–I Director, Division of International Finance
FRO–I Staff Director for Federal Reserve Bank Activities
FRO–II Assistants to the Board (3)
FRO–II Deputy Staff Director for Monetary and Financial Policy
FRO–II Director, Division of Federal Reserve Bank Examination and Budgets
FRO–II Director, Division of Consumer Affairs
FRO–II Director, Division of Data Processing
FRO–II Director, Division of Federal Reserve Bank Operations
FRO–II Executive Secretary, Federal Bank Examination Council
FRO–II Deputy General Counsel
FRO–II Director, Division of Personnel
FRO–III Controller
FRO–III Assistant to the Board

AGENCY: FEDERAL TRADE COMMISSION

Positions:
SES Director, Office of Policy Planning
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection

SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Executive Director
SES Assistant to the Chairman
SES Deputy Director, Office of Policy Planning
SES Deputy Director, Bureau of Economics

AGENCY: FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Position: No section 207(d)(1)(C) designations

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Special Assistant to the Administrator
SES Assistant Administrator for Field Operations
SES Assistant Administrator for External Affairs
SES Deputy Assistant Administrator for External Affairs
SES Director of Information Security Oversight
SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director, Acquisition Management and Review Directorate
SES Director, Contract Clearance Directorate
SES Director, Acquisition Policy Directorate

OFFICE OF MANAGEMENT, POLICY AND BUDGET

SES Assistant Administrator for Management, Policy and Budget
SES Deputy Assistant Administrator for Management, Policy and Budget
SES Director of Finance
SES Director of Budget
SES Director of Data Systems
SES Director of Planning and Analysis

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE (ADTS)

SES Deputy Commissioner, ADTS
SES Assistant Commissioner, Office of Policy and Planning, Program Management Officer
SES Assistant Commissioner, Office of Agency Services and Procurement, Program Management Officer
SES Assistant Commissioner, Office of Systems Engineering and Operations, Supervisory Electronics Engineer
SES Executive Director, ADTS; Program Management and Policy Planning Officer
SES Director, Voice Communications Systems Division, Supervisory Electronics Engineer
SES Director, Advanced Planning and Research Division, Supervisory Electronics Engineer
SES Director, Data Communications Systems Division, Supervisory Electronics Engineer

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
SES Deputy Commissioner, Federal Property Resources Service
SES Assistant Commissioner, Office of Real Property
SES Assistant Commissioner, Office of Personal Property
SES Assistant Commissioner, Office of Property Management
SES Assistant Commissioner, Office of Stockpile Disposal

FEDERAL SUPPLY SERVICE (FSS)

SES Deputy Commissioner, FSS
SES Director, Quality Assurance and Reliability Office
SES Director, Office of Program Review and Resource Management
SES Director, Office of Programs and Requirements
SES Director, Office of Contracts
SES Director, Office of Requirements
SES Deputy Director, Office of Contracts
SES Director, Office of Supply

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES Deputy Archivist
SES Executive Director

PUBLIC BUILDINGS SERVICE (PBS)

SES Deputy Commissioner, PBS
SES Assistant Commissioner for Program Support
SES Assistant Commissioner for Space Planning and Management
SES Assistant Commissioner for Buildings Management
SES Assistant Commissioner for Construction Management
SES Deputy Assistant Commissioner for Construction Management
SES Assistant Commissioner for Contracts
SES International Projects Officer
SES Deputy Assistant Commissioner for Construction Programs

TRANSPORTATION AND PUBLIC UTILITIES SERVICE (TPUS)

SES Assistant Commissioner, Office of Transportation and Travel Management
SES Deputy Commissioner, TPUS
SES Assistant Commissioner for Public Utilities
SES Assistant Commissioner for Motor Equipment

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

Positions: No section 207(d)(1)(C) designations

REGIONAL OFFICES

SES Regional Administrator, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Regional Administrator, National Capital Area (Washington, D.C.)

OFFICE OF HUMAN RESOURCES AND ORGANIZATION

SES Assistant Administrator for Human Resources and Organization

AGENCY: INTERNATIONAL COMMUNICATION AGENCY

Positions:
GS–17 Executive Assistant to the Director
FSIO–1 Director, Congressional and Public Liaison
FSIO–1 Chief, Congressional Liaison Office
SES General Counsel
SES Deputy General Counsel
FSIO–1 Deputy Associate Director for Educational and Cultural Affairs
GG–18 Director for Institutional Relations
FSIO–1 Director of Cultural Centers and Resources
GG–17 Director, Office of Academic Programs

THE DIRECTORATE FOR BROADCASTING (THE VOICE OF AMERICA)

FSIO–1 Deputy Associate Director
SES Director of Administration
FSIO–1 Director, Office of Programs
SES Director of Engineering and Technical Operations

THE DIRECTORATE FOR MANAGEMENT

FSIO–1 Director of Administrative Services
SES Director of Comptroller Services
SES Director of Personnel Services
SES Director, Office of Systems Technology

THE DIRECTORATE FOR PROGRAMS

SES Director of Exhibits Service
FSIO–1 Director of Press and Publication Services
FSIO–1 Director of Television and Film Service
FSIO–1 Deputy Associate Director
SES Executive Officer
FSIO–1 Director of African Affairs
SES Deputy Director of African Affairs
FSIO–1 Director of European Affairs
FSIO–1 Deputy Directors of European Affairs (2)
FSIO–1 Deputy Director of European Affairs (Exchanges)
FSIO–1 Director of East Asian and Pacific Affairs
FSIO–1 Deputy Directors of East Asian and Pacific Affairs (2)
FSIO–1 Director of American Republic Affairs
FSIO–1 Deputy Director of American Republic Affairs
FSIO–1 Director of North African, Near Eastern and South Asian Affairs

FSIO–1 Deputy Director of North African and Near Eastern Affairs
FSIO–1 Deputy Director of South Asian Affairs
FSIO–1 Public Affairs Officers of Class I Posts

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:
SES Managing Director
SES General Counsel
SES Director, Bureau of Operations
SES Director, Bureau of Investigations and Enforcement
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Policy and Analysis/Rail Services Planning Office
SES Assistant Managing Director
SES Deputy General Counsel
SES Associate Director, Office of Proceedings
SES Associate Director, Office of Policy and Analysis/Rail Services Planning Office

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

Positions: No section 207(d)(1)(C) designations

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller

OFFICE OF LEGISLATIVE AFFAIRS

SES Director, Legislative Affairs
SES Deputy Director, Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE AND TERRESTRIAL APPLICATIONS

SES Deputy Associate Administrator for Space and Terrestrial Application

OFFICE OF GENERAL COUNSEL

SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Director of Procurement
SES Deputy Director of Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE TRANSPORTATION SYSTEM ACQUISITION

SES Deputy Associate Administrator for Space Transportation System Acquisition

OFFICE OF MANAGEMENT OPERATIONS

SES Deputy Associate Administrator for Management Operations

OFFICE OF THE CHIEF SCIENTIST

Positions: No section 207(d)(1)(C) designations

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF SPACE SCIENCE

SES Deputy Associate Administrator for Space Science

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Director of Equal Opportunity Programs
SES Deputy Director of Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

DRYDEN FLIGHT RESEARCH CENTER

SES Director, NASA Dryden Flight Research Center
SES Deputy Director, NASA Dryden Flight Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories
SES Deupty Manager, National Space Technology Laboratories

WALLOPS FLIGHT CENTER

SES Director, NASA Wallops Flight Center
SES Associate Director, NASA Wallops Flight Center

AGENCY: NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

Positions:
GS–17 Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:
SES General Counsel
SES Assistant Administrator for Examination and Insurance
SES Assistant Administrator for Administration and Regional Coordination
SES Assistant Administrator for Asset Management, Fiscal Affairs, and Information Systems
SES Assistant Administrator for Internal Audit and Investigation
SES Assistant Administrator for Research and Analysis
SES Regional Directors (6)
SES Director, Office of Policy Analysis
SES Deputy Director, Examination and Insurance
SES Deputy General Counsel

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:
GS–18 Deputy Chairman for Policy and Planning
GS–17 Deputy Chairman for Programs
GS–17 Deputy Chairman, Federal Council on the Arts and the Humanities
SES Director of Media Arts
SES Director of Architecture, Planning and Design
SES Director of Federal-State Partnership
SES Director of Expansion Arts
SES Director of Museums
SES General Counsel
SES Director of Program Coordination

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:
SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Director, Office of Appeals

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:
SES Director, Office of Audit and Oversight
SES Director, Office of Government & Public Programs
SES Director, Office of Planning & Resources Management
SES Director, Office of Small Business Research & Development
SES Deputy Assistant Director, Science Education
SES Deputy Assistant Director, Astronomical Atmospheric, Earth & Ocean Sciences
SES Deputy Assistant Director, Mathematical & Physical Sciences & Engineering
SES Deputy Assistant Director, Scientific, Technological & International Affairs

SES Deputy Assistant Director, Administration
SES Deputy Assistant Director, Biological Behavioral, & Social Sciences
SES General Counsel

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:
SES Assistant Director, Office of Intergovernmental Personnel Programs
SES Deputy Associate Director for Standards and Selection Methods
SES Assistant Director, Office of Labor-Management Relations
SES Director, Office of Planning and Evaluation
SES Deputy Associate Director for Staffing, Staffing Services Group
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Deputy Associate Director for Benefits Policy, Compensation Group
SES General Counsel, Office of the General Counsel
SES Director—Southeast Regional Office
SES Executive Director, President's Commission on Personnel Interchange
SES Director, Retirement and Insurance Division, Compensation Group
SES Assistant Director for Agency Compliance and Evaluation, Agency Relations Group
SES Director, Office of Administrative Law Judges, Executive Personnel and Management Development Group
SES Assistant Director for Staffing, Staffing Services Group
SES Deputy Associate Director for Compensation Operations, Compensation Group
SES Director—Eastern Regional Office
SES Director, Retirement Operations Branch, Compensation Group
SES Director—Great Lakes Regional Office
SES Director—Mid-Atlantic Regional Office
SES Director—Southwest Regional Office
SES Director—Western Regional Office
SES Assistant Director, Insurance Operations Branch, Compensation Group
SES Director, Federal Executive Institute
SES Chief, Medical Operations Branch, Compensation Group
SES Deputy Assistant Director for Labor-Management Relations
SES Chief, Personnel Research and Development Center, Staffing Services Group
SES Assistant Director, Office of Affirmative Employment Programs
SES Deputy Assistant Director for Grants Administration, Office of Intergovernmental Personnel Programs
SES Director, President's Commission on White House Fellows
SES Deputy Assistant Director for Personnel Management Assistance, Office of Intergovernmental Personnel Programs
SES Director, Office of Management
SES Deputy Associate Director for Personnel Investigations

AGENCY: PENSION BENEFIT GUARANTY CORPORATION

Positions:
GS–17 Deputy Executive Director
GS–17 General Counsel
GS–17 Director, Office of Program Operations

AGENCY: POSTAL RATE COMMISSION

Positions:
GS–18 General Counsel of Commission
GS–18 Director of Planning and Operations

AGENCY: PRESIDENTIAL COMMISSION ON WORLD HUNGER

Positions:
SES Executive Director

AGENCY: RAILROAD RETIREMENT BOARD

Positions:
GS–17 Chief Executive Officer
GS–18 Director, Bureau of Retirement Claims
GS–17 Director of Research
GS–17 General Counsel
GS–17 Chief Actuary
SES Deputy Executive Officer
SES Director, Bureau of Data Processing and Accounts
SES Director, Bureau of Unemployment and Sickness Insurance
SES Director, Bureau of Budget and Fiscal Operations

AGENCY: SECURITIES AND EXCHANGE COMMISSION

Positions:
SES General Counsel
SES Director, Division of Corporation Finance
SES Director, Division of Corporate Regulation
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Deputy Director, Division of Corporation Finance
SES Deputy Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Director, Division of Enforcement
SES Principal Associate General Counsel

AGENCY: SMALL BUSINESS ADMINISTRATION

Positions:
SES Director, Office of Business Development
SES Associate Administrator for Policy, Planning and Budgeting
SES Director, Office of Program Development
GS–18 Assistant Administrator for Data Management Services
SES Regional Director, Region I
SES Regional Director, Region II
SES Regional Director, Region III
SES Regional Director, Region IV
SES Regional Director, Region V
SES Regional Director, Region VI
SES Regional Director, Region VII
SES Regional Director, Region VIII
SES Regional Director, Region IX
SES Regional Director, Region X
SES Special Assistant to the Administrator and Director, Equal Employment Opportunity and Compliance
SES General Counsel
GS–17 Deputy General Counsel
SES Chief Counsel for Advocacy
SES Associate Administrator for Procurement Assistance
SES Associate Administrator for Management Assistance
SES Director, Office of Field Management

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions: No section 207(d)(1)(C) designations

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Positions:
SES General Counsel
SES U.S. Commissioner, SCC
SES Public Affairs Adviser
SES The Special Assistant
SES The Counselor
SES Chief Scientist
SES GAC Executive Director
SES Administrative Director
SES Chief of Operations Analysis
SES Deputy General Counsel
SES Ambassador to CD, D
SES Deputy Assistant Director, MA
SES Deputy Public Affairs Adviser, PA
SES Representative to MBFR
SES Special Assistant, PA
SES Senior Negotiator for Arms Trf., WEC

AGENCY: UNITED STATES RAILWAY ASSOCIATION

Positions:
AD President
AD Vice President and General Counsel
AD Vice President Finance
AD Vice President Operations and Marketing

AGENCY: WATER RESOURCES COUNCIL

Positions:
SES Director
SES Chairman, Great Lakes Basin Commission
SES Chairman, Missouri River Basin Commission
SES Chairman, New England River Basin Commission
SES Chairman, Ohio River Basin Commission
SES Chairman, Pacific Northwest River Basin Commission
SES Chairman, Upper Mississippi River Basin Commission

(18 U.S.C. 207(d)(1)(C).)

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federal register

Friday
February 1, 1980

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

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.

Arkansas: AR79–4052—March 30, 1979.
California: CA78–5106—July 7, 1978 and CA78–5107—July 7, 1978.
District of Columbia: DC79–3039—October 19, 1979.
Georgia: GA79–1122—August 31, 1979 and GA79–1014—January 5, 1979.
Maryland: DC79–3039—October 19, 1979.
Nebraska: NE79–4027—February 16, 1979.
Tennessee: TN78–1090—October 20, 1978; TN78–1091—October 20, 1978; and TN80–1044—January 11, 1980.
Virginia: DC79–3039—October 19, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL78–1082 (AL80–1014)—October 13, 1978.
Arkansas: AR79–4025 (AR80–4012)—February 2, 1979.
Colorado: CO79–5116 (CO80–5101)—May 18, 1978.
Nevada: NV78–5124 (NV80–5100)—September 15, 1978.
North Dakota: ND78–5125 (ND80–5102)—September 22, 1978 and ND79–5128 (ND80–5103)—August 3, 1979.

Ohio: OH75–2109 (OH80–2002)—September 12, 1975.
South Dakota: SD79–5121 (SD80–5104)—May 4, 1979 and SD79–5122 (SD80–5105)—May 4, 1979.

Cancellation of General Wage Determination Decisions

None.

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

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. AR79-4052
MOD. NO. 5
(44 FR 19103-March 30, 1979)
Pulaski county, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos Workers	$12.05	.55	1.00		.02
Electricians:					
Electrician	11.50	.55	3%+.98		⅛%
Cable splicers	11.625	.55	3%+.98		⅛%
Plasterers	10.85				.02
Roofers	9.71		.30		
OMIT:					
Elevator Constructors:					
Helper	70%JR	.545	.35	4%+a+b	.02
Helpers-Probationary	50%JR				

MODIFICATION PAGE 2

DECISION NO. CA78-5106 - Mod. #7
(43 FR 38272-July 7, 1978)
Alamdea, Amador, Calaveras, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Lathers:					
San Francisco County	$12.47	.86	$2.50	$1.00	.02
Plasterers:					
San Mateo County	13.58	1.00	2.25		.06
San Francisco County	13.58	1.00	2.25		.06
Omit:					
Lathers:					
N½ of San Mateo County	13.07	.66	2.00		.02
Southern half of San Mateo County	10.03	.32	1.00		
Add:					
Lathers:					
San Mateo County	12.47	.86	2.50	1.00	.02
Communications and Systems Technicians	10.80	.70	.30	1.87	

DECISION #CA78-5107-Mod. #12
(43 FR 2944-July 7, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Lathers:					
San Francisco County	$12.47	.86	$2.50	$1.00	.02
Plasterers:					
San Mateo County	13.58	1.00	2.25		.06
San Francisco County	13.58	1.00	2.25		.06
Omit:					
Lathers:					
N½ of San Mateo County	13.07	.66	2.00		.02
Southern half of San Mateo County	10.03	.32	1.00		
Add:					
Lathers:					
San Mateo County	12.47	.86	2.50	1.00	.02
Communications and Systems Technicians	10.80	.70	.30	1.87	

DECISION NO. DC79-3039
MOD. NO. 3
(44 FR 60513 - October 19, 1979)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
District of Columbia, Maryland-Montgomery & Prince Georges; D. C. Training School; Virginia - Independent City of Alexandria Arlington & Fairfax Counties, Va.					
CHANGE:					
Heavy Construction excluding water & sewer lines:					
All Counties					
Building Construction:					
Excluding Alexandria, Va.					
Tile Setters	$12.25	.70	.95		.04
Ironworkers:					
Reinforcing	11.55	.87	1.15		.07
Sewer and Water Lines:					
(District of Columbia and Montgomery County, Maryland Only)					
Ironworkers, Reinforcing	11.55	.87	1.15		.07

DECISION #GA79-1122 - Mod. #2
(44 FR 51491 - August 31, 1979)
DeKalb & Fulton Counties, Georgia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Brick masons	$10.80	.65	.57		.10
Cement masons/finishers	9.95	.60	.80		
Electricians	12.05	8%	12%		½ of 1%
Painters:					
Brush & roller	10.85	.55	.75		.05
Spray	11.85	.55	.75		.05
Waterproofers (roofers)	8.05	.35	.20		.02
Power Equipment Operators:					
Backhoe, crane, mechanic, & mucker	10.40	.63	.75		.09
Bulldozer, front end loader, & motor grader	10.05	.63	.75		.09
Oiler, greaser, & pump	7.20	.63	.75		.09

DECISION #GA79-1014 - Mod. #5
(44 FR 1632 - January 5, 1979)
Clayton, DeKalb, & Fulton Counties, Georgia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stone masons	$10.80	.65	.57		.10
Cement masons	9.95	.60	.80		
Electricians:					
Wiremen	12.05	8%	12%		½ of 1%
Cable splicers	12.95	8%	12%		½ of 1%
Lathers	10.80	.25	.35		.06
Marble, Terrazzo, & Tile Workers	10.80	.65	.57		.03
Painters:					
Brush, roller & drywall finishers	10.85	.55	.75		.05
Paperhangers	11.10	.55	.75		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 15' (not floored solid)	11.35	.55	.75		.05
Spray, steamcleaning, waterblasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	11.85	.55	.75		.05
Plasterers	10.42	.60	.80		
Power equipment operators (See Page #2 of Mod.)					
Roofers	8.05	.35	.20		.02

DECISION #GA79-1014 - Mod #5

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.40	.63	.75		.09
GROUP B	10.05	.63	.75		.09
GROUP B-1	10.15	.63	.75		.09
GROUP C	7.87	.63	.75		.09
GROUP D-1	8.43	.63	.75		.09
GROUP D-2	7.20	.63	.75		.09
GROUP E	7.49	.63	.75		.09
GROUP F	6.41	.63	.75		.09

GROUP A - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator - Caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel), elevating grader operator, hoisting engine operator, locomotive operator, mechanics - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over (furnishing air simultaneously for more than one contractor.).

GROUP B - Bulldozer operator, dozer shovel operator, drill operator - Quarry Master type, fireman - stationary or portable, motor grader operator, motor scraper operator - (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 ft. depth capacity.

GROUP B-1 - Dewatering system operator where multiple pumps are used, generator operator - 75 K.V.A. and over, elevator operator - inside electric permanent house elevator used to haul building materials and personnel, fork lift operator, oilers on cranes with earth boring drill attached with a separate power source, well point system operator (including the operation of all pumps on project operated by the contractor).

GROUP C - Air compressor operator - 600 CU. FT. and over, air compressor operator Batt. of Two (300 Cu. Ft. and over), hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oiler-grease truck, truck or locomotive crane.

GROUP D-2 - Oiler - unspecified, pump operator - over 4" (up to 4 batteries), welding machine operator (batteries of 4 or more, portable, gasoline, or diesel driven).

GROUP E - Concrete mixer operator (skip types, except paving mixers), concrete finishing machine operator, concrete paving machine operator, roller operator (asphalt type), well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 C.F.M. but less than 600 Cu. Ft., conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4" and over.

Decision # NE79-4027-Mod #1 (44 FR 10234 - February 16, 1979) Douglas, Sarpy & Otoe Counties, Nebraska

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	14.02	.70	.71		.03
Bricklayers, Stonemasons	12.36	.82	.60		.05
Carpenters:					
Carpenter	11.95	.82	.70		.05
Piledrivers	12.085	.82	.70		.05
Electricians - Douglas & Sarpy Cos.	13.61	.96	3%+.65		½%
Residential	9.30	.96	3%+.65		½%
Electricians - Otoe County	12.80	.75	3%+.85		.04
Ironworkers	11.15	.65	1.00	1.00	.05
Marble setters, tile and Terrazzo Workers	12.22	.30	.40		
Marble, Tile and Terrazzo Workers finishers	9.60				
Plasterers	11.53	.57	.50		
Plumbers	13.04	.95	1.05		.10
Roofers:					
Composition-Douglas & Sarpy Cos.	10.35	.70	.20		
Slate, tile - Douglas & Sarpy Cos.	10.65	.70	.20		
Sheet metal workers	12.49	.50			.07
Steamfitters	13.54	.70	.85		.15
Line Construction:					
Linemen	11.98	.45	3%		½%
Cable splicers	12.87	.45	3%		½%
Truck Driver	8.65	.45	3%		½%
Equipment operators	10.78	.45	3%		½%
Omit:					
Line Construction:					
Groundmen:					
(Inexperienced) 1st 6 months	3.69	.45	3%		½%
(Inexperienced) 2nd 6 months	5.44	.45	3%		½%
Thereafter	7.24	.45	3%		½%

MODIFICATION PAGE 9

Decision # NE79-4027-Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Line Construction:					
Groundmen	7.82	.45	3%		½%
Roofers					
Roofer's helpers (handling roofing materials, erecting and dismantling scaffold for roofers, and removing and cleaning up old roof)	50%J.R	.70	.20		

MODIFICATION PAGE 10

DECISION #TN78-1090 - Mod. #5 (43 FR 49205 - October 20, 1978) All of Knox & Monroe Counties, and that portion of Anderson & Roane Counties which comprise the Oak Ridge Energy Research & Development Administration site, Tennessee	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Asbestos workers	$11.70	.55	.70		.06
DECISION #TN78-1091 - Mod. #7 (43 FR 49207 - October 20, 1978) Shelby County, Tennessee					
CHANGE:					
Carpenters, Piledrivermen, & Soft floor layers	$10.23	.75	.65		.085
Electricians:					
Wiremen & Technicians	12.23	.95	3% + .50		½ of 1%
Cable splicers	12.33	.95	3% + .50		½ of 1%
Line Construction:					
Linemen	12.23	.95	3% + .50		3/4 of 1%
Cable splicers	12.33	.95	3% + .50		3/4 of 1%
Special equipment operators	9.15	.95	3% + .50		3/4 of 1%
Groundmen	6.10	.95	3% + .50		3/4 of 1%
Pipefitters & Air conditioning Mechanics	13.42	.75	.30		
Sheet metal workers	12.47	1.21	.37		.06
DECISION #TN80-1044 - Mod. #1 (45 FR 2495 - January 11, 1980) Statewide, Tennessee					
CHANGE:					
Electricians: Shelby County 'only'	$12.23	.95	3% + .50		½ of 1%

STATE: Alabama COUNTY: Montgomery
DECISION NUMBER: AL80-1014 DATE: Date of Publication
Supersedes Decision No.: AL78-1082 October 13, 1978 in 43-FR-47425
DESCRIPTION OF WORK: Building Construction Project does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.72				
Bricklayers	7.15				
Carpenters	5.66				
Form setters	3.25				
Cement masons	4.15				
Electricians	7.58				
Elevator constructors	10.56	.895	.69	a+b	.03
Glaziers	7.15	.50	.40		
Ironworkers, structural & ornamental	4.40				
Ironworkers, reinforcing	4.00				
Laborers:					
Laborers	3.10				
Asphalt raker	3.75				
Pipelayers	4.00				
Lathers	6.75				
Painters:					
Brush	5.90				
Sandblasters and spray	7.80		.40		
Plasterers	5.75				
Plumbers & pipefitters	6.60				
Roofers	4.67				
Kettlemen	3.50				
Sheet metal workers	5.81				
Soft floor layers	5.41				
Sprinkler fitters	6.45				
Tile setters	6.00				
Truck drivers	3.75				
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Asphalt rollers	4.75				
Asphalt spreader	5.25				
Backhoe	4.90				
Bulldozers	6.00				
Crane operator	6.61				
Finishing machine	4.00				
Front end loader	4.85				
Motor grader	6.00				
Motor patrol	8.51				
Piledriver	5.50				
Screed operator	3.50				
Tractor	3.75				

PAID HOLIDAYS:
A-New Year's Day B-Memorial Day C-Independence Day D-Labor Day
E-Thanksgiving Day F-Christmas Day

FOOTNOTES:
a. 6 paid holidays A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

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)).

SUPEREDEAS DECISION

STATE: ARKANSAS COUNTY: Statewide
DECISION NO. AR80-4012 DATE: Date of Publication
Supersedes Decision No. AR79-4025 dated February 2, 1979 in 44-FR-6864
DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, and water and sewer utilities, (but does not include building structures on highway rest areas).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.20				
CARPENTERS	5.20				
CONCRETE FINISHER	5.20				
ELECTRICIANS	6.50				
IRONWORKERS:					
Structural	4.50				
Reinforcing	3.75				
LABORERS:					
Air tool operator	3.65				
Asphalt heater operator	3.65				
Asphalt raker	4.20				
Carpenter tender	3.75				
Chain saw operator	3.75				
Checker grade	3.75				
Concrete finisher tender	3.75				
Concrete joint sealer	3.75				
Concrete saw operator	3.75				
Form setter	3.90				
Laborer	3.10				
Pipelayer	3.75				
Powderman	4.50				
Vibratorman	3.50				
PAINTER	4.50				
PILE DRIVER LEADMAN	4.50				
POWER EQUIPMENT OPERATORS:					
Aggregate spreader operator	4.00				
Asphalt plant fireman	3.25				
Asphalt plant drier operator	3.25				
Batch plant operator	4.00				
BULLDOZER OPERATOR:					
Finish	5.00				
Rough	4.25				
Bull float operator	4.00				
Concrete curing machine operator	4.25				

DECISION NO. AR80-4012

Page 2

Power Equipment Operators (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete mixer operator (less than 5 sacks)	$3.75				
Concrete mixer operator (5 sacks or over)	4.50				
Backhoe, operator -rubber tired (1 yard or less)	4.25				
Cherry picker operator	4.25				
Concrete paver operator	4.75				
Concrete spreader operator	4.75				
Crane, derrick, dragline, shovel, backhoe operator (1½ yd. or less)	5.00				
Crane, derrick, dragline, shovel, backhoe operator (over 1½ yd.)	5.25				
Crusher operator	4.00				
Distributor operator	4.00				
Drill operator (wagon or truck)	4.30				
Elevating grader operator	4.75				
Euclid or like equipment operator (bottom or end dump)	3.85				
Finishing machine operator	4.30				
Forklift operator	3.55				
Form grader operator	3.55				
Front end loader operator:					
Finish	4.75				
Rough	4.30				
Hydro seeder operator	3.85				
Mechanic	5.00				
Motor Patrol Operator:					
Finish	5.00				
Rough	4.25				
Mulching machine operator	3.85				
Oiler and greaser	3.75				
Pile driver operator	4.40				
Pub mill operator	3.55				
Roller operator (self-propelled)	3.85				

Power Equipment Operators (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Scraper Operator:					
Finish	$5.00				
Rough	4.25				
Sod slicing machine operator	3.50				
Stabilizer mixing machine operator	4.00				
Tractor operator (crawler type)	3.85				
Tractor operator (farm & wheel)	3.55				
Tractor operator wheel type (with attachments 1 yd. or under)	4.00				
Trenching machine operator	4.00				
STONEMASONS	5.20				
Truck Drivers:					
Distributor truck driver	3.90				
Semi-trailer	3.90				
Loyboy driver	4.30				
Transit mix truck driver	3.90				
Truck driver (heavy-maximum pay load in excess of 3000 lbs	3.60				
Truck driver (light-maximum pay load 3000 lbs.)	3.50				
Well drillers	5.00				

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contracts clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: Statewide
DECISION NUMBER: CO80-5101 DATE: Date of Publication
Supersedes Decision No. CO79-5116 dated May 18, 1979, in 44 FR 29237
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
*Zone 1	$ 9.87	.90	.95	.85	.07
*Zone 2	10.37	.90	.95	.85	.07
Underground Carpenters					
*Zone 1	10.07	.90	.95	.85	.07
*Zone 2	10.57	.90	.95	.85	.07
Working on Creosoted coated lumber or other toxic materials, Sawmen continuously assigned to 1½ HP saw at job site.	10.17	.90	.95	.85	.07
High work 35' above ground or above permanent floor or deck	10.22	.90	.95	.85	.07
CEMENT MASONS:					
*Zone 1	10.01	.55	1.25	.30	.12
*Zone 2	10.51	.55	1.25	.30	.12
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties					
Electricians	13.00	.70	3%+.75		3/10%
Cable Splicers	13.25	.70	3%+.75		3/10%
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	12.85	.72	3%+.25		1½%
Cable Splicers	13.10	.72	3%+.25		1½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties					
Zone 1 (within 12 miles from Pueblo Main Post Office)					
Electricians	$12.69	.72	3%+.80		1½%
Cable Splicers	13.96	.72	3%+.80		1½%
Zone 2 (12 to 20 miles from Pueblo Main Post Office)					
Electricians	13.44	.72	3%+.80		1½%
Cable Splicers	14.78	.72	3%+.80		1½%
Zone 3 (20 to 30 miles from Pueblo Main Post Office)					
Electricians	13.94	.72	3%+.80		1½%
Cable Splicers	15.33	.72	3%+.80		1½%
Zone 4 (32 to 50 miles from Pueblo Main Post Office)					
Electricians	14.57	.72	3%+.80		1½%
Cable Splicers	16.03	.72	3%+.80		1½%
Zone 5 (50 miles and over from Pueblo Main Post Office)					
Electricians	15.19	.72	3%+.80		1½%
Cable Splicers	16.71	.72	3%+.80		1½%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4	10.45	.72	3%+.80		1½%
Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties Electricians	12.75	.72	3%+.50		.015
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	11.60	1.04	1.25		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Cable Splicer	$13.91	.45	3%+.50		3/4%
Journeyman Lineman Cableman	13.01	.45	3%+.50		3/4%
Journeyman Lineman	12.94	.45	3%+.50		3/4%
Line Equipment Maintenance Man	10.99	.45	3%+.50		3/4%
Line Equipment Operator, Class 1: Crawler Equipment, Wire equipment pullers, Tensioners, cranes, over 8 tons, Heavy pole trucks (such as diesel, twin screws), All bucket trucks - 75 ft. reach and over, Trenchers, 4 ft. and over and Backhoes	10.99	.45	3%+.50		3/4%
Line Equipment Operators, Class 2: Trenchers under 4 ft. depth, Hydro cranes, under 8 tons, Bobcats, Trucks under 3 tons, G.T.M. classification	9.81	.45	3%+.50		3/4%
Groundman	9.04	.45	3%+.50		3/4%
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington and Weld Cos.					
Brush	12.11	.75	1.15		.07
Spray, Swing Stage	12.71	.75	1.15		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Baca, Bent, Crowley, Custer Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos.					
Brush	$ 9.57	.75	.50		.04
Steel	10.07	.75	.50		.04
Spray	10.57	.75	.50		.04
Steel Spray	11.07	.75	.50		.04
Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park, (southern half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	10.44	.75	.50		.04
Spray	11.19	.75	.50		.04
Steel	10.94	.75	.50		.04
Steel Spray	11.69	.75	.50		.04

LABORERS	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.14	$8.64	.55	.65	.10	.05
Group 2	8.24	8.74	.55	.65	.10	.05
Group 3	8.54	9.04	.55	.65	.10	.05
Group 4	8.69	9.19	.55	.65	.10	.05
Group 5	8.89	9.39	.55	.65	.10	.05
LABORERS (Tunnels)						
Group 1	8.14	8.64	.55	.65	.10	.05
Group 2	9.04	9.54	.55	.65	.10	.05
Group 3	9.14	9.64	.55	.65	.10	.05
Group 4	9.22	9.72	.55	.65	.10	.05
Group 5	9.29	9.79	.55	.65	.10	.05
Group 6	9.94	10.44	.55	.65	.10	.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	9.14	9.64	.55	.65	.10	.05
Group 2	9.29	9.79	.55	.65	.10	.05
Group 3	9.39	9.89	.55	.65	.10	.05
Group 4	9.67	10.17	.55	.65	.10	.05
Group 5	9.72	10.22	.55	.65	.10	.05
Group 6	10.07	10.57	.55	.65	.10	.05

LABORERS

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake Chaser; Gabion Baskets and Reno Mattressess; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core and Diamond Drill Tenders, Powdermen Helpers; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical Tool Operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than Gang Saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension or Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Tender; Sand Blaster; Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frost proofing; Any Laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement.

Gunniting and Shotcrete Tenders; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or Stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphons, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; Wiping of Joint Concrete Pipe, inside and out; Labor applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal laws; Pugs and Galleys in Dams

(Tunnels)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Tenders on Shotcrete, Gunniting and Sand Blasting; Tenders, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Tender, applying concrete processing materials

Group 6: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Men, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasterers, Pump Concrete placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Tenders in Shotcrete Gunniting and Sand Blasting; Tenders on Core and Diamond Drills; Pot Tenders; Cement Finisher Tenders; applying concrete processing materials

Group 4: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Men, internal and external

Group 5: Diamond and Core Drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 6: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement.

