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BOOK 1:
Pages
33509-34002

BOOK 2:
Pages
34003-34302

federal register

Book 1 of 2 Books
Tuesday
June 30, 1981

Highlights

33637, 33645 **Medicare Program** HHS/HCFA updates reimbursement schedule of limits for home health agency per visit costs and for hospital per diem inpatient general operating costs. (2 documents)

33651 HHS/HCFA updates economic index for physicians' services for 7-1-81 through 6-30-82.

33653 **Medicaid Program** HHS/HCFA issues Medicaid Management Information Systems performance standards.

34002 **Calendar of Federal Regulations** The Regulatory Information Service Center publishes catalog of regulations under development by 33 departments and agencies. (Part IV of this issue)

33980 **Incorporation by Reference** OFR approves certain materials in Titles 24 and 28-41. (Part III of this issue)

33657 **Grant Programs—Health Education** HHS/PHS and HRA permits decrease in first-year student enrollment for eligible health professions schools.

33521 **Grant Programs—Veterans** VA amends grant regulations on medical school and health manpower assistance.

CONTINUED INSIDE

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

Highlights

33509 **Exports** Commerce/ITA permits exports of medical supplies and equipment and of commodities to the Republic of South Africa and Namibia on case-by-case basis.

33542, 33565 **Electric Power** DOE/BPA increases, on an interim basis, 1981 wholesale power and transmission rates. (2 documents)

33626 **Motor Vehicles** EPA announces availability of evaluation report on "FUEL-MAX" retrofit fuel-economy device.

33530 **Marine Sanctuary** Commerce/NOAA proposes designation of St. Thomas National Marine Sanctuary.

33962 **Bonds** Treasury/FS lists companies holding certificates of authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies. (Part II of this issue)

33693 **Treasury Notes** Treasury/Sec'y announces 14 percent per annum interest rate on Notes of Series No. 18-81.

33572 **Meat Import Limitations** USDA/Sec'y establishes third quarterly estimate.

33534 **Plants and Wildlife** Interior/FWS announces review and requests information on status of listed species.

Regulatory Flexibility Plans

33528 USDA/Sec'y
33536 Labor/Sec'y
33632 FMC
33693 DOT/Sec'y
33577 Commerce/Sec'y

Privacy Act Documents

33657 HHS/PHS
33630 FEMA
33583 DOD/Army

33533 **Timber Sales** USDA/FS proposes to waive formal advertising requirements when necessary to facilitate research on demonstration projects.

33518 **National Forests System Lands** USDA/FS clarifies and updates prohibitions reward and impoundment regulations.

33694 **Sunshine Act Meetings**

Separate Parts of This Issue

33962 **Part II, Treasury/FS**
33980 **Part III, OFR**
34004 **Part IV, Regulatory Information Service Center**

Contents

Federal Register
Vol. 46, No. 125
Tuesday, June 30, 1981

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
33529 Upper Florida, Tampa Bay and Southeastern Florida; hearing
NOTICES
33572 Plant Variety Protection Board; closed meetings, availability of report

Agriculture Department
See also Agricultural Marketing Service; Rural Electrification Administration; Science and Education Administration; Soil Conservation Service.
PROPOSED RULES
33528 Regulatory flexibility plan
NOTICES
Meat import limitations:
33572 Third quarterly estimates

Army Department
See also Engineers Corps.
RULES
Personnel Review Boards:
33518 Army Board for Correction of Military Records; special standards
NOTICES
33583 Privacy Act; systems of records; correction

Arts and Humanities, National Foundation
NOTICES
Meetings:
33688 Arts and Humanities, Presidential Task Force

Bonneville Power Administration
NOTICES
Federal Columbia River Transmission System:
33565 Transmission rates; interim basis approval
33542 Power rates, wholesale; interim basis approved

Census Bureau
RULES
Special services and studies:
33509 Fee structure for age search and citizenship information

Coast Guard
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Commerce Department
See also Census Bureau; International Trade Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
33577 Regulatory flexibility plan

Defense Department
See Army Department; Engineers Corps.

Economic Regulatory Administration
NOTICES
Decisions and orders:
33583 Lindsay Olive Growers; petroleum substitute producer application

Education Department
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Employment and Training Administration
NOTICES
33678 Employment transfer and business competition determinations; financial assistance applications
Organization and functions:
33679 Worker adjustment assistance; certifying officers

Employment Standards Administration
RULES
Final rules; deferral of effective dates (Editorial note: See documents listed under Labor Department and Wage and Hour Division).

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
33583 International energy program, implementation; inquiry; extension of time

Engineers Corps
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation, and air quality planning purposes; designation of areas:
33524 Massachusetts et al.; corrections
Air quality implementation plans; approval and promulgation; various States, etc.:
33524 Virginia and Delaware; correction
Incorporations by reference, approval. See entry under Federal Register Office.
Toxic substances:
33525 Polybrominated biphenyls (PBBs) and tris (2,3-dibromopropyl) phosphate; importation or manufacture notice requirement; recodification
NOTICES
Meetings:
33626 Air quality criteria for particulate matter and sulfur oxides; benefits analysis methodology
Motor vehicle fuel economy, evaluation of retrofit devices:
33626 FUEL-MAX

Federal Communications Commission
PROPOSED RULES
Common carrier services:
33533 Satellite communications; direct broadcast satellite service, interim; regulatory policy development; extension of time
NOTICES
33629 Canadian standard broadcast stations; notification list
Common carriers:
33627 AT&T; Wide Area Telecommunications Service (WATS); domestic public switched network services; resale and shared use
Hearings, etc.:
33628 CLW Communications Group of Pennsylvania, Inc., et al.
33628 Hine Broadcasting Co. et al.

Federal Contract Compliance Programs Office
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Federal Emergency Management Agency
NOTICES
33630 Privacy Act; systems of records

Federal Energy Regulatory Commission
NOTICES
Natural gas companies:
33585 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend
Natural Gas Policy Act of 1978:
33586–33616 Jurisdictional agency determinations (5 documents)

Federal Highway Administration
RULES
Planning:
33513 Urban transportation investment policy and procedure with UMTA, etc.; deferral of effective date

Federal Maritime Commission
NOTICES
33631 Agreements filed, etc.
33632 Regulatory flexibility plan

Federal Register Office
RULES
33980 Incorporations by reference, approval

Federal Reserve System
NOTICES
Applications, etc.:
33634 Citizens State Bankshares of Bald Knob, Inc.
33634 Fort Gibson Bancshares, Inc.
33634 Frost BanCorporation, Inc.
33634 Moorcroft Corp.
33634 Newcastle Corp.
33694 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
33510 Coca-Cola Co.

Fiscal Service
NOTICES
33962 Surety companies acceptable on Federal bonds; annual list

Fish and Wildlife Service
PROPOSED RULES
Endangered Species Convention:
33534 Listed species (native to North America) review

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
33513 Prednisolone sodium succinate injection
Human drugs:
33512 Antibiotic drugs; standard response line concentrations; capreomycin, cycloserine, gramicidin, and troleandomycin
NOTICES
Food additives, petitions filed or withdrawn:
33637 Richardson-Merrell, Inc.
33637 Schenectady Chemicals, Inc.
Meetings:
33635 Consumer information exchange
Sunlamp variance approvals, etc.:
33635 M.A.F. Products, Inc.
33636 Sun Industries, Inc.
33636 Wolff System Corp.

Foreign Claims Settlement Commission
NOTICES
33694 Meetings; Sunshine Act

Forest Service
RULES
33518 National Forest System lands; prohibited acts, rewards, and impoundments; clarification and update
PROPOSED RULES
33533 Timber sales, national forest; advertisement and bids

General Services Administration
See also Federal Register Office.
RULES
Incorporations by reference, approval. See entry under Federal Register Office.
NOTICES
Authority delegations:
33634, 33635 Defense Department Secretary (2 documents)

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources Administration; National Institutes of Health; Public Health Service.

Health Care Financing Administration
NOTICES
Medicaid:
33653 Management information systems performance standards; inquiry
Medicare:
33645 Home health agency costs per visit; schedule of limits
33637 Hospital per diem inpatient general routine operating costs; schedule of limits

33651 Physicians' services; economic index (July 1981–June 1982)

Health Resources Administration
NOTICES
33657 Health professions schools construction grants; allowable first-year student enrollment decreases

Hostage Compensation, President's Commission
NOTICES
33690 Meetings

Housing and Urban Development Department
See Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.

Indian Affairs Bureau
NOTICES
33659 Indian tribes, acknowledgement of existence; petitions

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
RULES
Export licensing:
33509 South Africa and Namibia; medical supplies and equipment and commodities used to prevent unlawful interference with international civil aviation
NOTICES
Antidumping:
33574 Birch 3-ply doorskins from Japan
33575 Fresh cut roses from Colombia

International Trade Commission
NOTICES
Import investigations:
33678 Fresh cut roses from Colombia
33694 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
33670–33677 Permanent authority applications (3 documents)
33660 Permanent authority applications; restriction removals
Rail carriers:
33675 Cargo liability study; report to Congress; inquiry; extension of time

Justice Department
See also Foreign Claims Settlement Commission.
RULES
Incorporations by reference; approval. See entry under Federal Register Office.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Federal Contract Compliance Programs Office; Labor Management Standards Enforcement Office; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office; Wage and Hour Division.
RULES
33514 Final rules; deferral of effective dates
Incorporations by reference, approval. See entry under Federal Register Office.
PROPOSED RULES
33536 Regulatory flexibility plan
NOTICES
Adjustment assistance:
33687 Aberdeen Sportswear, Inc., et al.
33686 Ex-Cell-O Corp.
33688 Morton Industries, Inc.
33684 Precision-Kidd Steel Co. et al.

Labor Management Standards Enforcement Office
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Land Management Bureau
NOTICES
Classification of lands:
33659 New Mexico

Maritime Administration
NOTICES
Senior Executive Service:
33576 Performance Review Board; membership

Mine Safety and Health Administration
RULES
33517 CFR authority citations corrected
Coal mine health and safety:
33518 Respirable dust, surface coal mines and surface work areas of underground mines; sampling procedures; correction
Education and training:
33517 Mine rescue teams; correction
Incorporations by reference, approval. See entry under Federal Register Office.
NOTICES
Petitions for mandatory safety standard modifications:
33679 CF & I Steel Corp.
33679 M.S.W. Coal Co.

National Bureau of Standards
NOTICES
Information processing standards, Federal:
33576 I/O channel interface, channel level power control interface, etc.

National Institutes of Health
NOTICES
Meetings:
33655 Biometry and Epidemiology Contract Review Committee
33656 Clinical Cancer Program Project and Cancer Center Support Review Committee

33656 Heart, Lung, and Blood Research Review Committee A
33656 Heart, Lung, and Blood Research Review Committee B

National Oceanic and Atmospheric Administration
PROPOSED RULES
Marine sanctuaries:
33530 St. Thomas National Marine Sanctuary, Virgin Islands

National Park Service
NOTICES
Historic Places National Register; pending nominations:
33659 Montana et al.

National Transportation Safety Board
NOTICES
33694 Meetings; Sunshine Act

Neighborhoods, Voluntary Associations and Consumer Protection—Office of Assistant Secretary for Housing
RULES
Incorporations by reference, approval; correction. See entry under Federal Register Office.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
33688 Arkansas Power & Light Co.
33689 Power Authority of State of New York
Meetings:
33689 Reactors Safeguards Advisory Committee
33688 Three Mile Island Unit 2 Decontamination Advisory Panel
33695 Meetings; Sunshine Act

Occupational Safety and Health Administration
RULES
Health and safety standards:
33516 Lead; occupational exposure standards; deferral of effective date; republication
33516 Lead; occupational exposure standards; trigger levels for medical removal protection; deferral of effective date
Incorporations by reference, approval. See entry under Federal Register Office.
NOTICES
Variance applications etc.:
33680 Oxford Development Co.
33681 Tishman Speyder 520 Venture

Pension and Welfare Benefit Programs Office
RULES
Employee benefit plans:
33517 Suspension of benefit rules; deferral of effective date
NOTICES
Employee benefit plans; prohibited transaction exemptions:
33683 Carpenters Pension Trust for Southern California
33682 Teamsters Local 639-Employers Pension Trust et al.

Postal Service
RULES
Incorporations by reference, approval. See entry under Federal Register Office.
NOTICES
33695 Meetings; Sunshine Act

Public Health Service
NOTICES
33657 Privacy Act; systems of records

Regulatory Information Service Center
NOTICES
34004 Regulatory calendar for Federal agencies

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
33572 Lower Valley Power & Light, Inc.
33572 Plains Electric Generation & Transmission Cooperative, Inc.; meetings
33573 Southern Illinois Power Cooperative

Science and Education Administration
NOTICES
Meetings:
33573 Agricultural Research and Extension Users National Advisory Board (2 documents)

Securities and Exchange Commission
NOTICES
Hearings, etc.:
33690 Precious Metals Holdings, Inc.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
33574 Blue Springs RC&D Measure, Fla.
33574 East Carroll Watershed, La.

Surface Mining Reclamation and Enforcement Office
RULES
Incorporations by reference, approval. See entry under Federal Register Office.

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
33690 Color television receivers from Korea

Transportation Department
See also Coast Guard; Federal Highway Administration; Urban Mass Transportation Administration.
NOTICES
33693 Regulatory flexibility plan

Treasury Department
See also Fiscal Service.
RULES
Incorporations by reference, approval. See entry under Federal Register Office.
NOTICES
Notes, Treasury:
33693 H–1985 series

Urban Mass Transportation Administration
RULES
Planning:
33513 Urban transportation investment policy and procedure with FHWA, etc.; deferral of effective date

Veterans Administration
RULES
Incorporations by reference, approval. See entry under Federal Register Office.
Medical benefits:
33521 Medical school and health manpower assistance

Wage and Hour Division
RULES
33515 Federal service contract labor standards, etc.; deferral of effective date
33514 Final rules; deferral of effective dates
Incorporations by reference, approval. See entry under Federal Register Office.
33515 Overtime compensation; interpretative bulletin amendment; correction

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Science and Education Administration—
33573 National Agricultural Research and Extension Users Advisory Board, Seattle, Wash. (open), 7–29 through 7–31–81
33573 National Agricultural Research and Extension Users Advisory Board, Extension Programming Work Group, East Point, Ga. (open), 7–13–81

ARTS AND HUMANITIES, NATIONAL FOUNDATION
33688 Presidential Task Force on the Arts and Humanities, Chicago, Ill. and Los Angeles, Calif. (open), 7–9–81

ENVIRONMENTAL PROTECTION AGENCY
33626 Benefits analysis of National Ambient Air Quality Standards for sulfur oxides and particulate matter, Raleigh, N.C. (open), 7–27 and 7–28–81

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
33635 Consumer participation, Portland, Oreg. (open), 7–25–81
33655 Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Bethesda, Md. (partially open), 7–30 and 7–31–81
33656 Clinical Cancer Program Project and Cancer Center Review Committee, Bethesda, Md. (partially open), 7–16 and 7–17–81
33656 Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open), 7–10 and 7–11–81
33656 Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open), 7–10–81

NUCLEAR REGULATORY COMMISSION
33688 Decontamination of Three Mile Island, Unit 2 Advisory Panel, Harrisburg, Pa. (open), 7–9–81
33689 Reactor Safeguards Advisory Committee, Advanced Reactors Subcommittee, Chicago, Ill. (open), 7–14 and 7–15–81

PRESIDENT'S COMMISSION ON HOSTAGE COMPENSATION
33690 Meeting, Washington, D.C. (open), 7–6, 7–7, 7–16 and 7–17–81

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

1 CFR
51 ... 33980

7 CFR
Proposed Rules:
Ch. I ... 33528
Ch. II ... 33528
Ch. III ... 33528
Ch. IV ... 33528
Ch. V ... 33528
Ch. VI ... 33528
Ch. VII ... 33528
1006 ... 33529
1012 ... 33529
1013 ... 33529
Ch. IX ... 33528
Ch. X ... 33528
Ch. XI ... 33528
Ch. XII ... 33528
Ch. XIV ... 33528
Ch. XV ... 33528
Ch. XVI ... 33528
Ch. XVII ... 33528
Ch. XVIII ... 33528
Ch. XXI ... 33528
Ch. XXIV ... 33528
Ch. XXV ... 33528
Ch. XXVI ... 33528
Ch. XXVII ... 33528
Ch. XXVIII ... 33528
Ch. XXIX ... 33528