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates Zone 1*	Basic Hourly Rates Zone 2*	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.25	$10.00	.79	$ 1.00	.45	.07
Group 2	9.60	10.35	.79	1.00	.45	.07
Group 3	9.95	10.70	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.40	11.15	.79	1.00	.45	.07
(For work in Tunnels, Shafts, and Raises)						
Group 1	9.40	10.15	.79	1.00	.45	.07
Group 2	9.75	10.50	.79	1.00	.45	.07
Group 3	9.85	10.60	.79	1.00	.45	.07
Group 4	10.10	10.85	.79	1.00	.45	.07
Group 5	10.25	11.00	.79	1.00	.45	.07
Group 6	10.65	11.40	.79	1.00	.45	.07

(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generator, single unit conveyor; Pumps; vacuum Well Point System; Tractor, under 70 HP with or without attachments; Rodman, Chainman; Grade Checker

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable; Screening Plant with or without a spary bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Lay-down Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, equipment lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and inlcuding 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; Single unit portable Crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welding; Winch on truck; Instrument Man

Group 4: Cable operated Crane, truck mounted; Cable operated Power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer, over 1 cu. ydl; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells, and Backhoes over 5 cu. yds.; Crane, over 50 tons, carrier mounted; Derrick; Electric Rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and Tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or Truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For Work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-welder, heavy duty; Mucking Machines and Front End Loaders, under-ground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1*	Zone 2*				
Group 1	$ 8.78	$9.28	.84	.63	.30	
Group 2	8.88	9.38	.84	.63	.30	
Group 3	8.98	9.48	.84	.63	.30	
Group 4	9.03	9.53	.84	.63	.30	
Group 5	9.08	9.58	.84	.63	.30	
Group 6	9.13	9.63	.84	.63	.30	
Group 7	9.18	9.68	.84	.63	.30	
Group 8	9.23	9.73	.84	.63	.30	
Group 9	9.33	9.83	.84	.63	.30	
Group 10	9.38	9.88	.84	.63	.30	
Group 11	9.48	9.98	.84	.63	.30	
Group 12	9.63	10.13	.84	.63	.30	
Group 13	9.68	10.18	.84	.63	.30	
Group 14	9.78	10.28	.84	.63	.30	
Group 15	9.88	10.38	.84	.63	.30	
Group 16	9.98	10.48	.84	.63	.30	
Group 17	10.08	10.58	.84	.63	.30	
Group 18	10.28	10.78	.84	.63	.30	

TRUCK DRIVERS

Group 1: Pickups; Scalemen; Checkers; Spotters; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehouse Men; Washers; Greasemen; Servicemen; Ambulance Drivers

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack; Tandem axle; Battery Men; Mechanics' Tenders; Material Checkers; Cardex Men; Expeditors; Man Haul shuttle Truck or Buss

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Speciality and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers; Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds. to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to & including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to & including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanics, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to & including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

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)).

ZONE DESCRIPTION
FOR
CARPENTERS

Counties entirely within Zone 1:

Adams	Crowley	Gilpin	Morgan
Alamosa	Custer	Huerfano	Otero
Arapahoe	Delta	Jefferson	Phillips
Archuleta	Denver	La Plata	Prowers
Bent	Douglas	Lake	Pueblo
Boulder	Eagle	Larimer	Rio Grande
Chaffee	El Paso	Las Animas	Sedgwick
Clear Creek	Elbert	Logan	Teller
Conejos	Fremont	Mesa	Weld
Costilla	Garfield	Montezuma	

Counties entirely within Zone 2:

Baca	Jackson	Moffat	Routt
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lincoln	Pitkin	Summit
Gunnison	Mineral	rio Blanco	Yuma
Hinsdale			

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 1, as follows:

All of Montrose County lying Northerly of the North Line of Ouray County and said North Line extended to the Township Line between R11W and R12W, said part being East of said Township Line of the New Mexico Principal Meridian and the Eastern portion of Saguache County; from Highway 285 to the Town of Saguache, and Highway 114 to the County Line, and all of Washington County lying North of the 40°00'00" Latitude base line.

Legal description of the portions of Montrose, Saguache and Washington Counties which are included within Zone 2, as follows:

All of Montrose County except that part lying Northerly of the North Line of Ouray County and said North Line extended West to the Township Line between R11W, and T12W, said point being East of said Township Line of the New Mexico Principal Meridian and the Western portion of Saguache County; from Highway 285 to Town of Saguache and Higheay 114 to County Line, and all of Washington County lying South of the 40°00'00" Latitude base line.

LABORERS

Zone 1: The area encompassed by 15 driving miles from the Main Post Office at Craig, Steamboat Springs, and Meeker. Also, included are all other Counties not outlined in Zone 2.

Zone 2. The Counties of Jackson, Moffat, Rio Blanco and Routt.

ZONE DESCRIPTIONS
CEMENT MASONS, POWER EQUIPMENT OPERATORS
and TRUCK DRIVERS

A. Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Logan	Rio Grande
Clear Creek	Fremont	Mesa	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

B. Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

C. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert and Las Animas Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West. All of Montrose County lying East of said Township line of the New Mexico Principal Meridian and all of Washington County lying North of the 40°00'00" Latitude Base Line

D. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 2, as follows:

All of Adams, Arapahoe, Elbert and Las Animas lying East of the Township Line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township Line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North Line between R11W and R21W, said point being East of said Township Line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line.

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

DECISION NUMBER: NV80-5100 DATE: Date of Publication

Supersedes Decision No. NV78-5124 dated September 15, 1978, in 43 FR 41351.

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), heavy and highway Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$14.46	$1.10	$1.30		
Elko, Eureka, White Pine Counties	12.61	.77	1.37		
Remaining Counties	14.00	1.12	1.30	2.00	.11
BOILERMAKERS	15.21	1.175	1.25	1.00	.03
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6)	13.87	.90	.60		.06
Remaining Counties and Nye County (north of Hwy. #6)	13.10	.95	.75		.01
BRICK HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half)	10.80	.95	1.20		.05
CARPENTERS:					
Clark, Esmeralda County (south of Hwy. #6, Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Carpenters	14.21	.85	1.10		.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	14.36	.85	1.10		.10
Piledrivermen	14.41	.85	1.10		.10
Millwrights	15.11	.85	1.10		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	$11.75	.95	$1.51	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	11.90	.95	1.51	1.00	.10
Piledrivermen	12.00	.95	1.51	1.00	.10
Millwrights	12.35	.95	1.51	1.00	.10
CEMENT MASONS:					
Clark, Lincoln, Nye Cos.:					
Cement Masons	13.00	1.10	1.00		.13
Cement Floor Finishing Machine and Color Work	13.35	1.10	1.00		.13
Lake Tahoe Area:					
Cement Masons	11.65	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	11.90	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	12.15	.90	1.00	1.45	.05
Remaining Counties:					
Cement Masons	10.20	.90	1.00	1.45	.05
Mastic, Magnesite and all Composition Masons	10.45	.90	1.00	1.45	.05
Troweling Machine; Grinder Operator and Kelly Float	10.70	.90	1.00	1.45	.05
DRYWALL INSTALLERS:					
Statewide excluding Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	12.00	.95	1.51	1.00	.10
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah)	14.38	.85	1.10		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark, Lincoln, Nye Co. (south of Mt. Diablo Base Line):					
Electricians; Technicians	$15.71	.98	3%+1.80		.08
Cable Splicers	16.04	.98	3%+1.80		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	15.63	.99	3%+1.37		.08
Cable Splicers	17.19	.99	3%+1.37		.08
Lake Tahoe Area:					
Electricians; Technicians	16.63	.99	3%+1.37		.08
Cable Splicers	18.19	.99	3%+1.37		.08
ELEVATOR CONSTRUCTORS:					
Nevada east of 118° longitude and south of 39° north latitude:					
Elevator Constructors	14.53	.895	.69	a	.03
Nevada west of 118° longitude:					
Elevator Constructors	16.37	.895	.69	a	.03
GLAZIERS:					
Clark, Esmeralda, Lincoln and Nye Counties	15.46	.75	.40		.08
Remaining Counties	11.39	.81	1.60	1.39	
IRONWORKERS:					
Elko, Eureka, White Pine Counties:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	12.00	.75	1.35		.0

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Remaining Counties:					
Fence Erector	$11.51	$1.39	$ 2.82	1.90	.07
Ornamental; Reinforcing; Structural	12.50	1.39	2.82	1.90	.07
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (south half):					
Groundman	12.64	.98	3%		3/4%
Line Equipment Operators	15.17	.98	3%		3/4%
Linemen	16.85	.98	3%		3/4%
Cable Splicers	17.69	.98	3%		3/4%
Lake Tahoe Area:					
Groundman	12.72	.99	3%+1.27		.08
Line Equipment Operators	15.07	.99	3%+1.27		.08
Linemen	16.63	.99	3%+1.27		.08
Cable Splicers	18.19	.99	3%+1.27		.08
Remaining Counties (excluding Lake Tahoe Area):					
Groundman	11.72	.99	3%+1.27		.08
Line Equipment Operators	14.07	.99	3%+1.27		.08
Lineman	15.63	.99	3%+1.27		.08
Cable Splicers	17.19	.99	3%+1.27		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.87	.90	.60		.06
Remaining Counties and Nye County (north half)	12.75	.95	.75		.01
MASON TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.62	.66	1.35		
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Brush; Roller	14.24	.80	.70		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	14.59	.80	.70		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Buffing Steel; Sandblasters, Structural Steel	$14.94	.80	.70		.06
Steeplejack	15.74	.80	.70		.06
Remaining Counties including Lake Tahoe Area:					
Brush and Roller	14.43	.70	.75		.02
Spray; Taper; Paperhangers	14.95	.70	.75		.02
Spray-swing stage up to 40 ft.; Spray-steel	15.20	.70	.75		.02
Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster	14.70	.70	.75		.02
PLASTER HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Plaster Hod Carriers serving Plasterers	11.95	.95	1.20		
Plaster Hod Carriers working on any type of Gun	12.55	.95	1.20		
PLASTER TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.12	.81	1.35		.11
PLASTERERS:					
Clark, Lincoln, Nye Cos.	13.49	1.10	1.00		.13
Remaining Counties	12.52	.70	1.20		.03
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.75	1.25	2.50	2.00	.08
Remaining Counties and Nye County (north half)	13.74	1.13	1.00	1.95	.20
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	13.74	1.13	1.00	1.95	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	15.70	.80			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Remaining Counties and Nye County (north half)	$13.92	.85	$1.00		.05
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	14.00	1.14	1.62	2.00	.17
Remaining Counties and Nye County (north half)	12.22	1.14	2.13		.10
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, Nye Counties	14.87	.65			.15
Remaining Counties including Lake Tahoe Area	13.74	.70	.20	2.4%	.06
SPRINKLER FITTERS	16.97	.75	1.05		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	13.87	.90	.60		.06
Remaining Counties and Nye County (north half)	12.75	.95	.75		.01

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as vacation pay credit. Seven paid holidays: A thru G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G. Christmas Day.

LABORERS					
Clark, Esmeralda, Lincoln, Nye County (south half, including Hwy. #6):					
Group 1	$10.80	.81	$1.53		
Group 2	11.01	.81	1.53		
Group 3	11.11	.81	1.53		
Group 4	11.20	.81	1.53		
Group 5	11.30	.81	1.53		

LABORERS

Clark, Esmeralda, Lincoln, Nye County (south half, including Hwy. #6)

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Flagman, Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, laykold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and Oil Pipeline Wrapper, Pot Tender and Form Man; Making and caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench, multi-plate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Lead Man): Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize Concrete Vibrator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

LABORERS*:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communites - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada, also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake					
Group 1	$ 9.00	.95	$1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	9.60	.95	1.20		.10
Group 2	9.70	.95	1.20		.10
Group 3	9.85	.95	1.20		.10
Group 4	10.10	.95	1.20		.10
Group 5	10.40	.95	1.20		.10
Group 6-A	10.40	.95	1.20		.10
Group 6-B	10.10	.95	1.20		.10
Group 6-C	9.75	.95	1.20		.10

LABORERS*: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Remaining Counties: (Cont'd)					
Building Construction: (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 9.80	.95	1.20		.10
Group 2	9.90	.95	1.20		.10
Group 3	10.05	.95	1.20		.10
Group 4	10.30	.95	1.20		.10
Group 5	10.60	.95	1.20		.10
Group 6-A	10.60	.95	1.20		.10
Group 6-B	10.30	.95	1.20		.10
Group 6-C	9.95	.95	1.20		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	10.50	.95	1.20		.10
Group 2	10.60	.95	1.20		.10
Group 3	10.75	.95	1.20		.10
Group 4	11.00	.95	1.20		.10
Group 5	11.30	.95	1.20		.10
Group 6-A	11.30	.95	1.20		.10
Group 6-B	11.00	.95	1.20		.10
Group 6-C	10.65	.95	1.20		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	9.00	.95	1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10
Area 2:					
Group 1	10.15	.95	1.20		.10
Group 2	10.25	.95	1.20		.10
Group 3	10.40	.95	1.20		.10
Group 4	10.65	.95	1.20		.10
Group 5	10.95	.95	1.20		.10
Group 6-A	10.95	.95	1.20		.10
Group 6-B	10.65	.95	1.20		.10
Group 6-C	10.30	.95	1.20		.10

*LABORERS - "Area Definition" following TRUCK DRIVERS

LABORERS
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler; Flagman

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad Trackmen (builders); Sloper; Semi-skilled Wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, Hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Worker (wet or dry); Pipe Wrapper, Kettleman, Potman, and men applying asphalt, Creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete, wet or dry; Rototiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibrascreed; Skilled Wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type Drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blasters and Powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS Clark, Esmeralda, Lincoln, Nye Counties:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.60	$1.10	$2.60	.85	.14
Group 2	11.88	1.10	2.60	.85	.14
Group 3	12.17	1.10	2.60	.85	.14
Group 4	12.31	1.10	2.60	.85	.14
Group 5	12.53	1.10	2.60	.85	.14
Group 6	12.64	1.10	2.60	.85	.14
Group 7	12.76	1.10	2.60	.85	.14
Group 8	12.93	1.10	2.60	.85	.14
Group 9	13.06	1.10	2.60	.85	.14

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator Operator; Heavy Duty Repairman Tender; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, Skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Plant Operator, Generator, pump or compressor; Rotary Drill Tender (Oilfield); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with drag-type attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type unloader and turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (Compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yds. and up to and including 1½ yds.); Tractor - Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd. - rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading - paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds., struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5, 100 flywheel HP and over or similar) (Bulldozer, Tamper, Scraper and Push Tractor, single engine); Tractor (boom attachments); Traveling Pipe wrapping, cleaning and bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge; Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple engine Tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired earth moving equipment (single engine over 50 yds. struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar)(over 25 yds. and up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yds. M.R. C); Wood Mixer and similar Pugmill equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capapable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (mutli engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired self loading scraper (paddle wheel-auger type self-loading) (2 or more units); Tandem equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-pull) (50¢ per hour additional)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote controlled earth moving equipment ($1.00 per hour additional to base rate)

POWER EQUIPMENT OPERATORS* (Except Piledriving and Steel Erection) REMAINING COUNTIES	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1-A	$10.19	$11.34	$2.14	$2.50	$1.87	.10
Group 2	10.63	11.78	2.14	2.50	1.87	.10
Group 3	10.86	12.01	2.14	2.50	1.87	.10
Group 4	11.48	12.63	2.14	2.50	1.87	.10
Group 5	11.73	12.88	2.14	2.50	1.87	.10
Group 6	11.87	13.02	2.14	2.50	1.87	.10
Group 7	12.08	13.23	2.14	2.50	1.87	.10
Group 8	12.57	13.72	2.14	2.50	1.87	.10
Group 9	12.84	13.99	2.14	2.50	1.87	.10
Group 10	13.14	14.29	2.14	2.50	1.87	.10
Group 10-A	13.29	14.44	2.14	2.50	1.87	.10
Group 11	13.50	14.65	2.14	2.50	1.87	.10
Group 11-A	14.86	16.01	2.14	2.50	1.87	.10

*POWER EQUIPMENT OPERATORS - See "AREA DEFINITION" following TRUCK DRIVERS.

Group 1-A: Brakeman, Deckhand, Fireman, Oiler, Partsman (heavy duty repair shop parts room when needed), Switchman, Tar Pot Fireman; Boiler Tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except (asphaltic or concrete paving); Oiler (truck crane); Rodman or Chainman; Bobcat or similar Loader, 1/4 cu. yds. or less

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper multiple-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and material Hoist (1 drum); Screedman (Barber-Greene and similar)(asphalt or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); High-line Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Berm, Curb and/or Curb Gutter Machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe wrapping, cleaning and bending Machine; Pavement Breaker or Tamper (with or without Compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small Rubber-tired Tractors; Self-propelled Tape Machine; Auger type drilling equipment up to and including 30 ft. depth drilling capacity M.R.C.

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Self-propelled Boom type lifting device (center mount)(10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt); Instrumentman; Auger type drilling equipent over 30 ft. depth digging capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy Duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixer-mobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar Pugmill equipment); Rubber-tired earth moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Sheepfoot; Small tractor (with boom); Soil Stabilizer (P&H or equal); Timber Skidder (rubber-tired or similar equipment; Tractor; Tractor drawn Scraper; Tractor mounted compressor drill combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (Gunite); Lull Hi-lift (20 ft. or over); Mucking Machine; Tractor with boom (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

Group 10: Boom type Backfilling Machine; Bridge Crane; Carylift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple engine earth moving machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (reclaim station); Single engine Scraper (over 35 cu. yds.); Train Loading Station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar); Chief of Party

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu.yd. cable); Cranes (not over 25 tons)(Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines; Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons); CMI dual Lane Auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Back-filler; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multiple engine earth moving equipment (up to and including 75 cu.yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple propulsion power units); Single engine Rubber-tired earth moving machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. M.R.C.); Remote Controlled earth moving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.25	$2.14	$2.50	$1.87	.10
Group 2	11.70	2.14	2.50	1.87	.10
Group 3	12.93	2.14	2.50	1.87	.10
Group 4	13.10	2.14	2.50	1.87	.10
Group 4-A	13.47	2.14	2.50	1.87	.10
Group 5	14.07	2.14	2.50	1.87	.10
Group 6	14.59	2.14	2.50	1.87	.10
Group 6-A	15.30	2.14	2.50	1.87	.10
Group 7	16.56	2.14	2.50	1.87	.10

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy duty Repairman-Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS PILEDRIVING Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.68	$2.14	$2.50	$1.87	.10
Group 1-A	11.09	2.14	2.50	1.87	.10
Group 1-B	11.34	2.14	2.50	1.87	.10
Group 2-A	11.34	2.14	2.50	1.87	.10
Group 2-B	12.25	2.14	2.50	1.87	.10
Group 3	12.61	2.14	2.50	1.87	.10
Group 3-A	13.12	2.14	2.50	1.87	.10
Group 4	13.78	2.14	2.50	1.87	.10
Group 5	13.99	2.14	2.50	1.87	.10
Group 6	15.36	2.14	2.50	1.87	.10

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler, or Univeral type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.17	.68	$1.12		
Group 2	11.28	.68	1.12		
Group 3	11.33	.68	1.12		
Group 4	11.49	.68	1.12		
Group 5	11.67	.68	1.12		
Group 6	12.17	.68	1.12		

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and fuel trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and fuel trucks (2500 to 4000 gallons); Truck Driver working on gas and oil pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and fuel trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and fuel trucks (6000 gallons and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within Teamsters' jurisdiction, regardless of types of attachment including power unit pulling off highway Belly Dumps in Tandem

TRUCK DRIVERS* Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$10.49	$11.64	$1.00	.91		.05
Group 2	10.54	11.69	1.00	.91		.05
Group 3	10.65	11.80	1.00	.91		.05
Group 4	10.71	11.86	1.00	.91		.05
Group 5	10.76	11.91	1.00	.91		.05
Group 6	10.81	11.96	1.00	.91		.05
Group 7	10.92	12.07	1.00	.91		.05
Group 8	10.98	12.13	1.00	.91		.05
Group 9	11.03	12.18	1.00	.91		.05
Group 10	11.09	12.24	1.00	.91		.05
Group 11	11.20	12.35	1.00	.91		.05
Group 12	11.25	12.40	1.00	.91		.05
Group 13	11.36	12.51	1.00	.91		.05
Group 14	11.53	12.68	1.00	.91		.05
Group 15	11.69	12.84	1.00	.91		.05
Group 16	11.86	13.01	1.00	.91		.05

*TRUCK DRIVERS - See "AREA DEFINITION" last page.

TRUCK DRIVERS
Remaining Counties

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: Bus and Manhaul Drivers, single units, Pickup, up to 18,000 lbs.

Group 3: Bus and Manhaul Drivers, single unit, Pickup, 18,000 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Drivers; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle; Warehouse Clerk

Group 5: Winch Trucks, A-Frame, 18,000 lbs. and over; Lift Jitneys and Fork Lifts

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

Group 7: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yards and under 18 yards; Transit Mix under 8 yards; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yards and including 12 yards

Group 10: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yards and under 35 yards; Heavy Duty Transport (highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

TRUCK DRIVERS (Cont'd)
Remaining Counties

Group 11: DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; water Tank Trailers, Fuel and/or Grease Tank, or other miscellaneous trailers (except as defined under Dump Trucks)

Group 12: Transit Mix, over 12 yards; Truck Repairman

Group 13: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 35 yards and under 60 yards

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yards and under 75 yards; Helicopter Pilot (when transporting men or materials)

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yards and under 100 yards

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 100 yards and over

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)).

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.E. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada Border;
Thence easterly to the N.E. corner of township 22N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thence westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, range 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.E. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the N.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.
Area 1 also includes that portion of Northern Nevada included within the following lines:
Commencing at the S.W. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 58E;
Thence southerly to the S.W. corner of township 37N, range 58E;
Thence easterly to the S.E. corner of township 37N, range 58E;
Thence southerly to the N.E. corner of township 31N, range 58E;
Thence westerly to the N.W. corner of township 31N, range 58E;
Thence southerly to the S.W. corner of township 31N, range 58E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Thence northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 31N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All area not included within Area 1 as defined above.

SUPERSEDEAS DECISION

STATE: North Dakota COUNTIES: Statewide
DECISION NUMBER: ND80-5102 DATE: Date of Publication
Supersedes Decision No. ND78-5125 dated September 22, 1978, in 43 FR 43222
DESCRIPTION OF WORK: Heavy and Highway Projects (does not include bridges designed to accommodate navigation; tunnels; rest areas which include building project; and railroad project)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS	$6.50				
ELECTRICIANS:					
Cass and Grand Forks Cos.	10.65	.40	3%	6%	1½%
Burleigh and Ward Cos.	10.60	.40	3%	6%	1½%
LABORERS:					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

LABORERS

Group 1: General Construction Laborer; Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Tender; Carpenter Tender; Salamander Heater and Blower Tender; Flagperson

Group 2: Semi Skilled Laborer; Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, electric or pneumatic tool operator; Chipping Hammer, Grinders and Paving Brakers (tamper-dirt); Concrete Vibrator Operator; Chain Saw Operator; Concrete Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Worker; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water and gas lines); Drill Runner (includes Wagon Churn or Air Track); Powderman, gunite and sandblast, Nozzleman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Group 1	$12.31	.45	3%		1/2%
Group 2	12.28	.45	3%		1/2%
Group 3	9.85	.45	3%		1/2%
Group 4	8.21	.45	3%		1/2%
Group 5	7.54	.45	3%		1/2%

Group 1: Journeyman Cable Splicers; Journeyman Lineman

Group 2: Tractor Dozer Operator, D-4 and larger; All Rigs erecting Steel Tower and "H" fixtures, also tension pulling machines

Group 3: Groundman - operating special equipment; Hole Digging Machines; Aerial Baskets on energized circuits; Tractors, D-4 and larger, Transmission Line Pole hauling; All fifth wheel trucks and other setting and assembly equipment excluding Steel Tower and "H" fixtures erection

Group 4: Groundman - Truck or Tractor Driver with Winch; Operators of trucks up to and including 2½ tons; Tractor including D-2 and smaller, including Wheel Tractors and Crawler Tractors

Group 5: Groundman - Truck or Tractor Driver without Winch; Operators of trucks up to and including 2½ tons, and Tractors, D-4 and smaller, including Wheel Tractors and Crawler Tractors

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.50	.70	.55		
Group 2	9.35	.70	.55		
Gtoup 3	9.20	.70	.55		
Group 4	9.15	.70	.55		
Group 5	8.90	.70	.55		
Group 6	8.67	.70	.55		
Group 7	7.74	.70	.55		
Group 8	7.59	.70	.55		
Group 9	7.49	.70	.55		
Group 10	7.15	.70	.55		

Group 1: Cableway Operator; Crane Operator with boom over 135' 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 or other equipment with Shovel type controls, 3½ cu. yds. and over.

Group 2: Concrete Mixer Stationary Plant Operator, over 34E; Dredge Operator or Engineer; Dredge Operator (power) and Engineer; Elevator Grader Operator; Hydro Crane Operator, 15 tons and over; Locomotive Crane Operator; Master Mechanic (if employed, shall perform manual work); Mixer, paving; Concrete Paving Operator, road; Power Shovels and 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 Operator

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" (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator, power driven, paving; Tandem Scraper twin engine, 50 cu. yds. struck and over

POWER EQUIPMENT OPERATORS (Cont'd)

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, 2 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 rate); Turnapull Operator or similar type; Rotomill Operator

Group 5: Bituminous Spreader and Bituminous Finishing Operator (power); 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 Operator or including machine with power shovel attachments (power driven); Power actuated Augers and Boring Machine Operator; Power actuated Jacks Operator; Power Plant Engineer, 100 K.W. H. and over;

Push Tractor; Self-propelled Traveling Soil Stabilizer; Slip Form, Curb and Gutter Operator (electronic or automatic controls); Soil Cement Stabilizer; Truck Mechanic

Group 6: Bituminous Spreader and Bituminous Finishing Machine Operator (tender)(power); Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Packer with Dozer attachment; Tractor type or rubber tired Dozer under D-6 H.P.

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; Fireman or Tank Car Heater Operator; Grader Operator (motor patrol)(haul road) Gravel Screening Plant Operator (portable not crushing or washing); Greaser (truck or tractor); Gunite Operator Gunall; Hoist Engineer (power); Hydro Crane Operator, under 15 ton; Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over hopper capacity; Sheepsfoot Roller or Compactor (self-propelled); Shouldering Machine Operator (power) (Apsco or similar type) including Self-propelled Sand Chip Spreader Flaherty or similar

POWER EQUIPMENT OPERATORS (cont'd)

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; Roller, steel and self-propelled rubber, on other than hot mix asphalt paving; Self-propelled Vibrating Packer Operator, pad type (35 HP and over); Off-road self-propelled watering equipment

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; Mechanic's Tender or Greaser Tender; 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 Operator (farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Single Axle	$ 7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Lowboy; Off road heavy duty end dumps, 20 yds. and under; Tandem semi	7.73	.65	.35		
Euclid, over 20 yds.	8.41	.65	.35		

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: North Dakota COUNTIES: Burleigh, Cass Grand Forks, Morton, Richland, Steele, Traill, Walsh and Ward

DECISION NUMBER: ND80-5103 DATE: Date of Publication

Supersedes Decision No. ND79-5128 dated August 3, 1979, in 44 FR 45856

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	$12.05	.35	.64		.005
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Burleigh and Morton Cos.	11.00		.30		
Grand Forks, Steele and Walsh Counties	11.95		.30		
Cass, Richland and Traill Counties	11.65	.60	.30		
Ward County	11.05		.30		
CARPENTERS:					
Burleigh and Morton Cos.:					
Carpenters	9.95	.65			
Piledrivermen	10.20	.65			
Grand Forks, Northern parts of Steele and Traill Cos.; Walsh County:					
Carpenters	10.28		.50		
Piledrivermen	10.54		.50		
Millwrights	9.86	.50	.50	.50	.02
Cass, Richland, Southern Parts of Steele and Traill Counties:					
Carpenters	10.59	.13	.40		.03
Ward County:					
Carpenters	9.83		.20		.02
Piledrivermen	10.08		.20		.02
Millwrights	9.86	.50	.50	.50	.02
CEMENT MASONS:					
Burleigh and Morton Cos.	9.55				
Grand Forks, Steele, Traill and Walsh Counties	8.90		.30		
Cass and Richland Counties	9.86				
Ward County	8.75				
DRYWALL TAPERS:					
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties	10.08	.45			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone A: within 0-15 miles from each main P.O.					
Electricians	$10.65	.40	3%	6%	1/2%
Cable Splicers	11.18	.40	3%	6%	1/2%
Zone B: 15-30 miles from each main P.O.					
Electricians	11.27	.40	3%	6%	1/2%
Cable Splicers	11.80	.40	3%	6%	1/2%
Zone C: Over 30 miles from each main P.O.					
Electricians	12.15	.40	3%	6%	1/2%
Cable Splicers	12.68	.40	3%	6%	1/2%
Burleigh, Morton and Ward Counties					
Electricians	10.50	.50	3%+1.00	6%	1/2%
Cable Splicers	10.90	.50	3%+1.00	6%	1/2%
ELEVATOR CONSTRUCTORS	10.87	.895	.69	a	.035
GLAZIERS:					
Burleigh County	7.42	.25			
IRONWORKERS:					
Ornamental; Structural; Reinforcing	11.90	.60	.55		.10
MILLWRIGHTS	11.26	.65	.55		.02
PAINTERS:					
Cass, Grand Forks, Richland, Steele, and Traill Counties:					
Brush; Roller; Paperhangers	9.30				.02
Sandblasting; Structural Steel Spray	10.30				.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Burleigh and Morton Cos.:					
Brush; Roller; Paper and Vinyl Hanging	$ 8.70				
Spray Painting (more than 20 hours per week or 60 hours per month)	9.20				
Sandblast, Swing Stage, or Chair Work, Structural Steel and Bridges, Stacks, Water Towers, Storage Tanks	9.20				
Ward County:					
Brush	8.55				
Spray	8.90				
PLASTERERS:					
Grand Forks, Walsh, Steele, and Traill Counties	9.64		.30		
Ward County	8.75				
Cass and Richland Cos.	11.00				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele, Traill and Walsh Counties	12.03	1.02	.89		.03
Burleigh and Morton Cos.	13.15	.75	.65		.02
Ward County	13.36	.75	.55		.04
ROOFERS:					
Cass and Richland Cos.	9.05				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele, Traill and Ward Counties	11.00		.25	.61	.04
Cass and Richland Cos.	12.15	.60	.45		.035
SOFT FLOOR LAYERS:					
Burleigh County	8.80				
Cass, Grand Forks, Richland, Steele, Traill, and Walsh Counties	8.95				
SPRINKLER FITTERS	12.90	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
Site Prpearation Excavation and Incidental Paving:					
Single Axle	$ 7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yards and under;					
Tandem Semi, Lowboy	7.73	.65	.35		
Euclid, over 20 yards	8.41	.65	.35		

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 Plan. 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 Cos.					
Group 1	7.40	.35	.45		
Group 2	7.50	.35	.45		
Group 3	7.60	.35	.45		
Cass and Richland Cos.					
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 (Cont'd)
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 or 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: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.30	.70	.55		
Group 2	9.35	.70	.55		
Group 3	8.75	.70	.55		
Group 4	7.75	.70	.55		
Site Preparation Excavation and Incidental Paving					
Group 1	9.50	.70	.55		
Group 2	9.35	.70	.55		
Group 3	9.20	.70	.55		
Group 4	9.15	.70	.55		
Group 5	8.90	.70	.55		
Group 6	8.67	.70	.55		
Group 7	7.74	.70	.55		
Group 8	7.59	.70	.55		
Group 9	7.49	.70	.55		
Group 10	7.15	.70	.55		

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 to 3/4 yards; Front End Loader Operator over 1½ yards; Any air compressed 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 black-top 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 H.P.

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 of 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: OHIO COUNTIES: *See Below
DECISION NO.: OH80-2002 DATE: Date of Publication
Supersedes Decision No. OH75-2109 dated September 12, 1975 in 40 FR 42498
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

*GREENE, MIAMI, MONTGOMERY, & PREBLE

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$8.50				
CARPENTERS	6.30				
CEMENT MASONS	7.15				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.45				
ELECTRICIANS	6.40				
INSULATORS	5.47				
LABORERS:					
Common	4.28				
Mason Tenders	4.50				
PAINTERS	5.00				
PLUMBERS	7.29				
ROOFERS	6.00				
SHEET METAL WORKERS	5.20				
SOFT FLOOR LAYERS	7.10				
TILE SETTERS	7.60				
TRUCK DRIVERS	5.35				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.02				
Bulldozers	7.00				
Front End Loaders	7.00				
Graders	7.99				
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: South Dakota COUNTIES: Meade and Pennington
DECISION NUMBER: SD80-5104 DATE: Date of Publication
Supersedes Decision No. SD79-5121 dated May 4, 1979, in 44 FR 26534
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	$11.44	.50	$1.00		
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS; Stonemasons	11.25		.30		
CARPENTERS:					
Carpenters, Acoustical Drywall Applicators	10.81	.30			.05
Piledrivermen	11.06	.30			.05
Millwrights	11.31	.30			.05
CEMENT MASONS	9.50	.35	.40		
ELECTRICIANS:					
Electricians	10.85	.50	3%	6%	1/2%
Cable Splicers	11.40	.50	3%	6%	1/2%
IRONWORKERS	11.05	.70	1.25		.25
LABORERS:					
Laborers; Power Tool Operator (all mechanical, air, gas or electric tools, including self-propelled buggies, wagon and air track drills); Pipelayer (nonmetallic); Sandblasting	6.62	.50	.15		
Mortar Mixer, Mason Tender, Plaster Tender	6.77	.50	.15		
Gunnite Nozzleman, Powderman, Miner, Timberman	7.12	.50	.15		
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	10.20				
PLUMBERS; Steamfitters	11.04	.75	.60		.03
SHEET METAL WORKERS	11.35				.005
SPRINKLER FITTERS	12.15	.75	1.05		.08
WELDERS, Riggers: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 80-2935 Filed 1-29-80; 8:45 am]

BILLING CODE 4510-27-C

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD80-5105 DATE: Date of Publication
Supersedes Decision No. SD79-5122 dated May 4, 1979, in 44 FR 26535
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	$11.44	.50	$1.00		
BOILERMAKERS	12.87	1.275	1.00		.05
BRICKLAYERS; Stonemasons	11.95	.45	.40		.05
CARPENTERS:					
Carpenters, Piledrivers, Drywall, and Acoustical	10.21		.20		.05
Millwrights	11.17		.20		.05
CEMENT MASONS	11.40				
ELECTRICIANS:					
Electricians	10.90	.40	3%+.50		1/2%
Cable Splicers	11.99	.40	3%+.50		1/2%
GLAZIERS	8.54				
LABORERS:					
Laborers	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator (Nozzleman (gunite, sandblast and shotcrete)	4.60				
LATHERS	9.96				.01
PAINTERS:					
Brush	9.00				
Spray	9.50				
Tapers	9.25				
PLASTERERS	9.36				.01
PLUMBERS; Steamfitters	10.75	.55	.50	.51	.03
SHEET METAL WORKERS	9.97		.35	1.00	
SPRINKLER FITTERS	12.15	.75	1.05		.08
WELDERS:					
Receive rate prescribed for craft performing operation to which welding is incidental.					

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES 29 CFR, 5.5 (a)(1)(11)

federal register

Friday
February 1, 1980

Part IV

Department of Health, Education, and Welfare

Food and Drug Administration

Medical Devices; Procedures for Performance Standards Development; Requests for Data, Information and Comments on Voluntary Standards Development and Policy, and Request for Data and Information on in Vitro Diagnostic Devices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 16, 20, 809, and 861

[Docket No. 78N-0002]

Medical Devices; Procedures for Performance Standards Development

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing procedures for initiating, developing, establishing, amending, and revoking performance standards for medical devices, including in vitro diagnostic products. The rule sets forth the contents of standards, summarizes the development procedures established by the agency, and identifies the conditions under which the agency may contribute funds toward the development of any standard. FDA is also revoking the existing regulations for the development of standards for in vitro diagnostic products because these regulations are now obsolete.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This regulation will become effective July 30, 1980, provided that approval of the OMB is received by that date. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in the rule, FDA will revise the rule as necessary to comply with the decision of OMB. FDA will publish a notice in a future issue of the **Federal Register** concerning OMB's decision on these requirements.

FOR FURTHER INFORMATION CONTACT: Robert J. Cangelosi, Bureau of Medical Devices (HFK-310), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: This final regulation is based on a proposal that was published in the **Federal Register** of July 25, 1978 (43 FR 32264). Interested persons were given until September 25, 1978 to comment. Upon request, this comment period was extended to November 30, 1978 by a notice published in the **Federal Register** of October 31, 1978 (43 FR 50700). The agency received 36 comments on a wide range of issues. However, there were no major objections to the proposed regulation, and only minor changes have been made in the final regulation. Following is a summary of these comments and the agency's response to them.

General Provisions

1. Two comments suggested that the word "Performance" be added to "Standards Development" in the title of Part 861 to conform to the title of section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301-392) (the act).

The agency agrees and has made the suggested change.

2. Several comments inquired how FDA would use voluntary standards and how the agency would establish priorities for the development of standards. Several comments suggested that FDA include a definitive statement of its policy regarding voluntary standards in its final performance standards development regulation.

FDA agrees that it would be helpful to persons subject to this procedural regulation if a statement of FDA's policy concerning voluntary standards were published. Thus, elsewhere in this issue of the **Federal Register**, the agency is publishing a request for data and information concerning development of voluntary standards and a statement of its policy concerning endorsement of voluntary standards.

3. One comment said the proposed regulations would discourage individual manufacturers from participating in the development of a medical device performance standard. The comment cited as an example that a manufacturer developing a standard would be subject to inspections under § 861.30(b)(2) (21 CFR 861.30(b)(2)) to determine whether satisfactory progress was being made toward completion of the standard. The comment said FDA should rely on individual manufacturers as the basic resource for developing the requirements for all standards, and less emphasis should be placed on Federal agency development of standards because regulations developed by Federal agencies may not be practical or even necessary.

In response to this comment, the agency notes that any person, including an individual manufacturer, a Federal agency, or a voluntary standards organization, may submit an offer to develop a proposed standard under section 514 of the act and, thus, under § 861.26. If FDA accepts the offer, that person would be subject to inspection by duly designated agency employees under § 861.30(b)(2). FDA recognizes also that individual manufacturers, through experience developed over the years, know whether standards are practical for their products. For that reason, § 861.30(a)(2) permits interested persons, including individual manufacturers, to participate in the performance standards development process. In this way individual manufacturers may raise the issue of the impracticality of a particular standard with the person developing the standard. The agency does not agree, however, that manufacturers should be given preferential status in the standards development process, as the comment suggests.

4. One comment suggested that the regulation should require FDA to establish the need or rationale for a proposed performance standard.

The agency does not believe that it is necessary to establish such a requirement. Under § 860.84 (21 CFR 860.84) of the regulations, each device to be classified into any of three device classes must be accompanied by a classification panel recommendation that includes a summary of the reasons for the recommendation, a summary of the data upon which the recommendation is based, accompanied by references to the sources containing such data, and identification of any health risks presented by the device. The recommendation, together with other available information, is considered by the agency in determining the appropriate class for a device. This information provides the rationale for the classification determination. A summary of the information is published in the **Federal Register** during the classification process. The agency does not believe it is necessary to repeat this step during the standards development process. Also, any notice inviting offers to develop a performance standard will include a summary of the data from which the agency has determined a need for initiating the proceeding (see § 861.22(d)). The agency concludes that these steps will adequately identify the need or rationale for a standard and that the comment requires no change in the regulation.

5. One comment said the procedure set forth in section 513(a)(1)(B) of the act for classifying a device into class II has not been followed consistently by classification panels. The comment states that panels erroneously have placed devices into class II either because a standard already existed or because one could easily be developed. The comment claimed the panels did not first identify the risk associated with a product and then determine that general controls were insufficient to provide

reasonable assurance of the safety and effectiveness of the device. The comment stated that FDA has not corrected these errors, and its failure to do so is contrary to the purpose of the act.

FDA advises that a classification panel makes only recommendations regarding the classification of a device; the agency, after considering the recommendation and other available information, including comments from the general public, determines the appropriate classification for a particular device. The classification process includes publication of a proposed classification regulation and invitation for comment by any interested persons. Thus, there are opportunities for interested persons to give their views on the appropriateness of the classification of a particular device before publication of a final classification regulation. The agency, in response to these comments, may change the classification of a device. Also, under section 513(e) of the act, any interested person may petition for reclassification on the basis of new information any time after FDA issues a final regulation classifying a device. Moreover, for a class II device, an interested person may request reclassification of the device within 15 days of the date of publication of a notice initiating a proceeding for the development of a performance standard. The agency concludes that the classification process conforms to the purpose of the act and rejects the comment.

6. Two comments said Part 861 should describe the use of disclosure standards. Disclosure standards would allow the manufacturer to disclose the performance of a device for specific identified characteristics when tested in accordance with the test methods provided in a standard. One comment said disclosure standards would be significantly more economical for both FDA and industry because no written performance specifications would be used with disclosure standards. Instead, to inform sufficiently the user and FDA of relevant performance criteria, the manufacturer would state on the labeling the performance characteristics of the product.

The agency notes that "disclosure standards" as described in the comment are not, legally speaking, standards at all, but labeling requirements that may be imposed in appropriate cases under sections 502 and 701(a) of the act (21 U.S.C. 352 and 371(a)), without reliance upon section 514 of the act. Such labeling requirements have been required for hearing aid devices (21 CFR 801.420). In addition, under § 861.7, a performance standard may require the use of, and prescribe the form and content of, labeling for the proper installation, maintenance, operation, and use of a device. The standard may also require labeling to state the results that may be expected if the device is used properly. The requirement for labeling, however, is part of, and not a substitute for, a performance standard. Disclosure standards would permit label declaration of what a manufacturer believes to be appropriate performance characteristics without agreed-upon test methods or performance parameters. Thus, use of such standards could result in a lack of uniformity, effectively defeating the purposes and goals of both Part 861 and section 514 of the act. The comment is rejected.

7. One comment suggested that FDA consult regularly with voluntary standards organizations and consider the priorities and plans of these organizations in the development of standards. It was suggested that this consultation could be accomplished by FDA's giving interested voluntary standards organizations advance notice in the **Federal Register** of FDA's standards priorities and plans on a fiscal year basis.

The agency agrees that all interested persons should have the opportunity to participate in developing standards. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice setting forth its priorities and plans for the development of standards. The notice invites voluntary standards organizations, as well as any other interested person to comment on these priorities and plans. FDA expects to publish additional similar notices in the future, although not necessarily on a fiscal year basis.

8. Another comment said small businesses with five or fewer employees will have little or no manpower available to review draft performance standards and participate in the standards development process.

FDA emphasizes that because a performance standard will be binding on all manufacturers of a device, it is in the best interest of any manufacturer to evaluate and comment on proposed performance standards that affect its marketed medical device products. The agency will carefully consider comments from small manufacturers that demonstrate difficulty in meeting the requirements of any proposed standard.

The Office of Small Manufacturers Assistance of the Bureau of Medical Devices will inform all small manufacturers registered with FDA of developments in the standards development process and will make available to those who request them copies of **Federal Register** notices and proposals concerning standards.

Contents of Standards

8a. One comment suggested that the term "performance criteria" be changed in § 861.7(a) to "performance characteristics" because the term "performance criteria" is not defined anywhere in the regulation and it is not used in the act.

The agency agrees with the comment. The term "performance characteristics," which is used in section 514(a)(2)(B)(iii) of the act (21 U.S.C. 360d(a)(2)(B)(iii)), has been substituted for the term "performance criteria" in the final regulation.

9. Several comments objected to proposed § 861.7(b), and five comments argued that the provision should be deleted. One comment said it should be deleted because the terms "design," "construction," "components," and "ingredients" are not included as performance standard characteristics under the act, and only the performance of a device should be used to determine whether a device is safe and effective. One comment said proposed § 861.7(b) is unnecessary because the good manufacturing practice (GMP) regulation addresses this provision.

The agency disagrees with these comments. Section 514(a)(2) of the act provides that, where necessary, a performance standard may include provisions respecting construction, components, ingredients, and properties of the device. (The term "design" is discussed in paragraph 10 of this preamble.) The GMP regulation, moreover, contains general guidelines to assist firms in the manufacture, packing, storage, and installation of safe and effective medical devices. Section 820.1(b) of the GMP regulation states: "In the event it is impossible to comply with applicable regulations, both in this part and in other parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other regulations." The agency concludes, therefore, that should there be a conflict between a requirement in the GMP regulation and a regulation establishing a performance standard, the latter will supersede the GMP requirement.

10. Two comments said the word "design" should be deleted from proposed § 861.7(b). One comment suggested deletion because the term is not used in the act and the concept is adequately covered by other statutory language. Another comment suggested

that where it can be demonstrated that the safety and effectiveness of a device are not affected, § 861.7(b) should allow for deviations from design and other provisions in the standard.

The agency does not agree that the term "design" should be deleted. The legislative history reveals that Congress intended that performance standards include design-related requirements when necessary:

> Although use of the term "performance standard" reflects a preference for standards which allow the fullest use of technological alternatives, the committee does not intend the term to be construed as excluding design-related requirements, as it is when it is used in the engineering community. Design-related requirements that are necessary to provide reasonable assurance of safe and effective performance or that improve device safety and effectiveness by reducing the likelihood of human error should be included in a performance standard (House of Representatives Rept. No. 94–853, 94th Cong., 2d sess. p. 26).

The agency intends that, where necessary, design-related characteristics as well as the other performance characteristics in proposed § 861.7(b) will be included in performance standards.

The agency also disagrees that proposed § 861.7(b) should provide for deviations from design-related provisions and other provisions in the standard. These requirements will be included in a performance standard only as necessary to assure that a device will perform in a safe and effective manner. Deviations could result in a loss of safety and effectiveness that the standard was designed to assure. The agency, therefore, will not consider variances.

11. One comment stated that biocompatibility should be included in proposed § 861.7(b) as a possible element of a performance standard because it is an important performance characteristic regarding the safety and effectiveness of devices.

The agency agrees that biocompatibility can be a very important consideration, especially for implanted devices. This requirement, however, is considered to be an element of components and ingredients and need not be included as a separate provision in § 861.7(b). When the agency determines that biocompatibility is necessary for protection of the public health, it will be included as a provision in the applicable performance standard.

12. Eight comments argued that the requirements of proposed § 861.7(c) relating to manufacturing processes and quality control procedures should be deleted because they are either not authorized by the act or would create an overlap with requirements in the GMP regulation. Another comment said such provisions in a standard would severely compromise the confidentiality of a firm's proprietary information relating to this type of data.

The agency is not persuaded that proposed § 861.7(c) should be deleted. The legislative history indicates that Congress intended that quality control procedures and manufacturing processes be included as elements of a performance standard. The House Report stated: "Provisions for the measurement of performance characteristics of a device may include quality control procedures, means for users to ascertain device performance, and methods for use by the Secretary in judging compliance with a performance standard" (H.R. Rep. No. 94–853, p. 26). Adequate quality control is inseparable from manufacturing processes, and provisions regarding both will be required, when necessary, to ensure the safety and effectiveness of a device.

The agency disagrees that proposed § 861.7(c) would require the disclosure of confidential commercial information regarding a firm's manufacturing processes or quality control procedures in the development of a standard. Section 861.7(c) does not require the submission of any information: it only sets forth the possible contents of a standard. Manufacturers developing a standard ordinarily will not be required to submit confidential commercial information regarding their manufacturing processes or quality control procedures.

13. Comments argued that proposed § 861.7(d), which sets forth provisions for testing, should either be deleted or revised. Four comments argued that the provision should be deleted because testing is outside the scope of the act or is adequately regulated by the GMP regulation. One comment suggested that § 861.7(d) be revised to include the following phrase: "If it is determined that no other more practicable means are available to the Commissioner to assure the conformity of the device to the standard." The comment argued that this phrase would clarify and properly implement the intent of section 514(a)(2)(B)(ii) of the act and establish when tests should be conducted by FDA or a third person.

The agency concludes that § 861.7(d) should not be deleted from the regulation because it is authorized by section 514(a)(2)(B)(ii) of the act. The agency agrees, however, that the suggested revision of proposed § 861.7(d) will ensure conformity with, and proper implementation of, the statutory intent. Accordingly, this section of the final regulation is changed to qualify when a standard will provide for testing by the agency or a third person.

14. Two comments said proposed § 861.7(e), which requires that test results show that the device conforms to an applicable part of a standard, should be deleted because the provision is either outside the scope of the act or is sufficiently addressed by the GMP regulations.

The agency rejects this suggestion. This provision is authorized by section 514(a)(2)(B)(iv) of the act. The GMP regulations do not address the contents of a performance standard. The agency has revised this section to state that a performance standard may require the "publication of" test results. Subsection (d) provides that a standard may require testing and subsection (f) provides that it may require codification of test results. Clearly, publication of the test results is contemplated because unpublished test results are of no value.

15. Five comments stated that proposed § 861.7(f), relating to certification of compliance with a performance standard, should be deleted. One comment argued that the provision is unnecessary because the device would be adulterated under section 501 or misbranded under section 502 of the act if it does not comply with a performance standard. Another comment urged deletion because the manufacturer would be liable for signing a false statement if a person signs a certification statement and a nonconforming device is then shipped in interstate commerce. The comment said the proposed section is basically a method of giving the agency authority to approve a device prior to its marketing. Another comment said proposed § 861.7(f) ignores the preamble's description of the method of providing certification from the manufacturer to the purchaser, which is by letter or by a tag or label affixed to a device or packaging for a device, and that the preamble discussion should form the basis of § 861.7(f).

The agency is not persuaded that § 861.7(f) should be deleted. The House Report states:

> The bill's authority to require that a performance standard include a demonstration that a device is in comformity with portions of a standard for which tests are required would ordinarily be implemented through procedures whereby manufacturers either certify to purchasers that the device conforms to an applicable performance standard or periodically make such certification to the Secretary (H.R. Rep. No. 94–853, pp. 26–27).

This statement of congressional intent conforms to section 514(a)(2)(B)(iv) of the act. It describes the means by which the purchaser or the FDA is to be put on notice that the device conforms to portions of the standard for which tests are required. This provision is intended to serve as an adjunct to sections 501 and 502 of the act. Thus, § 861.7(f) will be used when necessary to ensure that a device is safe and effective.

The agency notes also that a person would be liable for false statements made on a certification only if the statements were false or misleading in any material respect, as provided in section 301(q)(2) of the act (21 U.S.C. 331(q)(2)). Moreover, the agency disagrees with the comment that certification to FDA is basically a means to have the agency approve the device prior to its marketing. Approval by FDA is not required, only certification by the manufacturer of conformance to the standard.

The need for certification and the type of certification required will depend on the nature of the device. Thus, the method of providing certification will be included, when necessary, as part of the proposed rulemaking for a performance standard. Therefore, the various methods described in the preamble to the July 25, 1978 proposal (e.g., by a letter, tag, or label affixed to the device) will not be made part of this final regulation.

16. One comment recommended deletion in § 861.7(f) of the requirement for certification to purchasers because purchasers know that manufacturers cannot market devices that are adulterated or misbranded.

The agency disagrees with the comment. A purchaser may not be aware of the manufacturer's compliance with the act. Also, a purchaser has a right to formal assurance that a device meets an applicable performance standard.

17. Two comments recommended that proposed § 861.7(f) be revised because it is unclear how certification will be achieved. One comment suggested that certification by FDA should be required only when no other means are available to ensure the safety and effectiveness of the device. Another comment said § 361.7(f), as proposed, is unacceptable because it makes the manufacturer an insurer of patient safety. Also, the comment stated that the provision is basically unnecessary because certification representations between a manufacturer and purchaser are voluntary and can be addressed by a warranty or guarantee.

The type of certification required will depend on the nature of the device. Therefore, the agency does not believe that it is appropriate to state in § 861.7(f) how certification will be achieved, but each performance standard which requires certification will state how certification is to be achieved for a particular device. Section 861.7 provides that certification will be included in a performance standard only when it is necessary to provide reasonable asssurance of the safety and effectiveness of a device. The agency believes that it would be redundant to state also that no other means are available to assure the safety and effectiveness of the device. The agency does not believe that certification makes the manufacturer an insurer of patient safety because the manufacturer is certifying only that the device meets the applicable performance standard. Although the manufacturer may voluntarily certify to the purchaser by a warranty or guarantee that the device meets the applicable performance standard, the agency believes that it may be necessary to require in certain cases that the manufacturer certify to FDA or the purchaser that the device meets the applicable performance standard. For these reasons, the agency believes that it is not necessary to make any changes in § 861.7(f) and rejects the comments.

18. Three comments suggested that proposed § 861.7(g), which provides that a standard may include a provision restricting sale or distribution of a device under section 520(e) of the act, be deleted or revised because it does not conform to section 514(a)(2)(B)(v) of the act. Two comments suggested that § 861.7(g) be limited by adding the phrase: "but only to the extent provided under section 520(e) of the act." The comments argued that this would avoid the implication that all devices subject to performance standards are restricted devices.

The agency disagrees that § 861.7(g) should be deleted; it is virtually identical to section 514(a)(2)(B)(v) of the act. The agency agrees with the substance of the suggested revision, however, and the final regulation has been amended accordingly.

19. Three comments recommended deletion of proposed § 861.7(h), which sets forth provisions on labeling and instructions for use. One comment argued that the section should be deleted because it is not related to performance standards and, therefore, is outside the scope of section 514 of the act. Another comment suggested the provision is an intrusion on the practice of medicine and the care of patients. Another comment suggested that all but the first sentence of § 861.7(h) be deleted because the remainder is overly broad and confusing.

The agency disagrees that § 861.7(h) should be deleted. The first sentence of the paragraph is virtually identical to section 514(a)(2)(C) of the act, and the second sentence is virtually identical to the intent set forth in the legislative history of the act (H.R. Rep. No. 94–853, p. 27). The agency points out that the provisions in § 861.7(h) will be required only as necessary to reasonably assure the safety and effectiveness of a device. FDA will not monitor physicians using a class II device unless the device is the subject of an investigational exemption. The agency does not believe that this section is overly broad and confusing.

19a. A comment, which recommended deletion of § 861.7(h), argued that FDA is attempting to suppress the use of diagnostic instruments because an FDA representative could object to the "results" given by a device or the "procedure" used, or FDA could find that the operator of a device was not "skilled in its use." The comment objected that none of these terms is defined in proposed § 861.7(h) to prevent possible unfair determinations by FDA officials.

The terms "results," "procedure," and "skilled" are used in their ordinary dictionary meaning, and FDA does not believe that it is necessary to define them further. The agency notes that § 861.7(h) will be used only to establish labeling requirements and will not be used to regulate the actual use of the device. Where appropriate, the actual use of a device will be regulated in accordance with other sections of the act.

20. One comment recommended that the statement in proposed § 861.7(h) that provides that a standard may include a provision requiring the date and place of manufacture to be included on the labeling be deleted because this information is neither useful nor relevant for the purchaser.

FDA does not believe that this portion of proposed § 861.7(h) should be deleted. The date and place of manufacture may or may not be useful to the purchaser, but they will be helpful to FDA when investigating a complaint about the device.

21. Two comments recommended that proposed § 861.7(h) be broadened. One comment said that the labeling should provide for disinfection or sterilization of a medical device, if reusable. Another comment suggested that the labeling or instructions for use include the term "precautions" in addition to the term "warnings" because both terms provide a more specific statement. The same

comment also suggested that the phrase "accuracy of diagnosis" be replaced with "accuracy of diagnostic information" because "accuracy of diagnosis" would encompass the entire scope of a practitioner's diagnosis, i.e., his or her medical judgment and use of other medical and scientific tests.

FDA does not believe that it is necessary to add a specific labeling provision relating to disinfection or sterilization of a reusable medical device. The issue of reuse of a device will be more appropriately addressed in the proposal for a particular device standard. Also, the agency does not believe that the term "precaution" should be added to the term "warnings" because the use of both terms would be redundant. The agency agrees, however, that the phrase "accuracy of diagnosis" should be replaced with the recommended phrase, "accuracy of diagnostic information," because the latter is a more precise description of what is intended. Accordingly, the suggested phrase has been added to the final regulation.

22. Two comments objected to the provision of § 861.7(h) that a performance standard may contain a requirement that the labeling include a statement that the device is safe and effective only when used in the treatment of a patient found to have an illness or condition for which the device is indicated. The comments said this would not be appropriate for a diagnostic product that is used to determine whether the patient has an illness or condition.

Section 861.7 sets forth the provisions that may be necessary to address in any performance standard. A particular standard may contain one or more of these provisions as is necessary to provide reasonable assurance of the safety and effectiveness of the device, but will rarely contain all these provisions. A performance standard for a diagnostic product, for example, will not contain the type of provision to which the comments objected. Therefore, no change in § 861.7(h) is necessary.

Summary of Standards Development Process

23. One comment urged that Subpart B of Part 861 should include separate procedures for developing baseline standards. This comment suggested that these procedures should specify that the reclassification provisions of section 514(b) of the act do not apply to a baseline standard and that any performace standard for a specific device subject to the baseline standard should refer to the baseline standard and state to what extent the baseline standard is modified with respect to that particular device. The comment also stated that the procedures should provide that a baseline standard not apply to a device until the effective date of a performance standard for that particular device.

FDA believes that the procedures established in Part 861 provide for the development of baseline standards. A baseline standard addresses a particular hazard that may be presented by a number of devices, e.g., electrical safety. FDA may adopt an existing baseline standard or develop a baseline standard and then either list the devices to which the standard applies or include the baseline standard in any standards developed for individual devices. When initiating a proceeding to develop a baseline standard with the notice required by section 514(b) of the act, FDA may specify those devices to which the proposed baseline standard applies. Any interested person may then petition for the reclassification of any of these devices in accordance with section 514(b) of the act. If, however, an established baseline standard applies to a number of devices, FDA sees no reason why the baseline standard should not be made effective for any of these devices before the effective date of a performance standard for the individual device. If a performance standard is developed later for the individual device, it will either include the baseline standard or modify it as appropriate for the particular device.

24. Four comments objected that a person could not submit an adequate petition for reclassification within 15 days after the publication of a notice in the **Federal Register** initiating the development of a performance standard as required by § 861.20(a). Some comments recommended that this period be extended to 30 or 45 days, while one comment suggested that the petitioner only be required to submit a simple request for reclassification within 15 days and be allowed 30 days to submit the actual petition.

In response to these comments, FDA notes that the 15-day period is established by section 514(b)(1) of the act. Furthermore, interested persons will have been aware of the classification of the device before the notice initiating the development of a performance standard is published, and will, therefore, have had sufficient opportunity to develop the information for a reclassification petition. Also, any interested person may file a reclassification petition based on new information at any time under section 513(e) of the act and § 860.130 (21 CFR 860.130). The period provided by section 514(b) of the act and § 861.20(a) is short so that FDA may expedite the development of a standard.

25. One comment said § 861.20 is inconsistent with FDA procedures in § 860.130 for petitioning for reclassification. The comment said § 860.130 provides that FDA must either deny a petition for reclassification or give notice of its intent to initiate a change in classification within 180 days, while § 861.20(b) provides that FDA must respond within 60 days.

FDA advises that § 860.132 (21 CFR 860.132) describes the procedures applicable to reclassification petitions submitted under section 514(b)(2) of the act, whereas § 860.130 applies to reclassification proceedings under section 513(e) of the act. Section 860.132(b)(3) provides that the agency must act within 60 days after initiating a proceeding for development of a performance standard. This is consistent with § 861.20 (a) and (b), and the comment requires no change in any of the regulations.

26. Once comment said the provision in proposed § 861.20(c) allowing 60 days to submit a standard may not provide enough time in all cases for a voluntary organization to assess thoroughly FDA's stated priorities and plans and to develop a suitable response.

The agency advises that the 60-day time period is specified by section 514(c)(1)(A) of the act. Also, under proposed § 861.22, all pertinent information pertaining to the device, e.g., a statement of risks associated with the device, will be described in the **Federal Register** notice inviting offers to develop a proposed standard. This information will assist and guide an organization in developing a satisfactory response within 60 days.

27. Three comments objected to proposed § 861.20(d)(1), which provides that Federal agencies would be preferred over voluntary standards organizations as standards developers. One comment said this policy would be counter-productive and frequently would result in standards that are either technically or operationally ineffective. Another comment argued that a Federal agency would be less likely than a voluntary standards organization to have the personnel, expertise, and resources needed to develop a performance standard. Moreover, the comment asserted that this preference for Federal agencies ignores the legislative history of the act, which directs FDA to rely extensively on the resources in the voluntary standards community.

FDA disagrees with these comments. Section 514 (a)(5)(A) and (c)(4) of the act, as well as the legislative history, clearly indicates that Federal agencies, including FDA, should be preferred in developing a standard if they have the necessary expertise and experience (H.R. Rep. No. 94–853, p. 28). As discussed in the preamble to the July 25, 1978 proposal, FDA has already developed, or assisted in the development of, voluntary performance standards. However, if the required expertise and experience for developing a proposed standard are not available from a Federal agency, including FDA, the agency will look to expertise and experience outside the government. The agency knows that voluntary device standards have been, or are being, prepared by various voluntary standards-setting organizations. Voluntary standards organizations, if qualified, may have a standard accepted in whole or in part, as a proposed performance standard.

28. One comment said proposed § 861.20(e) does not state the time period allotted for submission of comments in response to publication in the **Federal Register** of a proposed performance standard.

FDA advises that § 861.20(e)(1) provides that a notice of proposed rulemaking will be governed by § 10.40 (21 CFR 10.40) of the agency's general administrative regulations. Section 10.40(b)(2) provides that ordinarily FDA will provide a 60-day comment period, but may reduce or extend the period for good cause.

29. One comment stated that § 861.20(f) does not establish when a final standard will become effective.

Section 861.36 sets forth the requirements concerning the effective date for standards, which ordinarily will be not sooner than 1 year after date of publication of a standard. As provided in section 514(g)(3)(B) of the act, FDA may provide a shorter time period if necessary to protect the public health and safety or if the standard has been established for a device that, by the effective date of the standard, has been reclassified from class III to class II.

Invitation for a Standard

30. One comment recommended that proposed § 861.22(a) be revised to require the offeror to spend at least 1 year developing a standard to avoid a hastily written, unsound standard.

The agency rejects the comment. Section 861.22(a) provides that FDA, not the offeror, will establish the time period. In establishing the time for development, the agency will take into account all relevant factors, including an appropriate comment period, conferences, and possible public health and safety problems associated with the device. Consequently, a time period longer, or shorter, than 1 year may be required to develop an effective standard.

31. One comment stated that it is essential that the **Federal Register** notice inviting offers to develop a proposed standard contain accurate and not merely speculative information regarding the statement of risks associated with the device. To minimize the possibility of misleading and false statements of risks associated with the device that could result in the device being too strictly regulated, the comment suggested that the agency should revise proposed § 861.22(c) to have the pertinent classification panel review the statement of risks before it is published in the **Federal Register.**

The agency disagrees with this suggestion. Before the initiation of the performance standard rulemaking process, the generic group of devices subject to a performance standard are first classified into class II by regulation. As a part of this process, the appropriate classification panel or panels identify the risks to health associated with the devices, and this determination is published in the **Federal Register** for public comment. At the time of final classification, the agency either adopts the panel's identification of risks to health or develops its own. There is no need to duplicate this process, as suggested by the comment.

32. One comment suggested that proposed § 861.22(e) be revised to require FDA to evaluate any existing standards known to the agency and to indicate, in the **Federal Register** notice inviting offers to develop a proposed standard, any deficiencies in these existing standards.

Generally, of course, FDA will review any existing standards before inviting offers to develop a standard and will discuss these standards in the **Federal Register** notice. FDA does not believe, however, that it is necessary to amend § 861.22(e) to require that this be done.

33. Three comments said the phrase "approximate number of products" in proposed § 861.22(f) needs clarification because it is not clear whether the term means the number of marketed units or the number of kinds of models within a particular type.

The agency agrees with this comment and therefore has added the phrase "(i.e., kinds of models)" to § 861.22(f).

Existing Standard as a Proposed Standard

34. Two comments suggested that the agency should consider the economic impact of a proposed performance standard on consumers and the device industry, particularly small manufacturers. One comment said an existing standard may be scientifically unimpeachable, yet be anticompetitive or reduce innovation in the device industry.

The agency agrees that it should consider the possible economic and anticompetitive effects of an existing standard that is being considered for adoption. The agency does not believe, however, that the comment requires any change in the regulation. Section 861.20(e) provides for the submission of comments by interested persons regarding a proposed standard. Interested persons may comment concerning any potential anticompetitive aspects of the standard. Anticompetitive features of a proposed performance standard will be carefully considered, especially as they may relate to smaller manufacturers. Nevertheless, a standard will not be accepted or developed that compromises safety and effectiveness.

35. One comment recommended that proposed § 861.24 be expanded to require FDA to consider whether the existing standard reflects the state-of-the-art, and whether it has a physiological significance to the ultimate user.

Section 861.24 sets forth the conditions under which FDA will accept an existing standard as a proposed standard. If an existing standard is accepted as a proposed standard, it will be the subject of a rulemaking proceeding, and interested persons will have an opportunity to comment on matters such as whether the existing standard reflects the current state-of-the-art and whether it has a physiological significance to the user. Then FDA will consider these comments before it establishes a final performance standard for the device. As a matter of practicality, however, the agency generally will not accept an existing standard if the result will be to prevent a device from being manufactured. Therefore, it is not necessary to revise § 861.24.

36. One comment suggested that the regulation should contain procedures that apply when two or more existing standards are submitted to FDA, including provisions for the solicitation of comments before the agency accepts one of the existing standards.

The agency notes that § 861.24(a)(1) requires the submission of an existing standard to include: "a description of the procedures used to develop the standard * * *" The procedures to be used must provide for an open, balanced evaluation of the standard, e.g., public meetings, reasonable notice, and opportunity to submit comments. Because the existing standard must have previously been analyzed and evaluated for any defects or lack of consensus on its structure, it would be a duplication of effort for FDA to solicit comments before making a decision on the existing standard(s) submitted.

The agency notes that it may select all, portions, or none of two or more submitted existing standards. Once the agency has made a decision, however, it must issue a notice of proposed rulemaking in the **Federal Register**, as provided in § 861.20. This procedure will present a further opportunity to comment on the adequacy of the accepted standard.

37. One comment suggested that the criteria for the acceptance of existing standards in proposed § 861.24 should be amended to include a requirement that the existing standard address the risks to health presented by the device because only those considerations are relevant.

Section 861.24 states what must be included in the submission of an existing standard; it does not establish the criteria for judging a standard. In determining whether a standard should be adopted, FDA will consider the risks to health presented by the device as well as other relevant information.

For example, a description of the procedures used to develop the standard is needed so that FDA may ascertain the scientific basis on which the existing standard was developed and whether the standard was developed through an adequate and open process. No change is necessary in the final regulation.

38. Two comments suggested that § 861.24(a)(2) be revised to require that the submission include a description of how each portion of the standard relates to the risks identified in § 861.22(c). This requirement would prevent the submission of irrelevant material.

FDA believes that the language in § 861.24(a)(2) adequately requires that this type of information be included in the submission, and therefore no change in the final regulation is necessary.

Offer To Develop a Proposed Standard

39. Five comments objected that under proposed § 861.26(a)(3), those offerors who are most capable of developing performance standards, e.g., manufacturers or standards organizations, could be excluded from consideration for developing a standard due to undefined, potential conflicts of interest. One comment suggested that this provision be clarified by adding to the end of the provision the statement "which may be relevant with respect to the offeror's qualifications to develop a standard for the particular device." The comment noted that this addition would more closely conform proposed § 861.26(a)(3) to the language of section 514(c)(3) of the act.

The agency agrees with the comment. The intent of the disclosure requirements is to provide the agency with information regarding potential conflicts of interest of the offeror that could affect the development of a standard. There will be no automatic disqualification for potential conflicts of interest. Disqualification of the offeror will occur when any potential conflicts of interest outweigh the offeror's expertise and experience. Accordingly, the recommended revision has been added to the final regulation with a stylistic modification, and the statement "with respect to the development of the standard," appearing at the beginning of proposed § 861.26(a)(3) has been deleted from the final regulation.

40. One comment argued that the submission of information respecting "all business entities in which the offeror has a financial interest" as required by proposed § 861.26(a)(3) is not needed to determine any potential conflicts of interest and borders on an invasion of privacy.

The agency agrees with the comment. As stated above, the agency has revised § 861.26(a)(3) to require only the submission of information "which may be relevant to the offeror's qualifications to develop a standard for the particular device."

41. One comment recommended that proposed § 861.26(a)(3) permit consideration of a person's offer, even if the employees or consultants of the offeror have a potential conflict of interest, when the employees or consultants possess the expertise and capability to develop performance standards.

The agency does not believe that a change is necessary. Section 861.26(a)(3) only requires the submission of information concerning potential conflicts of interest of an offeror's employees or consultants. The agency will not disqualify an offer because the employees or consultants may have potential conflicts of interest unless the offeror's efforts to develop a satisfactory standard would be affected.

42. Two comments argued that proposed § 861.26(a)(4) should be deleted because compliance with environmental regulations has no relevance to the offeror's ability to develop a standard, and it is adequately addressed in other regulatory procedures.

The agency is not persuaded that § 861.26(a)(4) should be deleted. The purpose of this provision is to put the agency on notice whether the offeror has complied with all Federal, State, and local environmental requirements, e.g., the Clean Water Act. When issuing a standard, whether the standard is developed within the agency or by an offeror, FDA must comply with the requirements of the National Environmental Protection Act. To ensure that the agency can meet their requirement, the agency must be satisfied that the offeror can comply with such requirements during the process of developing a standard.

43. One comment said proposed § 861.26(a)(6) and (7) contain no specific means for FDA to evaluate the descriptions submitted by competing offerors of how interested persons will be given reasonable and adequate notice of their right to participate in the development of standards and the methods of participation.

FDA does not believe that any change in the final regulation is necessary. FDA will judge competing offers in light of its self-imposed policy, stated in § 861.5, to invite participation, to the maximum extent practical, by all persons and organizations who may make a significant contribution to the standards. The provisions of § 861.26(a)(6) and (7), which implement section 514(e)(4)(B) of the act, provide that all offerors also must describe when and how any interested person, e.g., manufacturers, competitors, consumers, physicians, and academia, may participate. Such participation may include submission of written comments or discussions at public meetings regarding issues relating to the development of the performance standard. These requirements are mandatory, and if an offeror fails to provide sufficient opportunity to comment, FDA will reject that offer.

44. One comment suggested proposed § 861.26(a)(10) be modified to allow the offeror to submit appropriate existing test data obtained through previous experience with the device.

The agency agrees with the comment. Previously developed test data or other appropriate information could reduce the period required to develop the standard. Accordingly, the statement "or has used," has been inserted following the statement "the offeror intends to use * * *" in the final regulation.

45. One comment urged that proposed § 861.26(a)(12) require that all offerors develop a standard to be funded by FDA to prevent unnecessary influence from certain groups or individuals.

The agency rejects the comment because to provide compensation for all accepted offers would be an unnecessary expenditure of funds. Financial information submitted by an offeror under § 861.26(a)(12) will help demonstrate the need for funding by FDA, if the offeror requests it. Any undue influence by persons or groups on the offeror in the development of a standard should be prevented through information obtained from § 861.26(a)(3), which provides for the disclosure of potential conflicts of interest by the offeror and through the open public process required in § 861.26(a)(6) and (7).