9 CFR
Proposed Rules:
Ch. I ... 33528
Ch. II ... 33528
Ch. III ... 33528
Ch. IV ... 33528

15 CFR
50 ... 33509
385 ... 33509
Proposed Rules:
937 ... 33530

16 CFR
13 ... 33510

20 CFR
Proposed Rules:
Ch. I ... 33536
Ch. V ... 33536
Ch. VI ... 33536

21 CFR
436 ... 33512
522 ... 33513

23 CFR
450 ... 33513
630 ... 33513

24 CFR
3280 ... 33980

28 CFR
42 ... 33980

29 CFR
1 ... 33514
4 ... 33515
5 ... 33514
6 ... 33514
402 ... 33980
403 ... 33980
404 ... 33980
405 ... 33980
406 ... 33980
408 ... 33980
409 ... 33980
526 ... 33981
570 ... 33981
778 ... 33515
1910 (3 documents) ... 33516, 33981
1915 ... 33981
1916 ... 33981
1917 ... 33981
1918 ... 33981
1926 ... 33981
1928 ... 33981
2530 ... 33517
Proposed Rules:
Subtitle A ... 33536
Ch. II ... 33536
Ch. IV ... 33536
Ch. XVII ... 33536
Ch. XXV ... 33536

30 CFR
1 ... 33517
11 (2 documents) ... 33517, 33989
15 ... 33517
16 ... 33517
17 ... 33517
18 ... 33517
19 ... 33517
20 ... 33517
21 ... 33517
22 ... 33517
23 ... 33517
24 ... 33517
25 ... 33517
26 ... 33517
27 ... 33517
28 (2 documents) ... 33517, 33989
29 (2 documents) ... 33517, 33989
31 ... 33517
32 ... 33517
33 ... 33517
35 ... 33517
36 ... 33517
49 ... 33517
50 ... 33517
55 ... 33989
56 ... 33989
57 ... 33989
70 ... 33989
71 (3 documents) ... 33517, 33518, 33989
74 ... 33517
75 (2 documents) ... 33517, 33989
77 (2 documents) ... 33517, 33989
90 ... 33989
700 ... 33993
785 ... 33993
795 ... 33993
816 ... 33993
817 ... 33993
820 ... 33993
Proposed Rules:
Ch. I ... 33536

31 CFR
51 ... 33994

32 CFR
581 ... 33518

33 CFR
67 ... 33995
149 ... 33995
150 ... 33995
154 ... 33995
155 ... 33995
157 ... 33995
159 ... 33995
164 ... 33995
183 ... 33995
222 ... 33996

34 CFR
104 ... 33996

36 CFR
261 ... 33518
262 ... 33518
Proposed Rules:
Ch. II ... 33528
223 ... 33533

38 CFR
17 ... 33521
18 ... 33997
36 ... 33997

39 CFR
10 ... 33997
111 ... 33997
601 ... 33997

40 CFR
51 ... 33997
52 (3 documents) ... 33524, 33997
62 ... 33999
81 ... 33524
141 ... 33999
180 ... 34000
410 ... 34000
415 ... 34000
420 ... 34000
430 ... 34000
440 ... 34000
704 ... 33525
713 ... 33525
761 ... 34001

41 CFR
50-204 ... 34001
60-741 ... 34002
101-7 ... 34002
Proposed Rules:
Ch. 4 ... 33528
Ch. 29 ... 33536
Ch. 50 ... 33536
Ch. 60 ... 33536

47 CFR
Proposed Rules:
Ch. I ... 33533

49 CFR
613 ... 33513

50 CFR
Proposed Rules:
23 ... 33534

Rules and Regulations

Federal Register
Vol. 46, No. 125
Tuesday, June 30, 1981

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

Commerce and Foreign Trade; Special Services and Studies by the Bureau of the Census

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census is hereby amending title 15, chapter 1, part 50.5, fee structure for age search and citizenship information to increase the fee for an age search from $8.50 to $12.00. This change is being made to recover the increase in cost to process a request. Title 13, United States Code, requires recovery of the costs. No transcript of any record will be furnished which would violate statutes requiring that information furnished to the Bureau of the Census be held confidential and not used to the detriment of the person to whom it relates.

EFFECTIVE DATE: August 1, 1981.

FOR FURTHER INFORMATION CONTACT: Francis N. Allai, Bureau of the Census, Pittsburg, Kansas 06762, (316) 752-6208.

SUPPLEMENTARY INFORMATION: In accordance with the rule-making provisions of Administrative Procedure, title 5, United States Code, section 553, it has been found that notice and hearing on this schedule of fees and postponement of the effective date thereof are impracticable and unnecessary for the reason that title 13, United States Code, requires recovery of the costs. Requests for searches should be directed to the Bureau of the Census, Pittsburg, Kansas 06762.

This is not a major rule under the conditions set forth in Executive Order 12291 and therefore does not require a Regulatory Impact Analysis. This rule does not impose an information collection requirement.

Section 50.5 of title 15 is revised to read as follows:

§ 50.5 Fee structure for age search and citizenship information:

Type of service	Fee
Searches of not more than two censuses for one person and one transcript of the most appropriate record	$12
Each additional copy of census transcript	2
Each full schedule (entire household) requested	4

Note.—The $4 for each full schedule requested is in addition to the fee increase to $12.

Dated: June 11, 1981.

Daniel B. Levine,

Acting Director, Bureau of the Census.

[FR Doc. 81-19164 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

15 CFR Part 385

Revisions of Controls on Exports to the Republic of South Africa and Namibia

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations to permit the export of medical supplies and equipment and of commodities used to prevent unlawful interference with international civil aviation to any end-user in the Republic of South Africa and Namibia, including military and police entities. The amendments affecting medical exports were made for humanitarian purposes and reflect Congressional intent that exports to meet basic human needs not be restricted for foreign policy reasons.

The international civil aviation amendments reflect a general U.S. policy that export controls be used to encourage other countries to prevent international terrorism and to support the specific U.S. commitment to ensure the safety of international air transportation.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, U.S. Department of Commerce, Room 1623, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230, Telephone: (202) 377-4811.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

(1) Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

(2) This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

(3) This rule involves a "foreign affairs" function of the United States and, therefore, is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

(4) This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because this regulation does not impose new controls on exports. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

Substance of the Regulation

In conformity with United Nations Security Council Resolutions of 1963 and 1977 relating to exports of arms and munitions to the Republic of South Africa, and consistent with U.S. foreign policy toward the Republic of South Africa and Namibia, the Department of Commerce, since February 16, 1978, has had an embargo on the export and reexport of all U.S.-origin commodities and technical data (except data

generally available to the public) to or for use by or for military or police entities in the Republic of South Africa and Namibia.

Prior to this amendment, the regulations prohibited the export of medicines, medical supplies and medical equipment primarily destined for South Africa military or police entities or for their use. Although this prohibition was lawful under the Export Administration Act of 1979 ("Act") because it was already in place before the Act was enacted, section 6(f) of the Act clearly indicates the Congressional intent not to impose foreign policy controls on any item where the effect of the export of the item would be to help meet basic human needs. This amendment reflects that intent. Exports of medicines, medical supplies and medical equipment may now be permitted on a case-by-case basis to South African military and police end-users.

Each export application and reexport request will be reviewed in the light of U.S. foreign policy, with full consideration of all relevant facts involving the proposed export. The review will generally include an analysis of the humanitarian purpose of the items and their end-use.

Prior to this amendment, the regulations also prohibited the export of any equipment to be used to ensure the safety of civil air transportation in South Africa, because civil airport security is maintained by a police entity. This prohibition is not consistent with the policy expressed in section 3(8) of the Act, which states that export controls are to be used to encourage other countries to prevent international terrorism in their territory. One way for other countries to prevent international terrorism is to have adequate safeguards against acts of unlawful interference with international civil aviation. Title I, section 106 of the Antihijacking Act of 1974 (Pub. L. No. 93-366, 88 Stat. 414) added a new section 1115 to the Federal Aviation Act (49 U.S.C. § 1515), which requires the Secretary of Transportation to review safeguards at foreign airports to ensure the safety of air transportation. Where he finds such safeguards inadequate, he is authorized, with the Secretary of State's approval, to "withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation," if that nation fails to take the necessary steps to meet minimum security standards. In determining the mimumum security measures for any nation, the Secretary of Transportation is directed to rely on the standards established in the Convention on International Civil Aviation, which describes the safeguards to be taken against acts of unlawful interference with international civil aviation, such as preventing unauthorized weapons from being taken on board international civil aircraft. Accordingly, the regulations are amended to permit exports to South African military or police on a case-by-case basis to assist in efforts to prevent acts of unlawful interference with international civil aviation.

Accordingly, Part 385 of the *Export Administration Regulations* (15 CFR Part 385) is amended by revising § 385.4(a) (2), (3), (4) and (7) and by adding a new § 385.4(a)(10), to read as follows:

§ 385.4 Country Group V.

(a) *Republic of South Africa and Namibia.*

* * * * *

(2) An embargo is in effect on the export or reexport to the Republic of South Africa or Namibia of *any* commodity, including commodities that may be exported to any destination in Country Group V under a general license, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in these destinations or used to service equipment owned, controlled or used by or for such military or police entities. (See § 385.4(a) (7) and (10) for case-by-case exceptions.)

(3) An embargo is in effect on the export or reexport to the Republic of South Africa or Namibia of technical data, except technical data generally available to the public that meets the conditions of General License *GTDA*, where (i) the technical data relate to the commodities listed in Supplement No. 2 to Part 379, or (ii) the exporter or reexporter knows or has reason to know that the technical data or any product of the data as defined in § 379.4(e) are for delivery to or use by or for the military or police entities of these destinations or for use in servicing equipment owned, controlled or used by or for these entities. (See § 385.4(a) (7) and (10) for case-by-case exceptions.) In addition, users in the Republic of South Africa or Namibia of technical data that do qualify for export or reexport under the provisions of General License *GTDR* must be informed in writing at the time of the export or reexport of the data that the direct product of that data may not be sold or otherwise made available, directly or indirectly, to the military or police entities in these destinations. The term "direct product" is defined in footnotes in § 379.4(e).

(4) Parts, components, materials and other commodities exported from the United States under either a general or validated export license may not be used abroad to manufacture or produce foreign-made end-products, where it is known or there is a reason to know the end-products will be sold to or used by or for military or police entities in the Republic of South Africa or Namibia. (See § 385.4(a) (7) and (10) for case-by-case exceptions.)

* * * * *

(7) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of medicines, medical supplies, and medical equipment, and related technical data, and parts and components, to any end-user.

* * * * *

(10) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of commodities and related technical data, and parts and components, to be used in efforts to prevent acts of unlawful interference with international civil aviation.

* * * * *

(Secs. 3, 6, 13, and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Pub. L. No. 93-366, 88 Stat. 414; 49 U.S.C. § 1515; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

William V. Skidmore,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 81-19231 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. D-8824]

Coca-Cola Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the order issued by the Commission on October 26, 1976, 88 F.T.C. 666, 41 FR 53653, by deleting certain language from Paragraph 1(c) which required respondent to maintain *all* entry forms submitted in games or contests and by adding language limiting the

applicability of the record retention requirement to games of skill.

DATES: Decision issued, Oct. 26, 1976. Modifying order issued June 4, 1981.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P, James H. Sneed, Washington, D.C. 20580, (202) 523–3727.

SUPPLEMENTARY INFORMATION: In the Matter of the Coca-Cola Company, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, and appearing at 41 FR 53653, remain unchanged.

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

The Order Reopening the Proceeding and Modifying Cease and Desist Order, including further order requiring report of compliance therewith, is as follows:

Petitioner, The Coca-Cola Company, seeks the modification of a record-keeping provision of the Order to Cease and Desist issue by the Commission on October 26, 1976.

The Order Paragraph in question currently prohibits petitioner from:

> Engaging in, promoting the use of, or participating in any * * * promotional game, contest, sweepstake or similar device, by means of any announcement, notice or advertisement, unless:
>
> * * * * *
>
> (c) There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in connection therewith, full and adequate records *including all entry forms submitted by participants therein*, which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative. (Emphasis supplied.)

Petitioner is required by this provision to retain all entry forms submitted in all contests—including games of chance and games of skill—in which it engages. Petitioner requests that the Commission modify the Order by limiting the applicability or this requirement to games of skill. Specifically, petitioner proposes that the Commission delete the underscored language, requiring the maintenance of entry forms, from paragraph (c), and add a new paragraph requiring the retention of entry forms in connection with games of skill.

The purpose of the requirement that petitioner keep entry forms submitted in contests in which it engages is to enable the Commission to determine whether contest winners were properly selected and, if not, to identify persons to whom prizes should have been awarded. Thus, the Commission could, at the conclusion of a skill contest, examine the contest entries and evaluate whether petitioner had fairly conducted the promotion and, it not, determine the proper winners of the contest. In the case of a game of chance, however, examination of the entry forms would not provide the Commission with any useful information in determining whether the contest was properly administered or the identity of any injured parties. This is because all entry forms are identical, and winners are chosen at random rather than based on whether the information contained on their entry forms is correct. The maintenance of entry forms submitted in connection with games of chance does not, therefore, serve any useful function. It does, however, impose costs upon petitioner.

The Commission, having considered the Petition, determines that petitioner has made a satisfactory showing that the public interest requires that the Order be reopened and modified as requested. This determination is consistent with the Commission's Order of February 24, 1981, modifying the Order against Glendinning Companies, Inc., in Docket No. 8824 in the same manner as the Commission hereby directs in the instant case.

It is therefore ordered that the proceeding is hereby reopened and the Decision and Order issued on October 26, 1976, against The Coca-Cola Company shall be mofified by making the following additions (indicated by underscoring the added language) and deletions (indicated by placing dashes over the deleted language) to the Order:

Order

It is ordered that respondent The Coca-Cola Company, a corporation, its successors and assigns, officers, agents, representatives and employees, directly or through any corporation or other device, in connection with the advertising, offering for sale, sale or distribution of Coca-Cola, Tab, or any food or other product, or in connection with the sale or distribution of "Big Name Bingo", or any other promotional game, contest, sweepstake or similar device which involves or offers the awarding of a prize or anything of value to participants therein, by any means, in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Engaging in, promoting the use of, or participating in any such promotional game, contest, sweepstake or similar device, by means of any announcement, notice or advertisement, unless:

(a) All of the requirements, terms and conditions for participating therein and for entitlement of such prizes are clearly and conspicuously set forth in each advertisement or notice which purports to explain or illustrate the operation of, manner of participation in, or the basis for or prospects of becoming entitled to or receiving a prize in connection with, any such contest or promotional game.

(b) All such prizes are in fact awarded to all participants therein whose entries conform to the stated requirements, terms and conditions for entitlement to and receipt of such prizes.

(c) There are maintained by respondent or its designee for a period of a least two years after the closing of each such promotional game or contest and the awarding of all prizes in connection therewith, full and adequate records which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative.

2. Engaging in, promoting the use of or participating in the development or operation of any skill contest unless respondent or its designee maintains for at least two years after the closing of each skill contest and the awarding of all prizes in connection therewith, in addition to the records required by Paragraph 1(c), all entry forms submitted by participants in such skill contests.

It is further ordered, that respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, that respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, that the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

[1] Filed as part of the original document.

It is further ordered, that this modification shall become effective upon service of this Order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-19226 Filed 6-29-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 436

[Docket No. 80N-0390]

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; Revised Standard Response Line Concentrations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations by revising the standard response line concentrations for capreomycin, cycloserine, gramicidin, and troleandomycin in order to produce more accurate potency assay results.

DATES: Effective July 30, 1981; comments, notice of participation, and request for hearing by July 30, 1981; data, information, and analyses to justify a hearing by August 31, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 25, 1980 (45 FR 78162), corrected on January 6, 1981 (46 FR 1298), FDA proposed to amend the antibiotic drug regulations by revising the standard response line concentrations for capreomycin, cycloserine, gramicidin, and troleandomycin.

As discussed in the proposal, the current regulations set forth in § 436.106(a) (21 CFR 436.106(a)) for the microbiological turbidimetric potency assay for these antibiotic drugs provide for standard response line concentrations that are 64, 80, 100, 125, and 156 percent of the reference concentration of the assay. FDA has determined that when samples are diluted to a concentration within the 80 to 125 percent range, more accurate potency concentration estimates are obtained.

Interested persons were given until January 26, 1981, to submit written comments. No comments were received. FDA concludes that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 436 is amended in § 436.106(a) by revising the last column of the table for "Capreomycin," "Cycloserine," "Gramicidin," and "Troleandomycin," to read as follows:

§ 436.106 Microbiological turbidimetric assay.