Acceptance of Offer to Develop a Standard

46. Three comments argued that proposed § 861.28(a) should be revised to allow an offeror who is qualified to develop a sound performance standard to do so even if the offeror has a financial interest in the particular device or in the device industry generally. The comment argued that it would be unrealistic to reject an offeror who has a financial interest because voluntary standards organizations frequently obtain the technical expertise for writing a standard from industry members and physicians who have a financial interest in the device for which a standard is written. One comment said it is impractical to select a less qualified offeror who has no financial interest in the device or in the device industry generally over an offeror with more competence and experience but with a financial interest. The comment suggested that the offeror with lesser financial interests be selected only when two offerors are equally qualified.

In response to these comments, FDA advises that it will not reject an offer merely because the offeror has a financial interest in the device or in the device industry. Rather, the agency will weigh any potential conflict of interest against the offeror's expertise and experience. Other things being equal, however, the offeror with no conflict will be given preference as provided in § 861.28(a). Therefore, the change suggested by the comment is not accepted.

Development of Standards

47. One comment said Part 861 does not provide for submission of comments and objections by interested persons regarding the development of a standard or amendment or revocation of an existing standard.

FDA points out that § 861.30(a)(2) requires the developer of a standard to provide an opportunity for comment and to specify the method by which interested persons can submit oral or written comments. Regarding offers to develop a proposed standard, § 861.26(a)(6) and (7) describes how interested persons will be able to participate in the development of a standard. Where an existing standard is subject to an amendment or revocation proceeding, § 861.34(d) specifies that such proceeding is subject to the agency's rulemaking procedures in § 10.40 (21 CFR 10.40), which require that interested persons be given an opportunity to submit comments.

48. Two comments expressed concern that the present means of requesting and evaluating comments from interested persons by firms or standards-writing organizations was not sufficiently addressed in proposed § 861.30(a)(2). One comment said that publishing a notice to interested persons in the **Federal Register** or holding meetings would not result in a sufficiently broad-based participation. The comment urged that other, more popular, forums be used so that interested persons, particularly potential users of the device, may participate if they so choose. Another comment urged the agency to provide means whereby the section within the standards-setting organization that analyzes the comments or holds meetings is sufficiently balanced with consumers and professionals so that a meaningful and reasonable standard is developed.

FDA notes that private firms and voluntary standards organizations will not be able to use the **Federal Register** to make announcements. The agency will use the **Federal Register** to make announcements about the standards development process, whether developed by FDA or offerors, whenever it is appropriate. FDA will make sure that other standards developers use other methods to make interested persons aware that comments on a matter are requested or that meetings are to be held, and the agency itself will also use these other methods. Methods of making this information available to the general public will include press releases, mailing information to those parties registered with FDA as manufacturers of devices that are the subject of the standard, and providing information to nationally recognized professional associations known to have an interest in a product. The agency will monitor standards developers to assure that they are providing wide distribution of information regarding the development of standards.

FDA will carefully scrutinize the evaluation process employed by offerors to ensure that all comments have been carefully and impartially considered. Of course, if FDA determines that the requirements of § 861.30(a)(2) are not met, the agency will reject a standard developed by the offeror.

49. One comment said § 861.30 should be revised to include a requirement that persons who are developing a performance standard reveal any other interested persons they may represent.

The agency believes that a change in the regulation is not necessary to accomplish this goal. Section 861.24(a)(1) requires that an existing standard submitted to FDA include a list of persons and organizations that participated in the development of the standard, and § 861.26(a)(3) requires the maker of an offer to develop a standard to submit to FDA information relating to potential conflicts of interest. Such information is available for public disclosure as provided in § 861.26(b).

50. Two comments recommended deletion of the requirement in proposed § 861.30(b)(2) that a developer permit FDA inspection of a developer's facilities and development activities. One comment said such inspections would not be practical in determining whether satisfactory progress is being made toward developing the standard in accordance with the terms of the accepted offer, within the designated time period.

The agency is not persuaded that this requirement should be deleted. Section 514(e)(4)(C) of the act requires a developer to maintain records to disclose the course of the development of a proposed performance standard. Section 514(e)(4)(E) also requires a developer to submit periodic progress reports during the development of a proposed performance standard. It may be necessary for FDA to inspect a developer's facilities if, after examining the records and periodic progress reports, the agency is unable to determine whether satisfactory progress is being made. The comments are rejected.

51. One comment on proposed § 861.30(c) suggested that the third sentence—relating to actions the agency may take after determining whether the developer is able and willing to complete the proposed standard within the designated time period—be amended by adding the phrases "or a reasonable time period thereafter" and "or order the person to complete the standard within the agreed upon time

schedule." This change would provide greater flexibility where the agency determines it is not appropriate to terminate the developer's participation in the development of a standard or to extend the standard development period.

The agency agrees in part with the comment, and § 861.30(c) in the final regulation is revised to provide that FDA may determine that a standard can be developed within the designated time period based on the information available to it. It is unnecessary to provide specifically for "a reasonable time" beyond the designated time period because the agency may extend the period for completion of a standard based on the facts relating to the specific standard. However, the phrase "or direct the person to complete the standard within the designated time period" has been added to the final regulation.

Contribution by the Food and Drug Administration to the Costs of Developing a Proposed Standard

52. Two comments objected to proposed § 861.32. One comment said FDA has no authority to fund participation in the development of a proposed standard. Another comment argued that the prohibition in § 861.32(c)(2) of providing funds for the "costs for the payment of salaries in excess of the amount paid by the offeror at the time immediately preceding the offer * * *" contradicts proposed § 861.32(b)(3), which allows FDA to fund "preparation of and participation in public review of draft standards."

FDA disagrees with these comments. Section 514(e)(3) of the act authorizes FDA to contribute funds towards certain costs incurred in the development of a standard. Any funding will be premised on a determination by FDA that the contribution is likely to result in the development of a more satisfactory standard. The language in § 861.32(c)(2) does not contradict the language in § 861.32(b)(3); it merely limits the extent to which FDA will fund preparation of and participation in public review of draft standards.

FDA also wishes to point out that Congress did not intend that the invitation to submit or develop a proposed performance standard be construed as procurement, and therefore it will not be subject to section 8 of the Small Business Act (relating to procurement contracts) or the requirement under 41 U.S.C. 5 (relating to the requirement of advertising before contracting) (H.R. Rep. No. 94–853 at 27).

Amendment or Revocation of a Standard

53. Two comments on § 861.34(a) recommended a periodic evaluation of standards at maximum specified intervals to account for progress in technology in the device industry. One comment said there should be an automatic review based on submission of relevant evidence.

FDA disagrees with the comments. Each standard regulates a different type of device. To examine all standards at fixed periods of time would be inappropriate and wasteful. A person with new or important data regarding either a standard or a device should notify FDA and request appropriate action.

54. One comment noted that proposed § 861.34, read together with proposed § 861.36(c), which deals with the effective dates of standards, would make an amendment or revocation of an existing standard effective immediately upon its publication in the **Federal Register**. The comment noted that this procedure could allow a competitor to develop a monopoly, as well as to prevent other firms from having an opportunity to comment on an amendment or revocation petition. The comment suggested that proposed § 861.34 be revised to require FDA to publish in the **Federal Register** a notice announcing receipt of a petition to amend or revoke a standard so that interested persons may comment on the petition. The comment noted that § 10.30(d) (21 CFR 10.30(d)), although providing for an opportunity for submission of comments on a petition, does not give interested persons any notice of receipt of a petition.

FDA believes that § 861.34 adequately provides an opportunity for comment. Section 861.34(d) provides that all proceedings to amend or revoke a performance standard shall be conducted in accordance with rulemaking procedures set forth in § 10.40, which provides for a notice and comment period. Thus, FDA will not ordinarily revoke or amend a performance standard without publishing a proposal in the **Federal Register** for comment. Any proposal that is published in response to a petition would state that fact, thereby providing notice of receipt of the petition, as well as opportunity to comment on it. Although § 861.36(c) provides that FDA may declare a regulation amending a standard effective immediately upon its publication in the **Federal Register**, the agency emphasizes that this section also provides that before publishing such an amendment, an informal hearing must be held, as provided in 21 CFR Part 16, to determine whether such an action would be in the public interest. Any interested person who attends a hearing held under Part 16 may participate to the extent of presenting relevant information.

55. Two comments argued that proposed § 861.34 (c) and (d) should be revised to provide for an additional, speedier means of effecting necessary changes in existing standards. One comment argued that the present method of amending or revoking standards is too slow to provide for innovations that could reduce the cost of patient care. Another comment suggested that a person, presumably a manufacturer or sponsor of medical devices, be given the opportunity to change a standard if: (1) the change does not affect the risk-benefit ratio, (2) the person notifies FDA before making the change, and (3) FDA does not notify the person within 60 days not to make a change in the standard.

FDA rejects the comments. The present structure of § 861.34 (b), (c), and (d) permits rapid amendment or revocation of an existing standard, if necessary, while also allowing public participation through notice and comment on rulemaking, as provided in § 10.40 (b) and (e). To allow a person on his or her own initiative to change a standard, even after notifying FDA, would render meaningless the public participation procedures set forth for establishing, amending, or revoking a standard and also could lead to a profusion of different, uncoordinated changes in existing standards. Such activities are not authorized by the act.

Effective Dates

56. Four comments objected to § 861.36(b), which provides that a standard generally will take effect 1 year after publication of the final standard in the **Federal Register**. One comment said this provision ignores the economic realities of device manufacturing because the time between the production and delivery of a device may be more than 1 year. Another comment said that a premature effective date could result in the disruption of patient care during the transition from old equipment to new equipment. One comment recommended that generally 2 years be allowed before a standard becomes effective, consistent with public health and safety.

FDA advises that the 1-year period is not intended to be the maximum time allocated for a standard to become effective. The agency will designate an effective date only after reviewing all available information, including

economic factors and patient care needs. Section 514(g)(3)(B) of the act requires that the effective date "be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of domestic and international trade." The legislative history states (H.R. Rep. No. 94–853, p. 30): "The committee recognizes that it will take some time for devices on the market on the date of the establishment of a performance standard to conform to the standard." Consequently, FDA, when necessary, may establish an effective date longer than 1 year, e.g., to provide for manufacturing and delivery of new devices that must conform to the regulation. A longer period of time may also be applied to amendments or revocation of an existing standard, unless, as with establishment of a new standard, an earlier effective date is required to protect the public health and safety. The agency emphasizes, however, that "stock-piling" of nonconforming devices is discouraged because all devices in commercial channels must conform to a standard on its effective date. Thus, the agency concludes that the comments do not warrant any change in the effective date provisions.

57. One comment suggested that § 861.36(b) be clarified to state that the effective date of a standard generally will be 1 year after publication unless a shorter or longer time is specified in each standard, or unless FDA, for purposes of public safety, deems another period necessary.

The suggestion is not adopted. FDA believes that § 861.36 clearly states the general rules with respect to the effective dates of performance standards.

58. One comment stated that a shorter period than 1 year should be used only on a finding that a serious health hazard to the public is involved, and then the standard should not become effective for at least 4 months.

The agency advises that a standard will not become effective earlier than 1 year after publication in the Federal Register unless an earlier effective date is needed to protect the public health and safety. The agency believes that given the widely varying nature of devices being regulated by performance standards, a fixed period of time, such as 4 months before a standard can become effective, would be too inflexible and would not serve the public interest.

59. One comment objected that under § 861.36(c) the manufacturer of a device for which an amended standard becomes effective upon publication of a proposed regulation would have to terminate production of the device upon publication of the proposal. The comment argued that the manufacturer could not make the product in conformance with the old standard because it could not be marketed after publication of the proposal; nor could the manufacturer make it in conformance with the amended standard because the amended standard could be changed as a result of comments.

The agency disagrees with the comment. Section 861.36(c) is virtually identical to section 514(g)(4)(B) of the act, which provides:

> The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if he determines, after affording all interested persons an opportunity for an informal hearing, that making it so effective is in the public interest. A proposed amendment of a performance standard made so effective under the preceding sentence may not prohibit, during the period in which it is so effective, the introduction or delivery for introduction into interstate commerce of a device which conforms to such standard without the change or changes provided by such proposed amendment.

The legislative history (H.R. Rep. No. 94–853, p. 30) states: "This expedited approach is intended to stimulate desirable changes in standardized products without penalizing manufacturers of products on the market that conform to existing standards." Thus, a device that does not conform to the amended standard could continue to be marketed until final action is taken on the proposed amendment, although, in accordance with the expression of legislative intent, the agency encourages early compliance with any amended standard.

Standards Advisory Committees

60. Two comments objected to the general structure of proposed § 861.38. One comment said the use of standards advisory committees would be too slow and cumbersome to effect necessary changes in performance standards needed to keep pace with improvements in device technology. Another comment said current members of nongovernmental voluntary standards organizations could meet the objectives of the advisory committee.

FDA points out that section 514(g)(5)(A) of the act requires a standards advisory committee to provide FDA with a report and recommendation, together with all underlying data and information and a statement of the reason or basis for the recommendation, within 60 days after the agency refers a proposed regulation to it. Moreover, standards advisory committees will not be used automatically, but only when there is need for the exercise of scientific judgment not possessed by FDA. Beyond the fact that the act provides for the agency to establish formally advisory committees and established the time within which any advisory committee must respond to referral of a proposed regulation, the comment did not supply any evidence that this process would impede improvements in technology. The comment is rejected. The second comment was not clear as to the meaning of meeting the objectives of the advisory committee. However, assuming the comment was arguing that the voluntary standards-setting process would be faster or less cumbersome than the advisory committee process, the agency concludes that to request a report from an existing voluntary standards organization would not be faster or more logical because the act specifically provides for advisory committees to be used only when FDA, in its judgment, determines it is necessary. The second comment is also rejected.

61. Two comments recommended changes in § 861.38(a) regarding the composition of the standards advisory committees. One comment said FDA should appoint members of the appropriate classification panel to the advisory committee considering the standard to ensure a continuity in the development of a sound standard. Another comment suggested that consumer and industry representatives be given voting power on the advisory committee.

Although § 861.38(a) and section 514(g)(5)(B) of the act provide that a committee may not consist entirely of classification panel members, the preamble to the proposal and legislative history of the act provide that FDA may appoint individual members of the relevant classification panel to the committee. The agency, however, does not believe it is appropriate to require that every standards advisory committee contain classification panel members. Section 514(g)(5)(B) of the act and 21 CFR 14.84(b) prohibit consumer and industry representatives of the committees from voting. Thus, the comments do not require any change in the regulation.

62. One comment said §861.38(b) should be changed to provide that the standards advisory committee consider issues other than those requiring the exercise of scientific judgment.

FDA disagrees. Section 514(g)(5)(A) of the act specifically limits the issues to be evaluated by the standards advisory committees to those requiring the use of scientific judgment. Other issues should be addressed during the comment period provided in the processes for developing both the classification and performance standard regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In Part 16, by adding new paragraph (b)(33) to § 16.1, to read as follows:

§ 16.1 Scope.

* * * * *

(b)* * *

(33) Section 861.36 of this chapter, relating to an immediate effective date for proposed regulations amending performance standards for medical devices.

PART 20—PUBLIC INFORMATION

2. In Part 20, by adding new paragraph (c)(32) to § 20.100, to read as follows:

§ 20.100 Applicability; cross-reference to other regulations.

* * * * *

(c) * * *

(32) Data and information submitted in offers to develop a proposed performance standard for medical devices, in § 861.26 of this chapter.

PART 809—IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

3. In Part 809:

a. In § 809.3, by revising paragraph (a) and revoking and reserving paragraph (c) as follows:

§ 809.3 Definitions.

(a) "In vitro diagnostic products" are those reagents, instruments, and systems intended for use in the diagnosis of disease or other conditions, including a determination of the state of health, in order to cure, mitigate, treat, or prevent disease or its sequelae. Such products are intended for use in the collection, preparation, and examination of specimens taken from the human body. These products are devices as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act), and may also be biological products subject to section 351 of the Public Health Service Act.

* * * * *

(c) [Reserved]

* * * * *

b. By revising § 809.4, to read as follows:

§ 809.4 Confidentiality of submitted information.

Data and information submitted under § 809.10(c) that are shown to fall within the exemption established in § 20.61 of this chapter shall be treated as confidential by the Food and Drug Administration and any person to whom the data and information are referred. The Food and Drug Administration will determine whether information submitted will be treated as confidential in accordance with the provisions of Part 20 of this chapter.

c. By revising the introductory text of paragraph (c) of § 869.10, to read as follows:

§ 809.10 Labeling for in vitro diagnostic products

* * * * *

(c) A shipment or other delivery of an in vitro diagnostic product shall be exempt from the requirements of paragraphs (a) and (b) of this section and from a standard promulgated under Part 861 provided that the following conditions are met:

* * * * *

§§ 809.30, 809.34, and 809.35 [Revoked]

d. By revoking Subpart D—In Vitro Diagnostic Products for Human Use, including § 809.30 *Procedure for establishing, amending or repealing standards*, § 809.34 *Court appeal*, and § 809.35 *Regulatory action*.

4. By adding new Part 861, to read as follows:

PART 861—PROCEDURES FOR PERFORMANCE STANDARDS DEVELOPMENT

Subpart A—General

Sec.

861.1 Purpose and scope.
861.5 Statement of policy.
861.7 Contents of standards.

Subpart B—Procedures for Performance Standards Development and Publication

861.20 Summary of standards development process.
861.22 Invitation for a standard.
861.24 Existing standard as a proposed standard.
861.26 Offer to develop a proposed standard.
861.28 Acceptance of offer to develop a standard.
861.30 Development of standards.
861.32 Contribution by the Food and Drug Administration to the costs of developing a proposed standard.
861.34 Amendment or revocation of a standard.
861.36 Effective dates.
861.38 Standards advisory committees.

Authority: Secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371).

Subpart A—General

§ 861.1 Purpose and scope.

(a) This part implements section 514 of the act with respect to the initiation, development, establishment, amendment, and revocation of performance standards applicable to devices intended for human use.

(b) Performance standards may be established for: (1) a class II device; (2) a class III device which, upon the effective date of the standard, is reclassified into class II; and (3) a class III device, as a condition to premarket approval under section 515 of the act to reduce or eliminate a risk or risks associated with such device.

(c) References in this part and Parts 12, 13, 14, 15, and 16 to regulatory sections of the Code of Federal Regulations are to chapter I of Title 21 unless otherwise noted.

§ 861.5 Statement of policy.

In carrying out its duties under this section, the Food and Drug Administration will, to the maximum extent practical:

(a) Use personnel, facilities, and other technical support available in other Federal agencies;

(b) Consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

(c) Invite participation, through conferences, workshops, or other means, by representatives of scientific, professional, industry, or consumer organizations who can make a significant contribution.

§ 861.7 Contents of standards.

Any performance standard established under this part will include such provisions as the Food and Drug Administration determines are necessary to provide reasonable assurance of the safety and effectiveness of the device or devices for which it is established. Where necessary to provide such assurance, a standard will address (but need not be limited to):

(a) Performance characteristics of the device;

(b) The design, construction, components, ingredients, and properties of the device, and its compatibility with power systems and connections to such systems;

(c) The manufacturing processes and quality control procedures applicable to the device;

(d) Testing of the device on either a sample or a 100-percent basis by the manufacturer, or, if it is determined that no other more practical means are available to the Food and Drug Administration to assure the conformity of the device to the standard, providing for testing by the Food and Drug Administration or a third person to ensure that the device conforms to the standard;

(e) The publication of the results of each test or of certain tests of the device to show that the device conforms to the portions of the standard for which the test or tests were required;

(f) Manufacturers' certification to purchasers or to the Food and Drug Administration that the device conforms to the applicable performance standard;

(g) Restrictions on the sale and distribution of the device, but only to the extent authorized under section 520(e) of the act;

(h) The use, and the form and content, of labeling for the proper installation, maintenance, operation, and use of the device. Among the provisions that may be required in the labeling are warnings; storage and transportation information; expiration dates; the date and place of manufacture; the results that may be expected if the device is used properly; the ranges of accuracy of diagnostic information; instructions regarding the proper care of, and the proper components, accessories, or other equipment to be used with the device; and statements concerning the appropriate patient population, for example, a statement that the device is considered safe and effective only when used by, or in the treatment of, a patient who has been tested by particular designated procedures and found to have an illness or condition for which use of the device is indicated by a person skilled in the use of the device.

Subpart B—Procedures for Performance Standards Development and Publication

§ 861.20 Summary of standards development process.

The procedure by which a performance standard for a device may be developed and promulgated is as follows:

(a) The Food and Drug Administration will initiate a proceeding for the development of a performance standard for a device by publishing in the **Federal Register** a notice of opportunity to request (within 15 days of the date of publication of the notice) reclassification of the device in accordance with § 860.130.

(b) If, after publication of a notice under paragraph (a) of this section, the Food and Drug Administration receives a request to change the classification of the device, the Food and Drug Administration will, within 60 days of the publication of the notice, by order published in the **Federal Register**, either deny the request or give notice of intent to initiate a change in the classification.

(c) If the Food and Drug Administration determines that the device will remain classified in class II, a notice will be published in the **Federal Register** inviting any person, including any Federal agency, to submit within 60 days after the date of publication, either an existing standard as a proposed performance standard or an offer to develop such a standard.

(d) Following expiration of the 60-day period, the Food and Drug Administration will:

(1) Authorize a Federal agency to develop a proposed performance standard if the Food and Drug Administration determines that a performance standard can be developed by a Federal agency, based on the personnel, expertise, and resources of the agency; or

(2) Accept an existing standard as a proposed performance standard or as a basis upon which a proposed performance standard may be developed. An existing standard may be one that is submitted in response to the invitation for standards or it may be a standard that has been issued or adopted (or is being developed) by any Federal agency or any other qualified entity. The Food and Drug Administration will determine that such a standard is based upon scientific data and information and has been subjected to adequate scientific consideration; or

(3) Accept one or more offers to develop a proposed standard; or

(4) Proceed to develop a proposed standard; or

(5) Take other appropriate action to facilitate development of a performance standard for the device.

(e) After publication of a notice inviting the submission of an existing standard as a proposed performance standard or an offer to develop such a standard in accordance with § 861.22, the Food and Drug Administration may either:

(1) Publish in the **Federal Register**, in a notice of proposed rulemaking in accordance with § 10.40, a proposed performance standard for the device (the notice of proposed rulemaking will include proposed findings with respect to the degree of risk of illness or injury the proposed standard is designed to eliminate or reduce and the benefit to the public from the device); or

(2) Terminate the proceeding to develop and promulgate a performance standard by publishing in the **Federal Register** a notice to that effect, together with the reasons therefor and, unless such notice is issued because the device is a banned device under section 516 of the act, initiate a proceeding under section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

(f) If the Food and Drug Administration initiates a rulemaking proceeding under paragraph (e)(1) of this section, the Food and Drug Administration will:

(1) Complete the proceeding and establish the performance standard for the device in accordance with this part and § 10.40; or

(2) Terminate the proceeding by publishing in the **Federal Register** a notice announcing such termination and the reasons therefor and, unless the proceeding is terminated because the device is a banned device, initiate a proceeding in accordance with section 513(e) of the act to reclassify the device; or

(3) Take other appropriate action.

§ 861.22 Invitation for a standard.

The notice to be published in the **Federal Register** inviting offers to develop a performance standard will contain the following information:

(a) The time period within which the standard is to be developed, which may be extended by the Food and Drug Administration for good cause;

(b) A description or other designation of the device for which a performance standard may be established;

(c) A statement of the risks associated with use of the device and which are intended to be controlled by a performance standard, including pertinent portions of panel classification recommendations with respect to the device;

(d) A summary of the data from which the Food and Drug Administration has determined a need for initiation of the proceeding to develop a performance standard, including pertinent portions of the recommendations of classification panels with respect to the device;

(e) Identification of any existing performance standard known to the Food and Drug Administration that may be relevant to the proceeding; and

(f) The approximate number of products (i.e., kinds of models) within the generic type of device that may be subject to the performance standard.

§ 861.24 Existing standard as a proposed standard.

(a) The Food and Drug Administration may accept an existing standard or a standard that is being developed, if it includes:

(1) A description of the procedures used to develop the standard and a list of the persons and organizations that participated in its development, to the extent that such information is available or reasonably obtainable;

(2) An identification of the specific portions of the existing standard that the person submitting the standard believes are appropriate for adoption as, or inclusion in, the proposed standard; and

(3) A summary of the test data, or, if requested by the Food and Drug Administration, all such data or other information supporting the specific portions of the standard identified by the person submitting the standard.

(b) The Food and Drug Administration will publish a notice in the **Federal Register** stating either that it has accepted, or has accepted with modification, as a proposed standard, an existing standard or one that is being developed, or that an existing standard is not acceptable, together with the reasons therefor.

§ 861.26 Offer to develop a proposed standard.

(a) The Food and Drug Administration may consider any offers to develop a proposed standard that include:

(1) Information on the offeror's expertise and experience that qualifies the offeror to develop a proposed standard for the particular device;

(2) Sufficient information on the offeror's financial stability to establish capability to conduct adequate standards development either with or without contribution by the Food and Drug Administration to the offeror's costs;

(3) Information relating to any potential conflicts of interest on the part of the offeror, its directors or officers, or any employees or consultants who may participate in the development of the standard, including any financial interest in the particular device or in the device industry generally, current industrial or commercial affiliates of the offeror, current sources of financial support for research, and all business entities in which the offeror has a financial interest which may be relevant to the offeror's qualifications to develop a standard for the particular device;

(4) Information regarding the offeror's compliance with Federal, State, and local environmental regulations;

(5) A detailed description of the procedures the offeror intends to utilize in developing the standard;

(6) A description of how the offeror intends to provide interested persons adequate and reasonable notice of their right and opportunity to participate in the development of the standard;

(7) A description of the method whereby interested persons who respond to the notice may participate, either in person or through correspondence, in the development of the standard;

(8) A statement describing the facilities or equipment the offeror intends to utilize in developing the standard, and how the offeror intends to gain access to them;

(9) An estimate of the time required to develop the standard, including a detailed schedule for each phase of the procedure;

(10) A description of the method the offeror intends to use or has used to acquire test data or other information needed to support the standard;

(11) A description of the method the offeror intends to use to maintain records of the development of the standard and other relevant matters and to make such records available for disclosure during development, and a schedule for meeting the periodic reporting requirements of § 861.30(b);

(12) If the offeror desires, a request for contribution by the Food and Drug Administration to the offeror's cost of developing the standard, which shall include:

(i) A list of the items of expense for which contribution is sought and the amount requested for each item;

(ii) A justification of each item of expense, including an explanation of how the contribution is likely to ensure development of a more satisfactory standard;

(iii) A statement that the offeror will employ an adequate accounting system (one in accordance with generally accepted accounting principles) to record the costs and expenditures allocable to development of the standard; and

(iv) A statement requesting an advance payment of funds, if necessary to enable the offeror to meet operating expenses during the development period.

(b) Information included in an offer to develop a proposed standard is to be made available to the public only if the offer is accepted (except for information exempt from disclosure under § 20.61), or if disclosure is required under Part 20 of this chapter.

§ 861.28 Acceptance of offer to develop a standard.

(a) In determining whether to accept an offer to develop a performance standard, the Food and Drug Administration will evaluate the qualifications of the offeror on the basis of the offeror's expertise, experience, financial stability, and potential conflicts of interest. In choosing among competing offerors, the offerors with no financial interest in the particular device for which a proposed standard is sought or in the device industry generally will be preferred, all other things being equal.

(b) If the conditions provided in § 861.20(d)(3) have been met, and one or more offers that satisfy the requirements of § 861.26 have been submitted, one or more qualifying offers to develop a proposed standard may be accepted.

(c) The Food and Drug Administration will publish in the **Federal Register** the name and address of each person whose offer to develop a standard is accepted and a summary of the terms of the accepted offer, including a statement of the extent to which the Food and Drug Administration will contribute, if at all, to the cost of developing the proposed standard.

(d) If the Food and Drug Administration does not accept an offer to develop a proposed standard submitted in response to a published invitation, the Food and Drug Administration will publish in the **Federal Register** a notice of that fact together with the reasons for the decision.

§ 861.30 Development of standards.

(a) Any person, including any Federal agency, engaged in the development of a proposed standard under this section shall:

(1) Support its proposed performance standard by such test data or other documents or materials as the Food and Drug Administration may reasonably require;

(2) Provide interested persons an opportunity to participate in the development of the standard by accepting comments and, where appropriate, holding public meetings on issues relating to development of the standard. Notice of the opportunity to participate in the development of the standard shall be furnished in a manner reasonably calculated to reach the majority of persons interested in the development of the standard. This requirement shall be satisfied by the Food and Drug Administration or any

other Federal agency by publishing such a notice in the **Federal Register.** Whenever it is appropriate, FDA will use the **Federal Register** to make announcements about the standards development process of standard developers other than Federal agencies.

(3) Maintain records disclosing the course of development of the proposed standard, the comments and other information submitted by any person in connection with such development (including comments and information regarding the need for a standard), and such other information as may be required by the Food and Drug Administration to evaluate the standard.

(b) Any person engaged in the development of a standard shall, in addition to complying with paragraph (a) of this section:

(1) Submit progress reports on a quarterly basis or as otherwise required by the Food and Drug Administration;

(2) Cooperate fully with the Food and Drug Administration and permit duly authorized representatives of the Food and Drug Administration to inspect its facilities and developmental activities to determine whether satisfactory progress is being made toward completion of the standard;

(3) If receiving contributions from the Food and Drug Administration toward the cost of developing the proposed standard:

(i) Submit, on a quarterly basis, a full accounting of such contributions,

(ii) Remit all unexpended amounts within 60 calendar days after submission of the standard,

(iii) Maintain, for a period of 3 years after submission of the proposed standard, records that fully disclose the total costs and expenditures for the development of the standard and such other records as are necessary to permit and effective audit,

(iv) Grant access to and audit of any books, documents, papers, and other records relating to the expenditure of any funds contributed by the Food and Drug Administration.

(c) If it appears to the Food and Drug Administration that a person engaged in the development of a performance standard is not making satisfactory progress, that person will be afforded an opportunity either to demonstrate ability and willingness to complete the development of the standard within the designated time period or to justify the need for an extension of the development period. After evaluating available information, the Food and Drug Administration will terminate the person's role in the development process, extend the period for development of the proposed standard, or direct the person to complete the standard within the designated time period. Any person who has received a contribution from the Food and Drug Administration and whose role in the development process is terminated shall be required to submit to the Food and Drug Administration all information, records, and documents in its possession which relate to the development of the proposed standard, and to remit all funds contributed by the Food and Drug Administration that have not been expended. The Food and Drug Administration shall publish in the **Federal Register** a notice of the determination to terminate the role of any person in the development of a proposed standard, together with the reasons for this action.

§ 861.32 Contribution by the Food and Drug Administration to the costs of developing a proposed standard.

(a) If an offer to develop a proposed standard is accepted, the Food and Drug Administration may agree to contribute to the costs of developing the standard if it is determined that such contribution is likely to result in the development of a more satisfactory standard.

(b) The items of cost toward which the Food and Drug Administration may contribute are those allowable direct and indirect costs allocable to the development project as set forth in the applicable subparts of 41 CFR Parts 1–15 of the Federal procurement regulations. Typical standards development activities to which the Food and Drug Administration may contribute include:

(1) Research and analysis of the existing literature pertaining to the medical device that is the subject of the development effort;

(2) Testing of representative medical devices in support of the development effort; and

(3) Preparation of, and participation in public review of, draft standards.

(c) The items of cost to which the Food and Drug Administration may not contribute include:

(1) Costs for the construction or acquisition of any interest in land or buildings;

(2) Costs for the payment of salaries in excess of the amount paid by the offeror at the time immediately preceding the offer, excluding routine increases which may accrue during the development period;

(3) Costs for the payment of items in excess of the offeror's actual costs;

(4) Costs for an item with a usable lifespan extending beyond the development period, except that contribution may be made toward the portion of an item's cost allocable to the development of the proposed standard as determined by the difference between the item's estimated market value at the termination of the development period and the total cost of its acquisition; and

(5) Costs determined not to be allowable under generally accepted accounting principles and practices or 41 CFR Parts 1–15 of the Federal procurement regulations.

§ 861.34 Amendment or revocation of a standard.

(a) The Food and Drug Administration will provide for periodic evaluation of performance standards to determine whether such standards should be changed to reflect new medical, scientific, or other technological data.

(b) The Food and Drug Administration may, on its own initiative or upon petition of an interested party, amend or revoke by regulation a standard established under this part.

(c) Any petition to amend or revoke a standard shall:

(1) Identify the specific device and standard for which the amendment or revocation is sought; and

(2) Be submitted in accordance with the requirements of § 10.30.

(d) Proceedings to amend or revoke a performance standard shall be conducted in accordance with the rulemaking procedures of § 10.40. In addition, a notice of proposed rulemaking to amend or revoke a standard shall set forth proposed findings with respect to the degree of risk or illness to be eliminated or reduced and the benefit the public will derive from the proposed amendment or revocation.

§ 861.36 Effective dates.

(a) A regulation establishing, amending, or revoking a performance standard will set forth the date upon which it will take effect. To the extent practical, consistent with the public health and safety, such effective date will be established so as to minimize economic loss to, and disruption or dislocation of, domestic and international trade.

(b) Except as provided in paragraph (c) of this section, no regulation establishing, amending, or revoking a standard may take effect before 1 year after the date of its publication unless:

(1) The Food and Drug Administration determines that an earlier effective date is necessary to protect the public health and safety; or

(2) The standard has been established for a device that, by the effective date of the standard, has been reclassified from class III to class II.

(c) The Food and Drug Administration may declare a proposed regulation amending a standard effective on publication in the **Federal Register** if it determines, after affording interested persons an opportunity for an informal hearing conducted in accordance with Part 16 of this chapter, that making the regulation so effective is in the public interest. A proposed amendment of a performance standard made effective upon publication may not prohibit the introduction or delivery for introduction into interstate commerce of a device that conforms to the standard without the change or changes provided in the proposed amendment until the effective date of any final action on the proposal.

§ 861.38 Standards advisory committees.

(a) The Food and Drug Administration will establish advisory committees to which proposed regulations may be referred, and these committees shall consider such referrals in accordance with this section and Part 14 of this chapter. Such advisory committees, which may not be classification panels, shall be considered ad hoc advisory committees. Their members shall be selected in accordance with §§ 14.82 and 14.84, except that no member may be a regular full-time FDA employee. Each advisory committee established under this section shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry.

(b) A proposed regulation to establish, amend, or revoke a performance standard shall be referred to an advisory committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment if:

(1) The Food and Drug Administration determines that such referral is necessary or appropriate under the circumstances; or

(2)(i) Requested by an interested person, in the form of a citizen petition in accordance with § 10.30, within the period provided for comment on the proposed regulation; and,

(ii) The Food and Drug Administration does not determine the request to be without good cause or on a matter not involving scientific judgment.

(c) When a proposed regulation is referred to an advisory committee, the Food and Drug Administration will furnish the committee with the data and information upon which the proposed regulation is based. After independently reviewing the materials furnished by the Food and Drug Administration and any other available data and information, the advisory committee shall, within 60 days of the referral, submit a report and recommendation on the proposed regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of the report and recommendation will be publicly displayed in the office of the Hearing Clerk, Food and Drug Administration.

(d) Where appropriate, each proposed regulation establishing a standard published in the **Federal Register** will include a call for nominations to the advisory committee for that particular standard.

Effective date. The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act of 1942. This regulation will become effective July 30, 1980, provided that approval of the OMB is received by that date. If OMB does not approve, without change, the reporting and recordkeeping requirements contained in the rule, FDA will revise the rule as necessary to comply with the decision of OMB. FDA will publish a notice in a future issue of the **Federal Register** concerning OMB's decision on these requirements.

(Secs. 501, 502, 513, 514, 701, 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 90 Stat. 540–552 (21 U.S.C. 351, 352, 360c, 360d, 371))

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2995 Filed 1-31-80; 8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79-0185]

Medical Devices Voluntary Standards Development; Request for Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests data and invites voluntary standards organizations and other interested parties that are developing a standard for one or more of these devices or that are interested in developing a standard for one or more of these devices to submit information on the organization and its development of the standard. This will enable FDA to assess the present effort being expended outside of government on the development of voluntary standards and to coordinate the development of these standards with these organizations. This notice implements FDA's proposed voluntary standards for medical devices, which is published elsewhere in this issue of the **Federal Register.**

DATES: Written comments and information by May 1, 1980.

ADDRESS: Written comments and information to the Hearing Clerk, (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Cangelosi, Bureau of Medical Devices (HFK-310), Food and Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 2091, 301-427-7182.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three classes of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards, and class III, pre-market approval.

Under section 513 of the act, more than 1,200 medical devices have been recommended by classification panels, FDA advisory committees, for classification into class II. Performance standards for class II medical devices are developed under section 514 of the act (21 U.S.C. 360d). Because of the large number of devices recommended for classification into class II, FDA is aware that the establishment of performance standards (mandatory standards) for all class II devices will take considerable time, given the existing agency resources available for this activity. FDA recognizes that voluntary standards may help to assure the safety and effectiveness of this large number of class II devices and is, therefore, promoting their use. Elsewhere in this issue of the **Federal Register**, FDA is publishing its voluntary standards policy for medical devices.

Priorities for Standards Development for Class II Devices

For each device recommended for classification into class II, the classification panels also include a recommended priority (high, medium, or low) for establishing a performance standard.

FDA has reviewed all the high priority class II devices (excluding in vitro diagnostic products) to determine those that could be considered for immediate development of voluntary standards. Consideration was based on a preliminary priority ranking scheme that used the following factors:

a. Priority recommendations of the classification panels;

b. Risks associated with the use of a device;

c. Present and projected use of the device.

The class II devices reviewed by FDA using the preliminary priority ranking scheme resulted in a list of devices considered by the agency to warrant immediate consideration for development of performance standards. These devices, which are listed below, are arranged according to the speciality under which the classification review was made by the classification panels:

A. Neurological Devices

1. Aneurysm clip.
2. Central nervous system fluid shunt and components.

B. Cardiovascular Devices

1. Flow directed catheter.
2. Diagnostic intravascular catheter.
3. Percutaneous catheter.
4. Cardiopulmonary heart-lung machine, console.
5. Electrocardiograph.
6. Angiographic injector and syringe.
7. Cardiopulmonary bypass catheter, percutaneous introducer.
8. Intracardiac patch and pledget made of polypropylene, teflon, or dacron.
9. Vascular graft prosthesis of 6mm and greater diameter.
10. Vectorcardiograph.
11. Catheter guidewire.

C. Obstetric-Gynecologic Devices

1. Fetal scalp circular (spiral) electrode.
2. Obstetric-gynecologic unipolar endoscopic coagulator-cutter and accessories.
3. Obstetric-gynecologic ultrasonic imager.
4. Laproscopic insufflator.
5. Gynecologic laparoscope.
6. Intrauterine pressure monitor.
7. Fetal ultrasonic monitor.
8. Perinatal monitoring system (cardiotokograph).
9. Vacuum abortion system.
10. Obstetric ultrasonic transducer.

D. General Hospital Devices

1. Neonatal incubator.
2. Neonatal transport incubator.
3. Neonatal phototherapy unit.

E. Physical Medicine Devices

1. Rigid pneumatic structure orthosis.
2. Powered wheelchair.
3. Special grade wheelchair.

F. Anesthesiology Devices

1. Gas Scavenging apparatus.
2. Breathing circuit (with connector, adaptor, Y piece).
3. Hyperthermia device (blanket, plumbing, and heat exchanger).
4. Hypothermia device (blanket, plumbing, and heat exchanger).
5. Respiratory gas humidifier (direct patient interface).
6. Anesthesia/analgesia gas machine.
7. Cutaneous oxygen monitor.
8. Tracheal tube (with or without connector).
9. Nonheated anesthesia vaporizer.
10. Continuous ventilator (respirator).

G. Gastroenterology/Urology Devices

1. Suprapubic catheter and accessories.
2. Urological catheter.
3. Carbon-dioxide cystometric gas device.
4. Endoscope and/or accessories.
5. Extra-luminal blood pump.
6. Arteriovenous shunt cannula and adapters.
7. Single needle dialysis set.
8. Proportioning dialysate subsystem.
9. Dialysate delivery system.
10. Sorbent regenerated dialysate delivery system.

H. Ear, Nose, and Throat Devices

1. Audiometer (including automated).

2. Hearing aid, group, and auditory trainer.
3. Master hearing aid.
4. Caloric-air stimulator.
5. Caloric-water stimulator.

Request for Information

to assess the current effort being expended on the development of voluntary standards for those class II devices listed above, FDA needs to know which voluntary standard organizations, State and local governments, international organizations, or other interested parties are developing or planning to develop standards for these devices. Therefore, FDA is requesting the following information on existing and planned standards efforts:

a. The name or title of the organization developing or planning to develop voluntary standards.

b. A description of the existing or planned effort and any timetable for its completion.

c. The performance characteristics and hazards associated with the device which will be controlled by the standard.

d. The composition of the development organization or working group within the organization.

e. A description of the development process and opportunities afforded to interested persons to provide comment and provisions for appeal.

f. The process used to treat negative comments.

Coordination of Standards Activities

Upon review of the information submitted in response to this notice, FDA will coordinate voluntary standards activities with the Medical Device Standards Management Board of the American National Standards Institute, as previously announced by the agency in the Federal Register of August 12, 1976 (41 FR 34099). FDA may participate with interested organizations or persons in the development of voluntary standards for any or all of the listed devices or may develop mandatory performance standards.

Interested persons may, on or before May 1, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2992 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0345]

Voluntary Standards Policy for Medical Devices; Request for Comments

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing a policy for FDA involvement in the development, support, endorsement, and use of voluntary performance standards for medical devices. This proposed policy establishes the relationship between mandatory and voluntary standards designed to assure the safety and effectiveness of medical devices. FDA proposes to endorse voluntary standards that conform to the "Criteria for Endorsement of Voluntary Standards" discussed in this notice. FDA may defer establishment of a mandatory standard if the medical device industry complies with an endorsed voluntary standard. FDA requests comments on this policy statement.

DATE: Comments by May 1, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administation, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn Barnett, Bureau of Medical Devices (HFK-300), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7187.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295), establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three classes of devices. Class I devices are subject only to general controls; class II devices are subject to performance standards; class III devices are subject to premarket approval. Section 514 of the act (21 U.S.C. 360d) authorizes FDA to establish performance standards to provide reasonable assurance of the safety and effectiveness of medical devices that are classified into class II. More than 1,200 devices will be classified into class II under section 513 (d), (e), and (f) of the act (21 U.S.C. 360c (d), (e), and (f)).

Section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), authorizes FDA to establish performance standards for electronic products to control the emission of electronic product radiation. Under the authority of section 358 of the Public Health Service Act, FDA has prescribed performance standards for diagnostic x-ray systems (21 CFR 1020.30, 1020.31, and 1020.32), medical laser products (21 CFR 1040.11(a)), and ultrasonic therapy products (21 CFR 1050.10).

An important part of FDA's program to assure the safety and effectiveness of medical devices has consisted of technical and, in some cases, financial support of standards organizations that are involved in the development of voluntary standards for medical devices. FDA's participation, which was described in a notice in the Federal Register of August 12, 1976 (41 FR 34099), has involved both cooperation in standards development initiated by international and domestic voluntary standards organizations and in standards development efforts initiated by FDA. In supporting these activities, FDA has encouraged development and use of voluntary standards that, when conformed to by industry, will improve device safety and effectiveness and may serve as the basis for future mandatory medical device standards.

The establishment of mandatory standards for all 1,200 class II devices will take considerable time, given the existing agency resources available for this activity. However, FDA believes that its proposed voluntary standards policy can expedite the development of standards and help to assure the safety and effectiveness of medical devices.

FDA believes that endorsing adequate voluntary standards will (1) encourage manufacturers, voluntary standards organizations, and other interested persons to continue to develop performance standards in their areas of expertise, (2) result in a greater number of performance standards being established more rapidly with fewer FDA resources than if only mandatory standards were issued, and (3) permit FDA to concentrate on the development of standards for class II devices that are not the subject of adequate voluntary standards and are selected for their impact on the public health.

Both mandatory and voluntary standards will help to make medical devices safer and more effective. Standards may specify performance characteristics, address essential composition and design features, specify test methods, and identify needed

labeling. Devices that meet mandatory or voluntary standards for safety and effectiveness will be less likely to injure consumers.

Mandatory standards offer one important advantage over voluntary standards—FDA can require compliance with a mandatory standard and can take regulatory action against manufacturers that fail to comply or devices that fail to conform to that standard. With voluntary standards, however, FDA can take regulatory action against manufacturers of devices that fail to meet a voluntary standard only if the devices' labeling or advertising claims to meet that standard. All devices, whether the subject of a mandatory or voluntary standard, are subject to the act's misbranding and adulteration provisions.

FDA believes, however, that device manufacturers generally have a strong incentive to comply with voluntary standards, especially those endorsed by FDA. Hospitals and other device purchasers will be inclined to purchase devices that conform to FDA-endorsed voluntary standards because of their potential liability in the event that a patient or user is injured by a device that does not conform to an existing FDA-endorsed voluntary standard. Federal and State governments, major purchasers of medical devices, will be encouraged by FDA to purchase devices that conform to FDA/endorsed voluntary standards. In addition, FDA will encourage manufacturers of devices that conform to FDA-endorsed voluntary standards to label their devices as conforming.

FDA is thus changing its policy described in the **Federal Register** notice of August 12, 1976; the notice states "Voluntary or privately recognized performance standards will not be a substitute for the formal promulgation of standards under section 514 of the act for any device that is classified in the performance standard category." Under the policy that the agency now proposes, FDA will endorse particular voluntary standards and, if voluntary conformance is adequate, defer development of mandatory standards. FDA retains, however, the option of promulgating a mandatory standard whenever FDA determines a mandatory standard is necessary to provide reasonable assurance of the safety and effectiveness of a medical device.

Priorities for Class II Devices—Performance Standards

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice containing a list of priority medical devices currently classified, or recommended for classification, into class II for which the immediate development of standards is appropriate. In that notice, FDA requests information concerning current standards development efforts for the priority devices. FDA also requests that manufacturers, voluntary standards organizations, and other interested persons review the list and identify those devices for which they are interested in developing voluntary standards. After review of the information submitted in response to that notice, FDA will begin, in accordance with priorities, to establish mandatory performance standards for those devices which are not or will not be the subject of an adequate voluntary standard.

FDA Support of Voluntary Standards

Those persons developing voluntary standards may request assistance from FDA. FDA's participation in voluntary standards activities is subject to the requirements set forth in 21 CFR 10.95. FDA may provide indirect financial support for the development of a voluntary standard that will conform to the "Criteria for Endorsement of Voluntary Standards" set out in this notice. Such support may include:

a. Providing scientific and technical information and an identification of medical device hazards and risks;

b. Providing technical assistance, including research and engineering support, for the development of voluntary standards;

c. Assisting in the dissemination of information about the requirements of voluntary standards and their applications;

d. Evaluating a proposed voluntary standard to determine its effectiveness in reducing the risk of injury associated with a particular device;

e. Investigating the extent to which medical devices that will be subject to the voluntary standard already conform to the standard; and

f. Developing test methods to determine conformance with the voluntary standard.

FDA may also provide financial assistance in the form of travel funds and per diem costs to qualified consumer representatives when consumer participation will improve the development of a standard.

FDA has considered the extent to which the Federal Advisory Committee Act (5 U.S.C. App. 1 (FACA)) would apply to voluntary standards organizations that develop standards that are subsequently considered for FDA endorsement. The agency has concluded that the FACA would not apply to such organizations because they would not be functioning as advisory committees rendering advice or recommendations to FDA, within the meaning of the FACA. FDA specifically invites comment on this matter.

Criteria for Endorsement of Voluntary Standards

On determining whether to endorse a voluntary standard, FDA will consider the extent to which:

a. the standard provides reasonable assurance of the safety and effectiveness of medical devices;

b. The process for the development of the standard includes consideration of sound scientific and technical information and permits revisions on the basis of new information;

c. The process for standards development permits meaningful participation by manufacturers (especially small manufacturers), distributors, consumers, and regulatory agencies having jurisdiction over the product subject to the standard. In evaluating the quality of such participation, FDA will consider the extent to which the development process provides for those procedures set forth in paragraph 6(c) of Recommendation No. 78–4 of the Administrative Conference of the United States (ACUS), "Coordination and Cooperation with Standards-Developing Organizations," (1 CFR 305.78–4);

d. A proposed voluntary standard would not create anti-competitive effects or promote restraints of trade contrary to the public interest or does not contain excessively restrictive requirements that would preclude manufacturing of the device;

e. The adequacy of the standard is subject to periodic and timely review;

f. The standard stresses performance-oriented, and not design-restrictive, requirements;

g. Manufacturers are likely to comply with the voluntary standard;

h. There are provisions for appeal by an interested person who objects to all or part of a standard;

i. The process for review of the standard considers the involvement of such devices in injury patterns;

j. The standard identifies requirements for testing to determine whether devices conform to the standard; and

k. Documentation is available to support the rationale for, the development process for, and the safety and effectiveness requirements of, the standard as well as to identify other factors considered by the technical committee in developing or revising the standard.

In developing these criteria, FDA gave special consideration to Recommendation No. 78–4 of ACUS, which emphasizes the use of voluntary standards rather than mandatory standards and the need for public participation in the standards development process. FDA also considered the Federal Trade Commissions's (FTC) proposed trade regulation rule (TRR) on standards and certification, published in the **Federal Register** of December 7, 1978 (43 FR 57269). FTC's proposed TRR would establish prohibitions and requirements for standards developers, certifiers, and persons who reference standards or certifications in the marketing of products. The proposed TRR would apply to medical device standards development. Violation of the proposed TRR would be an unfair method of competition and an unfair or deceptive act or practice in commerce, within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

Procedure for Endorsement and Promotion of Voluntary Standards

Voluntary standards under development will be evaluated against the "Criteria for Endorsement of Voluntary Standards." FDA will endorse adequate voluntary standards. FDA may endorse an entire standard or only those provisions of the standard that FDA believes are adequate and necessary.

FDA will notify the developer of a standard by letter of those provisions of the standard endorsed by FDA. The Bureau of Medical Devices will maintain a file of endorsement letters and endorsed standards. Copies of the letters only will be available to the public upon request. An address where requests may be sent will be published in the final notice implementing FDA's voluntary standards policy. In addition, FDA will publish periodically a notice in the **Federal Register** listing all FDA-endorsed voluntary standards. Copies of the endorsed standards may be obtained from the developer, at the address stated in the endorsement letter and published in the notice.

One a voluntary standard has been endorsed, FDA will promote the standard to consumer groups, individual health care professionals, professional health care organizations, hospital and clinic administrators and managers, medical device manufacturers and distributors, and other interested persons, such as regulators, insurers, and lawyers. The agency believes this will encourage conformance with an endorsed standard and the use of standard as part of purchasing requirements. FDA will utilize some or all of the following means of promotion:

a. Issuing press releases to medical, technical, legal, and consumer journals;

b. Publishing technical articles on individual voluntary standards;

c. Supplying lists of FDA-endorsed voluntary standards to interested persons;

d. Encouraging conformance to endorsed voluntary standards in the Government Wide Quality Assurance Program; and

e. Encouraging manufacturers of devices that conform to FDA-endorsed standards to label their products as conforming, e.g., "Meets Federally Endorsed * * * Standard * * *."

Existing Voluntary Standards

FDA will evaluate existing voluntary standards to determine the extent to which the standards were developed in accordance with the "Criteria for Endorsement of Voluntary Standards." Thus, FDA may conclude that a mandatory standard is unnecessary and encourage conformance to a voluntary standard if an existing standard is found adequate and there is an acceptable level of conformance to the standard by the medical device industry.

Based on its evaluation, FDA may, however, conclude that a voluntary standard does not conform to the "Criteria for Endorsement of Voluntary Standards." If so, FDA may request the developer of the standard to revise the standard to eliminate the identified inadequacies and may support the development of these revisions. Alternately, FDA may develop a performance standard using the acceptable provisions of the existing voluntary standard as a foundation. In this event, FDA may develop the standard either as a guideline under § 10.90(b) of the FDA's regulations (21 CFR 10.90(b)) or as a mandatory standard under section 514 of the act. A guideline represents the formal FDA position with respect to the matter involved; and, therefore, an individual may rely on such a guideline with the assurance that conformance to the standard is acceptable to FDA. A guideline, however, is not a legal requirement.

Voluntary standards organizations, manufacturers, and other interested persons that develop voluntary standards without FDA's participation are requested to submit the standards to FDA for evaluation. The submission shall include documentation of conformance with the "Criteria for Endorsement of Voluntary Standards."

Mandatory Standards

As noted above, elsewhere in this issue of the **Federal Register**, FDA is publishing a list of devices that should be considered for immediate standards development. FDA will defer development of mandatory standards for those priority devices (1) for which there is an adequate voluntary standard complied with by the medical device industry or (2) for which a voluntary standard is under development.

In the case of a device for which a voluntary standard is under development, FDA will continue to defer development of a mandatory standard, as long as FDA finds that the voluntary standard (1) was initiated before FDA issued an invitation under section 514(c) of the act for development of a mandatory standard, (2) conforms to the "Criteria for Endorsement of Voluntary Standards," and (3) will be completed expeditiously.

Persons developing voluntary standards are responsible for informing FDA of this fact and for submitting information to assess the adequacy of the standard. FDA may develop mandatory standards if it is unaware of current voluntary standards activities.

Although FDA encourages the establishment of voluntary standards, there are instances in which a mandatory standard will be required. For example, mandatory control may be necessary if an aspect of safety or effectiveness common to many devices is involved. FDA will respond to such needs by developing mandatory standards, even if voluntary standards exist or are under development.

FDA Attendance at Voluntary Standards Meetings

All meetings between FDA personnel and outside organizations shall be subject to the FDA policy on open meetings set forth in 21 CFR 10.65(b). The approval and authorization for attendance of FDA staff at meetings of standards groups and the participation of staff members in standards development activities shall be in accordance with the policy on participation in outside standard-setting activities set forth in 21 CFR 10.95.

Interested persons may, on or before May 1, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Comments should be in four copies (except that individuals may submit single copies) identified with the Hearing Clerk docket number found in brackets in the heading of this

document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday. All comments received shall be considered in developing the final policy statement.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-2993 Filed 1-31-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0100]

Medical Devices; Voluntary Standards Development; Request for Data and Information on in Vitro Diagnostic Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests data and information from voluntary standards organizations and other interested persons concerning interest in participating in developing voluntary performance standards for certain in vitro devices. This notice implements FDA's proposed voluntary standards policy for in vitro diagnostic devices which is published elsewhere in this issue of the **Federal Register.**

DATES: Written comments and information by May 1, 1980.

ADDRESS: Written comments and information to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Alfred Bracey, Bureau of Medical Devices (HFK-320), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7178.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three classes of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: class I, general controls; class II, performance standards; and class III, premarket approval.

Under section 513 of the act, more than 300 in vitro diagnostic devices have been recommended by classification panels, FDA advisory committees, for classification into class II. These classification recommendations are being reviewed by FDA and will be published separately as proposed regulations.

Performance standards for class II in vitro diagnostic devices are developed under section 514 of the act (21 U.S.C. 360d). Because of the large number of in vitro diagnostic devices recommended for classification into class II, FDA is aware that the establishment of performance standards (mandatory standards) for all class II in vitro diagnostic devices will take considerable time, given the existing agency resources available for this activity. FDA recognizes that voluntary standards can help to ensure the safety and effectiveness of this large number of class II devices and is, therefore, promoting their use. FDA's proposed policy on endorsing voluntary standards for devices is published elsewhere in this issue of the **Federal Register** and should be referred to in conjunction with this request for information.

Priorities for Standards Development for Class II in Vitro Diagnostic Devices

For each device recommended for classification into class II, the classification panels also included a recomended priority (high, medium, or low) for establishing a performance standard.

FDA has reviewed all of the panel recommendations for high priority class II in vitro diagnostic devices to determine those for which the immediate development of standards would appear to be appropriate. Consideration was based on a preliminary priority ranking scheme that used the following factors:

a. Priority recommendations of the classification panels;

b. Critical nature of the results obtained from an in vitro diagnostic device;

c. Present and projected use of the device's results.

The class II in vitro diagnostic devices reviewed by FDA using the preliminary priority ranking scheme resulted in a list of devices considered by the agency to warrant immediate consideration for development of performance standards. These devices, which are listed below, are arranged according to the clinical laboratory specialty under which the classification review was made by the classification panels. The listed in vitro diagnostic devices are intended to include all reagents, instruments, and systems marketed for each of the methodologies currently used for the listed in vitro diagnostic devices. The

agency perfers that standards address the performance requirements for all types of products in a particular group. FDA recognizes, however, that such an approach is not appropriate in every case and, therefore, FDA will consider other approaches as long as they satisfactorily address the relationship between the product performance and the intended use of the product. A standard should be technically appropriate and possess qualities that will enable an individual or testing facility having competence in the specialty area to determine conformity or nonconformity with the standard.

High Priority Class II in Vitro Diagnostic Devices

A. Clinical Chemistry

1. Alkaline phosphatase or isoenzymes test system.
2. Aspartate amino transferase (AST–SGOT) test system.
3. Bilirubin (total or direct) test system.
4. Blood gases (PCO_2, PO_2) and blood pH test system.
5. Blood specimen collection devices.
6. Calcium test system.
7. Clinical chemistry calibrator.
8. Creatine phosphokinase/creatine kinase or isoenzymes test system.
9. Creatinine test system.
10. Glucose test system.
11. Potassium test system.
12. Sodium test system.
13. Total triiodothyronine test system.
14. Total thryoxine test system.
15. Uric acid test system.

B. Clinical Toxicology and Therapeutic Drug Monitoring

1. Barbiturate test system.
2. Carbamazepine test system.[1]
3. Clinical toxicology calibrator.
4. Cocaine/cocaine metabolites test system.
5. Digoxin test system.
6. Diphenylhydantoin test system.
7. Ethosuximide test system.
8. Gentamicin test system.
9. Lead test system.
10. Lidocaine test system.[2]
11. Theophylline test system.[2]

C. Hematology

1. Abnormal hemoglobin assay.
2. Automated cell counters.
3. Calibrators for red cell and white cell counting.
4. Calibrators for cell indices.
5. Calibrators for hemoglobin and hematocrit measurement.
6. Calibrators for platelet counting.
7. Hematology quality control mixture.
8. Prothrombin time test.
9. Partial thromboplastin time test.

D. Immunology

1. Antinuclear antibody immunological test system.
2. Immunoglobulins (A, G, M, E) immunological test system.
3. Rheumatoid factor immunological test system.

E. Microbiology

1. *Entamoeba histolytica* serological reagents.
2. *Cryptococcus neoformans* serological reagents.
3. Culture media for anitmicrobial susceptibility test.
4. Rubella virus serological reagents.
5. *Toxoplasma gondii* seriological reagents.

Request for Information

To assess the current effort being expended on the development of voluntary standards for those class II in vitro diagnostic devices listed above, FDA needs to know which voluntary standards organizations, State and local governments, international organizations, or other interested parties are developing or planning to develop standards for these devices. Therefore, FDA is requesting the following information on existing or planned standards efforts:

a. The name or title of the organization developing or planning to develop voluntary standards;

b. A description of the existing or planned effort and any timetable for its completion;

c. The performance characteristics and hazards associated with the in vitro diagnostic device which will be controlled by the standard;

d. The composition of the development organization or working group within the organization;

e. A description of the development process and opportunities afforded to interested persons to provide comment and provisions for appeal; and

f. The process used to treat negative comments.

The agency recognizes that there may be disagreement with the product groupings that appear on this list. Some of that disagreement may more properly relate to the classification recommendations rather than to this

[1] Recently recommended for classification by the Clinical Toxicology Section of the Clinical Chemistry and Hematology Devices Panel. A proposed classification regulation for this device will be published in a future issue of the **Federal Register**.

[2] Reclassified from class III to class II by order by the Director, Bureau of Medical Devices, following a recommendation on a petition for reclassification by the Clinical Toxicology Section of the Clinical Chemistry and Hematology Devices Panel (Lidocaine test systems, 77P–0341; Theophylline test systems, 77P–3040).

proposal for priorities for development of standards. If, however, there are data available to demonstrate the need to add or delete product groups from this list of highest priority in vitro diagnostic devices for development of standards, FDA will consider such information in reaching its decisions to encourage the development or endorsement of specific voluntary standards.

Coordination of Standards Activities

Upon review of the information submitted in response to this notice, FDA will coordinate voluntary standards activities with the Medical Device Standards Management Board of the American National Standards Institute, as previously announced by the agency in the **Federal Register** of August 12, 1976 (41 FR 34099). FDA may participate with interested organizations or persons in the development of voluntary standards for any or all of the listed in vitro diagnostic devices or may develop mandatory performance standards.

Interested persons may, on or before May 1, 1980, submit to the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, written comments on this notice. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80–2994 Filed 1–31–80; 8:45 am]

BILLING CODE 4110–03–M

federal register

Friday
February 1, 1980

Part V

Department of Energy

Office of Conservation and Solar Energy

Guidelines for Energy Management in General Operations of the Federal Government

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 436

Federal Energy Management and Planning Programs; Guidelines for Energy Management in General Operations of the Federal Government

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy today proposes guidelines for use by Federal agencies in their efforts to develop an overall 10-year energy management plan to reduce the rate of energy consumption and increase energy efficiencies in their general operations. These guidelines pertain to all Federal general operations, including energy used for general transportation, services, industrial or production type activities, and for training and operational readiness functions. Guidelines for the related "buildings" aspects of the Federal Energy Management and Planning Programs such as heating, lighting, air conditioning and hot water systems were published as a final rule in the **Federal Register** on November 14, 1979.

The purposes of the General Operations Guidelines are: To reduce the rate of energy consumption, to increase energy efficiency, to provide a methodology for reporting agency progress in meeting the goals of those plans, and to promote contingency planning to assuage the impact of a sudden disruption in the supply of oil-based fuels, natural gas, or electricity. In addition, based on agency reports, the Department of Energy will have a factual basis to disseminate energy-saving information to both the public and private sectors; to initiate actions within the Federal Government that may be necessary to avoid occurrence of energy supply crises; and to promote the establishment and attainment of energy conservation goals on an agency by agency basis.

DATES: Written comments by March 3, 1980; requests to speak by February 15, 1980; hearing to be held on February 25, 1980.

ADDRESSES: Comments and requests to apeak at the hearing to: Carol Snipes, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

Public hearing to be held in Room 2105, 2000 M St., N.W., Washington, D.C., beginning at 9:30 a.m., February 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Paul G. Brumby, (202) 376–4720, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585.

Karen Griffin, (202) 252–4449, Office of Policy and Evaluation, Department of Energy, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20461.

Carol Snipes, (202) 376–1651, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585.

Lewis W. Shollenberger, Jr., (202) 376–4730, Office of the General Counsel, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction
- A. Background and Authorities
- B. Energy Use by Major Federal Agencies
- C. Federal Energy Management Program Administration

II. General Operations 10-Year Plan
- A. General Operations Energy Management Program Elements
- B. Plan Format
- C. Plan Content

III. Program Goal Setting

IV. Energy Conservation Measures and Standards

V. Contingency PLan

VI. Reporting Requirements

VII. Plan and Waiver Submission, Review, and Approval

VIII. National Environmental Policy Act Review

IX. Comment and Hearing Procedures
- A. Written Comments
- B. Request Procedures
- C. Conduct of Hearings

I. Introduction

A. Background and Authorities

Today, and for the foreseeable future, Federal agencies are faced with rising energy costs and the possibility of a sudden, and possibly severe, reduction of oil-based energy resources, natural gas or electricity. To assist in the management of these problems, the Department of Energy today proposes guidelines to facilitate energy conservation in the general operations of Federal agencies and further, to promote contingency planning to reduce the impact upon Federal agencies of a sudden reduction in oil-based energy resources, natural gas or electricity. The proposed guidelines are intended to enable DOE to initiate necessary actions within the Federal Government to avoid energy supply crises and to promote the establishment and the attainment of energy conservation goals on an agency by agency basis. These guidelines are proposed pursuant to and in accordance with Section 381 of the Energy Policy and Conservation Act, as amended (EPCA) 42 U.S.C. 6361; Executive Order 11912, as amended by Executive Order 12003 (Executive Order), 42 FR 37523 (July 20, 1977); Title V, Part 3, of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275; Section 644 of the Department of Energy Organization Act, 42 U.S.C. 7254; Presidential Memorandum, (Reduction of Energy Use by the Federal Government, February 2, 1979); and Presidential Memorandum, (Required 5% Reduction in Agency Energy Use April 10, 1979); Executive Order 12185, 44 FR 75093 (December 17, 1979).

The Federal Energy Management and Planning Program (FEMP) was established in 1973 in respsonse to a Presidential Memorandum which directed Federal departments and agencies to achieve a 7 percent energy use reduction in FY 1974 from the energy use levels of FY 1973. EPCA formalized a number of ongoing FEMP activities and added other conservation measures.

Under the Executive Order and by operation of Section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, the Secretary of DOE is responsible for developing a Federal 10-year energy management plan. The Executive Order requires that each Executive agency submit to DOE an overall Federal 10-year energy management plan for conserving fuel and energy in all of its operations. Each agency plan is to include a Buildings Plan and a General Operations Plan. Guidelines for establishing the Buildings Plans were published as final rule for inclusion in 10 CFR Part 436, Subpart C (44 FR 65714, November 14, 1979), and this notice proposes guidelines to establish the General Operations Plan.

These guidelines establish a series of actions to be taken by Federal agencies to reduce energy use. Such actions will include establishment of specific energy reduction goals; identification of appropriate baselines for charting and evaluating progress toward agency goals; formulation of long-term plans for achievement of goals; adoption of specific conservation measures; development of contingency plans and establishment of specific evaluation and reporting procedures. All such actions shall be undertaken in accordance with a time-phased program coordinated with the Department of Energy, a committee of Federal agency representatives, and the Office of Management and Budget. The guidelines are designed to assure the earliest possible implementation of all known cost-effective energy conservation measures. It is anticipated

that any such action should not jeopardize attainment of fundamental agency functions or missions.

The Executive order sets forth a framework for the development of a Federal 10-year energy management plan for buildings with very specific goals, i.e., 20 percent and 45 percent reduction of average energy use per gross square foot of old and new buildings respectively, while general operations are less prescriptive because energy conservation in general operations must be balanced against agency primary missions. Improperly planned and implemented application of conservation measures could lead to a serious degradation in government services to the Nation; therefore, today's proposed guidelines leave goal-setting to each individual agency. DOE considered assigning annual energy consumption targets (energy Btu budgets) for each Federal agency during the near-term period of 1979–1985. However, information on individual agency missions and budgets for that time period was inadequate and designating a target might be misconstrued as a given constraint which could have an unacceptable impact upon respective agency missions. However, management methodologies for planning and control and selected operational measures for obtaining energy efficiencies or reductions are prescribed. Further, DOE intends to add to the guidelines, as needed, supplementary management controls, further energy conservation measures for agency consideration, and energy-related standards of operation.

Since the missions and operating responsibilities of Federal agencies vary widely, general operations planning consists of heterogeneous sets of agency-specific programs, projects and activities. Agency reports indicate that all major and most lesser energy-using agencies have ongoing programs to train, motivate, and educate employees; to review and revise administrative practices to make them more energy efficient; to eliminate unnecessary travel; to purchase fuel-efficient automobiles and other equipment; to curtail unnecessary activities and to improve operational scheduling and maintenance. These proposed guidelines stress procedures to utilize the heterogeneous plans in developing an overall Federal 10-year plan for energy management in the area of general operations. While most Federal agencies have already made progess toward reducing energy use, these guidelines are expected to reinforce ongoing energy conservation efforts and provide a more comprehensive and coordinated planning process for achieving greater reductions and efficiencies in energy use.

On April 10, 1979, the President directed heads of executive agencies to immediately reduce their energy use by 5 percent. This 5 percent reduction is to be achieved during the one year period from April 1, 1979 to March 31, 1980, as compared with the preceding twelve-month period. In reaching this objective, the executive agencies are directed to:

- Reduce their use of automotive fuels by 10 percent
- Set building thermostat settings at no lower than 80 degrees (subsequently 78 degrees by "Emergency Building Temperature Regulations", published at 44 FR 41205, July 16, 1979) during the summer cooling season and no higher than 65 degrees for working hours and 55 degrees for non-working hours during the heating season
- Take such other steps as may be necessary to achieve the level of 5 percent savings.

The Presidential Memorandum further required that, within thirty days, each Federal agency submit to the Department of Energy its specific plan for achieving the directed energy use reductions. The goals set forth in the April 10, 1979 Presidential Memorandum are to be taken into consideration by agencies in establishing goals under these proposed guidelines (see § 436.73).

Today's proposal was developed in consultation with the Office of Management and Budget (OMB), the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA) and other Federal agencies who provided advice, participated in interagency meetings, and reviewed drafts of the guidelines. The Director of OMB has concurred in today's proposal.

While the Executive Order speaks of "Executive agencies," the effect of Section 501 of the NECPA is to make many of the Executive Order provisions regarding the Federal 10-year energy management plan applicable to Executive agencies as defined by 5 U.S.C. 105 and the United States Postal Service. These agencies are referred to in this notice as "Federal agencies." In addition, because of the significant role of DOD in energy management, the Departments of the Army, Navy and Air Force and the collective DOD agencies will be reported separately. However, data from the military departments will be published under the heading of the Department of Defense, and all formal contact from DOE will be with DOD.

These proposed guidelines for general operations are promulgated as a Subpart of Part 436 of Title 10, Code of Federal Regulations, which is entitled "Federal Energy Management and Planning Programs." Part 436 comprises the DOE rules for conservation and solar programs for Federal energy use under Section 381 of the EPCA, the Executive Order, and Title V of the NECPA. The Subparts which are expected to be included are:

- Methodology and Procedures for Life Cycle Cost Analyses;
- Procedures for Preliminary Energy Audits;
- Guidelines for Buildings Plans;
- Solar in Federal Buildings Demonstration Program Rules;
- Federal Photovaltaic Utilization Program Rules; and
- Guidelines for General Operations Plans.

B. Energy Use by Major Federal Agencies

The Federal Government is the single largest user of energy in the Nation, accounting for 2.2 percent of the energy consumed in the United States in FY 1978. This energy is used by almost 6 million people, in more than 490,000 buildings and in operating more than 500,000 aircraft and motor vehicles of all types. For one year, this amount of energy would be sufficient to:

- Heat 11 million homes, or
- Operate 18 million automobiles—as many automobiles as are currently registered in the states of New York and California combined.