* * * * *

(a) * * *

Anti-biotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Working standard stock solutions: Initial solvent	Working standard stock solutions: Diluent (solution number as listed in § 436.101(a))	Standard response line concentrations: Final concentration units or milligrams per milliliter	Standard response line concentrations: Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in § 436.101(a))	Standard response line concentrations: Final concentration—units or micrograms of antibiotic activity per milliliter
Capreomycin	* * *	* * *	* * *	* * *	* * *	* * *	80.0, 89.0, 100.0, 112.0, 125.0 µg.
Cycloserine	* * *	* * *	* * *	* * *	* * *	* * *	40.0, 44.5, 50.0, 56.0, 62.5 µg.
Gramicidin	* * *	* * *	* * *	* * *	* * *	* * *	0.032, 0.0356, 0.040, 0.0448, 0.050 µg.
Troleandomycin	* * *	* * *	* * *	* * *	* * *	* * *	20.0, 22.25, 25.0, 28.0, 31.25 µg.

Any person who will be adversely affected by this regulation may file objections to it, request a hearaing, and show resonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before July 30, 1981, a written notice of participation and request for hearing, and (2) on or before August 31, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearings is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analysis to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (HFA-305), Food and Drug Administration (address above).

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This amendment shall become effective July 30, 1981.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: June 22, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-19142 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

Implantation of Injectable Dosage From New Animal Drugs Not Subject To Certification; Prednisolone Sodium Succinate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Carter-Glogau Laboratories, Inc., providing for safe and effective use of prednisolone sodium succinate injection as an anti-inflammatory agent in horses.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories, Inc., 5160 W. Bethany Home Rd., Glendale, AZ 85301, filed an NADA (117–973) providing for use of a concentration of 10 milligrams of prednisolone (as prednisolone soduim succinate) per milliliter of injection solution. The drug is indicated for use in horses when an adrenal glucocorticoid and/or anti-inflammatory effect is required.

The product covered by NADA 117–973 is equivalent in effectiveness to the product that was the subject of the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, evaluation that was published in the **Federal Register** of April 12, 1969 (34 FR 6447). In that publication FDA agreed with the Academy's conclusion that the product is effective as an anti-inflammatory agent for use in certain animals. Section 522.1884 (21 CFR 522.1884) reflects those labeling recommendations and specifies those conditions of use for which applications need not include effectiveness data as specified by § 514.111 (21 CFR 514.111), but may require submission of bioequivalency data and safety information. The labeling for Carter-Glogau's product is in compliance with § 522.1884. Evidence of in vivo bioavailability is not required, since the product is a true solution intended solely for intravenous administration (21 CFR 320.22(b)(1)(i)). Therefore, NADA 117.973 is approved on the basis of generic equivalence and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

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 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1884 by revising paragraph (c) and adding new paragraph (d)(2)(iv), to read as follows:

§ 522.1884 Prednisolone sodium succinate injection.

* * * * *

(c) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter for products containing 10, 20, and 50 milligrams equivalent prednisolone activity per milliliter for use in horses, dogs, and cats as provided in paragraph (d)(1), (2)(i), (ii), and (iii) of this section. See No. 000381 in § 510.600(c) of this chapter for a product containing 10 milligrams equivalent prednisolone activity per milliliter for use in horses as provided in paragraph (d)(2)(iv) of this section.

(d) * * *

(2) * * *

(iv) In horses, 50 to 100 milligrams as an initial dose given intravenously over a period of ½ to 1 minute. May be repeated in inflammatory, allergic, or other stress conditions at intervals of 12, 24, or 48 hours, depending upon the size of the animal, the severity of the condition and the response to treatment. Not for use in horses intended for food. Clinical and experimental data have demonstrated that corticosteroids adminstered orally or parenterally to animals may induce the first stage of parturition when administered late in pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

* * * * *

Effective date: June 30, 1981.

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

Dated: June 23, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-19028 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

23 CFR Parts 450 and 630

49 CFR Part 613

[FHWA Docket No. 80-24, Notice 4]

Urban Transportation Planning; Further Postponement of Pending Regulation

AGENCIES: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of further postponement of pending regulation.

SUMMARY: On February 4, 1981, pursuant to a January 29 Memorandum from the President, the Department of Transportation (DOT) postponed the effective dates of all DOT regulations which had been published as final rules but had not yet taken effect. On March 25, 1981, the FHWA and UMTA further postponed the Urban Transportation Planning; Transportation Improvement Program regulation published at 46 FR 5702, January 19, 1981. This document postpones this action for an additional 30 days.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: FHWA: Stanley H. Abramson, Office of the Chief Counsel, (202) 426–0762; or UMTA: John Collins, Office of the Chief Counsel, (202) 426–1908, both located at 400 Seventh Street, SW., Washington, D.C. 20590. FHWA office hours are from 7:45 a.m. to 4:15 p.m. ET and UMTA

office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 29, 1981, a memorandum was issued by the President which, among other things, directed executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981.

The purpose of this initial postponement was to afford the government the opportunity to review these recently issued, but not yet effective, regulations. As a result of their reviews, the FHWA and UMTA postponed the effective date of the Urban Transportation Planning; Transportation Improvement Program regulation (46 FR 5702, January 19, 1981) for 90 days (46 FR 19233, March 30, 1981). This document postpones regulatory action for an additional 30 days. By so postponing this regulation, the FHWA and UMTA continue in effect all current requirements and provisions of the Code of Federal Regulations, this rule would have amended had it become effective.

Before the end of the additional 30-day review period, the FHWA and UMTA intend to issue an interim final rule which would allow those provisions of the postponed rule which would reduce red tape and provide for streamlining to go into effect. In addition, the rule would update the existing joint FHWA/UMTA regulations to include recent legislative changes. Further regulatory action will be deferred pending a comprehensive review of the urban transportation planning process.

The FHWA and UMTA have determined that the initial postponement has provided an inadequate amount of time to make a decision concerning approporiate revisions to the postponed rule. The agencies believe that good cause exists for further postponing the effective date of this regulation and that such postponement is in the public interest. The postponed rule has been the subject of extensive public comment. Further review of the postponed rule by FHWA and UMTA will include full consideration of the public comments received. For these reasons and because this regulation would otherwise go into effect without this action, additional notice and public participation on this change of effective date is impracticable, unnecessary, and contrary to the public interest and good cause exists for making this postponement effective immediately.

Neither the rule as issued nor its postponement are major actions within the meaning of Executive Order 12291.

Accordingly, the effective date of the following rule is postponed until July 31, 1981:

Urban Transportation Planning; Transportation Improvement Program (23 CFR 450, 630; 49 CFR 613) published at 46 FR 5702, January 19, 1981.

(Executive Order 12291; 23 U.S.C. 101(e), 104(f)(3), 134, and 315; Sections 3, 5, and 8 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602, 1604, and 1607); Sections 110, 172, 174, and 176 of the Clean Air Act; and 49 CFR 1.48(b) and 1.51)

(Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Research, Planning, and Construction; 20.500, Urban Mass Transportation Capital Grants; 20.501, Urban Mass Transportation Capital Improvement Loans; and 20.507, Urban Mass Transportation Capital and Operating Assistance Formula Grants. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

Issued on: June 26, 1981.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

Richard B. Robertson,

Associate Administrator for Planning, Federal Highway Administration.

[FR Doc. 81-19368 Filed 6-29-81; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Wage and Hour Division

Office of the Secretary

29 CFR Parts 1, 5, and 6

Further Deferral of Effective Dates of Regulations

AGENCY: Wage and Hour Division, and Office of the Secretary, Labor.

ACTION: Notice of further deferral of effective dates of final rules.

SUMMARY: This notice further defers the effective dates of certain Labor Department regulations from July 1, 1981 until July 15, 1981. This action is taken in order to continue the reconsideration of these rules in accordance with Executive Order 12291.

EFFECTIVE DATE: The effective dates are deferred until July 15 1981. See the table below for more information.

ADDRESS: Henry T. White, Jr., Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S-3502, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Henry T. White, Jr., Telephone: (202)523-8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 1981 (46 FR 11253-11254) the Department of Labor published a notice deferring the effective dates of Parts 1, 5, and 6 of Title 29 of the Code of Federal Regulations (29 CFR Parts 1, 5, and 6) until March 30, 1981. This action was taken in response to a January 29, 1981 Memorandum from President Reagan in order to allow for a full and appropriate review of these rules. The effective dates of all of these regulations (29 CFR Parts 1, 5, and 6) were further delayed until July 1, 1981 in order to fully reconsider the regulations pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981).

This document will further defer the effective dates of all of these regulations until July 15, 1981. This action is necessary in order to continue the reconsideration of these rules in accordance with Executive Order 12291.

For this reason and because these rules are scheduled to become effective very shortly, additional notice and public procedure on this change of effective dates is impracticable, unnecessary and contrary to the public interest and good cause exists for making these postponements effective immediately. This finding is made pursuant to 5 U.S.C. 553(b)3(B).

The following chart contains a description of each of the rules being deferred by this notice:

Rule	Subject	Original publication of rule in final form	Previously scheduled effective date
1. 29 CFR Part 1	Procedure for Predetermination of Wage Rates	Jan. 16, 1981 (46 FR 4306)	July 1, 1981.
2. 29 CFR Part 5	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).	Jan. 16, 1981 (46 FR 4380)	Do.
3. 29 CFR Part 6	Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally assisted Construction Contracts and Federal Service Contracts.	Jan. 16, 1981 (46 FR 4398)	Do.

Authority

The statutory authority for this action is as follows:

1. As to 29 CFR Part 1: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a—276a–7; 40 U.S.C. 276c; and the law listed in Appendix A of Part 1.

2. As to 29 CFR Part 5: 40 U.S.C. 276a—276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of Part 5.

3. As to 29 CFR Part 6: Sections 4 and 5, 79 Stat. 1034, 1035 as amended by 86 Stat. 789, 790, 41 U.S.C. 353 and 354; 5 U.S.C. 301; Reorg. Plan No. 14 of 1950, 64 Stat. 1267, 5 U.S.C. Appendix; 46 Stat. 1494, as amended by 49 Stat. 1011, 78 Stat. 238, 40 U.S.C. 276a—276a–7; 76 Stat. 357–359, 40 U.S.C. 327–332; 48 Stat. 948, as amended by 63 Stat. 108, 72 Stat. 967, 40 U.S.C. 276c.

Signed at Washington, D.C. this 26th day of June 1981.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary of Labor for Employment Standards.

[FR Doc. 81–19364 Filed 6–30–81; 8:45 am]

BILLING CODE 4510–27–M

29 CFR Part 4

Further Deferral of Effective Dates of Regulations

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of further deferral of effective dates of final rules.

SUMMARY: This notice further defers the effective dates of certain Labor Department regulations from July 1, 1981 until August 1, 1981. This action is taken in order to continue the reconsideration of these rules in accordance with Executive Order 12291.

EFFECTIVE DATE: The effective dates are deferred until August 1, 1981. See the table below for more information.

ADDRESS: Henry T. White, Jr., Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Frances Perkins Department of Labor Building, Room S–3502, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Henry T. White, Jr., Telephone: (202) 523–8305.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 12, 1981 (46 FR 11971) this Department published a notice deferring (staying) the effective date of Part 4 (including § 4.133) of Title 29 of the Code of Federal Regulations (29 CFR Part 4) until April 17, 1981. This action was taken in response to a January 29, 1981 Memorandum from President Reagan in order to allow for a full and appropriate review of this rule. The effective date of this regulation (29 CFR Part 4) was further delayed until July 1, 1981 in order to fully reconsider the regulation pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981).

This document will further defer the effective date of this regulation until August 1, 1981. This action is necessary in order to continue the reconsideration of this rule in accordance with Executive Order 12291.

For this reason and because this rule is scheduled to become effective very shortly, additional notice and public procedure on this change of effective dates is impracticable, unnecessary and contrary to the public interest and good cause exists for making these postponements effective immediately. This finding is made pursuant to 5 U.S.C. 553(b)(3)(B).

Following is a description of the rule being deferred by this notice:

Rule	Subject	Original publication of rule in final form	Previously scheduled effective date
1. 29 CFR Part 4	Service Contract Act; Labor Standards for Federal Service Contract	Jan. 16, 1981 (46 FR 4320) and Jan. 19, 1981 (46 FR 4886).	July 1, 1981.

Authority

The statutory authority for this action is as follows:

41 USC 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; and 5 U.S.C. 301.

Signed at Washington, D.C. this 26th day of June 1981.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary of Labor for Employment Standards.

[FR Doc. 81–19365 Filed 6–29–81; 8:45 am]

BILLING CODE 4510–27–M

29 CFR Part 778

Overtime Compensation; Correction

AGENCY: Wage and Hour Division, Labor.

ACTION: Amendment to interpretative bulletin; correction.

SUMMARY: This document corrects an amendment to an Interpretative Bulletin on overtime compensation that appeared at pages 7308–7320 in the **Federal Register** of Friday, January 23, 1981 (Vol. 46, No. 15, 7308–7320). The action is necessary to correct typographical, arithmetic and incomplete sentence errors.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Valin, Director, Division of Minimum Wage and Hour Standards, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Rm. S–3508, Washington, D.C. 20210, Telephone: (202) 523–7043. (This is not a toll-free number.)

The following corrections are made in Part 778 appearing on pages 7308–7320 of FR Vol. 46, No. 15 in the issue of January 23, 1981.

1. On page 7316 in column three, eighth line down, the last word "or" should read "of."

2. On page 7317 in column two, seventeenth line under (b), the amount "$7.65" should read "$1.05."

3. On page 7318 in column two, sixteenth line under (a) of amendment 40, the word "at" should read "as."

4. On page 7319 in column two, the sentence starting in the eighth line under (a) of amendment 43 should read as follows: It permits a 14-day period to be established for the purpose of computing overtime compensation by an agreement or understanding between an employer engaged in the operation of a hospital or residential care establishment, and any of his employees employed in connection therewith.

(52 Stat. 1060, as amended; 29 U.S.C. 201–217; Secretary's Order No. 16–75, 40 FR 55913, Dec. 2, 1975; Employment Standards Order No. 78–1, 43 FR 51469, Nov. 3, 1978)

Signed at Washington, D.C. this 23rd day of June 1981.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

Henry T. White, Jr.,

Deputy Administrator.

[FR Doc. 81-19105 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-004E]

Occupational Exposure to Lead; Supplemental Statement of Reasons and Amendment of Standard; Notice of Deferral of Effective Date

Note.—This document originally appeared in the **Federal Register** for Monday, June 29, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday-Friday schedule assigned to the Department of Labor.

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of further deferral of effective date of final rule.

SUMMARY: This notice defers the effective date of the Supplemental Statement of Reasons and Amendment of the Lead Standard until August 31, 1981. The action is necessary to allow additional time to consider the appropriateness of the lengthy and complex document in light of the numerous petitions for administrative review which have been received, and to allow time for final disposition of complicated issues before the Supreme Court.

DATE: The effective date is deferred until August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Beliles, Occupational Safety and Health Administration, Room N3617, U.S. Department of Labor, Washington, D.C. 20210 (202) 523–7081.

SUPPLEMENTARY INFORMATION: On January 21, 1981, OSHA published in the **Federal Register** (46 FR 6134) a supplemental statement of reasons assessing the technological and economic feasibility of meeting the permissible exposure level for lead contained in the lead standard (29 CFR 1910.1025), in 46 industries. The document was prepared in response to a remand order from the U.S. Court of Appeals for the D.C. Circuit, in the "United Steelworkers of America v. Marshall," No. 79–1048 (August 15, 1980). The supplemental statement of reasons covered nearly 100 pages in the **Federal Register**, and was originally scheduled to be effective on February 20, 1981. On February 6, 1981, the effective dates of several final regulations were deferred until March 30, 1981 pursuant to a Presidential Memorandum to the Secretary of Labor and other cabinet officials (46 FR 11253). On March 27, 1981 (46 FR 18973) OSHA further deferred the effective date, for a period of 30 days, so that it might have additional time to consider the numerous petitions for administratrive review of the supplemental statement of reasons—a very lengthy and complex document.

In response to the D.C. Circuit's opinion to the lead standard several petitions for certiorari were filed with the Supreme Court. The agency responded on April 17, 1981, stating that the petitions for certiorari should be granted, that the judgment of the court of appeals should be vacated, that the case should be remanded with directions to return the record to the agency for further administrative proceedings, and that the standard that is currently effective should be left undisturbed. On the same day, OSHA filed with the **Federal Register** an advance notice of proposed rulemaking, published on April 21, 1981 (46 FR 22764), which stated the agency's intention to review the technological and economic feasibility of the lead standard, and to reevaluate several other important issues concerning the lead standard. Interested parties were invited to comment on the advance notice by June 1, 1981. Finally, on April 28, 1981 (46 FR 23741), the effective date was again deferred until June 30, 1981.