Federal energy use, by fuel type, is shown in Table 1. The major portion (59 percent) of the energy used is in the form of petroleum-based fuels, most of which is used in general operations as opposed to buildings. More than 170 million barrels of petroleum products were used in FY 1978. If fuels consumed by Government-owned and contractor-operated (GOCO) plants are defined as general operations, the total increases. Therefore, management's attention to the area of general operations is crucial to the President's overall energy management plan called for in the Executive Order.

Table 1.—*Fuel Use by Type in the Federal Government in Fiscal Year 1978*

Fuel type	Amount		
	Trillion Btu	Million barrels of oil equivalent (MBOE)	Percent of total
Jet fuel	601.2	103.6	35.5
Diesel and petroleum distillates	142.4	24.5	8.4
Fuel oil	177.1	30.5	10.4
Gasoline	59.9	10.3	3.5
Navy special	7.9	1.4	.5
Aviation gasoline	6.2	1.0	.4

Table 1.—*Fuel Use by Type in the Federal Government in Fiscal Year 1978*—Continued

Fuel type	Amount		
	Trillion Btu	Million barrels of oil equivalent (MBOE)	Percent of total
Electricity	476.6	82.2	28.1
Natural gas	144.8	25.0	8.5
Coal	67.0	11.5	4.0
Other [1]	11.7	2.0	.7
Total all fuels	1694.8	292.0	

[1] Other fuels include propane and purchased steam.

Source: DOE.

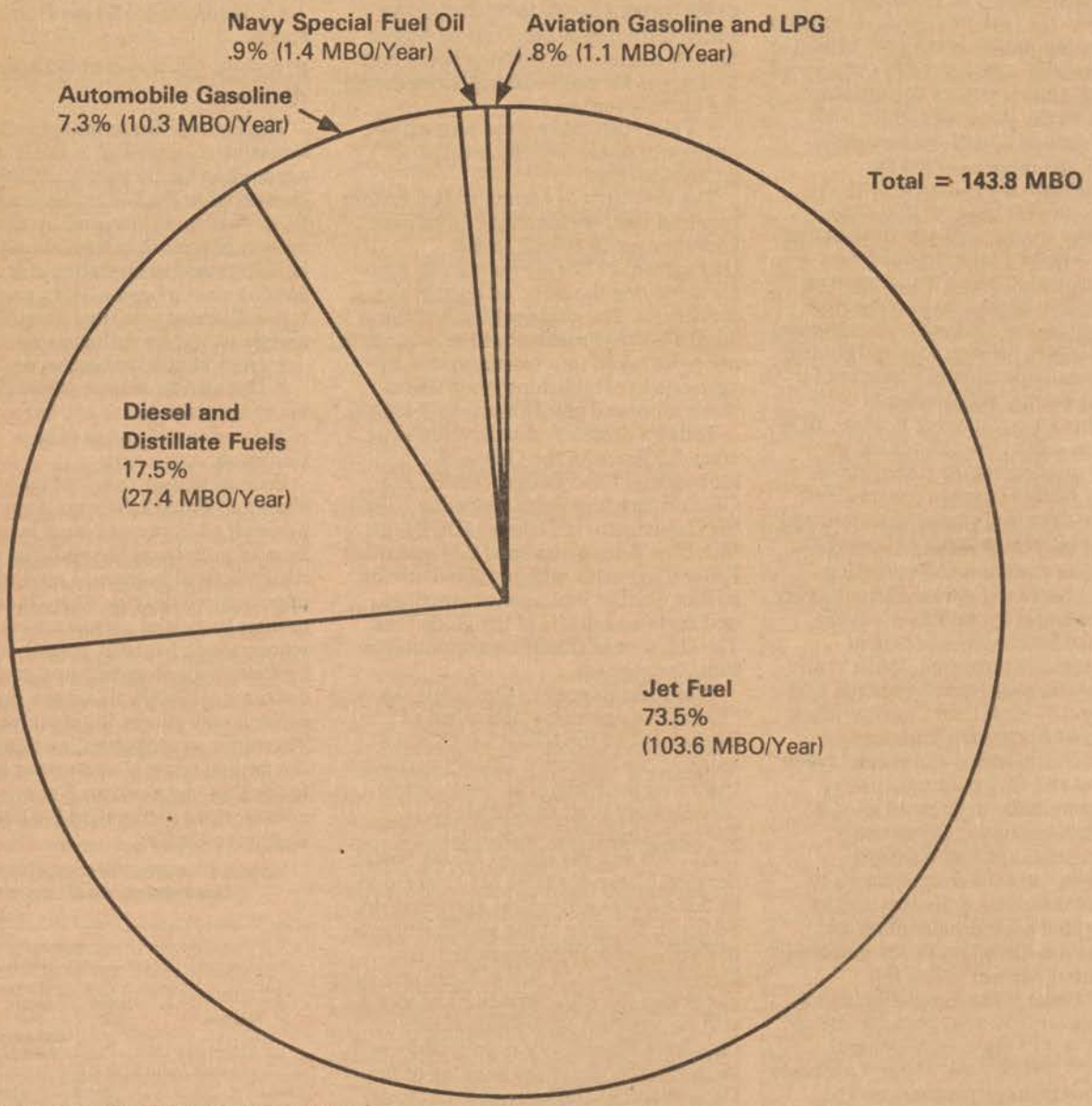
The ten largest energy-using Federal agencies account for over 98 percent of the energy consumed by the executive branch of the Federal Government. These agencies, in order of energy use, with approximate percentage are:

Agency:	*Percent*
● Department of Defense (DOD)	80.4
● Department of Energy (DOE)	5.0
● U.S. Postal Service (USPS)	3.2
● General Services Administration	2.6
● Veterans Administration (VA)	2.3
● Department of Transportation (DOT)	1.6
● National Aeronautics and Space Administration (NASA)	1.3
● Department of the Interior (DOI)	.7
● Department of Agriculture (DOA)	.6
● Department of Health, Education, and Welfare (HEW)	.5
Total	98.2

The remaining 56 agencies accounted for less than 1.8 percent of the total energy used by the Federal Government.

The Federal Government is engaged daily in a wide range of general operations designed to meet national needs in such areas as defense, law enforcement, power production, research and development, and communications. In performing these vital missions, Federal agencies use energy to power more than:

- 22,000 aircraft of all types
- 650,000 automobiles, trucks and other vehicles
- 23,000 facilities on 741 million acres



*Based on data reported for vehicles and equipment

Source: Department of Energy

FIGURE 1: MAJOR FUEL TYPES USED IN GENERAL OPERATIONS - FY 1978

Most fuels used in general operations are petroleum derivatives. Nearly 427,000 barrels per day of such products were used in FY 1978, three-fourths of which were used in aircraft operations. Figure 1 shows the use of fuel by type for general operations in FY 1978.

C. Federal Energy Management Program Administration

Section 656 of the DOE Organization Act requires the Secretaries of Defense, Commerce, Housing and Urban Development, Transportation, Agriculture and Interior; the Postmaster General of the United States Postal Service; and the Administrator of General Services, each to designate one Assistant Secretary or Assistant Administrator as the principal energy conservation officer of the respective Department or Administration. Each principal conservation officer is responsible for planning and implementing respective agency energy conservation programs and for coordinating energy matters with the Department of Energy. The designated appointees, along with the Under Secretary of DOE and senior representatives of NASA and the VA, comprise a committee known as the "656 Committee", chaired by the Under Secretary of DOE. This committee meets periodically and provides general oversight for interdepartmental FEMP matters. The proposed guidelines involve this committee under certain circumstances in the process of reviewing agency plans.

Within DOE, the Under Secretary has assigned the FEMP responsibilities to the Federal Programs Office, under the Assistant Secretary for Conservation and Solar Energy. The FEMP responsibilities include policy development, overall program coordination, promotion, monitoring and reporting.

Proposed § 436.72(b)(2)(iii) requires each Federal agency to designate the name and title of a principal energy conservation officer, such as an Assistant Secretary or Assistant Administrator, to be responsible for supervising, preparing, updating, and executing the general operations plan. Additionally, each agency must designate a middle-level staff member as a point of contact to interface with the DOE Federal Programs Office at the staff level.

II. General Operations 10-Year Plan

A. General Operations Energy Management Program Elements

In the process of determining requirements for Federal agency 10-year energy management plans, it was necessary for DOE to analyze and identify the elements which must be present to assure a workable energy management program for agency general operations. It is this program in each agency that bridges the gap between energy conservation plans and annual budgets. This analysis is contained in Appendix D, "Energy Conservation Program Elements".

Guidelines for a well-defined energy management program are necessary to ensure that consistent planning methodology and performance measurements are used throughout the Federal Government. This uniformity will facilitate annual performance reviews by the President and OMB. Further, consistent life cycle costing parameters will insure a proper allocation of resources by OMB during the budget review cycle. Each agency's energy management program, along with all other programs subject to the Federal five-year planning system, will address program resources required for the first five years of the 10-year planning period.

Proposed § 436.72(a) requires each Federal agency to prepare and submit a 10-year plan for managing energy conservation in its general operations. These plans are intended to provide the cornerstone of an agency's energy management programs.

B. Plan Format

Proposed § 436.72(b) sets forth the format and establishes the minimum requirements for individual Federal agency 10-year plans. The format calls for an executive summary and a text with appropriate appendices.

The executive summary is intended to enhance review by top management. The larger agencies should find this helpful, especially in later years, as plans become more complete and the requirement for revisions to plans pursuant to § 436.77 may be met by information contained in an executive summary. The text of the plan is designed to facilitate the preparation of the annual report to the President, mid-level management review, and the preparation of recommendations for plans and program and budget decisions by program managers. Appendices are to be included to provide for more lengthy discussion and documentation of innovative technologies or methods developed or used by an agency to promote energy conservation and energy efficiency, that may be disseminated to other Federal agencies or to the private sector. Such technologies include major studies and experimental programs in procurement, carpooling, vanpooling, cogeneration, urban waste, renewable resources, and others. DOE will work to facilitate the appropriate dissemination of such information.

C. Plan Content

Proposed § 436.72 outlines the *minimum* requirements for plan content. More detailed plan content was considered, but rejected because of the wide variance in the size and complexity of operations undertaken by Federal agencies. Agencies may elaborate upon the proposed content to meet their individual needs.

Section 436.72(b)(1)(i) calls for a brief description of the agency mission and the functional categories to facilitate managerial planning of a total program.

Section 436.72(b)(1) (ii), (iii) and (iv) are summaries of material to be contained in the text of the plan which will assist management in its review of the plan.

Section 436.72(b)(1)(v) will facilitate the presentation of significant problems which may impede the agency from meeting its energy management goals.

Section 436.72(b)(2)(i) requires each agency to relate energy conservation goals to primary mission goals, e.g., the Department of Defense's energy conservation goals with respect to unit readiness goals. The same section also calls for energy conservation goals to be projected through 1990. This provides a baseline for projecting and evaluating agency performance and the effectiveness of the energy conservation measures that have been implemented. Such information can be useful to other Federal, state and local agencies as well as to the public sector. Energy conservation measures which did not meet expectations are as important to document as those which met or exceeded expectations. Some "good" energy saving ideas that appear to be cost-effective may have detrimental legal, social, or environmental impacts. Others, such as the 55 mph speed limit, may not only save energy, but may also have safety or other benefits.

Section 436.72(b)(2)(ii) calls for a planned investment program for supporting energy use and efficiency goals. DOE recognized that many of the minimum cost measures for reducing consumption and increasing efficiencies have already been taken by Federal agencies and the additional resources and time are needed for meeting significantly higher goals. However, it is also recognized that any increases in Government spending for energy must be carefully evaluated against other National priorities, e.g., inflation. Therefore, all energy investments must be well-planned, justified and cost-

effective. DOE has worked with OMB and the National Bureau of Standards and developed a life cycle costing methodology to help agencies further justify planned energy investments and develop credible annual budget programs.

The requirements of § 436.72(b)(2)(iii), (iv) and (v) should promote top management commitment to energy conservation, line management accountability, evaluation of technical expertise utilization, monitoring to validate employee conservation performance, and other key program elements contained in Appendix D. A middle-level staff member who deals directly with the DOE Federal Programs Office is to assist in developing recommendations to policy decision makers and be responsible for carrying out policy decisions in an efficient manner.

Section 436.72(b)(2)(vi) allows elaboration on issues contained in the executive summary pursuant to § 436.72(b)(1)(v) or the addition of problems or successes which are important but do not necessarily merit attention of the Secretary of DOE, Director of OMB, or the President.

III. Program Goal Setting

DOE considered three alternative methods for insuring that the requirements of the Executive Order were met:

- Have DOE prepare prescriptive rules and standards for energy use and efficiencies for each agency.
- Have DOE establish annual targets (energy budgets) for each agency.
- Allow each agency to participate in establishing its own goals and objectives.

After examining the implications of prescriptive rules and the many planning factors which would dictate energy budgets in general operations, DOE decided that it is more appropriate for each agency to establish its own goals and baselines. The guidelines require an explanation of the agency rationale or justification for its goals and baselines. This explanation will be general at best, considering the vagaries of public policy, international events, congressional interests, and public opinion. However, it is anticipated that annual updates of the plan will provide a firm basis for obtaining necessary funds. Energy use goals are to be established for each fuel type utilized in each functional category within the agency, using FY 1975 as the base year. This information, coupled with agency energy contingency plans called for in § 436.75 will assist the executive branch in reallocating fuels should the need arise. Further, most agencies already have active energy conservation programs for general operations, and in all likelihood will establish realistic goals. Should an agency encounter difficulty in establishing workable and realistic goals, or should its performance against a goal fall short of anticipated milestones or objectives, DOE can assist that agency in revising its initial plan or the annual plan update.

Energy efficiency goals, as well as energy use goals, are to be established. The tracking of energy efficiencies will assist in determining agency performance by normalizing changes in mission, e.g., energy consumption could be increasing, but services or production may be increasing at a greater rate. Conversely, an agency's missions and operations may be decreasing, but its energy use may not be falling at the same rate. Energy efficiency goals are to be selected to fit the following functional categories or others established prior to the publication of final rules:

- General Transportation: To include vehicles used for over-the-road driving as opposed to vehicles designed for off-road conditions; aircraft and marine vessels.
- Industrial/Production: Operation of buildings and plants which normally use large amounts of capital equipment, e.g., GOCO plants to produce goods (hardware).
- Services: The system or method of providing the use of something such as electric power, fuel, or the procurement of energy efficient automobiles and equipment.
- Training and Operational Readiness: Those functions which are necessary to establish or maintain an agency's capability to perform its primary mission. Included are activities to provide essential personnel strengths, skills, equipment/supply inventory, and maintain equipment condition.
- Other: A category established to accommodate those activities which utilize energy but do not fit into one of the other categories.

If functions defined do not satisfy unique agency missions, DOE will give consideration to expanding or redefining these categories; however, once functional categories are finally established, each agency must report its energy efficiency goals and performance within the framework of established categories. This area was the most difficult for DOE to define and agency comments and suggestions are invited.

IV. Energy Conservation Measures and Standards

Federal agencies must consider as part of their plan implementing all measures identified in Appendix C pursuant to § 436.74(a). DOE considered many measures which could be adopted by all Federal agencies for reducing energy consumption; however, after a more detailed assessment, it was determined that many of the measures were unique to only a few agencies, lacking in technical sufficiency, not cost-effective, or might cause severe degradation in mission or program performances. The measures specified in Appendix C were selected as proven methods for conserving energy or obtaining energy efficiencies with a minimum expenditure of funds. Further, most of them can be implemented with little delay and are oriented toward the people who are end users of energy or are maintaining energy-intensive capital equipment. Implementation of these measures will bring prompt reductions in energy use with minimum degradation in the effectiveness of other agency programs.

It is likely that, after evaluating the implementation of energy conservation measures listed in Appendix C, DOE will determine that it is necessary to make a measure listed in Appendix C a standard of operation under § 436.74(c). This will be done if it is determined that either the implementation of a measure is for some reason not being successfully accomplished by all agencies that could benefit from the measure, or that although implemented, because of a wide range of implementation procedures, the effectiveness of the measure is not sufficiently uniform across all of the agencies.

A standard under § 436.74(c) would differ from a measure under § 436.74(a) in that the description of its applicability and procedural elements would be more detailed. In addition, once applicability to a particular agency is established, rather than reporting to the Secretary any variance or decision not to adopt a particular measure, § 436.78 would require that a request for a waiver be filed. Waivers will only be granted if it is determined that the energy consevation measure being used by the agency in place of the standard is equal to or exceeds the energy savings potential of that standard.

Section 436.74(c) is established and Appendix A is reserved for the purpose discussed above. Standards, when issued, shall be incorporated into energy conservation plans.

DOE plans to increase its existing program of information transfer within the public sector and the private sector; therefore, many of the measures or standards which will be added in the future may come from other Federal, state and local agencies or the private sector. The DOD has already started an active program for information transfer between installation commanders and adjacent local governments. DOE is currently receiving feedback from programs initiated with state and local governments and with private industry. Again, this information will be evaluated for its applicability to Federal general operations, and those which are cost-effective will be incorporated into the guidelines either as measures or standards, as appropriate.

These guidelines, as stated in § 436.72(b)(2)(ii), require that all agency general operations plans contain a section which will describe all measures that are being taken or planned. Further, the cost and budgets for these measures must be stated in each agency plan.

Comments are invited with respect to any particular problems that might result from immediately applying measures proposed in Appendix C. Suggestions for elaboration or addition of measures or standards which are proven energy-savers in general operations are encouraged.

V. Contingency Plan

Proposed § 436.75 contains the guidelines for energy emergency planning by Federal agencies. All agencies are required to establish contingency plans for assuaging the impact of a sudden disruption in oil supplies, natural gas or electricity. Each agency will prepare plans for a mild, moderate, and severe reduction in oil-based products, natural gas and electricity.

For DOD, planning for reduction of oil-based products should take into account the provisions of Part 211.26 of Title 10, Code of Federal Regulations, which is entitled Department of Defense Allocations. It states that allocations of crude oil and any allocated product to the DOD (except for housekeeping requirements) shall be supplied at an allocation level of 100 percent.

The intent of the proposed rule is to promote contingency planning as a continuing process and to assuage that impact of a reduction of Federal services or production due to an actual sudden reduction of U.S. oil supplies, natural gas or electricity. DOE does not intend to review each agency's detailed contingency plan, but a summary and a schedule for plan development is to be provided pursuant to § 436.72(b)(2) (iv) and (vii).

VI. Reporting Requirements

Under current legislation and executive orders, the Department of Energy is required to prepare several reports on the management and the use of energy in the Federal Government. These reports are:

- The President's Annual Report to Congress required under Section 381 of the Energy Policy and Conservation Act (EPCA).
- An annual report to the President concerning Federal Government progress toward achieving the energy conservation goals established under Executive Order 12003.
- A comprehensive annual report to the President and Congress reporting on all activities and progress toward achieving the objectives of Title V, Part 3, of the National Energy Conservation Policy Act (NECPA).

In addition, DOE is responsible for insuring that the Federal Energy Management and Planning Program is implemented effectively and efficiently. This entails many special reports and answering inquiries received from numerous Federal agencies and instrumentalities including OMB, the President's office and Congress. In order that this responsibility be carried out, it is necessary that certain information be readily available within DOE. The proposed reporting requirements were established in § 436.76 after considering the need for this requirement and the DOE objectives of requesting minimum information from the Federal agencies and minimizing the costs of modifying an existing reporting systems. Quarterly performance reports will be required from any agency whose annual energy consumption exceeds one hundred billion Btu's. These reports will show progress against the baselines established by each agency for energy reductions by fuel type and functional category. DOE has developed a format for agencies to report quarterly progress. Reporting on energy efficiencies will be accomplished annually pursuant to § 436.76(a). It is recognized that establishing a baseline and a reporting system will take time, and this fact was considered in requiring each agency to develop an implementation schedule pursuant to § 436.72(b)(2)(v).

In addition to the annual reporting requirements outlined in § 436.76, those twenty-five agencies currently reporting to DOE using FEA Form U-502-Q-1, should continue to report their current integral energy use on a quarterly basis.

VII. Plan and Waiver Submission, Review, and Approval

Under these proposed guidelines, Federal agencies are required to submit plans within six months after rules publication, with annual plan updates to be submitted thereafter. Waivers must be submitted 60 days prior to the due date for submissions.

Under proposed § 436.77, DOE will review plans and revisions for conformance with the guidelines. DOE Federal Programs Office will offer assistance to those agencies whose plans are considered deficient. Major problem areas may be submitted for review by the 656 Committee. Status and results of plan reviews and requests for waivers will be published in the annual report to the President.

VIII. National Environmental Policy Act Review

After reviewing the proposed guidelines pursuant to DOE's responsibilities under the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, DOE has determined that the proposed administrative action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement (EIS) or environmental assessment is necessary to support this action. DOE will determine the nature and extent of additional environmental review required by NEPA for individual agency plans for conserving energy in their general operations at the time these plans are submitted to DOE for its review and approval.

IX. Regulatory Analysis and Period for Public Comment

In accordance with the provisions of Executive Order 12044, 43 FR 12661, implementing DOE directives, and OMB Circular A-116, it is hereby determined that neither a regulatory analysis nor an urban and community impact analysis is necessary or appropriate in connection with this rulemaking. Today's proposed guidelines are deemed to be "significant" because of the widespread impact on Federal agencies of the Executive Branch. The proposed rules are not considered to be "major", however, because they will not have the kind or degree of effect which, under Executive Order 12044, necessitates a regulatory analysis.

In consideration of the rapid depletion of the Nation's nonrenewable energy resources and the need to further intensify conservation efforts at the Federal level, it is clearly contrary to the

public interest to delay final issuance of this rulemaking any longer than is absolutely required. Accordingly, it is further determined that a 30-day period rather than a 60-day period shall be provided for public review and comment on this proposed rulemaking.

X. Comment and Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to today's proposed guidelines. Comments should be submitted by March 3, 1980, to the address indicated in the beginning of this preamble. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "FEMP GENERAL OPERATIONS GUIDELINES—Proposed rule (Docket No. CAS–RM–80–117)". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–142, Forrestal Building, 1000 Independence Ave., S.W., between 8:00 a.m. and 4:00 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established in 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Request Procedures

The time and place of this public hearing are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble, must be received before February 15, 1980 and may be hand-delivered to such address, between the hours of 9:00 a.m. and 4:30 p.m.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted during the day.

DOE will notify each person selected to appear at the hearing before February 19, 1980. Each person selected to be heard should bring 15 copies of his or her statement to the hearing location.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at this 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 or evidentiary-type hearing. Questions may be asked by those conducting the hearing, and there will be no cross-examination. At the conclusion of all initial oral statements, each person who has made an oral statements will be given the opportunity to make a rebuttal statement. The rebuttal statement will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be asked.

Any further procedural rules needed for the proper conduct of the hearing will be announced 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 DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA–152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C., 20461, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subpart F and Appendices A, B, C, and D of Part 436 as set forth below.

Issued in Washington, D.C. January 25, 1980.

Worth Bateman,

Acting Under Secretary.

1. Part 436 of Chapter II, Title 10, Code of Federal Regulations, is amended by adding a new Subpart F and Appendices A, B, C, and D to read as follows:

Subpart F—Guidelines for General Operations Plans

Sec.

436.70 Purpose and scope.
436.71 Definitions.
436.72 General operations plan format and content.
436.73 Program goal setting.
436.74 Energy conservation measures and standards.
436.75 Contingency plan.
436.76 Reporting requirements.
436.77 Review of plan.
436.78 Waivers.
Appendix A to Subpart F of Part 436—Energy conservation Standards for General Operations [Reserved]
Appendix B to Subpart F of Part 436—Goal Setting Methodology
Appendix C to Subpart F of Part 436—General Operations Energy Conservation Measures
Appendix D to Subpart F of Part 436—Energy Conservation Program Elements
Appendix E to Subpart F of Part 436—Annual Report Format [Reserved]

Authority: Energy Policy and Conservation Act, as amended (42 U.S.C 6361); Executive Order 11912, as amended by Executive Order 12003, (42 FR 37523, July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, (42 U.S.C. 7254); Executive Order 12185, (44 FR 75093, December 17, 1979).

Subpart F—Guidelines for General Operations Plans

§ 436.70 Purpose and scope.

(a) *Purpose.* The purpose of this Subpart is to provide guidelines for use by Federal agencies in their development of overall 10-year energy management plans to develop goals, to reduce the rate of energy consumption, to promote the efficient use of energy, to provide a methodology for reporting their progress in meeting the goals of those plans, and to promote agency contingency planning to assuage the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. The plan is intended to provide the cornerstone for a program to conserve energy in the general operations of an agency. A description of the elements necessary for a successful energy conservation program appears in Appendix D.

(b) *Scope.* This Subpart applies to all general operations of Federal agencies and is applicable to the management of all energy used by Federal agencies that is not included under the regulations in Subpart C. Energy use and energy-saving actions for Federal buildings excluded from the buildings plans under Subpart C, are to be included in the general operations plans under this Subpart.

§ 436.71 Definitions.

As used in this Subpart—

"Aviation gasoline (AVGAS)" means all special grades of gasoline for use in aviation reciprocating engines.

"Baseline" means a historic level of energy consumption based on known consumption during some base year, e.g., FY 1975, and from which comparisons may be made.

"Btu" means British thermal unit; the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Cogeneration" means the utilization of surplus energy, e.g. steam, heat or hot water produced as a by-product of the manufacture of some other form of energy, such as electricity. Thus, diesel generators are converted to cogeneration sets when they are equipped with boilers that make steam and hot water (usable as energy) from the heat of the exhaust and the water that cools the generator.

"Contingency Plan" means a set of instructions designed to provide guidance in the event of a possible, unforeseen, or unlikely occurrence.

"Diesel and petroleum distillate fuels" means the lighter fuel oils distilled-off during the refining process. Included are heating oils, fuels, and fuel oil. The major uses of distillate fuel oils include heating, fuel for on- and off-highway diesel engines, marine diesel engines and railroad diesel fuel.

"DOE" means the Department of Energy.

"Energy Efficiency Goal" means the ratio of energy used to production achieved.

"Energy use avoidance" means the amount of energy resource, e.g., gasoline not used because of initiatives related to conservation. It is the difference in Btu's between the baseline without a plan and actual consumption.

"Facility" means any structure or group of closely located structures, comprising a manufacturing plant, laboratory, office or service center, plus equipment.

"Federal agency" means any Executive agency under 5 U.S.C. 105 and the United States Postal Service, each entity specified in 5 U.S.C. 5721(1) (B), (H) and, except that for purposes of this Subpart, the Department of Defense shall be separated into four reporting organizations: the Departments of the Army, Navy and Air Force and the collective DOD agencies, with each responsible for complying with the requirements of this Subpart.

"Fiscal Year or FY" means, for a given year, October 1 of the prior year through September 30 of the given year.

"Fuel type" means electricity, fuel oil, natural gas, liquefied petroleum gas, coal, purchased steam, automotive gasoline, diesel and petroleum distillate fuels, aviation gasoline, jet fuel, Navy special, and other identified fuels.

"General operations" means world-wide Federal agency operations, other than building operations, and includes services; production activities; operation of aircraft, ships, and land vehicles; and operation of Government-owned, contractor-operated plants.

"Goal" means a specific statement of the intended purpose and performance requirements of a scheduled, time-phased result established to fulfill an objective within a prescribed time period and reflects expected energy use, assuming planned conservation programs are approved.

"Guidelines" means a set of instructions designed to prescribe, direct and regulate a course of action.

"Industrial or Production" means the operation of buildings and plants which normally use large amounts of capital equipment, e.g., GOCO plants, to produce goods (hardware).

"Jet fuel" means fuels for use, generally in aircraft turbine engines.

"Life cycle cost" means the total cost of acquiring, operating and maintaining a measure over its economic life, including its fuel costs, determined on the basis of a systematic evaluation and comparison of alternative investments in programs outside of FEMP.

"Liquefied petroleum gas" means propane, propylene-butanes, butylene, propane-butane mixtures, and isobutane that are produced at a refinery, a natural gas processing plant, or a field facility.

"Maintenance" means activities undertaken to assure that equipment and energy-using systems operate effectively and efficiently.

"Measures" means actions, plans, procedures, devices or other means for effecting energy efficient changes in general operations which can be applied by Federal agencies.

"Measure of performance" means a scale against which the fulfillment of a requirement can be measured.

"Navy special" means a heavy fuel oil that is similar to ASTM grade No. 6 oil or Bunker C oil. It is used to power U.S. Navy ships.

"Non-renewable energy source" means those energy resources such as fuel oil, natural gas, liquified petroleum gas, synthetic fuels, and purchased steam or electricity.

"Training and operational readiness" means those functions which are necessary to establish or maintain an agency's capability to perform its primary mission. Included are activities to provide essential personnel strengths, skills, equipment/supply inventory and equipment condition.

"Overall plan" means the comprehensive agency plan for conserving fuel and energy in all operations, to include both the Buildings Plan developed pursuant to Subpart C and the General Operations Plan.

"Plan" means those actions which an agency envisions it must undertake to assure attainment of energy consumption and efficiency goals without an unacceptable adverse impact on primary missions.

"Program" means the organized set of activities and allocation of resources directed toward a common purpose, objective, or goal undertaken or proposed by an agency in order to carry out the responsibilities assigned to it.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other such sources of energy.

"Secretary" means the Secretary of the Department of Energy.

"Services" means the system or method of providing the use of something such as electric power, fuel, or the procurement of energy efficient automobiles or equipment.

"Specific Functional Category" means those Federal agency functions which consume energy, or which are directly linked to energy consuming activities and which fall into one of the following groups: Services, General Transportation, Industrial or Production, Training and Operational Readiness, and Other.

"Standard" means an energy conservation measure determined by DOE to be applicable to a particular agency or agencies. Once established as a standard, any variance or decision not to adopt the measure requires a waiver.

"Under Secretary" means the Under Secretary of the Department of Energy.

"Variance" means the difference between actual consumption and goal.

"656 Committee" means the Interagency Federal Energy Policy Committee, the group designated in Section 656 of the DOE Organization Act to provide general oversight for interdepartmental FEMP matters. It includes the designated Assistant Secretaries or Assistant Administrator of the Departments of Defense, Commerce, Housing and Urban Development, Transportation, Agriculture, Interior and the U.S. Postal Service and General Services Administration, along with the Under Secretary of DOE and senior representatives of the National Aeronautics and Space Administration and the Veterans Administration.

§ 436.72 General operations plan format and content.

(a) Each Federal agency shall prepare and submit to DOE, within six months from the effective date of these guidelines, a general operations 10-year plan which shall consist of two parts, an executive summary and a text. Subsequent revisions to plans shall be forwarded to DOE by January 1 annually. A plan or revision to the initial plan will be considered deficient and returned to the Federal agency concerned within 60 days if it lacks any element or requirement identified in this section.

(b) The following information shall be included in each Federal agency general operations 10-Year plan for the period 1980–1990:

(1) An Executive Summary which includes—

(i) A brief description of agency mission and, (ii) the applicable functional categories pursuant to § 436.76(a)(2);

(ii) A Goals and Objectives Section which summarizes how goals and objectives were established, and the costs and benefits of measures planned for reducing energy consumption and increasing energy efficiencies. Assumptions of environmental, safety and health effects of the goals should be included;

(iii) A chart depicting the agency organizational structure for energy management, showing energy management program organization for agency headquarters and for major subordinate elements of the agency;

(iv) A shedule for completion of requirements directed in this Subpart, including phase-out of any procedures made obsolete by these guidelines; and,

(v) Identification of any significant problem which may impede the agency from meeting its energy management goals. This statement shall be concurred with by the Assistant Secretary or Assistant Administrator responsible for total agency energy management.

(2) A Text which includes—

(i) A Goals and Objectives Section developed pursuant to § 436.73 describing agency energy conservation goals; these goals will then be related to primary mission goals;

(ii) An Investment Section describing the agency planned investment program pursuant to Appendix B to this Part, all measures selected pursuant to § 436.74, and the estimated costs and benefits of the measure planned for reducing energy consumption and increasing energy efficiencies;

(iii) An Organization Section which includes: (A) designation of the principal energy conservation officer, such as an Assistant Secretary or Assistant Administrator, who is responsible for supervising the preparation, updating and execution of the Plan, for planning and implementation of agency energy conservation programs, and for coordination with DOE with respect to energy matters; (B) designation of a middle-level staff member as a point of contact to interface with the DOE Federal Programs Office at the staff level; and (C) designation of key staff members within the agency who are responsible for technical inputs to the plan or monitoring progress toward meeting the goals of the plan;

(iv) A Requirements and Procedures Section which includes: (A) specific tasking resulting from development of the Plan; (B) guidance for the development of contingency plans pursuant to § 436.75; (C) task milestones; and (D) listing of responsible sub-agencies and individuals at both agency headquarters and subordinate units;

(v) A Reporting and Administrative Section which includes: (A) reporting and administrative procedures for headquarters and subordinate organizations; (B) report schedules pursuant to § 436.76(c); (C) schedules for feedback in order to facilitate plan updating, to include reviews of contingency plans developed pursuant to § 436.75; (D) schedules for preparing and submitting the annual report on energy management pursuant to § 436.76(a); (E) schedules of plan preparation and publication; and (F) communication, implementation, and control measures such as inspections, audits, and others;

(vi) An Issues Section addressing problems, alternative courses of action for resolution, and agency recommendations that justify any decisions not to plan for or implement measures contained in Appendix C, and identify any special projects, programs, or administrative procedures which may be beneficial to other Federal agency energy management programs; and,

(vii) A Contingency Plan Summary Section pursuant to the requirements of § 436.75(c).

(3) Appendices as needed to discuss and evaluate any innovative energy conserving technologies or methods, not included in this Part, which the agency has identified for inclusion in its plan.

(c) Each plan must be approved and signed by the principal energy conservation officer designated pursuant to paragraph (b)(2)(iii) of this section.

§ 436.73 Program goal setting.

(a) In developing and revising plans for a projected 10-year plan each agency shall establish and maintain energy conservation goals in accordance with the requirements of this section.

(b) The goal setting methodologies outlined in Appendix B to this Part may be used to establish agency goals pursuant to paragraph (a) of this Section.

(c) General operations energy consumption goals shall be established by each Federal agency with the broad purpose of achieving reductions in total energy consumption, without mission degradation, in support of the President's program to reduce United States dependence on insecure and uncertain foreign energy supply. Within that broad framework, each agency should seek first to reduce energy consumption per unit of output in each applicable functional category. Particular attention should be given to increased energy use efficiency in non-renewable fuel consumption. The second focus of attention should be on initiatives which shift energy use from oil to other fuels in more plentiful supply from domestic sources.

§ 436.74 Energy conservation measures and standards.

(a) Each agency shall consider for inclusion in its plan the measures identified in Appendix C to this Part.

(b) Consideration of each measure pursuant to paragraph (a) of this section shall be based on an evaluation of the following questions:

(1) Does this measure provide an incentive or a disincentive?

(2) What is the estimate of savings by fuel type?

(3) What are the direct and indirect impacts of this measure?

(4) Is this measure to be mandatory throughout the agency?

(5) If not mandatory, under what circumstances will it be implemented, and who will be responsible for determining specific applicability?

(6) Who will be the direct participants in the implementation of this measure?

(7) What incentives (if any) are to be provided for the participants?

(8) When will this measure be implemented?

(9) Will this measure be implemented in a single step or will it be phased in? If it will be phased in, over what period of time?

(10) Will performance of the measure be evaluated and reported?

(11) By what criterion will performance be determined?

(12) Who will prepare performance reports?

(13) What is the reporting chain?

(14) What is the reporting period?

(c) Each agency shall take all necessary steps to implement the energy conservation standards for general operations listed in Appendix A.

§ 436.75 Contingency plan.

(a) Each agency shall establish a contingency plan, a summary of which shall be included in the general operations plan, for assuaging the impact of a sudden disruption in the supply of oil-based fuels, natural gas or electricity. Priorities for temporarily reducing missions, production, services, other programmatic or functional activities shall be developed in accordance with paragraph (b) of this section. Planning for such contingencies are to address both buildings and general operations. Provisions shall be made for exercising emergency programs to ascertain that they are effective.

(b) Federal agencies shall prepare contingency plans for mild (5 percent), moderate (10 percent), and severe (20 percent) reductions in oil-based fuels, natural gas or electricity for a period of up to 12 months. Priorities for the allocation of scarce resources are established by the Emergency Petroleum Allocation Act of 1973 (EPAA). The EPAA priorities ensure the preservation of national defense and public health and safety. The Emergency Energy Conservation Act (EECA) directs consideration be given to the reduction of energy use in buildings and equipment, and the reduction of energy use by increased use of car pooling and mass transit. In general, Federal agency priorities shall go to those activities which directly support the agencies' primary missions. Secondary mission activities which must be curtailed or deferred will be reported to DOE as mission impacts. The description of mission impacts shall include estimates of the associated resources and time required to mitigate the effects of the reduction in energy. Other factors or assumptions to be used in energy emergency planning are as follows:

(1) Agencies will be given 15–30 days notice to implement any given plan.

(2) Substitution of fuels for oil-based products and electricity are authorized, if the substitution can be completed within a 4 month period and the cost is within the approval authority of the executive branch. Renewable fuel sources should be used as a first priority. Thereafter, priorities are: coal first, and natural gas second.

(3) All costs and increases in manpower or other resources associated with activities or projects to assuage mission impacts will be clearly defined in respective agency plans. One-time costs will be identified separately.

(4) Operating budgets will be increased if justified by the agencies, e.g. if the cost of substitute resources for oil-based product is greater, or the oil-based product has been purchased and additional funds are needed to acquire substitute resources.

(5) All justified projects and increases in operating budgets within the approval authority of the executive branch will be expeditiously approved and funds made available for prompt implementation.

(c) Summary plans for agency-wide contingency management shall be provided to DOE pursuant to § 436.72(b)(2)(vii). Such summaries shall include:

(1) Agency-wide impacts of energy reductions as determined in accordance with paragraph (b) of this section.

(2) Actions to be taken agency-wide to alleviate the energy shortfalls as they occur.

(3) An assessment of agency services or production that may need to be curtailed or limited after corrective actions have been taken.

(4) A summation of control and feedback mechanisms for managing an energy contingency situation.

§ 436.76 Reporting requirements.

(a) By July 1 of each year (following approval of a Federal agency's 10-year plan) each Federal agency shall submit an "Annual Report on Management and Consumption of Energy In General Operations," to the Secretary of DOE. This report shall include:

(1) A summary evaluation of progress toward the achievement of energy use and energy efficiency goals established by the agency in its plan;

(2) The energy use over the reporting period specified for each of the following functional categories: general transportation, industrial or production, services, training and operations readiness, and other. At a minimum, each agency shall report usage in at least one functional area other than that designated as "Other". Usage not logically includable in the specific functional categories shall be combined under "Other". The following information is to be reported for the usage of each fuel type for each functional category:

(i) Total energy used (in Btu);

(ii) Total energy use avoidance (in Btu);

(iii) Variance;

(iv) Status of planned investments and, if different from investment program upon which existing goals are based, the expected impact on meeting projected goal; and

(v) Summary of any other benefits realized;

(3) The energy efficiencies, as calculated in accordance with Appendix B for the appropriate functional categories identified in paragraph (a)(2) of this section. The following information is to be reported for the energy efficiency for each fuel type by functional category:

(i) Efficiency for the reporting period.

(ii) Summary of any other benefits realized.

(b) Each agency's annual report shall be developed in accordance with the format described in Appendix E.[1]

(c) Agencies whose annual total energy consumption exceeds one hundred billion Btu's, shall, in addition to the annual report required under paragraph (a) of this section, submit quarterly reports of the energy usage information specified in § 436.76(a)(2).

§ 436.77 Review of plan.

(a) Each plan or revision of a plan shall be submitted to DOE and a determination of compliance with the requirements of this Subpart will be made within 60 days of submission. If a plan is determined to be in compliance, written notification of such determination will be sent to the agency submitting the plan or revision. This notification shall include a critique of the plan. If determined to be deficient under paragraph (b) of this section and after review pursuant to paragraph (c) of this section, DOE will return the plan to the head of the agency submitting the plan, with an explanation of deficiencies. Agencies shall be afforded an opportunity to correct deficiencies and return the plan within an appropriate period of time for review by the Under Secretary of DOE.

(b) A general operations plan under these guidelines is deficient if it—

(1) Lacks adequate information or plan content required to be included by § 436.72;

(2) Lacks adequate goal setting methodology or baseline justification as stated in § 436.73;

(3) Lacks a well-justified investment program which considers all measures included in Appendix C; or

(4) Otherwise fails to comply with the requirements of this Subpart.

(c) After reviewing agency plans or revisions of plans, the Under Secretary of DOE, may submit to the 656 Committee for its recommendation, major problem areas or common deficiencies.

(d) Status of the plan review, the Under Secretary's decisions, and any

[1] Appendix E to be proposed at a future date.

656 Committee recommendations, will be published in the DOE annual report to the President, titled "Energy Management in the Federal Government".

§ 436.78 Waivers.

(a) Any Federal agency may submit a written request to the Under Secretary for a waiver from the procedures and requirements of this Subpart. The request for a waiver must identify the specific requirements and procedures of this Subpart from which a waiver is sought and provide a detailed explanation, including appropriate information or documentation, as to why a waiver should be granted.

(b) A request for a waiver under this section must be submitted at least 60 days prior to the due date for the required submission.

(c) A written response to a request for a waiver will be issued by the Under Secretary no later than 30 days from receipt of the request. Such a response will either (1) grant the request with any conditions determined to be necessary to further the purposes of this Subpart, (2) deny the request based on a determination that the reasons given in the request for a waiver do not establish a need that takes precedence over the furtherance of the purposes of this Subpart, or (3) deny the request based on the failure to submit adequate information upon which to grant a waiver.

(d) A requested waiver may be submitted to the 656 Committee for its review and recommendation. The agency official that submitted the request may attend any scheduled meeting of the 656 Committee at which the request is planned to be discussed. The determination to approve or disapprove a request for a waiver shall be made by the Under Secretary.

(e) Status of the requests for a waiver, the Under Secretary's decisions, and any 656 Committee recommendations, will be published, as appropriate, in the DOE annual report to the President, entitled "Energy Management in the Federal Government."

Appendix A to Subpart F of Part 436—Energy Conservation Standards for General Operations [Reserved]

Appendix B to Subpart F of Part 436—Goal Setting Methodology

In establishing and updating agency goals for energy conservation the following methodology should be utilized:

(a) For overall energy consumption—

(1) An analysis shall be made to determine what factors have the most significant impact upon the amount of each fuel type used by the agency in performing functions in support of its overall mission. Consideration is to be given, but not limited to, the following factors: number of people using energy; number of vehicles using gasoline; amounts of other equipment using energy; tempo of operations (one, two, or three shifts); the type of operations (degree of equipment or labor intensity); equipment fuel limitations; environmental conditions (tropical versus arctic, etc.); budget levels for fuel, operations, maintenance, and equipment acquisition; and phase-out schedule (of older equipment or plants which may be inefficient). After identifying these factors, a further analysis shall be made to identify any projected changes in the quality or quantity of these factors on a yearly basis up to 1990.

(2) Based upon the analysis in (a)(1) and an evaluation of available information on past energy usage, a baseline of energy use by fuel type should be established. Figure B–1 is an example of one such baseline.

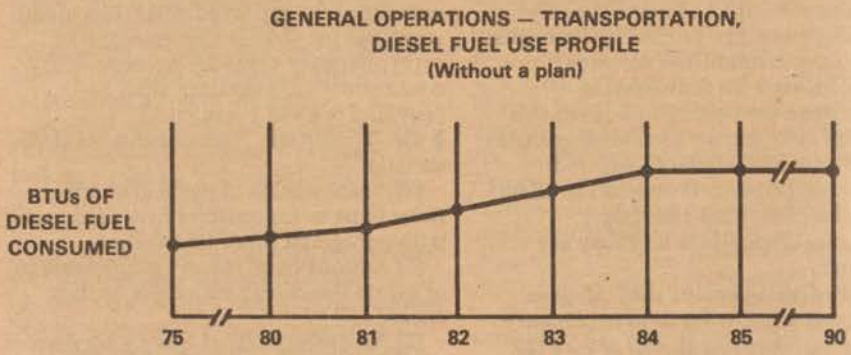


FIGURE B-1: GENERAL OPERATIONS – TRANSPORTATION, DIESEL FUEL USE PROFILE (W/O A PLAN)

This example shows an increase in energy use, for a specific fuel type, during the period 1975–1981, with a further increase from 1981 to 1984 and a leveling off and no growth from 1984–1990. A justification, based on factors as discussed above shall accompany each baseline.

(3) Thereafter, analyses should be made of the measures available for reducing the energy use profiles without adverse impact on mission accomplishment. Finding viable opportunities for reducing energy use will require consultation with specialists in the fields of operations, maintenance, engineering, design, and economics, and consideration of the measures identified in Appendix C. The DOE Federal Energy Programs Office can, upon request, provide information on where such resources can be located. Once these measures are identified, (using the life cycle costing rules of this Part) they are to be ranked and incorporated into a time-phase investment program. An estimate must then be made as to the lead time required to implement the program and realize energy reductions. Figure B–2 shows a summarized investment program, which should be accompanied by a detailed description of the measures, projects, and programs making up the total planned investments for each year.

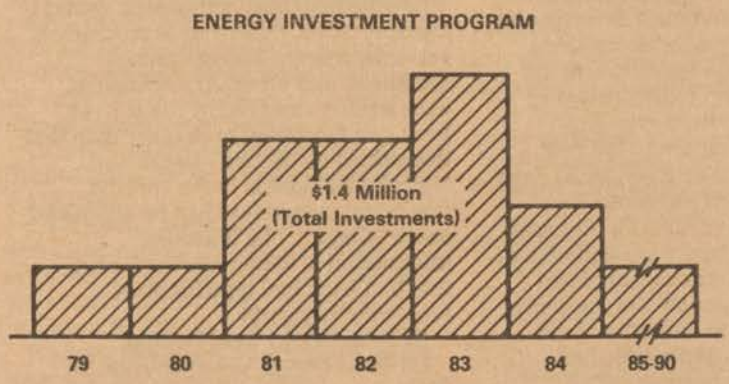


FIGURE B-2: ENERGY INVESTMENT PROGRAM

These analyses should enable the agency to project an energy use goal, with the assumption that funds for executing the planned projects will be approved. Figure B–3 shows a new energy type profile, with planned initiatives and related investments taken into consideration, and the resulting goal entitled "Energy Use With A Plan" superimposed on Figure B–1.

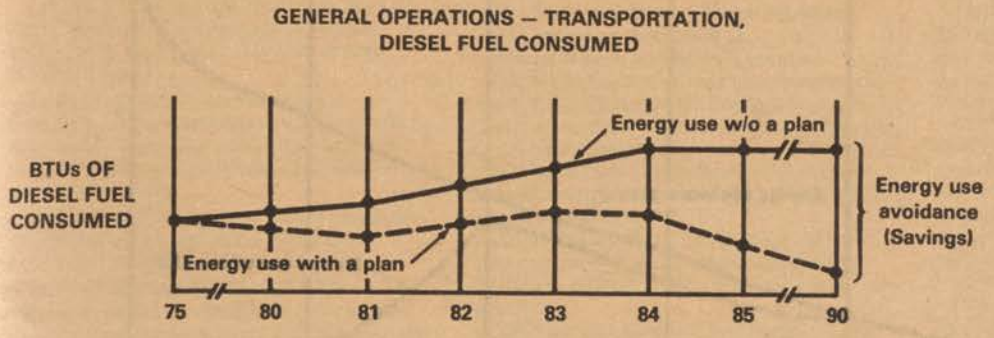


FIGURE B-3: GENERAL OPERATIONS – TRANSPORTATION, DIESEL FUEL CONSUMED

A comparison of these projections will show the energy use avoidance in Btu's resulting from the investment program as depicted in Figure B–2. Energy use or energy savings shall be calculated using the Btu conversion table in Subpart C to Part 436, except that a Federal agency may use the conversion factors of a standard engineering reference manual for energy sources which are not listed. Using the prices of fuel contained in Appendix C to Subpart A of Part 436, the dollars saved can be projected against the dollars invested by multiplying Btu's by fuel prices. Life cycle costing pursuant to Subpart A, will be used to determine priorities for submitting individual initiatives into the appropriate budget year.

(4) Planned initiatives and related investments shall be identified by a separate line item, or uniquely identified with the agency's energy management and planning program in each agency fiscal year budget request.

(b) For energy efficiencies—Energy efficiency baselines and goals shall be calculated using the same consumption factors and similar methodology to that outlined in paragraph (a). Energy consumption by fuel type shall be linked to mission through the functional categories listed in § 436.76(a)(2). This will identify a rate which will indicate energy efficiency trends. This linkage may be accomplished through the following algorithm:

Step 1: Determine functional categories from § 436.76(a)(2) which best describes the Agency overall mission.

Step 2: Determine types of fuels used to support the function by inventorying the equipment and/or activities using fuel within the functions selected in Step 1.

Step 3: Determine quantities of fuel consumed or planned for consumption over a specific period of time, i.e. yearly, quarterly, etc. Quantify in Btu's/period of time.

Step 4: Determine quantity of output of function for same period of time used in Step 3. Quantify output in a standard measure which best describes functional category.

Step 5: Determine the energy efficiency ratio by dividing quantity from Step 3 by quantity from Step 4.

This ratio of Btu's consumed to a unit measure of output will be used to develop a projection of a baseline and goals through 1990, and used in reporting variance. Examples of ratios that should be considered are:

- Production or industrial process type operations

$$\frac{\text{Btu's}}{\text{Ton of product}}$$

- Services, such as postal delivery

$$\frac{\text{Btu's}}{\text{Customers served or pounds delivered}}$$

- Services such as research and development, which do not produce hardware

$$\frac{\text{Btu's consumed annually}}{\text{Annual R\&D Budget (in constant dollars)}}$$

- General Transportation

$$\frac{\text{Passenger miles}}{\text{Gallon}}$$

$$\frac{\text{Ton miles}}{\text{gallon}}$$

- Training

$$\frac{\text{Btu's}}{\text{Persons trained or in training}}$$

Agencies shall select one or more of these ratios, or justify use of more appropriate energy efficiency ratios, to describe their overall functions. Figure B–4 illustrates the planning baseline and goal resulting from this type of an analysis.

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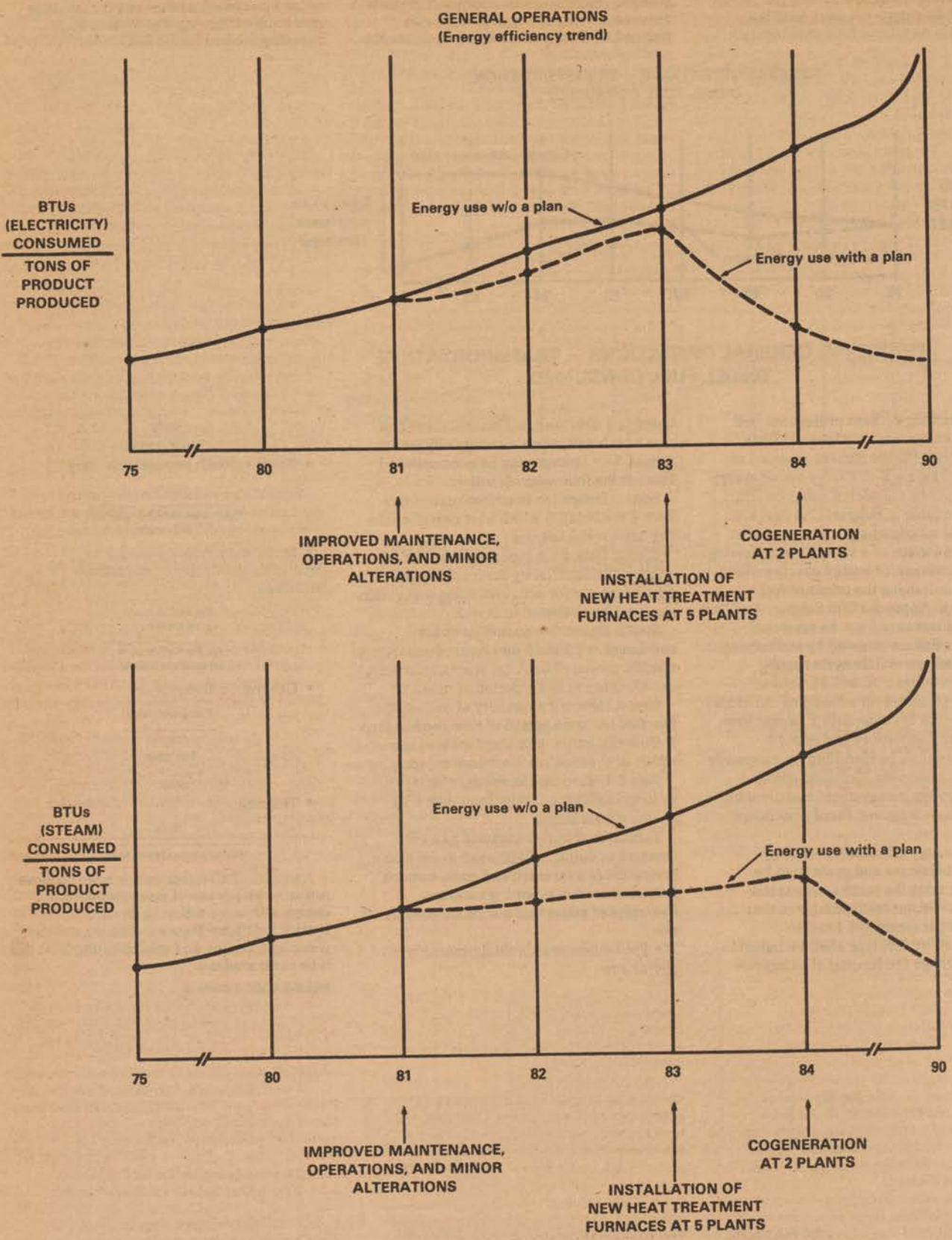


FIGURE B-4: GENERAL OPERATIONS, ELECTRICITY, STEAM CONSUMED

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Appendix C to Subpart F of Part 436—General Operations Energy Conservation Measures

(a) The following individual measures or set of measures must be considered for inclusion in each agency 10-year energy management plan.

(1) Federal Employee Ridesharing Programs—These measures would include the use of vanpooling and carpooling and would comply with existing GSA regulations governing parking.

(2) Fleet Profile Change—These measures would include energy considerations in equipment selection and assignment.

(3) Fleet Mileage Efficiency—These measures would be concerned with agency plans to implement existing orders and laws related to vehicle fuel economy.

(4) Driver Training—These measures would develop appropriate programs for training operators of U.S. Government vehicles in energy conservation.

(5) Maintenance Procedures Improvement—These measures would insure proper vehicle maintenance to optimize energy conservation.

(6) Operating Procedures Improvement—These measures should consider cooperative passenger shuttle and courier services on an interagency or other basis within each metropolitan area.

(7) Mass Transit—These measures would encourage employee use of existing services for business-related activities and commuting.

(8) Public Education to Promote Vanpooling and Carpooling—All agencies should consider measures to support the EPCA requirement to establish "responsible public education programs to promote vanpooling and carpooling arrangements" through their employee awareness programs.

(9) Elimination of Free or Subsidized Employee Parking—Free or subsidized employee parking must be eliminated on Federal installations in accordance with OMB Cir. A–118, August 13, 1979.

(10) Two-Wheeled Vehicle Programs—Measures which encourage the substitution of bicycles, mopeds, etc. for automobiles for commuting and operational purposes should be considered. These could include the establishment of weather-protected secure storage facilities and restricted routes for these vehicles on Federal property. Also, cooperative programs with local civil authorities could be established.

(11) Consolidation of Facilities and Process Activities—These measures would include such measures as physical consolidation of operations to minimize intra-operational travel and may include facility closure or conversion. Alternative work patterns, availability of transportation, energy resource availability, and technical and financial feasibility are among the considerations that should be evaluated.

(12) Procurement Programs—In addition to existing regulations, these measures could include additional incentives for contractor energy conservation.

(13) Energy Conservation Awareness Programs—These programs would be aimed toward gaining and perpetuating employeee awareness and participation in energy conservation measures on the job and in their personal activities.

(14) Communication—These measures would include substitution of communications for physical travel.

(15) Dress Codes—These measures would allow employees greater freedom in their choice of wearing apparel in view of the new thermostat regulations.

(16) Land Use—These measures would include energy considerations to be employed in new site selection.

(17) Automatic Data Processing (ADP)—These measures would address all energy aspects of ADP operation and equipment selection.

(18) Aircraft Operations—Energy-conserving measures should be developed for both military and Federal administrative and research and development aircraft operations.

(19) GOCO Facilities and Industrial Plants Operated by Federal Employees—These facilities and plants should develop energy conservation plans that include energy efficient periodic maintenance measures.

(20) Energy-Conserving Capital Plan and Equipment Modification—Energy conservation and life cycle cost parameter measures should be developed for replacement of capital plant and equipment.

(21) Process Improvements—Measures to improve energy conservation in industrial process operations should be developed. These could include consideration of equipment replacement or modifications, as well as scheduling and other operational changes.

(22) Improved Steam Maintenance and Management—Measures to improve energy efficiency of steam systems should be considered. These could include improved maintenance, installation of energy-conserving devices, and the operational use of substitutes for live steam where feasible.

(23) Improvements in Waste Heat Recovery—Measures utilizing waste hear for other purposes should be considered.

(24) Improvement in Boiler Operations—Energy-conserving retrofit measures should be considered for boiler operations.

(25) Improved Insulation—Measures addressing the addition or replacement of insulation on pipes, storage tanks, and in other appropriation areas should be considered.

(26) Scheduling by Major Electric Power Users—Measures to shift major electrical power demands to non-peak hours, to the maximum extent possible, should be considered.

(27) Alternative Fuels—Measures should be considered to alter equipment such as generators to lower quality fuels and to fill new requirements with those that use alternative fuels. The use of gasohol in stationary gasoline-powered equipment should be considered, in particular.

(28) Cogeneration—Measures to make full use of cogeneration in preference to single-power generation should be considered.

(29) General Training—All agencies should consider measures to support the EPCA requirement to establish and implement "a responsible public education program to encourage energy conservation and efficiency" through their employee awareness programs.

(30) Mobility Training and Operational Readiness—All agencies should consider measures which can reduce energy demands through the use of simulators, communications, computers for planning, etc.

(31) Energy Conservation Inspection or Instruction Teams—Agencies should consider measures which formalize and perpetuate the review of energy conservation through inspections to determine where specific improvements can be made and then followed by an instruction and training program.

(32) Intra- and Interagency Information Exchange Program—Measures providing a free exchange of energy conservation ideas and experiences between elements of an agency and between other agencies in the same geographic area should be considered.

(33) Recycled Waste—Agencies should consider measures to recycle waste materials to include glass, aluminum, concrete and brick, garbage, asphalt road materials and any material which requires a petroleum base.

(34) Coal Conversion—Measures to accomplish conversion from petroleum-based fuels to coal should be considered for appropriate equipment.

(35) Operational Lighting—Energy for lighting consumed in operational areas and GOCO plants may be reduced by: switching off by means of automatic controls; maximizing the use of daylight by floor planning; keeping window and light fixtures clean and replacing fixtures when they begin to deteriorate, rather than when they fail altogether; providing automatic dimmer controls to reduce lighting when daylight increases; and cleaning the work area during daylight, if possible, rather than at night.

(36) Lighting Fixtures—Energy efficiency of lighting can be increased. The following reveals the relative efficacies of common lamp types.

Lamp type	Lumens/watt	Improvement over tungsten
Tungsten Lamp	12	X1
Modern fluorescent lamp	85	X7
Mercury halide lamp	100	X8
High pressure sodium lamp	110	X9
Low pressure sodium lamp	180	X15

(37) Industrial Buildings Heating—Simple measures to improve the energy conservation of industrial buildings are: fixing holes in roofs, walls and windows; fitting flexible doors; fitting controls to heating systems; use of "economizer units" which circulate hot air back down from roof level to ground level; use of controlled ventilation; insulation of walls and roof; use of "optimisers" or optimum start controls to heating systems, so that the heating switch-on is dictated by actual temperature conditions rather than simply by time.

(38) Hull Cleaning and Antifouling Coating—Measures to reduce energy consumption through periodic cleaning of hulls and propellers to include the use of antifouling coatings.

(39) Such other measures as DOE may from time-to-time add to this Appendix, or as the Federal agency concerned may find to be energy-saving or efficient.

Appendix D to Subpart F of Part 436—Energy Conservation Program Elements

(a) In all successful energy conservation programs, certain key elements need to be present. The elements listed below must be incorporated into each agency energy conservation program and must be reflected in the 10-year plan prescribed in Section 436.72. Those organizations that have already developed programs should review them to determine whether the present management systems incorporate these elements.

(1) *Top Management Commitment.* Top management must have a personal and sustained commitment to the program, provide active direction and motivation, and require regular review of overall energy usage at senior staff meetings.

(2) *Line Management Accountability.* Line managers must be accountable for the energy conservation performance of their organizations and should participate in establishing realistic goals and developing strategies and budgets to meet these goals.

(3) *Formal Planning.* An overall 10-year plan for this period 1980–1990 must be developed and formalized which sets forth performance-oriented conservation goals, including the categorized reduction in rates of energy consumption that the program is expected to realize. The plan will be supplemented by guidelines enumerating specific conservation procedures that will be followed. These procedures and initiatives must be life cycle cost-effective as well as energy efficient.

(4) *Goals.* Goals must be established in a measurable manner to answer the questions of "Where are we?" "Where do we want to go?" "Are we getting there?" and *"Are our initiatives for getting there life cycle cost-effective?"*

(5) *Monitoring.* Progress must be reviewed periodically both at the agency headquarters and at local facility levels to identify program weaknesses or additional areas for conservation actions. Progress toward achievement of goals should be assessed, and explanations should be required for non-achievement or unusual variations in energy use. Monitoring should include personal inspections and staff visits, management information reporting and audits.

(6) *Using Technical Expertise.* Personnel with adequate technical background and knowledge of programmatic objectives should be used to help management set technical goals and parameters for efficient planning and implementation of energy conservation programs. These technicians should work in conjunction with the line managers who are accountable for both mission accomplishment and energy conservation.

(7) *Employee Awareness.* Employees must gain an awareness of energy conservation through formal training and employee information programs. They should be invited to participate in the process of developing an energy conservation program, and to submit definitive suggestions for conservation of energy.

(8) *Energy Emergency Planning.* Every energy management plan must provide for programs to respond to contingencies that may occur at the local, state or National level. Programs must be developed for potential energy emergency situations calling for reductions of 5 percent, 10 percent and 20 percent for up to 12 months. Emergency programs must be exercised to ascertain the effectiveness.

(9) *Budgetary and Fiscal Support.* Resources necessary for the energy conservation program must be planned and provided for, and the fiscal systems adjusted to support needed energy management investments and information reporting.

2. It is proposed to amend Part 436 by adding Appendix E to Subpart F of Part 436, Annual Report Format, at a future date. For further information on this appendix, contact: Jack A. Vitullo, (202) 376–4720, Office of Conservation and Solar Energy, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C., 20585.

[FR Doc. 80–3406 Filed 1–29–80; 2:53 pm]

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federal register

Friday
February 1, 1980

Part VI

Equal Employment Opportunity Commission

Department of Labor

Office of Federal Contract Compliance Programs

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Progams

41 CFR Part 60-20

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

AGENCY: Equal Employment Opportunity Commission and Department of Labor.

ACTION: Proposed rulemaking.

SUMMARY: This document sets forth for the first time proposed interpretations of the relationship between employment discrimination and the application of employer/contractor policies, practices and plans regarding reproductive hazards. The guidelines are intended to establish a consistent approach to enforcement of the legal responsibilities created under Title VII of the Civil Rights Act of 1964, as amended (Title VII), and Executive Order No. 11246, as amended (E.O. 11246). They are intended to provide guidance to the employer/contractor in meeting its responsibilities under Title VII and E.O. 11246 to ensure non-discrimination and to provide equal employment opportunity. These guidelines and the objectives of Title VII and E.O. 11246 are premised on the assumption that laws prohibiting discrimination in employment are consistent with those laws designed to assure a workplace free of conditions that threaten the health or safety of employees. It is recognized that the concerns of the enforcement agencies with respect to non-discrimination in employment are, however, distinct from the concerns of agencies responsible for health and safety regulation; these guidelines preserve those distinctions.

DATE: Written comments should be received by June 2, 1980.

ADDRESSES: Written comments may be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. All public comments may be reviewed from 9:30 a.m. to 4:30 p.m., Monday through Friday, at Library (Room 2303), Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Frederick D. Dorsey, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506, 202-634-7060, or James D. Henry, Associate Solicitor, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8235.

SUPPLEMENTARY INFORMATION: An overview of the proposed Interpretive Guidelines on Employment Discrimination and Reproductive Hazards.

Introduction

These guidelines bring together the collective efforts and expertise of several federal agencies. These efforts were necessitated by charges presented to the Equal Employment Opportunity Commission (EEOC) and to the Office of Federal Contract Compliance Programs (OFCCP) (the enforcement agencies) alleging employment discrimination in workplaces containing substances and conditions hazardous to reproductive health. The issues addressed by these guidelines are especially important because employment policies, practices and plans relating to reproductive hazards can have the effect of denying employment opportunities to individuals.

In the course of its deliberations, EEOC, OFCCP and the Occupational Safety and Health Administration (OSHA) have had extensive discussions internally and with other federal agencies. The proposed guidelines clearly define the basic role of OSHA as one of consultation and coordination with EEOC and OFCCP, particularly with reference to scientific data. Sections 2(d)(2), 2(d)(8), 2(a)(3), 3(b)(1), and 3(c) of the proposed guidelines refer to the consultation and coordination that will be carried out, in part, through a Letter of Agreement among OSHA, EEOC and OFCCP.

It was also during this process that EEOC and OFCCP became aware of the increasing number of employers and contractors who are initiating policies excluding all women of childbearing capacity from certain jobs because of exposure to hazardous substances or conditions. Preliminary evidence indicates that as many as 20 million jobs may involve exposure in the workplace to alleged reproductive hazards. Chemicals and physical agents which have been alleged to pose such hazards include lead, polyvinyl chloride, radiation, estrogen, anesthetic gases, and organic solvents. In response to such exclusionary practices the EEOC, on April 21, 1978, issued a policy statement indicating its concern about whether such practices conform with federal anti-discrimination laws. In a May 31, 1978, letter from the Department of Labor's Assistant Secretary for Occupational Safety and Health, Eula Bingham, to all major American corporate medical directors, OSHA expressed its concern regarding employment practices which deny opportunities to any class of workers on the basis of safety and health. These guidelines specifically address those situations involving allegations of sex discrimination.

EEOC and OFCCP have determined that policy guidance must be issued because, in the absence of detailed federal policy on this issue, there is widespread confusion among employers, contractors and the public as to what is required. Guidelines provide the most structured method for communicating policy to the public and also for ensuring public participation and input from all interested and affected parties. Consistent with the desire for extensive comments, this notice of proposed guidelines provides for a 120 day comment period.

The enforcement agencies are especially interested in soliciting comments on the following:

(1) the nature and scope of exclusions from employment opportunities based on reproductive hazards in the workplace,
(2) the scientific evidence justifying or refuting the exclusion of sex-based classes,
(3) the provisions in the guidelines which allow the temporary emergency use of policies based on research on only one sex-based class,
(4) the requirements for balanced research, and
(5) the problem of tort or other liability of the employer/contractor because of compliance with proposed guidelines.

The enforcement agencies do not, at this point, see a need for a regulatory analysis. Comments on this are requested. The enforcement agencies especially note that the proposed guidelines do not attempt to implement or enforce federal policies related to health and safety. These guidelines affirm the goal of Title VII and E.O. 11246 to assure equality of employment opportunity. The task of assuring a workplace free of conditions that threaten the health or safety of employees remains with the federal agencies specifically granted that responsibility.

EXPLANATORY NOTE

Analysis

A number of employers and contractors have policies of not hiring women of childbearing capacity for jobs in which there is exposure to alleged

reproductive hazards and have terminated or transferred women to lower paying jobs based on such policies. Employers and contractors in establishing such practices often show a lack of concern for similar effects on men. Some employers and contractors have attempted to justify these policies on the basis of potential harm occurring to an unborn child through exposure of the mother. These policies have been developed without apparent regard to whether exposure of the father can result in harm to the unborn child.

Title VII and E.O. 11246 require that the enforcement agencies closely scrutinize the exclusion of a sex-based class from consideration for employment.

Section 2(a) reaffirms the unlawfulness of exclusions which by their terms are based on membership in a sex-based class. Such exclusions are *per se* violations of Title VII and E.O. 11246, because the exclusions are expressed or implemented in terms of membership in a class protected by Title VII and E.O. 11246.

Section 2(b) states that an employer/contractor's conduct which disparately treats members of a sex-based class raises a presumption of a violation of Title VII and E.O. 11246. Where such a presumption is raised, an employer/contractor will be given an opportunity to articulate a legitimate, non-discriminatory reason for the policy or practice. The enforcement agencies will then determine whether that reason is in fact a pretext for employment discrimination.

Section 2(c) is based upon the traditional concept of adverse impact. A facially neutral employment policy which has an adverse impact upon a specific sex-based class is an unlawful employment practice unless it is truly neutral (i.e., it is not a pretext for discrimination) [1] and is justified by the employer/contractor. [2]

It is important to note that, as a result of the Pregnancy Discrimination Act, Pub. L. 95–555, 92 Stat. 2067 (1978), women affected by pregnancy, childbirth or related medical conditions constitute a protected class under Title VII. All such women must be treated the same for employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, where an employer/contractor seeks to determine the hazardous reproductive effects on pregnant women from their exposure to a certain substance or condition, the employer/contractor must also determine the effects on males and non-pregnant females from their exposure.

If the hazard is known to affect the fetus through either parent, an exclusionary policy directed only at women would be unlawful under Title VII and E.O. 11246. Further, if the hazard is shown by reputable scientific evidence to affect the fetus through women only, the class excluded must be limited to pregnant women and not all women of childbearing capacity. Whether expressed in a policy or not, the employer/contractor's conduct will be examined by the enforcement agencies to determine whether the conduct is non-discriminatory or justified, as set out in section 2(d). In making this determination, at least the following factors, if relevant, will be considered. Whether:

1. the reproductive hazards policy has been applied consistently to both sexes;
2. the employer/contractor has complied with applicable occupational safety and health laws;
3. the employer/contractor has investigated the effects of all scientifically recognized reproductive hazards in its workplaces on those adversely affected and those not similarly affected;
4. the hazard is significantly greater for or confined to the excluded group;
5. the employer/contractor has a pattern of discrimination against the excluded group;
6. the policy is narrowly tailored to the type of hazard posed;
7. with respect to any reproductive hazard for which the employer/contractor takes action resulting in exclusion of a sex-based class, there is no evidence that the hazard poses a significant health risk to body systems other than the reproductive system for the class not excluded;
8. the employer/contractor has investigated alternatives to exclusion (in this regard it should be noted that the employer/contractor who is not in compliance with occupational safety and health laws relating to the hazardous substance or condition will be presumed to not have considered all available alternatives. This includes section 5(a)(1) of the Occupational Safety and Health Act, which requires an employer covered by the Act to furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm.);
9. the employer/contractor is monitoring scientific developments.