In light of the above, and since the Supreme Court has yet to dispose of the petitions before it dealing with the reevaluation of the lead standard, additional time is needed to make an appropriate and coordinated decision on the supplemental statement of reasons. Therefore, the effective date of the supplemental statement is hereby deferred until Agusust 31, 1981. Due to the short deferral period, notice and opportunity for public comment on the deferral is impractical and unnecessary under 5 U.S.C. 533 and 29 U.S.C. 655(b).

Signed at Washington, D.C. this 25th day of June, 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-19230 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1910

[Docket No. H-004M]

Occupational Exposure to Lead, New Trigger Levels for Medical Removal Protection; Deferral of Effective Date

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of further deferral of effective date of new trigger levels for medical removal protection for primary smelters and secondary smelters.

SUMMARY: For primary and secondary smelters only, OSHA is delaying the effective date of the new trigger levels for medical removal protection under the lead standard (29 CFR 1910.1025(k)) from the July 1, 1981 date previously announced in the **Federal Register** (46 FR 28845, May 29, 1981) to July 21, 1981. The background and basis in the record for further delay of the effective date as to primary and secondary smelters are discussed in prior notices. This action is taken to allow the Agency time to prepare and publish in the **Federal Register** the document setting out the relief for the involved lead industries, while at the same time providing necessary protection for employees.

DATES: For primary and secondary lead smelters, the temporary stay of the new trigger levels is extended to July 21, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Robert P. Beliles, Occupational Safety and Health Administration, Room N–3718, U.S. Department of Labor, Washington, D.C. 20210; telephone (202) 523–7081.

Signed at Washington, D.C. this 25 day of June 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-19232 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

29 CFR Part 2530

Rules and Regulations for Minimum Standards for Employee Benefit Plans; Suspension of Benefit Rules—Deferral of Effective Date

AGENCY: Office of Pension and Welfare Benefit Programs, Department of Labor.

ACTION: Deferral of effective date of final rule.

SUMMARY: This document defers until August 1, 1981, the effective date of 29 CFR § 2530.203–3, Suspension of Benefit Rules. This regulation had been due to take effect on July 1, 1981. This action is taken in order to permit further analysis of the regulation in accordance with Executive Order 12291.

DATE: The effective date of 29 CFR 2530.203–3 is deferred until August 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Office of the Solicitor; 200 Constitution Avenue, N.W., Washington, D.C. 20216; Room C–4508; 202–523–8658.

SUPPLEMENTARY INFORMATION: On January 27, 1981, the Department of Labor published in the **Federal Register** (46 FR 8894) a final regulation under section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (ERISA) governing the circumstances under which it is permissible for a plan to suspend the payment of pension benefits (29 CFR § 2530.203–3). As published, this regulation was due to take effect May 27, 1981.

On May 26, 1981, the Department published a document (46 FR 28151) which announced its decision to defer the effective date of the suspension of benefits regulation until July 1, 1981. That action was taken in order to permit continuing reconsideration of this regulation in accordance with Executive Order 12291.

The Department has determined that a further deferral of the effective date of this regulation is necessary. As indicated in the prior notice, there are many issues involved with respect to this regulation. The Department believes that additional time is needed for full consideration of the issues, and the costs and benefits involved, in light of concerns raised in comments the Department has received on the final rule. Additional time is needed as well to fully coordinate review of this matter with the Office of Management and Budget, as required by the Executive Order.

For these reasons, and because this regulation is scheduled to become effective very shortly, the Department finds, pursuant to the Administrative Procedure Act (5 USC § 553(b)), that additional notice and public procedure on this change of effective date would be impracticable, unnecessary and contrary to the public interest.

Accordingly, pursuant to the authority set forth in sections 203(a)(3)(B) and 505 of ERISA, the effective date of 29 CFR 2530.203–3 is hereby deferred until August 1, 1981.

Signed at Washington, D.C., this 25th day of June, 1981.

Ronald J. St. Cyr,

Deputy Assistant Secretary, Labor-Management Services Administration.

[FR Doc. 81-19156 Filed 6-25-81; 1:42 pm]

BILLING CODE 4510-29-M

Mine Safety and Health Administration

30 CFR Parts 1, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 50, 71, 74, 75, and 77

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Authority citations; technical amendments.

SUMMARY: This document amends authority citations contained in several parts of the Department of Labor's Title 30, Code of Federal Regulations. This action is necessary to correct a typographical error which appears in citations of legal authority for the parts of Title 30, Code of Federal Regulations mentioned above.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Chief, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: These amendments are nonsubstantive in nature and advance notice and public participation are unnecessary. Accordingly, these amendmends are exempt from notice and comment procedures by 5 U.S.C. 553(b)(B).

The authority citations of the Mine Safety and Health Administration in 30 CFR Parts 1, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36, 50, 71, 74, 75, and 77 are amended by removing "80 Stat. 803" and inserting in its place "83 Stat. 803."

Dated: June 25, 1981.

Frank A. White,

Chief, Office of Standards, Regulations and Variances.

[FR Doc. 81-19225 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-43-M

30 CFR Part 49

Mine Rescue Teams; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule; correction.

SUMMARY: This action by the Mine Safety and Health Administration is an editorial correction to its safety and health standards, 30 CFR Part 49 (Mine Rescue Teams), which were published July 11, 1980 (45 FR 46992).

EFFECTIVE DATE: July 11, 1981.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Chief, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia (703) 235–1910.

SUPPLEMENTARY INFORMATION: The Mine Safety and Health Administration makes the editorial corrections below to correct printing errors. The standards contained in 30 CFR Part 49 for mine rescue teams were published as a final rule on July 11, 1980, and apply to all underground mining operations. They are scheduled to become effective on July 11, 1981. No substantive provisions of any MSHA safety and health standard or regulation is affected by this action. Therefore, these amendments are exempt from notice and comment procedures by 5 U.S.C. 553(b)(B).

Accordingly, 30 CFR Part 49, appearing at pages 46992–47005 in the **Federal Register** issue of July 11, 1980, is corrected as follows:

1. At 45 FR 46995, first column, third full paragraph, eleventh line, "at" is corrected to read "and."

§ 57.4-59 [Corrected]

2. At 45 FR 47005, first column, line fourteen and line eighteen, 57.4–59 is corrected to read 57.4–69.

Dated: June 25, 1981.

Frank A. White,

Chief, Office of Standards, Regulations and Variances.

[FR Doc. 81-19228 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-43-M

30 CFR Part 71

Mandatory Health Standards—Surface Coal Mines and Surface Work Areas of Underground Coal Mines; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rule; correction.

SUMMARY: The Department of Labor's mandatory health standard for surface coal mines and surface work areas of underground coal mines, 30 CFR Part 71, was amended at 45 FR 80746 (December 5, 1980). This document corrects an error which appeared in the final rule.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Chief, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1910.

SUPPLEMENTARY INFORMATION: This correction is intended to correct the amendatory language in 30 CFR Part 71 which was published as a revised final rule on December 5, 1980. As the correction is nonsubstantive in nature, it is exempt from notice and comment procedures under 5 U.S.C. 553(b)(B).

The Mine Safety and Health Administration corrects FR Doc. 80–37865, 30 CFR Part 71, which appeared as a final rule at 45 FR 80746:

On page 80756, column 1, the amendatory language is corrected by adding a paragraph 2 to read as follows:

"2. The subject heading for 30 CFR Part 71 is amended as set forth below."

Dated: June 25, 1981.

Frank A. White,

Chief, Office of Standards, Regulations and Variances.

[FR Doc. 81-19227 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 581

Personnel Review Boards; Procedures and Standards of the Army Board for Correction of Military Records

AGENCY: Army Board for Correction of Military Records.

ACTION: Final rule.

SUMMARY: On March 20, 1980, the Department of the Army published in the **Federal Register** an amendment to 32 CFR 581.3 by adding a new paragraph (h)(5) (45 FR 17990). Paragraph (h)(5)(iii) stated that the Department of the Army is presently seeking to appeal the District Court order that requires promulgation of paragraphs (h)(5)(i) and (h)(5)(ii), and that applications submitted pursuant thereto may be revised or revoked as a result of the appeal. Appellate review has been completed as to the content of paragraphs (h)(5)(i) and (h)(5)(ii), and no change has resulted in the District Court order. Therefore, paragraph (h)(5)(iii) must now be rescinded.

EFFECTIVE DATE: This amendment is effective immediately (June 30, 1981).

FOR FURTHER INFORMATION CONTACT: Mr. John W. Matthews, Army Board for Correction of Military Records, Room 1E–512, Pentagon, Washington, DC 20310, (202) 697–4254; Mr. Elwood E. Wilmeth, Army Board for Correction of Military Records.

§ 581.3 [Amended]

Accordingly, the rules of procedure of the Army Board for Correction of Military Records are amended to remove 581.3(h)(5)(iii).

Dated: June 10, 1981.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 81-19165 Filed 6-29-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 261 and 262

Prohibitions and Rewards and Impoundments

AGENCY: Forest Service, USDA.

ACTION: Final Rules.

SUMMARY: These rules amend regulations for National Forest System lands relating to 36 CFR Part 261, Prohibitions and Part 262, Rewards and Impoundments. Because of the interrelationship of Part 261 to Part 262, amendments to the rules have been considered simultaneously. The amendments are designed to (1) correct demonstrated weaknesses; (2) make existing regulations more current; and (3) clarify confusing language in existing regulations.

EFFECTIVE DATE: July 30, 1981.

FOR FURTHER INFORMATION CONTACT: Ernie Andersen, Fiscal and Accounting Management Staff, USDA-Forest Service, P.O. Box 2417, Washington, D.C. 20013 (703) 235–8484.

SUPPLEMENTARY INFORMATION: 36 CFR Part 261, Prohibitions, declares the range of unacceptable behavior when visiting and using National Forest System lands. Violations carry law enforcement sanctions. Part 262, Rewards and Impoundments, describes Forest Service authority to pay for information leading to the arrest and conviction of person(s) who start fires and destroy property on National Forest System lands as well as the policy and procedures for impounding or removing unauthorized personal property. The rules would have almost no impact on the economy and would result in no increase in cost or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. The rule would have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the final rules are found to be "nonmajor" and not subject to the regulatory impact analysis requirements of Executive Order Number 12291.

The proposed rules amending Part 261, Prohibitions, and Part 262, Rewards and Impoundments, were published in the **Federal Register** (46 FR 1758) on January 7, 1981. The 60-day public comment period ended on March 9, 1981. Sixteen written replies were received, consisting of fifty comments concerning fifteen sections. Additionally six oral comments were received.

Comments are available for review in room 701, 1621 North Kent Street, Rosslyn Plaza, Building E, Arlington, Virginia, during regular business hours between 9 a.m. and 4 p.m., Monday through Friday.

Regulatory Flexibility Act Determination

The Secretary of Agriculture has determined that this action will not have a significant economic impact on a substantial number of small entities because it imposes no direct or indirect cost on small entities except for the possibility of fine for violation of a prohibited act, it imposes no paperwork or record keeping requirements of small entities, it does not affect the competitive position of small entities in relation to large entities, and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

Discussion of Comments

The majority of comments support the amendment with only grammatical, typographical, or stylistic changes suggested. The majority of these changes have been accepted. These

changes were not substantive in nature and included, for the most part, reorganizing sentences within a section for improved readability.

Suggested changes involving enforcement jurisdiction over State and private land administered under an agreement, cannot be made at the present time without amendment to Federal law. Other suggested amendments involving State laws and regulations governing vehicle traffic and operation on National Forest System lands require additional study to determine their merit. Because there is a practical need to adopt the revisions in time for the 1981 visitor season, these suggestions are not incorporated here but will be considered for inclusion in the next notice of proposed rulemaking for Parts 261 and 262.

There were fourteen comments with suggestions for improving the clarity of § 261.9 (g) and (h), Destruction of Archaeological Resources. The general consensus of the suggestions was to include historical and paleontological resources in the prohibited act. Both subjects are presently contained at 36 CFR 261.9(e). The suggested subjects were inadvertently omitted from the proposed rule; historical and paleontological resources therefore, are included in the final rule. The remaining suggestion in this subject area proposed including "Historical and Paleontological" in § 261.2, Definitions. This suggestion is accepted to further clarify 261.9 (g) and (h).

Five written comments and a number of oral suggestions concerned § 261.70(a)(10), Alcoholic beverage. The general thrust of these comments was to retain the prohibitive section, and move it from SUBPART C—PROHIBITIONS IN REGIONS, TO SUBPART B—PROHIBITIONS IN AREAS. This suggestion is accepted after careful consideration of all comments. We know of no situation where a need exists to apply this rule on a Forest-wide basis. We believe that considered application of this rule in needed areas, on a case by case basis, frequently reviewed for continuing need, will be an effective management tool responsive in a reasonable way to continuing public demand for a safer and more orderly recreation experience.

One comment to move § 261.12(c), "Failing to stop a vehicle when directed to do so by a Forest Officer," from 261.12, Forest Development Roads and Trails, to § 261.10, Occupancy and Use, is accepted. The definition of a vehicle in § 261.2 includes watercraft, snowmobiles, or any device by which any person or property may be transported. By moving the rule to 261.10, its application is broader in scope and is still applicable to 261.12.

One commenter suggested reprinting the penalty section of Title 16 U.S.C. 551 in 36 CFR 261.1, Scope, so the public would be better informed as to the consequences of violating Part 261, Prohibitions. We agree.

One commenter suggested removing 261.16 with the exceptions of, "wagon, cart or other vehicles" which would then be moved to 261.57 for optional use. This is accepted and is reflected in the final rule.

Other than those reflected above, there are no additional changes of substance in the final rule.

For the reasons set out in the preamble, Parts 261 and 262 of chapter II of Title 36 of the Code of Federal Regulations are amended as set forth below.

PART 261—PROHIBITIONS

1. Revise the table of contents by adding 261.1b to read as follows:

Sec.
261.1 Scope.
261.1a Permits.
261.1b Penalties.
* * * * *

2. The authority citation for Part 261 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011, (f)); 82 Stat. 916 (16 U.S.C. 1281, (d)); 82 Stat. 922 (16 U.S.C. 1246, (i)), unless otherwise noted.

Subpart A—General Prohibitions

3. In § 261.1, paragraph (b) is revised to read as follows:

§ 261.1 Scope.

* * * * *

(b) Nothing in this part shall preclude activities as authorized by the Wilderness Act of 1964 or the U.S. Mining Laws Act of 1872 as amended.

4. A new § 261.1b, is added to read as follows:

§ 261.1b Penalty.

Any violation to the prohibitions on this Part (261) shall be punished by a fine of not more than $500 or imprisonment for not more than six months or both pursuant to Title 16 U.S. Code Section 551, unless otherwise provided.

5. Amend § 261.2 by adding the following definitions to read as follows:

§ 261.2 Definitions.

The following definitions apply to this part:

* * * * *

"Archaeological resource" means any material remains of prehistoric or historic human life or activities which are of archaeological interest and are at least 50 years of age, and the physical site, location, or context in which they are found.

* * * * *

"Camping equipment" means the personal property used in or suitable for camping, and includes any vehicle used for transportation and all equipment in possession of a person camping. Food and beverage are not considered camping equipment.

"Damaging" means to injure, mutilate, deface, destroy, cut, chop, girdle, dig, excavate, kill or in any way harm or disturb.

* * * * *

"Historical resource" means any structural, architectural, archaeological, artifactual or other material remains of past human life or activities which are of historical interest and are at least 50 years of age, and the physical site, location, or context in which they are found.

"Motorized equipment" means any machine activated by a nonliving power source except small battery-powered, handcarried devices such as flashlights, shavers, Geiger counters, and cameras.

"Motor vehicle" means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries, but not operated on rails.

* * * * *

"Paleontological resource" means any evidence of fossilized remains of multicellular invertebrate and vertebrate animals and multicellular plants, including imprints thereof. Organic remains primarily collected for use as fuel such as coal and oil are Paleontological Resources, but are excluded from the prohibitions under the rule.

* * * * *

"Prehistoric resource" means any structural, architectural, archaeological, artifactual or other material remains of past human life or activity generally prior to the advent of written records and of anthropological interest, and the physical site, location, or context in which they are found.