When justifying an exclusion or rebutting a presumption, the employer/contractor must demonstrate that the results of the research on which it relies are applicable to the circumstances in the employer/contractor's workplace where the substance is used or where the condition exists. This includes factors such as the level, duration and manner of exposure, and the characteristics (including sex) of the subjects studied—all compared to the substances use in the particular employer's workplace and the composition of the workforce in that workplace.

The enforcement agencies recognize that there may be situations where an employer/contractor has reputable scientific evidence of reproductive harm to one sex-based class, only, with no evidence regarding the other sex-based class. These guidelines would not prohibit a temporary policy to protect the endangered sex-based class, provided that the policy (a) is narrowly tailored to those individuals to whom harm is indicated, (b) reflects consideration and adoption of suitable alternatives, and (c) provides for timely completion of research on the other sex-based class.

This last requirement, in section 3(b), requires the completion of the scientific investigation necessary to determine the effects, if any, of a hazardous substance or condition on the class not adversely affected by the employer/contractor policy. For example, if scientific evidence has been compiled only as to the hazardous reproductive effects of a substance on women, appropriate studies must be done to determine if any reproductive hazards exist for men. It is the position of the enforcement agencies that the time provided in section 3(b) is sufficient for employer/contractors to investigate, initiate and/or complete any scientific research regarding the harmful effects of a particular reproductive hazard on both sexes. In consultation with OSHA, the National Institute of Occupational Safety and Health, and the National Institute of Environmental Health Safety, it was determined that such research could be performed in one year or less. Should preliminary research be needed to develop the appropriate protocol (method of exposure, dosage, etc.) a few additional months might be necessary. The time period was specified as the shortest feasible time not to exceed two years, to allow for unforeseeable delays in the research process.

Sections 3(b)(1) and 3(b)(3) are intended to acknowledge the problems a small employer/contractor might have in completing the requisite research individually. Most of the complaints and information received by the enforcement agencies to date involve large employers and contractors. The enforcement agencies are interested in receiving

[1] *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792 (1973).

[2] *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971); *Robinson* v. *Lorillard Co.*, 44 F. 2d 791 (4th Cir. 1971); *Albemarle Paper Company* v. *Moody*, 422 U.S. 407 (1975); *Uniform Guidelines on Employee Selection Procedures* (1978), 41 CFR Part 60–3.

comments on the extent of the use of hazardous substances and conditions in small employer/contractor's workplaces, on the number of exclusionary policies, practices and plans due to such use, and on the burdens that would be placed on small employers and contractors from compliance with the research requirements of sections 3(b) and 3(b)(2). Should a small employer/contractor be unable to initiate and complete the required research individually, the guidelines provide two alternatives. The small employer/contractor can, and in fact is encouraged, to conduct the research with one or more other employer/contractors and/or through a trade association. The requirements of sections 3(b)(2) and 3(c) will apply to such research. The small employer/contractor can also request, within the time period required by section 3(b), OSHA to perform the necessary research. OSHA is prepared to act promptly to such requests for assistance. In determining whether an employer has the necessary capacity, the enforcement agencies will consider such factors as whether the employer has the facilities and personnel to perform the scientific research required; whether the employer in the course of its business performs scientific research similar to that required; whether the employer has the resources, either by itself or jointly with other employers, to sponsor or contract out for the necessary research; and whether the employer routinely sponsors or contracts out for scientific research. An approved request will satisfy the requirements of section 3(b)(2).

Section 3 will be applicable only during the interim period while an employer/contractor is completing the necessary research (either individually or jointly), or OSHA is completing the study for it. After that time all employment policies related to reproductive hazards must be in full compliance with the proposed guidelines.

Two final points should be noted. First, the *bona fide* occupational qualification exception does not apply to the situations covered by these guidelines. That narrow exception pertains only to situations where all or substantially all of a protected class is unable to perform the duties of the job in question. Such cannot be the case in the reproductive hazards setting, where exclusions are based on the premise of danger to the employee or fetus and not on the ability to perform.

Finally, these guidelines do not preclude an employer/contractor from temporarily removing employees of both sexes from work areas with reproductive hazards if such employees declare to the employer/contractor an intention to procreate and voluntarily request such exclusion. In advising employees of the potential risks posed by particular hazards, the employer/contractor shall do so on a non-discriminatory basis.

Signed at Washington, D.C. this 29th day of January, 1980.

Ray Marshall,

Secretary of Labor.

Eleanor Holmes Norton,

Chair For the Commission.

Donald Elisburg,

Assistant Secretary, Employment Standards Administration.

Weldon J. Rougeau,

Director, OFCCP.

It is contemplated that these guidelines, if adopted, would become a portion of 41 CFR Part 60–20 and would be added to 29 CFR Chapter XIV as a new Part 1603.

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

Sec. 1. *General requirements.* An employer/contractor whose work environment involves employee exposure to reproductive hazards shall not discriminate on the basis of sex (including pregnancy or childbearing capacity[1]) in hiring, work assignment, or other conditions of employment.

Sec. 2. *Nondiscriminatory policy to protect employees from reproductive hazards.* (a) An employer/contractor may not have policies, practices or plans designed to protect employees from reproductive hazards which, by their terms, exclude applicants or employees from employment opportunities on the basis of sex. Such policies are discriminatory on their face.

(b) An employer/contractor may not disparately treat individual applicants or employees on the basis of sex. Such treatment constitutes an apparent violation of Title VII and Executive Order No. 11246, as amended (Executive Order No. 11246).

(c) An employer/contractor may establish a neutral policy, practice or plan to protect all its employees from reproductive hazards. However, a facially neutral policy, practice or plan which has an adverse impact on one sex must be justified in accordance with relevant legal principles.[2]

(d) In determining whether an employer/contractor's conduct adversely affecting employment opportunities is non-discriminatory or justified pursuant to these guidelines, the following factors are among those which may be considered by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs (hereinafter "the enforcement agencies"), where relevant:

(1) Whether the reproductive hazards policy, practice or plan is applied consistently to employees and applicants of both sexes, and to all scientifically recognized reproductive hazards in each of the employer/contractor's workplaces;

(2) Whether information obtained from the Occupational Safety and Health Administration (OSHA) or other federal, state or local authorities shows that the employer/contractor has complied with applicable occupational safety and health laws;

(3) Whether the employer/contractor has investigated the effects of all scientifically recognized reproductive hazards present in its workplaces not only on those classes adversely affected by the policy, practice or plan, but also on those relevant classes not adversely affected, and has relied upon reputable scientific evidence in developing its policy, practice or plan;

(4) Whether, with respect to any hazard for which the employer/contractor has an exclusionary policy, practice or plan, the hazard is significantly greater for or confined to the class excluded than for the class not excluded;

(5) Whether, prior to the institution of the reproductive hazard policy, practice or plan, the employer/contractor had provided the adversely affected sex with equal employment opportunities;

(6) Whether the class adversely affected by the policy, practice or plan in question is narrowly tailored to the type of hazard posed (overbroad policies, such as those which exclude all fertile women because of concern for possible harm to a fetus, are impermissible);

(7) Whether, with respect to any reproductive hazard for which the employer/contractor takes action resulting in exclusion of a sex-based class, there is no evidence that the hazard poses a significant health risk to body systems other than the

[1] Pregnancy Discrimination Act, Pub L. 95–555, 92 Stat. 2076 (1978). See Sec. 701 k of Title VII.

[2] *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971); see *Uniform Guidelines on Employee Selection Procedures* (1978), 41 CFR Part 60–3.

reproductive system for the class not excluded;

(8) Whether the employer/contractor has investigated alternatives to the exclusion of adversely affected employees from the workplace and, where feasible, adopted alternative means of protecting the affected employees from the reproductive hazard in question:

(i) Examples of such alternatives may include reduction of the level of exposure to the hazard so that the reproductive risk is minimized or eliminated; use of respirators or other protective devices to minimize exposure; product substitution; and transfer of affected employees, without loss of pay or other employment benefits and with continued accrual of seniority, to an area of the workplace in which exposure to the reproductive hazard is minimal or nonexistent;

(ii) In selecting from a group of alternatives, the employer/contractor shall select the alternative which has the least adverse impact upon the affected employees. In addition, whenever an employer/contractor is shown an alternative to the exclusionary policy, practice, or plan, or an alternative means of operating the business which has a lesser discriminatory impact, the employer/contractor must investigate the appropriateness of using the alternative,[3]

(iii) The employer/contractor, as part of the data supplied to the enforcement agencies, shall include an evaluation of the alternatives investigated;

(iv) There is a presumption that an employer/contractor who is not in compliance with occupational safety and health laws relating to the hazardous substance or condition has not considered all available alternatives to exclusion. This includes all applicable OSHA standards, and all obligations imposed by section 5(a)(1) of the Occupational Safety and Health Act;

(v) The enforcement agencies will consult with OSHA and others, as appropriate, on the relevant alternatives available in each particular situation;

(9) Whether the employer/contractor is monitoring scientific research and technological developments which may affect the appropriateness of its policy.

(e) Any evidence required by the enforcement agencies to show that an employer/contractor's conduct is non-discriminatory or justified pursuant to section 2(d) above must be made available by the employer/contractor to the enforcement agencies. The scientific evidence must be applicable to the conditions in the employer/contractor's workplace where the particular substance is used.

Sec. 3. *Temporary emergency exclusion.* There may be situations where an employer/contractor has obtained reputable scientific evidence that a workplace hazard causes or is likely to cause significant harm to the reproductive health of employees of one sex only, or of pregnant employees, and also where there is insufficient reputable scientific evidence concerning the reproductive harm to the other employees.

(a) In such situations, the employer/contractor may, as a temporary emergency measure, exclude susceptible applicants and remove endangered employees form the hazardous area provided the employer/contractor meets the following conditions:

(1) It has thoroughly searched the existing scientific evidence and the search reveals no reputable scientific evidence sufficient to suggest that the reproductive hazard might have a significant harmful effect on the reproductive health of employees not excluded by the policy in question.

(2) It has narrowly tailored its policy to limit any exclusionary impact solely to the group of employees or applicants endangered (see paragraph 2(d)(b).

(3) It has investigated and adopted suitable alternatives (see paragraph 2(d)(8).

(b) In addition to the conditions required under section 3(a)(1)–(3), within 6 months of the effective date of these guidelines, the employer/contractor with an exclusionary policy, practice or plan in existence on or before the date of these guidelines must initiate research designed to produce evidence of the effect of the reproductive hazard as used in the employer/contractor's workplace on the class not excluded. The employer/contractor developing such a policy, practice or plan after the effective date of these guidelines must initiate such research within six months of the implementation of the policy, practice or plan.

(1) If the employer/contractor does not have the capacity to conduct or sponsor the necessary research, OSHA will be available to facilitate this research on request. Such a request for assistance should be addressed to: Director, Office of Legislative and Inter-Agency Programs, Occupational Safety and Health Administration, Department of Labor, 200 Constitution Ave., NW., N-3623, Washington, D.C., 20210. An approved request for assistance is sufficient to bring such an employer/contractor into compliance with the requirement in Section 3(b) above as long as the employer/contractor subsequently cooperates with OSHA.

(2) All such research must be conducted according to accepted scientific methods. The study must be conducted in a manner designed to produce the data on the class not excluded in the shortest feasible time, not to exceed two years, from the date the study was begun. An extension will be granted only where the employer/contractor can show that, despite good faith efforts, circumstances beyond its control prevented completion within the required time.

(3) Employers/contractors are encouraged to sponsor or participate in these studies jointly. Such studies may satisfy the requirements of sections 3(b) and 3(b)(2).

(c) The scientific evidence necessary to meet the requirements of sections 3(a) and 3(b) must be applicable to the conditions in the employer/contractor's workplace where the particular substance is used.

(d) The enforcement agencies will not take enforcement action pursuant to these guidelines against an employer/contractor who meets the requirements set forth in section 3(a) and who meets the time frames established by section 3(b). However, this will not preclude the enforcement agencies from pursuing their administrative processes during the investigation of a charge or conduct of a compliance review, and does not relieve an employer/contractor from complying with any appropriate administrative and investigative processes.

(e) In any enforcement action brought by the enforcement agencies subsequent to the date by which an employer/contractor must have scientific research completed as required in section 3(b), no compensation for backpay will be sought for the interim period as long as the employer/contractor has complied with the conditions in Sections 3(a) and 3(b).

Sec. 4. *Requirements for employer/contractors with reputable scientific evidence.* Where the search conducted pursuant to section 3(a)(1) above reveals reputable scientific evidence or where the employer/contractor has reputable scientific evidence that the reproductive hazard does not have a significant harmful effect on the reproductive health of employees not excluded, and the employer/contractor meets the conditions set forth in sections 3(a)(2) and 3(a)(3) above, then the employer/contractor need not satisfy the conditions of section 3(b).

Authority: E.O. 11246, as amended and Title VII of the Civil Rights Act of 1964, as amended.

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[3] *Albermarle Paper Company* v. *Moody*, 422 U.S. 407 (1975); *Robinson* v. *Lorillard Corporation*, 444 F. 2d 791 (4th Cir. 1971).

federal register

Friday
February 1, 1980

Part VII

Department of Labor

Office of Pension and Welfare Benefit Programs

Definition of Employee Benefit Plan Assets; Trust Establishment; Hearing and Reopening of Comment Period

Part VII

Department of Labor

Office of Pension and Welfare Benefit Programs

Revision of Employee Benefit Plan Annual Return/Statement Forms and Reporting of Common Plans

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR 2550

Proposed Regulations Relating to Definition of Plan Assets and to Establishment of Trust; Hearing and Reopening of Comment Period

AGENCY: Department of Labor.

ACTION: Notice of hearing and reopening of comment period.

SUMMARY: The Department of Labor (the Department) will hold a hearing on proposed regulations which would clarify what will be reqarded as assets of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act) and provide certain exemptions from the requirement that assets of an employee benefit plan be held in trust. In addition, the Department is reopening the comment period on the proposed regulations. The proposed regulations were set forth in the notice of proposed rulemaking published in the **Federal Register** at 44 FR 50363 (August 28, 1979).

DATES: The hearing will be held on Wednesday, February 27, 1980, beginning at 10 a.m. The comment period is reopened through February 27, 1980.

ADDRESSES: The hearing will be held in the Department Auditorium, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

Written comments on the proposed regulations (preferably three copies) should be submitted to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Plan Asset Regulations.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523–8620.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Department issued a notice of proposed rulemaking concerning what constitutes "assets" of an employee benefit plan and proposing certain exemptions from the requirement that plan assets be held in trust. On October 26, 1979, the Department published in the **Federal Register** a notice that the period for public comment on the proposed regulations was extended until November 29, 1979. The period for public comment was subsequently reopened until January 7, 1980, by notice published in the **Federal Register** on December 18, 1979. In each notice the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations. The Department has received a number of comments concerning the proposals.

Several commentators, including members of the venture capital industry, have requested a public hearing on the proposed regulations. In light of these requests, and of the importance of, and widespread interest in, the proposed regulations, the Department has decided to hold a hearing on the proposals on Wednesday, February 27, 1980, beginning at 10 a.m. in the Department Auditorium, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. Although the Department is interested in testimony on all aspects of the proposed regulations, it particularly invites testimony on the present and anticipated effects of the proposal on investment by employee benefit plans in companies which are sources of capital for small businesses, including venture capital companies. The Department is especially interested in receiving data relating to the effect of the proposed regulations on the ability of small businesses to raise capital.

Any interested person who wishes to be assured of an opportunity to present oral comments at the hearing should submit by 3:30 p.m., February 19, 1980: (1) a written request to be heard, and (2) an outline (preverably five copies) of the topics to be discussed, indicating the time to be allocated to each topic. The request to be heard and accompanying outline should be submitted to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Plan Asset Regulations Hearing. Individuals who do not file written comments regarding the proposed regulations may nonetheless request to make oral comments at the hearing.

The Department will prepare an agenda indicating the order of presentation of oral comments. In the absence of special circumstances, each commentator will be allotted ten minutes in which to complete his presentation. Information about the agenda may be obtained on or after February 25, 1980 by telephoning Robert R. Bitticks, Esq., Washington, D.C. (202) 523–8620. Individuals not listed in the agenda will be allowed to make oral comments at the hearing to the extent time permits. Those individuals who make oral comments at the hearing should be prepared to answer questions regarding their comments. The public hearing will be transcribed.

In view of its decision to hold a public hearing, the Department believes it would be appropriate to reopen the period for submitting public comments on the proposed regulations. Accordingly, the comment period is reopened until February 27, 1980.

All interested persons are invited to submit written data, views or arguments concerning the regulations proposed at 44 FR 50363 (August 28, 1979) on or before that date. These data, views or arguments (preferably three copies) should be submitted to the address set forth above.

A number of commentators assert that the proposed regulations, if adopted as proposed, would be disruptive to certain transactions entered into under interpretations of the Act which they assert differ from those contained in the proposed regulations. Some commentators have also suggested that the proposed regulations are having a disruptive effect on existing or contemplated transactions, and they have expressed concern as to the effective date of the regulations. The Department wishes to point out that the regulations have been proposed for comment and at this time the proposal has no regulatory effect. No final decision has been made with respect to the content of any final regulations which might be adopted. The Department also notes that the notice of proposed rulemaking of August 28, 1979 (44 FR 50363), states that the proposed regulations would be effective 30 days after they are adopted, and takes this opportunity to indicate that it expects that the proposed regulations, if adopted as proposed, would be prospectively effective.

Signed at Washington, D.C. this 31st day of January 1980.

Ian D. Lanoff,

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

[FR Doc. 80–3640 Filed 1–31–80; 10:12 am]

BILLING CODE 4510–29–M

federal register

Friday
February 1, 1980

Part VIII

Department of Labor

Office of Labor Management Standards Enforcement

Labor Organizations Which May File Simplified Annual Financial Reports

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DEPARTMENT OF LABOR

Office of Labor Management Standards Enforcement

29 CFR Part 403

Labor Organizations Which May File Simplified Annual Financial Reports

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Department hereby amends 29 CFR 403.4(a) to permit labor organizations with less than $100,000 total annual receipts to file the annual financial report required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA) on the simplified Form LM–2. The current regulations provide that labor organizations with less than $30,000 total annual receipts may file Form LM–3. These forms are also filed by Federal sector unions subject to the Civil Service Reform Act.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin (202) 523–7373.

SUPPLEMENTARY INFORMATION: Section 403.4(a) of the Department regulations (29 CFR 403.4(a)) provides that unions with less than $30,000 total annual receipts may file the annual financial report required by the LMRDA on the simplified Form LM–3. Other unions must file the more detailed Form LM–2.

Section 403.4(a) implements sections 201(b) and 208 of the LMRDA (29 U.S.C. 431(b) and 438). Section 201(b) provides that every union must annually report information "in such detail as may be necessary accurately to disclose its financial condition and operations." Section 208 provides that the Secretary shall prescribe the form of the reports required to be filed, including simplified reporting forms for smaller unions.

The Department has received a petition to amend 29 CFR 403.4(a) to allow unions with less than $100,000 total annual receipts to file the simplified Form LM–3. The purpose of the amendment is to reduce the reporting burden of smaller unions and to take into account the effects of inflation since the ceiling of $30,000 was set in 1962.

In order to ascertain the views of the public, a notice was published in the **Federal Register** on Feburary 9, 1979 (44 FR 8293) soliciting comments on the petition. The 60-day comment period which was provided in that notice was extended 30 days by a notice published in the **Federal Register** on April 10, 1979 (44 FR 21301).

The Department received comments from 37 individuals concerning the petition. The 31 comments in favor of the petition generally made the following points: Completing the LM–2 is much more difficult than completing the LM–3; inflation since 1962 has resulted in many smaller unions being required to file the detailed reporting form intended for larger unions; and the failure to raise the ceiling since 1962 has resulted in the imposition of an undue burden on smaller unions.

The other 6 comments either opposed the petition or expressed qualified support. These commenters generally emphasized the right of union members and the public to have complete information on the financial condition and activities of unions and argued that $30,000 is a significant amount of money.

The LMRDA requires not only that all unions file annual financial reports, but also that smaller unions be allowed to submit less detailed reports. Thus, in reviewing the petition and the comments submitted by the public, the Department must consider the burden to smaller unions in filing an unnecessarily detailed report as well as the rights of union members and the public to detailed information.

In considering these matters in the context of the inflation that has taken place since 1962, the Department has concluded that an increase in the ceiling to $100,000 for filing the simplified Form LM–3 is warranted and that such an increase would not have any substantial impact on the information available to union members and the public. First, all the specific information required by the LMRDA must be reported on the Form LM–3 as well as the Form LM–2. This information includes all disbursements to all officers and employees, disbursements to each officer by name, disbursements over $10,000 to each employee by name, all loans made by the union, all loans to any business enterprise by name, and all loans over $250 to each officer, employee and member by name. These items must be reported in approximately the same detail, although not the same format, on both the Form LM–3 and the Form LM–2.

Second, the greater detail of the other items and schedules of the Form LM–2 were designed for larger unions with more complicated financial transactions and more varied categories of assets, liabilities, receipts and disbursements. Analysis of recent data by the Department indicates that most unions with total annual receipts between $30,000 and $100,000 either do not use these specialized items and schedules or report only minimal amounts.

Finally, all funds and transactions must be reported on both the Form LM–2 and the Form LM–3, and every union must keep complete and accurate records concerning its financial condition and operations. The Department reviews the reports for completeness and accuracy, and investigates allegations of false reporting. It should also be noted that every member also has the right, enforceable by private civil action, to examine for just cause all the books and records of his or her union to verify the reports.

Under the authority of sections 201 and 208 of the Labor-Management Reporting and Disclosure Act of 1959, as Amended, and Secretary's Order No. 11–72 (May 12, 1972), I hereby amend 29 CFR 403.4(a) by deleting "$30,000" and inserting "$100,000." The amended regulation reads as follows:

§ 403.4 Simplified annual reports for smaller labor organizations.

(a) If a labor organization, not in trusteeship, has gross annual receipts totaling less than $100,000 for its fiscal year, it may elect, subject to revocation of the privileges as provided in section 208 of the Act, to file the annual financial report called for in section 201(b) of the Act and § 403.3 of this part on United States Department of Labor Form LM–3 (Revised) entitled "Labor Organization Annual Report (Revised)," in accordance with the instructions accompanying such form and constituting a part thereof.

* * * * *

Signed at Washington, D.C., this 29th day of January 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc. 80–3639 Filed 1–31–80; 9:57 am]

BILLING CODE 4510–23–M

federal register

Friday
February 1, 1980

Part IX

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Distilled Spirits Plants; Transition to the All-In-Bond System

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Parts 19 and 250

[T.D. ATF-64]

Distilled Spirits Plants—Transition to the All-In-Bond System

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF).

ACTION: Temporary rule (Treasury decision).

SUMMARY This temporary rule relates to the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96–39). This temporary rule provides additional deferral of the distilled spirits tax on wine contained in distilled spirits products.

EFFECTIVE DATE: The effective date of the temporary regulation is February 1, 1980.

FOR FURTHER INFORMATION CONTACT: Edward J. Sheehan, E. J. Ference, John V. Jarowski, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of 26 U.S.C. Chapter 51 and the regulations issued thereunder, proprietors of distilled spirits plants may withdraw distilled spirits from ATF bond on detrmination, but before payments of tax. Deferral of payment is contingent on the filing of a withdrawal or unit bond of sufficient penal sum.

Regulations in 27 CFR Part 19 provide that, during calendar year 1980, deferred payment of distilled spirits tax for each semimonthly return period shall be due by the last day of the next succeeding return period plus five days. For return periods in calendar year 1980, the first three tax payments are due February 5, February 20, and March 5, 1980.

Similar deferral periods apply to taxpayers in Puerto Rico, for spirits brought into the United States on determination, but before payment of tax. Eligibility for deferred payment is contingent on filing of a tax deferral bond. Payment due dates for the first three tax returns applicable to 1980 are the same as for domestic distilled spirits plants.

Prior to the passage of the Distilled Spirits Tax Revison Act of 1979, taxpaid wine contained in distilled spirits products was not subject to the distilled spirits tax. The taxpaid wine used by distilled spirits plants was subject to a wine tax, usually $0.17 per wine gallon.

Presently, the law provides that the entire alcoholic content of distilled spirits products is taxable at the distilled spirits rate of $10.50 per proof gallon. In the case of wine contained in distilled spirits products, this can increase the tax attributable to the wine by as much as $9.89 per proof gallon.

Pending legislation (S. 1913, 96th Cong., 1st Sess. (1979)) would amend 26 U.S.C. Chapter 51 to restore the former tax status of wine contained in distilled spirits products. While the Treasury Department and the Bureau oppose enactment of such a measure, it appears very likely that S. 1913 or similar legislation will be enacted in the immediate future. In view of the apparent passage of legislation to restore the taxation of wine contained in distilled spirits products to its pre-1980 status, this temporary rule effectively postpones transition to the new method of taxation for an interim period extending from January 1, 1980, through, and not to exceed, March 20, 1980.

New provisions

This temporary rule revises the regulations in 27 CFR Parts 19 and 250 by providing for the additional deferral of part of the distilled spirits tax attributable to the wine component of distilled spirits products. The amount to be additionally deferred shall be reduced by the wine tax which would be applicable to the wine before addition to such products. The additional deferral applies to the first three semimonthly return periods applicable to spirits withdrawn during calendar year 1980. The tax so deferred shall be due and payable with the fourth semimonthly tax return, March 20, 1980. No further extension will be provided.

Drafting Information

The authors of this document are personnel of the Bureau of Alcohol, Tobacco and Firearms, assigned to the Regulations and Procedures Division (Regulatory Enforcement). Other personnel of the Bureau and the Treasury Department participated in the preparation of this document, both in matters of substance and style.

Waiver of Procedure Requirements of Treasury Directives

Expeditious adoption of the provisions contained in this document is necessary in order to provide immediate rules for use by the distilled spirits industry in the filing of returns and payment of tax under the Distilled Spirits Tax Revision Act of 1979. Since the deferral is limited to the first three return periods of 1980, it is necessary that the regulations be immediately implemented to achieve the desired transitional relief. The provisions of paragraph 10 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Effective Date

Issuance of this Treasury decision with notice and public procedure under 5 U.S.C. 553(b)(3) or subject to the effective date limitations in 5 U.S.C. 553(d)(3) is impracticable because any delay in implementing these temporary rules, which will provide relief to distilled spirits plants proprietors, would nullify such relief.

Accordingly, this Treasury decision becomes effective on February 1, 1980.

Authority and Issuance

These regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended).

Accordingly, Title 27 Code of Federal Regulations is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Pararaph 1. The table of sections for Part 19 is amended to reflect the addition of § 19.927 immediately following § 19.926. As amended, the table of sections for Part 19 reads as follows:

* * * * *

Sec.

19.927 Additional deferral of tax for products containing wine.

Paragraph 2. Section 19.927 is added immediately after § 19.926. As added, § 19.927 reads as follows:

§ 19.927 Additional deferral of tax for products containing wine.

(a) *General.* Each proprietor qualified to defer payment of distilled spirits tax as provided in § 19.243 or § 19.244 may additional defer a portion of such tax as provided in this section. That portion of the distilled spirits tax attributable to the wine compondent of a distilled spirits product containing wine may be additionally deferred, if the product was tax determined during the first, second or their semimonthly return period in 1980. The amount of tax to be additionally deferred shall be determined by: (1) establishing the amount of tax which is due under 26 U.S.C. 5001 on the wine contained in a distilled spirits product; and, (2) deducting from the figure the amount of tax under 26 U.S.C. 5041 which was applicable to the wine before its addition to a distilled spirits product.

(b) *Reporting of additional deferral.* The tax so deferred will be reported on the semimonthly tax return (Form 5110.35) covering the period during which the distilled spirits products containing wine were tax determined. The additional deferral shall be noted on Form 5110.35 by citing this section of regulations and showing that amount of tax on Schedule C as an adjustment decreasing the amount due.

(c) *Remittance of additionally deferred tax.* All distilled spirits tax deferred in accordance with this section shall be paid with the fourth semimonthly tax return (Form 5110.35), which shall be filed by March 20, 1980, as provied in § 19.522. The additionally deferred tax shall be noted in Form 5110.35 by citing this section and showing the amount of tax on Schedule A as an adjustment increasing the tax due.

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 3. The table of sections for Part 250 is amended to reflect the addition of § 250.112a. As amended, the table of sections for Part 250 reads as follows:

* * * * *

Sec.

§ 250.112a Additional deferral of tax for products containing wine.

* * * * *

Paragraph 4. Section 250.112a is added immediately after § 250.112. As added, § 250.112a reads as follows:

§ 250.112a Additional deferral of tax for products containing wine.

(a) *General.* Notwithstanding the requirement of § 250.112(f)(1), each person qualified to defer payment of distilled spirits tax as provided in § 250.66 may additionally defer a portion of such tax a provided in this section. That portion of the distilled spirits tax attributable to the wine component of a distilled spirits product containing wine may be additionally deferred, if the product was tax determined during the first, second, or third semimonthly return period in 1980. The amount of tax to be additionally deferred shall be determined by: (1) establishing the amount of tax which is due under 26 U.S.C. 5001 on the wine contained in the distilled spirits product; and, (2) deducting from that figure the amount of tax under 26 U.S.C. 5041 which was applicable to the wine before its addition to the distilled spirits product.

(b) *Reporting of additional deferral.* The tax so deferred will be reported on the semimonthly tax return (Form 5110.52), covering the period during which the distilled spirits products containing wine were tax determined. The additional deferral shall be noted on Form, 5110.52 by modifying the form to cite this section of regulations and show the amount of tax in available space in the schedule of taxable transactions, as an adjustment decreasing the total tax due.

(c) *Remittance of additionally deferred tax.* All distilled spirits tax deferred in accordance with this section shall be paid with the fourth semimonthly tax return (Form 5110.52) which shall be filed by March 20, 1980, as provided in § 250.112. The additionally deferred tax shall be noted on Form 5110.52 by modifying the form to cite this section of regulations and show the amount of tax in available space in the schedule of taxable transactions, as an adjustment increasing the total tax due.

Signed: January 31, 1980.

G. R. Dickerson,

Director.

Approved: January 31, 1980.

Richard J. Davis,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 80-3660 Filed 1-31-80; 12:16 pm]

BILLING CODE 4810-22-M

federal register

Friday
February 1, 1980

Part X

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

Customs Service

Delay In Publication of Semiannual Agendas

Federal Register

Part X

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Customs Service

Delay in Publication of Regulations

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

U.S. Customs Service

27 CFR Ch. I

19 CFR Ch. I

Delay in Publication of Semiannual Agendas

AGENCY: Department of the Treasury

ACTION: Delay in publication of semiannual agendas for the U.S. Customs Service and the Bureau of Alcohol, Tobacco and Firearms.

SUMMARY: Publication of the semiannual regulatory agendas for U.S. Customs Service and the Bureau of Alcohol, Tobacco and Firearms was scheduled for February 1, 1980. Delays have caused publication to be postponed to February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen M. Creskoff, Department of the Treasury, Room 1134, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202) 566–2743.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80–3662 Filed 1–31–80; 12:35 pm]

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Reader Aids

Federal Register
Vol. 45, No. 23
Friday, February 1, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
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523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1980

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
February 1	February 19	March 3	March 17	April 1	May 1
February 4	February 19	March 5	March 20	April 4	May 5
February 5	February 20	March 6	March 21	April 7	May 5
February 6	February 21	March 7	March 24	April 7	May 6
February 7	February 22	March 10	March 24	April 7	May 7
February 8	February 25	March 10	March 24	April 8	May 8
February 11	February 26	March 12	March 27	April 11	May 12
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February 15	March 3	March 17	March 31	April 15	May 15
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February 21	March 7	March 24	April 7	April 21	May 21
February 22	March 10	March 24	April 7	April 22	May 22
February 25	March 11	March 26	April 10	April 25	May 27
February 26	March 12	March 27	April 11	April 28	May 27
February 27	March 13	March 28	April 14	April 28	May 27
February 28	March 14	March 31	April 14	April 28	May 28
February 29	March 17	March 31	April 14	April 29	May 29

CFR CHECKLIST; 1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
2 [Reserved]	
3	6.00
4	5.50
5 (Rev. 7/1/79)	7.50
6 (Rev. 7/1/79)	3.00
7 Parts:	
0-52	6.75
53-209	5.00
210-699	11.00
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900-944	5.25
945-980	3.75
981-999	3.75
1000-1059	6.00
1060-1119	6.50
1120-1199	4.50
1200-1499	6.25
1500-2799	10.00
2852	6.00
2853-end	4.50
8	4.00
9	8.00
10 Parts:	
0-199	6.50
200-499 (Rev. 5/31/79)	8.00
500-end (Rev. 5/31/79)	7.00
12 Parts:	
1-199	6.00
200-299	8.00
300-end	8.50
13	5.00
14 Parts:	
1-59	7.50
60-199	7.25
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1200-end	3.50
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16 Parts:	
0-149	5.00
150-999	4.25
1000-end	5.00

CFR Unit (Rev. as of Apr. 1, 1979):

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18 Parts:	
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21 Parts:	
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24 Parts:	
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25	7.00
26 Parts:	
1 (§§ 1.0-1.169)	8.00
1 (§§ 1.170-1.300)	6.50
1 (§§ 1.301-1.400)	5.50
1 (§§ 1.401-1.500)	6.00
1 (§§ 1.501-1.640)	6.00
1 (§§ 1.641-1.850)	6.50
1 (§§ 1.851-1.1200)	7.50
1 (§§ 1.1201-end)	8.50
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30-39	6.00
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300-499	6.00
600-end	4.25
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CFR Unit (Rev. as of July 1, 1979):

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CFR Unit (Rev. as of Oct. 1, 1979):

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178-199	7.00
200-399	7.00
1200-1299	9.00
1300-end	6.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO/HUD Environmental Quality Office, Housing and Urban Development Department
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMO Surface Mining Office
WPRS Water and Power Resource Service

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
OJARS Office of Justice Assistance, Research and Statistics

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department
FSGB Foreign Service Grievance Board

DOT Transportation Department
CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department
ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies
AC Aging, Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MBDA Minority Business Development Agency
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

2639 1–14–80 / Federal Register subscription rate

FEDERAL COMMUNICATIONS COMMISSION

48178 8–17–79 / Induction cooking ranges

INTERIOR DEPARTMENT

Bureau of Mines—

69927 12–5–79 / Helium sales; revised fee schedule and amendment to regulations

TREASURY DEPARTMENT

Fiscal Service—

1020 1–4–80 / Forms of indorsement on U.S. Treasury checks

Rules Going Into Effect February 3, 1980

LABOR DEPARTMENT

Employment and Training Administration—

797 1–3–80 / Federal-State extended benefits

POSTAL SERVICE

60727 10–22–79 / Preparation of bulk mailings

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.**

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