* * * * *

"Vehicle" means any device in, upon, or by which any person or property is or may be transported, including any frame, chassis, or body of any motor vehicle, except devices used exclusively upon stationary rails or tracks.

* * * * *

6. Revise the heading of § 261.3, designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 261.3 Interfering with or giving false report to a Forest Officer.

The following are prohibited:

(a) * * *

(b) Giving any false, fictitious or fraudulent report or other information to any Forest Officer engaged in or on account of the performance of his official duties knowing that such report or other information contains false, fictitious or fraudulent statement or entry.

7. Revise § 261.4 (a), (b), (c) and add paragraph (d) to read as follows:

§ 261.4 Disorderly conduct.

The following are prohibited:

(a) Engaging in fighting.

(b) Addressing any offensive, derisive, or annoying communication to any other person who is lawfully present when such communication has a direct tendency to cause acts of violence by the person to whom, individually, the remark is addressed.

(c) Make statements or other actions directed toward inciting or producing imminent lawless action and likely to incite or produce such action.

(d) Causing public inconvenience, annoyance, or alarm by making unreasonably loud noise.

8. In § 261.5, revise paragraph (a) to read as follows:

§ 261.5 Fire.

The following are prohibited:

(a) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.

* * * * *

9. In § 261.6, revise paragraph (a) to add paragraph (h) to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.

* * * * *

(h) Removing any timber, tree, or other forest product, except as authorized by permit, timber sale contract Federal law or regulation.

10. Revise the introductory paragraph of § 261.8 to read as follows:

§ 261.8 Fish and wildlife.

The following are prohibited to the extent Federal or State law is violated:

11. Revise § 261.9 to read as follows:

§ 261.9 Property.

The following are prohibited:

(a) Damaging any natural feature or other property of the United States.

(b) Removing any natural feature or other property of the United States.

(c) Damaging any plant that is classified as a threatened, endangered, sentitive, rare, or unique species.

(d) Removing any plant that is classified as a threatened, endangered, sentitive, rare, or unique species.

(e) Entering any building, structure, or enclosed area owned or controlled by the United States when such building, structure, or enclosed area is not open to the public.

(f) Using any herbicide, pesticide or fungicide except for personal use for medical purposes or as an insect repellant or with permission for other minor uses.

(g) Digging in, excavating, disturbing, injuring, destroying, or in any way damaging any paleontological, prehistoric, historic or archaeological resource, structure, site, artifact or property.

(h) Removing any paleontological, prehistoric, historic, or archaeological resource, structure, site, artifact or property.

12. In § 261.10, revise paragraphs (c), (d), and (e) and add paragraph (l) to read as follows:

§ 261.10 Occupancy and Use.

The following are prohibited.

* * * * *

(c) Selling or offering for sale any merchandise, conducting any kind of work activity or service unless authorized by Federal law, regulation, or permit.

(d) Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property: (1) In or within 150 yards of a residence, building, campsite, developed recreation site or occupied area, or (2) across or on a Forest Development road or a body of water adjacent thereto, or in any manner or place whereby any person or property is exposed to injury or damage as a result in such discharge.

(e) Abandoning any personal property.

* * * * *

(l) Failing to stop a vehicle when directed to do so by a Forest Officer.

13. In § 261.11, revise paragraphs (a), and (e) to read as follows:

§ 261.11 Sanitation.

The following are prohibited:

(a) Depositing in any toilet, toilet vault, or plumbing fixture any substance which could damage or interfere with the operation or maintenance of the fixture.

* * * * *

(e) Dumping of any refuse, debris, trash or litter brought as such from private property or from land occupied under permit, except, where a container, dump or similar facility has been provided and is identified as such, to receive trash generated from private lands or lands occupied under permit.

§ 261.12 [Amended]

14. Amend § 261.12 by removing paragraph (c) and relettering paragraphs (d), (e) and (f) as (c), (d), and (e).

15. In § 261.14, revise paragraphs (c), (l), and (m) to read as follows:

§ 261.14 Developed recreation sites.

The following are prohibited:

* * * * * *

(c) Cleaning or washing any personal property, fish, animal, or food, or bathing or washing at a hydrant or water faucet not provided for that purpose.

* * * * *

(l) Bringing in or possessing a saddle, pack, or draft animal except as authorized by posted instructions.

(m) Operating or parking a motor vehicle or trailer except in places developed or designated for this purpose.

* * * * *

16. Revise § 261.15 to read as follows:

§ 261.15 Admission, recreation use and special recreation permit fees.

Failing to pay any fee established for admission or entrance to or use of a site, facility, equipment or service furnished by the United States is prohibited. The maximum fine shall not exceed $100 (Sec. 2, 78 Stat 897, as amended: 16 U.S.C. 460l–6(e)).

17. In § 261.16, revise paragraph (a) to read as follows:

§ 261.16 National Forest Wilderness.

The following are prohibited in a National Forest Wilderness:

(a) Possessing or using a motor vehicle, motorboat, or motorized equipment.

* * * * *

18. Revise § 261.21 to read as follows:

§ 261.21 Wild free-roaming horses and burros.

The following are prohibited:

(a) Removing or attempting to remove a wild free-roaming horse or burro from the National Forest System unless authorized by law or regulation.

(b) Causing or allowing the inhumane treatment or harassment of a wild free-roaming horse or burro.

(c) Removing or attempting to remove, alter or destroy any official mark used

to identify a wild horse or burro or its remains unless authorized or permitted by law or regulation.

(d) Violating any terms or conditions specified in a care and maintenance agreement or permit.

Supbart B—Prohibitions in Areas Designated by Order

19. Amend § 261.50(e) by adding subparagraph (6) to read as follows:

§ 261.50 Orders.

(e) * * *

(6) Any other person meeting exemption requirements specified in the order.

20. In § 261.52, revise paragraph (j) to read as follows:

§ 261.52 Fire.

When provided by an order, the following are prohibited:

* * * * *

(j) Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either: (1) Department of Agriculture, Forest Service Standard 5100–1a; or (2) appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a).

* * * * *

21. Amend § 261.54 by adding paragraph (f) to read as follows:

§ 261.54 Forest development roads.

When provided by an order, the following are prohibited:

* * * * *

(f) Operating a vehicle carelessly, recklessly, or without regard for the rights or safety of other persons or in a manner or at a speed that would endanger or be likely to endanger any person or property.

22. Amend § 261.57 by adding paragraph (h) to read as follows:

§ 261.57 National Forest Wilderness.

When provided by an order, the following are prohibited:

* * * * *

(h) Possessing or using a bicycle, wagon, cart, or other vehicle.

23. In § 261.58, revise paragraph (g) and add paragraphs (aa) and (bb) to read as follows:

§ 261.58 Occupancy and use.

When provided by an order, the following are prohibited:

* * * * *

(g) Parking or leaving a vehicle in violation of posted instructions.

* * * * *

(aa) Riding, hitching, tethering or hobbling a horse or other saddle or pack animal in violation of posted instructions.

(bb) Possessing a beverage which is defined as an alcoholic beverage by State law.

PART 262—REWARDS AND IMPOUNDMENTS

24. The authority citation for Part 262 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526 as amended (7 U.S.C. 1011(f)); 58 Stat. 736 (16 U.S.C. 559(a)), unless otherwise noted.

25. In § 262.1 revise paragraphs (a)(1), (a)(2), and (a)(3) to read as follows:

§ 262.1 Rewards in connection with fire or property prosecutions.

(a) * * *

(1) Not exceeding $5,000 for information leading to the arrest and conviction of any person on the charge of willfully or maliciously setting on fire, or causing to be set on fire, any timber, underbrush, or grass upon the lands of the United States within the National Forest System or nearby.

(2) Not exceeding $1,000 for information leading to the arrest and conviction of any person on the charge of having kindled or caused to be kindled a fire on lands of the United States within the National Forest System or nearby, and leaving said fire which escapes before the same has been totally extinguished;

(3) Not exceeding $5,000 for information leading to the arrest and conviction of any person charged with destroying or stealing any property of the United States; and

* * * * *

26. Revise § 262.4 by adding paragraph (e) to read as follows:

§ 262.4 Impounding of personal property.

* * * * *

(e) The provisions of this section shall not apply to the impoundment or disposal of beached logs in Alaska if deemed abandoned under State law.

June 19, 1981.

Richard E. Lyng,

Acting Secetary.

[FR Doc. 81-18779 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical School and Health Manpower Assistance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These amended regulations implement two laws, the Veterans Health Programs Extension and Improvement Act of 1979, and the Veterans Administration Health Care Amendments of 1980. In addition, certain pertinent sections of two previous laws, the Veterans Omnibus Health Care Act of 1976, and the Veterans Administration Programs Extension Act of 1978 are also implemented. These four laws remove the authority of the Administrator to enter into agreements supporting new State medical schools, delete the requirement for enrollment increases in medical school and other health manpower training institution classes, and extend the appropriations authorization to Fiscal Year 1982. Also, these amended regulations ease the terminal transition period by removing the seven-year limitation on grants to medical schools and other health manpower training institutions.

EFFECTIVE DATE: These regulations are effective June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Chester W. DeLong (202) 389–3072.

SUPPLEMENTARY INFORMATION: On March 23, 1981, these proposed amendments were published in the **Federal Register**, pages 18051–18054. Interested persons were given 30 days to submit comments, suggestions, or objections. No responses were received.

The Agency Head has determined that this proposed regulation is non-major in accordance with the requirements of Executive Order 12291, Federal Regulation.

It has also been determined as required by the Regulatory Flexibility Act (Pub. L. 96–354) that it poses no compliance costs or reporting burdens upon the public and has no effect on businesses or State and local governments. The proposed amendments to 38 CFR §§ 17.400 through 17.416 are hereby adopted.

Approved: June 19, 1981.

Donald L. Custis,

Acting Administrator.

38 CFR Part 17 is amended as follows:

Grants and Assistance for Development, Expansion and Improvement of Medical and Allied Health Education

1. Section 17.400 is amended by adding four new citations after "Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972" so that the revised section reads as follows:

§ 17.400 Purpose and scope of the program.

The provisions of §§ 17.400 through 17.416 are applicable to a program of grants and other forms of assistance under the "Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972" as amended by the Veterans Omnibus Health Care Act of 1976 (Pub. L. 94–581), the Veterans' Administration Programs Extension Act of 1978 (Pub. L. 95–520), the Veterans Health Programs Extension and Improvement Act of 1979 (Pub. L. 96–151), and the Veterans' Administration Health Care Amendments of 1980 (Pub. L. 96–330) (38 U.S.C. Chapter 82). This Act authorizes the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools and the improvement of existing medical schools affiliated with the Veterans' Administration; to develop cooperative arrangements between institutions of higher education, hospitals, and other nonprofit health service institutions affiliated with the Veterans' Administration to coordinate, improve, and expand the training of professional and allied health and paramedical personnel; to develop and evaluate new health careers, interdisciplinary approaches and career advancement opportunities; to improve and expand allied and other health manpower utilization; and for other purposes.

2. § 17.402, paragraph (c), paragraphs (f) (1), (2), and (3), and (g)(1) are revised to read as follows:

§ 17.402 Definitions.

For the purpose of §§ 17.400 through 17.416 the term:

* * * * *

(c) "Program period" means the time for which the grant assistance has been approved as specified in the agreement or grant document.

* * * * *

(f) For the purposes of 38 U.S.C. 5071–5074: (1) "Colleges" means nonprofit institutions of higher learning, which are primarily supported by the State, and are authorized to offer, and are offering a formal program of college level studies leading to the baccalaureate degree and are accredited or approved by an accrediting body or bodies recognized for such purposes by the Secretary of the Department of Education.

(2) "Universities" means educational institutions, which are primarily supported by the State; which are comprised of one or more undergraduate colleges or professional schools, each appropriately accredited or approved by an accrediting body or bodies recognized for such purposes by the Secretary of the Department of Education; and which are authorized to confer degrees.

(3) "Medical school" means a nonprofit school of medicine or osteopathy which provides a complete course of study which culminates in a degree of doctor of medicine or doctor or osteopathy; and with regard to which there has been a finding made of reasonable assurance that such a school can proceed to full accreditation as determined by the body or bodies recognized for such purposes by the Secretary of the Department of Education.

* * * * *

(g) For the purposes of 38 U.S.C. 5081–5083: (1) "Medical school" means a nonprofit school of medicine or osteopathy which provides a course of study of not less than 2 years, which forms a part or whole of the necessary requirements leading to a degree of doctor of medicine or doctor of osteopathy, and which has been reviewed and accredited for its stage of development by an appropriate accrediting agency recognized for such purpose by the Secretary of the Department of Education.

* * * * *

3. In § 17.403, paragraph (a)(3) is amended by changing the words "he may require" to read "as may be required" so the revised material reads as follows:

§ 17.403 Eligibility.

(a) To be eligible to receive assistance under 38 U.S.C. 5071–5074, the applicant must:

* * * * *

(3) Furnish the Administrator with such evidence as may be required that the college or university has prepared and presented a plan for the proposed new school of medicine or osteopathy; and that in a letter dated not earlier than October 24, 1972, has received reasonable assurance of accreditation of the new school as defined in § 17.402(f)(3).

* * * * *

4. In § 17.405, the introductory portions of (a)(1), (b)(1) and (c)(1) and paragraphs (a)(2) (ii) and (iii), (b)(2) and (c)(2) are amended by changing the word "his" to "the Administrator's" wherever it appears and new paragraph (a)(4) is added. In paragraph (b)(1)(iii) the words "including the accomplishment of the increased enrollment of full-time students" are removed. In paragraph (c)(1)(iii) the words "including the increase in enrollment of students," are removed and the title of the Commissioner of Education for the Department of Health, Education and Welfare is revised. In paragraph (d)(1) the words "(not to exceed 7 years.)" are removed. The revised and added material reads as follows:

§ 17.405 Agreements and grant awards.

(a) For the purposes of 38 U.S.C. 5071–5074: (1) Within the limits of funds available each year for such purposes, the Administrator, upon recommendation of the Chief Medical Director and after consultation with the Special Medical Advisory Group, may enter into, or continue with, agreements to provide assistance to a total of not more than eight applicants whose proposals in the Administrator's judgment best achieve the purposes of 38 U.S.C. 5071, taking into consideration.

* * * * *

(2) The terms of any agreement and the amount of any funds to be awarded shall be determined by the Administrator on the basis of:

* * * * *

(ii) The Administrator's estimate of the sums necessary to accomplish the adequate extension, alteration, remodeling, improvement, or repair of the building or structures to be leased; and to adequately equip such buildings or structures for the purposes proposed; and

(iii) The Administrator's estimate to the amounts necessary to assist in the payment of the cost of the salaries of faculty, the proportion will not exceed 90 percent of the salaries for the first year of operation, and a like percentage for the second and third years; 80 percent for the fourth year, 70 percent for the fifth year, 60 percent for the sixth year; and 50 percent for the seventh year.

* * * * *

(4) Notwithstanding any other provision concerning this program set forth in §§ 17.400 through 17.416, the Administrator may not enter into any agreement under Subchapter I of Chapter 82, Title 38, United States Code, after September 30, 1979. This is not to be interpreted as interfering with the

continued administration of existing agreements under Subchapter I.

(b) For the purposes of 38 U.S.C. 5081–5083: (1) Within the limits of funds available for such purposes, the Administrator, upon recommendation of the Chief Medical Director and after consultation with the Special Medical Advisory Group, may award grants and other assistance to those applicants whose projects or programs will in the Administrator's judgment best promote the purposes of 38 U.S.C. 5081, taking into consideration:

* * * * *

(iii) The capability of the applicant to carry out the proposed program of project, without threat to its accreditation as required in § 17.402(g)(1):

* * * * *

(2) The amount of any award shall be determined by the Administrator on the basis of the Administrator's estimate of the sum necessary for the cost of the applicant's approved program or project.

(c) For the purposes of 38 U.S.C. 5091–5093: (1) Within the limits of funds available for such purpose, the Administrator, upon recommendation of the Chief Medical Director and after consultation with the Special Medical Advisory Group, may award grants to those applicants whose projects or programs will in the Administrator's judgment best promote the purposes of 38 U.S.C. 5091, taking into consideration:

* * * * *

(iii) The capability of the applicant to carry out the proposed program or project under circumstances which will not compromise the quality of education at the institution nor jeopardize the accreditation of the training program by the appropriate body or bodies recognized for such purposes by the Secretary of the Department of Education.

* * * * *

(2) The amount of any award shall be determined by the Administrator on the basis of the Administrator's estimate of the sum necessary for the cost of the applicant's approved program or project.

(d) For the purposes of any grant program of 38 U.S.C. Chapter 82: (1) All grant awards shall be in writing, shall set forth the total amount of assistance awarded and the total period for which it will be available for obligation by the grantee.

* * * * *

5. In § 17.407, paragraph (b) is amended by changing the word "and" which appears after the word "expansion" to "or", and by replacing the words "to increase the production" with "in the training" so that the revised paragraph reads as follows:

§ 17.407 Expenditure of grant funds.

* * * * *

(b) For the purposes of 38 U.S.C. 5081–5083, any funds granted shall be expended solely for the expansion or improvement of the training capacities of medical schools affiliated with the Veterans Administration and to permit such schools to cooperate with other public and nonprofit institutions of higher learning, hospitals and other health manpower institutions affiliated with the Veterans Administration in the training of professional and other health personnel in accordance with the applicable provisions of 38 U.S.C. Chapter 82, §§ 17.400 through 17.416, and the terms and conditions of the grant award.

* * * * *

6. In § 17.408, paragraph (a) is amended by updating the title of the Department of Health, Education and Welfare so that the revised paragraph reads as follows:

§ 17.408 Nondiscrimination.

(a) Grants made under 38 U.S.C. Chapter 82 shall be subject to Title IX of the "Education Amendments Act of 1972" (effective July 1, 1972) and regulations promulgated by the Department of Education. Such title prohibits sex discrimination in all federally assisted education programs.

* * * * *

7. In § 17.410, paragraph (c) is amended by adding the word "revised," after the words "No. A–87" so that the revised paragraph reads as follows:

§ 17.410 Accountability.

* * * * *

(c) For the purposes of 38 U.S.C. 5081–5083 and 5091–5093, indirect costs may be computed on a percentage basis or on the basis of a negotiated lump-sum allowance in accordance with the principles set forth in the Office of Management and Budget Circulars No. A–88, No. A–87 revised, and No. A–21. In the method of computation used, only indirect costs shall be included which bear a reasonable relationship to the program funded by the grant and shall not exceed a percentage greater than the total institutional indirect cost is of the total direct salaries and wages paid by the institution.

8. Sections 17.412, 17.413, and paragraph (a) of § 17.414 are amended by replacing the word "his" with the words "the Administrator's" wherever it appears. The revised sections read as follows:

§ 17.412 Additional conditions.

The Administrator may with respect to any grant award impose additional conditions prior to or at the time of any award when in the Administrator's judgment such conditions are necessary to assure or protect advancement of the grant purposes, the interest of the Veterans Administration or the conservation of grant funds. All construction, and alterations of buildings and structures, related to the award of a grant or other assistance will be subject to section 102(2)(C) of the National Environmental Policy Act.

§ 17.413 Early termination and withholding of payments.

Whenever the Administrator finds that a grantee has failed in a material respect to comply with the applicable provisions of 38 U.S.C. Chapter 82, §§ 17.400 through 17.416, or the terms of the grant, the Administrator may, on reasonable notice to the grantee withhold further payments and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of 38 U.S.C. Chapter 82 and §§ 17.400 through 17.416. Non-cancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

§ 17.414 Recapture provision.

(a) If the Administrator determines that any school established with assistance under §§ 17.400 through 17.416

(1) Is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

(2) Is accredited but fails substantially to carry out the term of the agreement entered into under 38 U.S.C. Chapter 82; or

(3) Is no longer operated for the purpose for which such assistance was granted,

the Administrator shall be entitled to recover from the recipient of assistance the facilities of such school which were established with assistance under §§ 17.400 through 17.416. In order to recover such facilities the Administrator may bring an action in the district court of the United States for the district in whcih such facilities are situated.

(38 U.S.C. 210(c))

[FR Doc. 81-19172 Filed 6-29-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-1869-6]

Virginia and Delaware State Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rulemaking.

SUMMARY: This Notice corrects several errors in the codification of the Virginia and Delaware State Implementation Plans (SIP) regarding the delegation of authority for the Prevention of Significant Deterioration (PSD) program.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Robert J. Blaszczak (3AH13), Air Media and Energy Branch, Environmental Protection Agency, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Phone: (215) 597-8186.

SUPPLEMENTARY INFORMATION: On June 15, 1981 (46 FR 31261), EPA published final approval for delegation of authority to implement technical and administrative review and enforcement of PSD provisions to the State of Delaware. These provisions were incorrectly codified under Subpart VV Section 52.2451 which is the codification for the Commonwealth of Virginia's PSD program. This action resulted in deleting Virginia's program and placing Delaware's program in the wrong section of the CFR.

This notice serves to correct the above errors. Since it does not alter previously approved revisions but only the codification of said revisions, EPA finds that a notice and comment period are unnecessary. See 5 U.S.C. 522(b)(A)(B).

(42 U.S.C. 7401-7642)

Dated: June 19, 1981.

Alvin R. Morris,

Acting Regional Administrator.

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

Subpart I—Delaware

1. Section 52.432, new paragraph (c) is added to read as follows:

§ 52.432 Significant deterioration of air quality.

* * * * *

(c) Pursuant to 40 CFR 52.21(u) full delegation of authority for all portions of the Federal PSD program, as described in 40 CFR 52.21, was relinquished to the State of Delaware as of June 15, 1981. All applications submitted as of that date and supporting information required pursuant to § 52.21 from sources located in the State of Delaware shall be submitted to: Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Division of Environmental Control, Edward Tatnall Building, P.O. Box 1401, Dover, Delaware 19901.

* * * * *

Subpart VV—Virginia

1. Section 52.2451, new paragraph (c) is added to read as follows:

§ 52.2451 Significant deterioration of air quality.

* * * * *

(c) Pursuant to 40 CFR 52.21(u) full delegation of authority for all portions of the Federal PSD program, as described in 40 CFR 52.21, was relinquished to the Commonwealth of Virginia as of June 3, 1981. All applications submitted as of that date and supporting information required pursuant to § 52.21 from sources located in the Commonwealth of Virginia shall be submitted to: Division of Compliance, State Air Pollution Control Board, Commonwealth of Virginia, Room 1116, Ninth Street Office Building, Richmond, Virginia 23214.

[FR Doc. 81-19170 Filed 6-29-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 52 and 81

[A-1-FRL-1870-2]

Approval and Promulgation of Implementation Plans—Massachusetts, Vermont, and Maine; and Designation of Areas for Air Quality Planning Purposes—New Hampshire and Maine; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Corrections to final rules.

SUMMARY: This document corrects several errors in the designations of attainment and nonattainment areas published in 40 CFR Part 81 as required by Section 107 of the Clean Air Act and also corrects attainment dates published in 40 CFR Part 52. The changes being made reflect errors and omissions and do not represent any new information submitted by the states.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: The corrections being made to 40 CFR Part 81 are as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES—NEW HAMPSHIRE AND MAINE

§ 81.320 [Corrected]

1. In § 81.320 "Maine", the table entitled "Maine-TSP" is corrected by placing an "x" on the line "Rockland" under the column "Cannot Be Classified".

§ 81.330 [Corrected]

2. In § 81.330 "New Hampshire" the table entitled "New Hampshire-TSP" is corrected as follows:

a. The line entitled "Metropolitan Keene, Manchester" is corrected by removing the word "Manchester."

b. A new line entitled "Metropolitan Manchester" is inserted between the lines entitled "Metropolitan Keene" and "Remainder of New Hampshire Portion of So. N.H.M.V. AQCR 121." An "x" is placed on this new line under the column entitled "Does Not Meet Secondary Standards."

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS, VERMONT, AND MAINE

The corrections being made to 40 CFR Part 52 are as follows:

Subpart U—Maine

§ 52.1024 [Corrected]

1. In § 52.1024 "Attainment Dates for National Standards" the table entitled "Pollutant" in F.R. Doc. 81-5051 appearing at page 10774 in the Federal Register of February 19, 1980 is corrected by replacing the "a" on the line "Millinocket" under the column "Primary SO_2" with a "d" and, on the same line, replacing the "b" under the column "Secondary SO_2" with a "d."

Subpart W—Massachusetts

§ 52.1127 [Corrected]

2. In § 52.1127 "Attainment Dates for National Standards" the table entitled "Pollutant" in FR Doc. 80-841 appearing at page 61304 in the Federal Register of September 16, 1980 is corrected by:

a. Inserting a new line entitled "Swampscott" between the lines "Revere" and "Waltham". A "g" is placed under the column "TSP Secondary" and an "a" under the column "TSP Primary" for this line.

b. Placing an "a" on the line "Lawrence" under the column "TSP Primary" and a "g" under the column "TSP Secondary".

c. Placing an "a" under the column entitled "TSP Primary" and a "b" under the column "TSP Secondary" on the line "Remainder of AQCR" under the section "Merrimack Valley-Southern New Hampshire Interstate."

d. Replacing the "b" under the column "SO_2 Primary" on the line "Berkshire, Intrastate" with an "a".

e. Inserting a note at the end of the table before the line "a. Air quality levels below primary standards or area is an unclassifiable" as follows, "NOTE. Footnotes which are underlined are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable."

§ 52.1120 [Corrected]

3. In § 52.1120 "Identification of Plan" the paragraph in FR Doc. 81-8408 which reads "A revision submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering on September 12, 1980 adding a new regulation 310 CMR 7.19 . . ." appearing at page 17552 in the **Federal Register** of March 19, 1981 is renumbered from 36 to 37.

Subpart UU—Vermont

§ 52.2375 [Corrected]

4. In § 52.2375 "Attainment Dates for National Standards" the table entitled "Pollutant" in FR Doc. 80-5064 appearing at page 10782 in the **Federal Register** of February 19, 1980, is corrected by inserting, on the lines "Essex Town (including Essex Jct.)," "South Burlington City," and "Winooski" the following letters: an "a" under the column "TSP Primary" a "c" under the column "TSP Secondary"; an "a" under the column "SO_2 primary"; an "a" under the column "SO_2 Secondary"; an "a" under the column "NO"$_2$; a "b" under the column "CO"; and a "b" under the column "O_3".

Dated: June 17, 1981.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 81-19224 Filed 6-29-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 704 and 713

[TSH-FRL-1869-4; OPTS 81005B]

Reporting and Recordkeeping Requirements; Submission of Notice of Manufacture or Import of PBBs and TRIS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; redesignation.

SUMMARY: EPA issued a final rule concerning the submission of notices of manufacture or importation of polybrominated biphenyls (PBBs) and tris (2,3-dibromopropyl) phospate (Tris), 40 CFR Part 713, which was published in the **Federal Register** of October 24, 1980 (45 FR 70728). In order to consolidate the reporting of chemical processing information, EPA is establishing 40 CFR Part 704, and the rule published in the **Federal Register** of October 24, 1980 is being transferred and recodified into 40 CFR Part 704.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In order to consolidate the reporting of chemical processing information, Part 704 is being added to 40 CFR Chapter I, and Part 713 regulations are being recodified into that part. For the convenience of the reader the following redesignation table indicates where the recodified material may be found.

Redesignation Table

Old section	New section
713.11	704.95(c).
713.12	704.95(a).
713.13	704.95(b).
713.14	704.95(d).
713.15	704.95(e).
713.16	704.95(f).
713.17	704.95(g).
713.18	704.95(h).

Dated: June 23, 1981.

Edwin H. Clark, II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, Chapter I of 40 CFR is amended as follows:

1. By adding Part 704 to read as follows:

Part 704—REPORTING AND RECORDKEEPING REQUIREMENTS

Subparts A—D [Reserved]

Subpart E—Specific Chemical Reporting Requirements

§ 704.95 Polybrominated Biphenyls (PBBs) and Tris (2,3-dibromopropyl) phosphate; submission of notice of manufacture or import.

(a) *Scope.* This rule establishes procedures governing reporting by persons who manufacture or import or who propose to manufacture or import Tris, or PBBs which have been reported for the TSCA Chemical Substances Inventory under 40 CFR Part 710.

(b) *Compliance.* Violation of the requirements of this rule may result in civil penalty or criminal prosecution, as provided in sections 15 and 16 of TSCA. In addition, under section 17, the Government may seek judicial relief to compel submission or required information.

(c) *Definitions.* All definitions as set forth in the Toxic Substances Control Act (TSCA) section 3 apply for this rule. In addition, the following definitions are provided for the purposes of this rule.

(1) "Article" means a manufactured item (i) which is formed to a specific shape or design during manufacture, (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (iii) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

(2) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(3) "EPA" means the United States Environmental Protection Agency.

(4)(i) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States, and includes: (A) The person primarily liable for the payment of any duties on the merchandise, or (B) and authorized agent acting on his behalf (as defined in 19 CFR 1.11). (ii) Importer also includes, as appropriate:

(A) The consignee.

(B) The importer of record.

(C) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(D) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the United States consists of the 50 states, Puerto Rico, and the District of Columbia.

(5) "Import in bulk form" means to import a chemical substance (other than

as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

(6) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(7) "Manufacture" means to manufacture for commercial purposes.

(8)(i) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture.

(A) For commercial distribution, including for test marketing, and

(B) For use by the manufacturer, including use for product research and development, or as an intermediate.

(ii) Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(9) "Person" includes any individual, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(10) "PBBs" (polybrominated biphenyls) means chemical substances the compositions of which, without regard to impurities, consist of brominated biphenyl molecules having the molecular formula $C_{12}H_xBr_y$ where $x+y=10$ and y ranges from 1 to 10.

(11) "Propose to manufacture or import PBBs or Tris" means that a person has made a firm management decision to commit financial resources for the manufacture or import of PBBs and Tris.

(12) "Small manufacturer or importer" means a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to PBBs or Tris which such person manufactured at one site or imported in quantities greater than 10,000 pounds during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(13) "Tris" means tris (2,3-dibromopropyl) phosphate (also commonly named DBPP, TBPP, and Tris-BP).

(14) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

(d) *Persons who must report.* Except as provided in paragraph (h) of this section, the following persons are subject to the rule:

(1) Persons who manufacture or propose to manufacture Tris, or PBBs which have been reported for the Inventory.

(2) Persons who import (importers) or propose to import Tris, or PBBs which have been reported for the Inventory, as a chemical substance in bulk or as part of a mixture.

(e) *Persons not subject to this rule.* The following persons are not subject to this rule:

(1) Persons who are small manufacturers or importers, as defined in paragraph (c)(12) of this section.

(2) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris solely for research and development.

(3) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris as a byproduct or impurity.

(4) Persons who import or propose to import PBBs or Tris as part of an article.

(f) Reporting requirements. (1) Persons subject to this rule as described in paragraph (d) of this section must notify EPA of current or proposed manufacture or import of PBBs or Tris. Persons who are manufacturing or importing PBBs or Tris on the effective date of the rule must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import PPBs or Tris must notify EPA within 15 days when they propose to manufacture or import the substance.

(2) The notice must include, to the extent that it is known to the person making the report or is reasonably ascertainable, the following information:

(i) Company name and address.

(ii) Principal technical contact.

(iii) A description of the use or intended use for the PBBs or Tris.

(iv) Estimated number of persons exposed to the PBBs or Tris during manufacture or importation, processing, distribution, use, and disposal.

(v) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(vi) The proposed date for the initiation of manufacturing or importation of PBBs or Tris, if appropriate.

(3) Notices shall be submitted by certified mail to the Document Control Officer, for TSCA, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Washington, DC 20460. ATTN: PBB notification or Tris notification.

(g) *Confidentiality claims.* (1) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Part 2 of this title.

(2) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(3) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(i) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "'confidential", "proprietary", or "trade secret".

(ii) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(iii) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(iv) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the

date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(4) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(i) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(ii) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of ligitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

(iii) The information is not publicly available eslewhere.

(iv) Disclosure of the information would cause substantial harm to our competitive position.

(h) Sunset provision. The reporting requirements of paragraph (f) of this section will terminate on May 1, 1985.

(Sec. 8a, Pub. L. 94-169, 90 Stat. 2027, (15 U.S.C. 2607a))

PART 713—REPORTING AND RECORDKEEPING REQUIREMENTS

[Removed]

2. By removing Part 713.

(Sec. 8a, Pub. L. 94-169, 90 Stat. 2027, (15 U.S.C. 2627a))

[FR Doc. 81-19139 Filed 6-29-81; 8:45 am]

BILLING CODE 6560-31-M

Proposed Rules

Federal Register
Vol. 46, No. 125
Tuesday, June 30, 1981

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Chs. I–VII, IX–XII, XIV–XVIII, XXI, XXIV–XXIX

9 CFR Chs. I–IV

36 CFR Ch. II

41 CFR Ch. 4

Regulatory Flexibility Act; Plan for Periodic Review of Existing Rules

AGENCY: Department of Agriculture, Office of the Secretary.

ACTION: Publication of Plan for Periodic Review of USDA Rules.

SUMMARY: The U.S. Department of Agriculture, in accordance with the Regulatory Flexibility Act (P.L. 96–354), is publishing a plan for the periodic review of rules, as defined in P.L. 96–354, which are currently in existence and which have or will have a significant economic impact on a substantial number of small entities. Such entities are defined as small businesses, small organizations (generally, not-for-profit enterprises), or small governmental jurisdictions (generally, governments of cities, counties, towns, townships, villages, school districts, or special districts with population of less than fifty thousand).

All covered rules will be reviewed within the upcoming five years and within every five-year cycle thereafter.

FOR FURTHER INFORMATION CONTACT: Elizabeth Webber, Acting Director, Regulatory Analysis, Office of Budget and Program Analysis, Room 147–E, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, Telephone (202) 382–1270.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, P.L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (hereinafter "RFA"), requires each agency to consider the effect on small entities of the rules it promulgates and attempt to tailor regulatory requirements to the scale of the small businesses, organizations, and governmental jurisdictions affected. The RFA further requires that existing rules, as defined by the RFA (excluding matters relating to certain loans, grants other than those to State and local governments, benefits, or contracts), with a significant economic impact on a substantial number of small entities be reviewed with a goal of minimizing any negative impacts through amendment or rescission.

Section 610 of the RFA provides that within one hundred and eighty days after the effective date of the law, each agency shall publish in the **Federal Register** a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. The purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such existing agency rules within ten years of the effective date of the law.

Accordingly, the Department has prepared this plan for reviewing all of its affected rules which may have a significant economic impact on a substantial number of small entities.

Preliminary Screening of Current Regulations

All sub-units of the Department (hereinafter "agencies") have been directed to conduct a preliminary screening of their regulations currently in force, in order to determine which ones have such impacts and to establish a priority list and timetable for their review. Considerable discretionary authority has been given to the individual agencies to conduct their screenings and reviews in light of the large number of rulemaking units with the Department (seventeen separate entities) and in light of the range of program areas they cover (from soil conservation to food inspection). It should be noted that the screenings will also establish which of all existing regulations are "major" regulations, as defined in Executive Order 12291, "Federal Regulation" (46 FR 13193). These screenings are currently being carried out. In establishing their priority lists, agencies are to take into consideration the potential for reducing unnecesssary regulatory burdens, the costs of the regulations, and the amount of time elapsed since the last review. Timetables are to be specifically designed so as to assure that no regulation exists for longer than five years without being reviewed; therefore, the legal requirement that a review of all rules existing as of January 1, 1981 be completed by January 1, 1991, will be met.

Review of Rules

The RFA requires that reviews of rules to minimize significant economic impacts on substantial numbers of small entities take the following factors into consideration:

(1) the continued need for the rule;

(2) the nature of complaints or comments received concerning the rule from the public;

(3) the complexity of the rule;

(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

In addition, the Department will consider:

(6) the cost-effectiveness of the rule;

(7) the compliance burdens (reporting, operating, capital outlays) imposed by the rule;

(8) the extent of compliance with the rule achieved in the past;

(9) the practical enforceability of the rule;

(10) the clarity of the language used in the rule; and

(11) the existence of other regulations affecting the same groups.

All such reviews and any subsequent modifications or rescissions must take into consideration the stated objectives of the applicable statutes.

Publication of Rules Scheduled for Review

The RFA further mandates that an annual schedule be published of the

rules to be reviewed in the next year, as follows:

Each year, each agency shall publish in the **Federal Register** a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

USDA plans to meet this requirement by publishing semi-annual listings of rules to be reviewed in the upcoming twelve months at the end of each regulatory agenda (published in the **Federal Register** in April and October). Those listings will include all USDA rules to be so reviewed; those having or that will have a significant economic impact on a substantial number of small entities will be specifically designated, as will those which fall into the "major" category as set forth in E.O. 12291. The listing of rules to be reviewed will be subdivided, with each entry appearing under the name of the responsible agency. Public comments will be solicited at that time. Should modification or rescission be determined appropriate, rulemaking procedures will be initiated as soon as is feasible.

Done at Washington, D.C. on June 25, 1981.

John R. Block,

Secretary.

[FR Doc. 81-19208 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Parts 1006, 1012, 1013

[Docket Nos. AO-356-A17, AO-347-A20, AO-286-A28]

Milk in the Upper Florida, Tampa Bay and Southeastern Florida Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals submitted by a handler to amend the three milk marketing orders in Florida. The proposals would change the classification of eggnog from Class I milk to the lower priced Class II milk. Proponent says that this change in the Florida orders would provide more uniform classification of eggnog among Federal milk orders and is needed to insure orderly marketing in the marketing areas covered by the orders.

DATE: The hearing will be on July 14, 1981.

ADDRESS: The hearing will be held at the Howard Johnson Motel, 603 Lee Road (at intersection of I 4), Orlando, Florida, telephone (305) 644-6100.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialists, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Howard Johnson Motel, 603 Lee Road, Orlando, Florida, beginning at 9:30 a.m., local time, on Tuesday, July 14, 1981, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid specified marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Beginning January 1, 1981, actions under the Federal milk order program become subject to the "Regulatory Flexibility Act"(Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Borden, Inc.:

Proposal No. 1

Amend the orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas to classify skim milk and butterfat used in eggnog as Class II milk rather than Class I milk.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreements and the orders for the aforesaid marketing areas conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator, Paul H. Halnon, P.O. Box 11368, Ft. Lauderdale, Florida 33339 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units.

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington Office only).
Office of the Market Administrator, Upper Florida, Tampa Bay and Southeastern Florida marketing areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on: June 25, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-19229 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 937

The St. Thomas National Marine Sanctuary

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

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration proposes the designation of the St. Thomas National Marine Sanctuary located southeast of St. Thomas, United States Virgin Islands. Presidential approval of the designation is reqired. After designation, necessary and reasonable regulations to control activities within the Sanctuary will be promulgated. These proposed regulations define permissible activities within the Sanctuary, the procedures by which persons may obtain permits for prohibited activities and the penalties for committing prohibited acts without a permit.

DATE: Comments due July 16, 1981.

ADDRESS: Send comments to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Lindelof, Gulf and Caribbean Project Manager, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634–4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the Continental Shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Admnistrator).

The Office of Coastal Zone Management proposes to designate a 9.27 square nautical miles marine sanctuary adjacent to the southeast St. Thomas, United States Virgin Islands. The area contains the most significant stand of mangroves in the Virgin Islands, extensive coral reef communities, coral caves, and several shipwrecks. The area also supports numerous conch, and lobster habitats, and nesting and feeding areas for endangered turtle and fish species.

In May 1979, the Virgin Islands Department of Conservation and Cultural Affairs (DCCA) recommended this area as a National Marine Sanctuary. In July 1979 NOAA and DCCA distributed an Issue Paper and on August 8, 1979, held a public workshop in St. Thomas.

Following the workshop, DCCA and NOAA began preparation of a draft environmental impact statement (DEIS), which is being published concurrently with these regulations (a copy can be obtained by writing to the contact identified above). The DEIS describes the impacts of the marine sanctuary proposal including its ability to focus on the particularly valuable marine areas and to provide comprehensive management. It discusses marine sanctuary management including the administrative arrangement between NOAA and DCCA for onsite management, the rationale for the designation and for the regulatory system as well as alternative approaches to establishing a sanctuary.

OCZM will receive public comments on the proposal, hold a public hearing in St. Thomas, Virgin Islands, and prepare a final EIS which will incorporate and respond to the comments received. Only after final consultation with the appropriate Federal agencies, and with the approval of the Governor of the Virgin Islands and the President, can the Secretary designate the Sanctuary and promulgate regulations.

NOAA's General Marine Sanctuary Regulations (15 CFR Part 922) provide that the regulatory system for marine sanctuary will be established by two documents, a Designation document and the regulations issued pursuant to Section 302(f) of the Act. The Designation will serve as a constitution for the Sanctuary, setting forth, among other things, the purposes of the Sanctuary, the types of activities that may be subject to regulation within it, and the extent to which other regulatory programs will continue to be effective and relied upon to protect the resources of the Sanctuary.

As proposed, the St. Thomas Marine Sanctuary Designation would provide as follows:

Draft Designation Document of the St. Thomas Marine Sanctuary

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92–532, (the Act) certain waters off St. Thomas, U.S. Virgin Islands, are hereby designated a Marine Sanctuary for the purposes of preserving and protecting their unique and fragile ecological and recreational resources.

Article 1. Effect of Designation

The designation of the St. Thomas National Marine Sanctuary (the Sanctuary), described in Article 2, establishes the basis for cooperative management of the area by the Virgin Islands and the National Oceanic and Atmospheric Administration (NOAA).

Within the area designated as the Sanctuary described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary.

On ———, 1981, the Virgin Islands issued regulations controlling those activities which may threaten the values of the Sanctuary, all of which are located within territorial waters. NOAA has determined that these regulations are adequate to protect the values of the Sanctuary. Therefore, this Designation authorizes NOAA to adopt these regulations as set forth in Article 5 and to issue additional regulations only in the event that an activity is found not to be subject to the jurisdiction of the Virgin Islands.

Article 4 of the Designation lists those activities which may require regulation, but the listing of an activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulations, and activities not listed in Article 4 may be regulated only after amending Article 4, or in cases of emergency, as specified in Article 4, Section 2.

Article 2. Description of the Area

The Sanctuary consists of an area of approximately 9.27 square nautical miles of the waters of the territorial sea of the U.S. Virgin Islands located off southeast St. Thomas. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area Which Give it Particular Value

The Sanctuary contains hundreds of species of marine organisms, including Caribbean corals, hawksbill and leatherback turtles, significant mangrove stands, and diverse tropical fauna and floral communities. The area provides exceptional recreational experiences and scientific research opportunities and generally has unique value as an ecological, recreational, and esthetic resource.

Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* In order to protect distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of the coral and other marine features and the ecological, recreational, and esthetic value of the area:

(a) Removing, breaking or otherwise harming coral or other bottom formations or plants, except incidental to other fishing operations.

(b) Anchoring by all vessels, operations of vessels other than fishing vessels, and operations of fishing vessels along designated underwater trails.

(c) Construction on, dredging of, or altering the seabed.

(d) Discharging or depositing any substance or object.

(e) Using poisons, electric charges or explosives.

(f) Conducting all activities including fishing along designated underwater trails.

(g) Removing or harming cultural or historical resources.

(h) Removing or damaging navigation aids, markers, or fishing traps or gear.

(i) Conducting activities affecting or likely to affect marine mammals, turtles or other endangered species.

Section 2. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the Sanctuary, activities other than those listed in Section 1 of this Article may be regulated within the limits of the Act on an emergency basis for a period not to exceed 120 days, during which an appropriate amendment of this Article may be proposed in accordance with the procedures specified in Article 6. In order to invoke this section, the Secretary of Commerce must first make a finding of emergency, which determination shall be transmitted in writing to the Virgin Islands.

Section 3. *Consistency with International Law.* The regulations governing the activities listed in Section 4 of this Article will be applied to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principals of international law or as otherwise authorized by international agreement.

Article 5. Relation to Other Regulatory Programs

Section 1. *Virgin Islands Program.*

(a) The Virgin Islands' regulations described in Article 1 effectively protect the resources of the Sanctuary and shall constitute the primary regulatory regime for it. NOAA may adopt the Virgin Islands' regulations under the following conditions:

(1) No alteration or modification of any Sanctuary regulation shall become effective without the written concurrence of both the Virgin Islands and NOAA; and

(2) The Virgin Islands shall be responsible for enforcing all of the Sanctuary regulations to ensure protection for the values of the Sanctuary. NOAA will engage in enforcement activities only if requested by the Virgin Islands or if there has been a significant failure to provide adequate enforcement as determined under this section.

(b) Where the Virgin Islands shall propose any alteration or modification of the regulations described in Article 1, such alteration or modification shall be submitted to NOAA for simultaneous proposal in the **Federal Register**. Such alteration or modification shall be finally adopted unless, based on the comments received on the **Federal Register** proposal and after consultation with the Virgin Islands, NOAA determines that the regulations with the proposed amendments do not provide reasonable and necessary protection for the values of the Sanctuary.

(c) Should NOAA preliminarily determine that there has been a significant failure to provide adequate enforcement, it shall notify the Virgin Islands of this deficiency and suggest appropriate remedial action. If, after consultation, NOAA and the Virgin Islands are unable to agree either that a deficiency exists or on appropriate remedial action, NOAA may issue a final determination in writing specifying the deficiency and the appropriate action together with the reasons therefor. No less than 60 days prior to issuing a final determination that calls for NOAA to take enforcement action, NOAA shall submit the proposed determination to the Governor of the Virgin Islands. If the Governor finds that NOAA enforcement is unnecessary to protect the values of the Sanctuary NOAA shall give such finding presumptive weight in making its final determination.

Section 2. *Fishing.* The regulation of fishing is not authorized under Article 4 except with respect to the removal or damage of coral or other bottom formations (paragraph (a)), the use of certain techniques (paragraph (e)) and along underwater trails (paragraph (f)). In addition, fishing vessels may be regulated with respect to discharges (paragraph (d)) and anchoring (paragraph (b)).

Section 3. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with such regulations to the maximum extent practicable. All other activities of the Department of Defense are subject to Article 4.

Article 6. Alterations to this Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and Virgin Islands agencies and approval by the Governor of the Virgin Islands and by the President of the United States.

Article 7. Funding

In the event that a reduction in the funds available to administer the Sanctuary necessities a reduction in the level of enforcement provided by the Virgin Islands, the resulting reduced level of enforcement shall not, by itself, constitute a basis for finding a deficiency under Article 5, Section 1.

(End of Designation)

The proposed Designation establishes a cooperative management regime which will rely upon the Virgin Islands' regulations to protect the resources of the Sanctuary, all of which is located within territorial waters (See particularly Articles 1 and 5). Along with the designation, we are publishing regulations under consideration by the Virgin Islands for comment on their adoption as NOAA regulations. This procedure will ensure adequate review and comment on the substantive regulations at the national level. Once these regulations are finally promulgated by the Virgin Islands and approved by NOAA, they will be adopted as NOAA regulations for enforcement purposes.

The purpose of the regulations is to ensure protection of the mangroves, coral and other resources of the area as well as its general recreational and esthetic value. Acitivities which may threaten these features are prohibited including: taking or damaging coral [Sec. 937.4(A)(1)], anchoring on coral reefs [937.4(A)(2)], dredging and other activities altering the seabed except in certain limited areas or for public service cables and pipes when permitted by the Virgin Islands [937.4(A)(3)], polluting activities [Sec. 937.4(A)(4)] removing or damaging shipwrecks or other historical or other cultural features [937.4(A)(6)] and harassing or disturbing marine mammals or endangered species.

Other Matters:

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or export markets. The economic activity supported by the area under consideration for marine sanctuary designation consists of a diversity of commercial and recreational activities. The total annual commercial harvest of fish from the proposed Sanctuary waters is about 71,000 pounds and has a current value of around $330,000. Commercial diving tour operators make approximately 5,256 trips at dive sites within the proposed Sanctuary, most of which will be protected rather than prohibited by the Sanctuary. This proposed rule would continue the Sanctuary. Those restrictions imposed, for example, on anchoring, on discharges and on fishing at underwater dive trails will have no economic impact and are designed to enhance the long term recreational value of the area. The Acting Administrator, therefore has determined that this is not a "major rule" under E.O. 12291.

On the same basis the Acting Administrator, also has determined that the proposed rules will not have a

significant economic impact on small entities in the proposed Sanctuary under the Regulatory Flexibility Act. This action will have a significant impact on the environment and copy of the draft environmental impact statement is available for review at the address above.

Public Review and Comment

NOAA will be reviewing the comments submitted to the Virgin Islands. A public hearing is scheduled on June 3, 1981, 7:30 PM at the St. Thomas Hotel and Marina, St. Thomas, U.S. Virgin Islands.

NOAA invites public review and comment on its proposed adoptions of these regulations. Written comments should be submitted to Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, 3300 Whitehaven Street N.W., Washington, D.C. 20035.

Robert W. Knecht,

Acting Assistant Administrator for Coastal Zone Management.

Accordingly, it is proposed to add Part 937 to 15 CFR as follows:

PART 937—THE ST. THOMAS NATIONAL MARINE SANCTUARY REGULATIONS

Sec.

937.1 Authority
937.2 Purpose.
937.3 Boundaries.
937.4 Regulated Activities.
937.5 Penalties for Commission of Prohibited Acts.

Authority: Section 302(a) and 302(f)(2) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434.

§ 937.1 Authority.

The sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434 (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

§ 937.2 Purpose.

The purpose of designating the Sanctuary is to protect and preserve the diverse natural and cultural resources of the waters off southeast St. Thomas, U.S. Virgin Islands and to ensure the continued availability of the area for public educational purposes and as an ecological, research and recreational resource.

§ 937.3 Boundaries.

The Sanctuary consists of an area of 9.27 square nautical miles of the waters of the territorial sea of the U.S. Virgin Islands located off southeast St. Thomas. The precise boundaries are:

Beginning at the shoreline of Stalley Bay at Latitude 18°18'29" Longitude 64°52'49" to a point southwest of Packet Rock at Latitude 18°18'03" Longitude 64°53'36", to a point southwest of Buck Island at Latitude 18°16'26" Longitude 64°54'11", thence northeast to a point off Dog Rocks at Latitude 18°17'36" Longitude 64°49'42", then to the shoreline of Cabrita Point at Latitude 18°19'36" Longitude 64°49'56".

§ 937.4 Regulated Activities.

All activities carried on in the Sanctuary are subject to all prohibitions, restrictions and conditions imposed by any other authority. Any violation of the restrictions, prohibitions, or conditions imposed by Section 912 of the Virgin Islands Coastal Zone Management Act (VICZMA) and regulations issued pursuant thereto shall constitute a violation of these Federal regulations rendering the violator liable for the civil penalty described in § 937.5 in addition to any penalty perscribed by the Virgin Islands. The applicable Virgin Islands regulations are as follows:

(a) *Prohibited Activities.* Except as may be necessary for the national defense, in accordance with Article 5, section 2 of the Designation, or as may be necessary to respond to an emergency threatening life, property or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Commissioner of the Virgin Islands Department of Conservation and Cultural Affairs in accordance with section B of these regulations.

(1) *Taking and Damaging Natural Resources.*

(i) No person shall break, cut, or similarly damage or destroy any coral, bottom formation or any marine plant, except dead shells. There shall be a presumption that any items listed in this paragraph found in the possession of a person within the sanctuary have been collected or removed from the sanctuary.

(ii) Only traditional fishing methods shall be permitted within the sanctuary. No person shall use poisons, electrical charges, explosives or similar methods to take any marine animal or plant.

(2) *Operation of Vessels.*

(i) No person shall anchor on coral reefs or in any manner that damages coral or other natural or cultural resources. All practicable efforts shall be taken to drop anchors on sand flats, rock and rubble bottoms, and other areas without extensive coral formations. When anchoring dive boats, the first diver down shall inspect the anchor to ensure that it is placed off the corals and will not shift in such a way as to damage corals. No further diving is permitted until the anchor is placed in accordance with these requirements.

(ii) No person shall anchor in areas where mooring buoys have been placed by the Government of the Virgin Islands or NOAA.

(iii) No vessel under power shall approach closer than 200 feet to a fishing vessel or a vessel displaying a diving flag except at a maximum speed of three knots.

(iv) No vessel or person shall interfere with any fishing activity.

(v) All vessels from which diving operations are being conducted shall fly, in a conspicuous manner, the international code flag alpha "A."

(3) *Alteration of the Seabed and Construction.*

(i) No person shal dredge, fill or otherwise alter the seabed in any manner nor construct any structure other than a navigation aid except as permitted by this section.

(ii) The following activities are allowed subject to the limitations and conditions imposed by the applicable permits and licenses issued under Chapter 21, Title 12, VICZMA:

(A) Construction of piers, docks, moorings, and similar structures, except in the Mangrove Lagoon (defined as an area from Bovoni Cay west to the shoreline of St. Thomas);

(B) Dredge and fill activities necessary for public service purposes, including but not limited to the burying and maintenance of cables and pipes; and

(C) Channel dredging within the area of Benner Bay and Bovoni Passage (defined as an area form the northwest point of Bovoni Cay, northeast to Benner Bay and in Benner Bay from a line drawn from the northeast corner of Bovoni Cay south to the northwest point of Grotto Cay, north to Compass Point) provided such activity can be clearly demonstrated to be in the public interest.

(4) *Discharging of Polluting Substances.* No person shall litter deposit or discharge any materials or substances of any king except:

(i) Indigenous fish of fish parts.

(ii) Effluent from marine sanitation devices allowable under Coast Guard standards.

(iii) Municipal sewage from the existing outfall consistent with U.S. Environmental Protection Agency standards.

(5) *Underwater Trails.*

(i) No person shall spearfish or fish at the underwater trails, except bait fishing.

(ii) No person shall mark, deface, or injure in anyway, or displace, remove, or tamper with underwater trails signs, markers or bouys.

(6) *Removing or Damaging Cultural Resources.* No person shall remove, damage, or tamper with, any historical or cultural feature, including archeological sites, historic structures, shipwrecks and artifacts.

(7) *Marine Mammals and Endangered Species.* No person shall harass, disturb, harm or in any way injure any marine mammal or other species classified as endangered by the Federal or Virgin Islands Government.

(8) *Damage to Fish Traps.* No person shall disturb, harm, or tamper with any legal fish gear, nets, traps, or pots.

(b) *Permit procedures and criteria.*

(1) Permits for those activities allowed under section A.3.b. shall be issued in accordance with the procedures and criteria set forth in section 910 of the VICZMA.

(2) Permits for those activities prohibited by section A may be issued by the Commissioner of the Virgin Islands Department of Conservation and Cultural Affairs in accordance with the VICZMA and with this section provided such activity is either (i) research related to the resources of the sanctuary or (ii) to preserve and protect the recreational and educational value of the sanctuary or (iii) for salvage or recovery operations.

(A) In addition to any other requirements under Section 912 of the VICZMA, in considering whether to grant a permit, the Commissioner shall evaluate such matters as (*1*) the general professional and financial responsibility of the applicant; (*2*) the appropriateness of the methods envisioned to the purpose(s) of the activity; (*3*) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as an ecological, recreational, education of scientific resource; (*4*) whether the end value of the activity satisfies the criteria of this section; (*5*) and such other matters as deemed appropriate.

(B) At least 30 days prior to issuing any permit under this section, the Commissioner shall notify the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W. Washington, D.C. 20235, of the application and shall include a description of all activities proposed, the equipment, methods and personnel involved (particularly describing relevant experience) and a timetable for completion of the proposed activity.

(C) The Commissioner may seek and consider the views of any other person or entity, within or outside the Federal Government.

(D) NOAA's Assistant Administrator for Coastal Zone Management or designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity.

(E) All information obtained pursuant to a permit issued under this section shall be made available to the public.

§ 937.5 Penalties for Commission of Prohibited Act.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem. against any vessel used in violation of any such regulation. Procedures are outlined in Subpart D of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

[FR Doc. 81-19023 Filed 6-29-81; 8:45 am]
BILLING CODE 3510-08-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Advertisement and Bids; Proposed Rulemaking

AGENCY: Forest Service, USDA.

ACTION: Proposed Policy.

SUMMARY: Proposed is a revision of Secretary of Agriculture's Regulation 36 CFR 223.5, Advertisement and Bids. The primary purpose of the revision will be to waive the formal advertising requirement for sales in which the appraised value exceeds $10,000, when such action is necessary to meet the objectives for research or formal demonstration projects.

No other alternatives were considered except the no action alternative. This would be to continue to formally advertise all sales with an appraised value of over $10,000.

No scoping process was used.

DATES: Comments must be received by: August 31, 1981.

Send Written Comments to: R. Max Peterson, Chief (2400), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT:

Emil M. Sabol, Timber Management Staff, Room 3216, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, Telephone: (202) 447-4051.

SUPPLEMENTARY INFORMATION:

Secretary's Regulations regarding the sale and disposal of National Forest timber have long made provision for the sale of timber without advertisement, when necessary to facilitate research on demonstration projects. This authority was omitted from regulations adopted in 1977 to implement the National Forest Management Act of 1976. Authority for disposal of timber, by sale or otherwise, related to research and demonstration projects is provided in Section (14)(f) of the National Forest Management Act of 1976 (16 U.S.C. 472a).

To effect this change, the following language is proposed to be added following the last sentence in § 223.5(a): "The formal advertising requirement for sales in which the appraised value exceeds $10,000 may be waived when such action is necessary to meet the objectives for research or formal demonstration projects."

USDA has made a preliminary determination that the proposed revision is not "major" and does not require a regulatory analysis under Executive Order No. 12291 and the Department's instructions.

John R. Block,

Secretary.

June 24, 1981.

[FR Doc. 81-19243 Filed 6-29-81; 8:45 am]
BILLING CODE 3410-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 80-603]

Inquiry Into the Development of Regulatory Policy in Regard To Direct Broadcast Satellites for the Period Following the 1983 Regional Administrative Radio Conference; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule and Policy Statement; Extension of reply comment period.

SUMMARY: The Commission is extending time in which to file reply comments relating to permanent regulatory policies for direct broadcast satellites in Docket No. 80-603 (published at 46 FR 30124). The action is being taken in response to a motion from the Citizens

Communications Center and other groups.

DATES: Reply comments are now due by July 31, 1981.

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

FOR FURTHER INFORMATION CONTACT: Florence Setzer or Bruce Franca, Office of Plans and Policy, (202) 653-5940.

SUPPLEMENTARY INFORMATION: .

In the matter of inquiry into the development of regulatory policy in regard to Direct Broadcast Satellites for the period following the 1983 Regional Administrative Radio Conference. Order Extending Time for Reply Comments, Gen. Docket No. 80-603 (46 FR 30124; 6-5-81).

Adopted: June 19, 1981.

Released: June 23, 1981.

By the Chief, Office of Plans and Policy:

1. On June 12, 1981, the Citizens Communication Center and several other groups (collectively referrred to as "CITIZENS") filed a motion requesting an extension of time within which to file reply comments concerning permanent regulatory policies for direct broadcast satellites (DBS) in the above-captioned proceeding. Reply comments are now due June 30, 1981; CITIZENS requests an extension to July 31, 1981.

2. CITIZENS notes that in the *Notice of Proposed Policy Statement and Rulemaking* in the instant proceeding, deadlines for comments and reply comments dealing with interim policies for DBS were set for July 1, 1981, and July 16, 1981, respectively. CITIZENS states that these dates, in conjunction with the June 30 deadline for reply comments on permanent regulatory policies, create a burdensome situation for comments who have to rely on limited resources.

3. In view of the fact that current deadlines for comments on interim policies and reply comments on permanent policies are only one day apart, and that many commenters are likely to wish to address both issues, we believe that CITIZENS' request for an extension is reasonable. We agree with CITIZENS that, because of the greater urgency of the interim than the permanent policy issues, the deadline for reply comments concerning permanent regulatory policies rather than the deadlines relating to interim policies should be extended.

4. Accordingly, IT IS ORDERED that the deadline for filing reply comments relating to permanent regulatory policies for DBS IS EXTENDED to and including July 31, 1981.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.271 of the Commission's Rules.

6. The Secretary shall cause this order to be published in the **Federal Register.**

Federal Communications Commission,

Peter K. Pitsch,

Chief, Office of Plans and Policy.

[FR Doc. 81-19190 Filed 6-29-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Review of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Review.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating the international shipment of certain wildlife and plant species, which are listed in appendices to CITES. The Conference of the Parties to CITES resolved, at a meeting in New Delhi, India, that the status of listed species should be periodically reviewed. The first such 10-year review is to be concluded in 1983 at the next meeting of the Parties.

This notice announces the review and invites information from the public concerning the status of listed species that are native to North America.

DATE: The Service will consider all information received by November 15, 1981, in identifying species for which CITES listings should be changed.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION: The Third Meeting of the Conference of the Parties to CITES was held on February 25 to March 8, 1981, at New Delhi, India. At the meeting, the Parties adopted the following resolution:

Ten Year Review of the Appendices

Recognizing that State attending the 1973 Conference to prepare and adopt an international convention to regulate the international trade in certain species of wild animals and plants, included species in Appendices I and II on the basis of scientific knowledge at the time;

Recalling that criteria for the addition to an deleting from Appendices I and II were developed and approved by the Parties attending the first meeting of the Conference of the Parties (Berne, 1976);

Recalling that the criteria were clarified by the Parties at the second meeting of the Conference of the Parties (San Jose, 1979);

Noting that the number of species added to the appendices between 1973 and 1981 has greatly increased the number of regulated species;

Recognizing that an effective method of evaluating the effectiveness of the Convention on international trade of species is a periodic trade and biological review of the status of a species;

The Conference of the Parties to the Convention

Recommends

(a) that Regional Committees be established to review the trade and biological status of all Appendices I and II species indigenous to the region, and that said review be substantially completed in time for proposals to be made for the fourth meeting of the Conference of the Parties;

(b) that a Secretariat Committee be established to review the trade and biological status of all Appendices I and II species not indigenous to any region, and that said review by completed by December 31, 1981;

(c) that representatives from the Regional and Secretariat Committees meet as a Central Committee including a representative of IUCN (International Union for Conservation of Nature and Natural Resources) between April and June 1982 to appraise and coordinate the regional reviews;

(d) that the Central Committee make recommendations for consideration by the Parties attending the fourth meeting of the Conference of the Parties to take place in 1983;

(e) that the Parties accept the principle that a review of species included in Appendices I and II be made at least every 10 years in order to assess the effectiveness of the Convention;

(f) that such reviews take as their basis the criteria agreed at the above

meeting of the Conference of the Parties; and

(g) that in preparing such reviews, the Parties and the Committees avail themselves of the data available from IUCN's Conservation Monitoring Centre and from other bodies; and

Requests the Secretariat and Regional Standing Committee members to make the necessary preparations and coordinating arrangements for convening the recommended meetings of the Regional Committees and the Central Committee.

The purposes of the present notice are to announce this review, to describe the schedule for its completion, and to request information about the status of species under review. A list of species in Appendices I and II that are included in the North American regional review may be obtained from the Office of the Scientific Authority (see address above). Copies of criteria previously adopted by the Parties for amendments to Appendices I and II also may be obtained from that office.

The schedule that the Service plans to follow for this review is as follows:

Deadline for receipt of information on species from the public—November 15, 1981

Publication of **Federal Register** notice to announce species for which the Service will submit draft proposals to the CITES Central Committee, and to invite public comment on these proposals—February 1, 1982

Review by CITES Central Committee—Between April and June 1982

Publication of **Federal Register** notice to announce the Service's final decisions on proposals to be submitted for adoption by the Parties; submission of proposals to the CITES Secretariat—September 20, 1982

Fourth Meeting of the Conference of the Parties, at which proposals will be considered for adoption—February or March 1983

The Service is seeking current information about listed species native to North America (i.e., those having natural breeding populations in North America), particularly those listed species native to the United States. The Service's review of listed species also will include any with breeding populations in the following areas for which the United States has international responsibility: Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, Midway Islands, Wake Island, Johnston Atoll, Palmyra Atoll, Kingman Reef, Howland Island, Baker Island, Jarvis Island, and Navassa Island.

Persons having curent information about the population status of such species or about the international trade in them are invited to contact the Service's Office of the Scientific Authority.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: June 24, 1981.

A. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 81-19197 Filed 6-29-81; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, V and VI

29 CFR Subtitle A and Chs. II, IV, XVII, and XXV

30 CFR Ch. I

41 CFR Chs. 29, 50, 60

Regulatory Flexibility Act; Ten Year Schedule for Review of Rules

AGENCY: Department of Labor.

ACTION: Ten year schedule for review of Department of Labor regulations.

SUMMARY: This Document sets forth the Department's ten year schedule for review of existing regulations, pursuant to requirements of the Regulatory Flexibility Act.

DATES: The schedule includes all regulations which are expected to be under review between June 30, 1981, and June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8201.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act requires that by July 1, 1981, each agency publish a 10 year schedule for the review of all agency rules that are in existence on the effective date of the Act (January 1, 1981), and that have or will have a significant economic impact upon a substantial number of small entities. The Act further requires that such rules adopted after the effective date of the Act be reviewed within 10 years of their publication as final rules.

Below is the anticipated 10 year schedule for review of existing rules of the Department of Labor. The schedule includes all of the Department's rules that could have a significant economic impact on a substantial number of small entities. As permitted by the Regulatory Flexibility Act, the Secretary of Labor may extend the completion date for review by one year at a time for a total of not more than 5 years, if he determines that completion of review is not feasible by the established date and so certifies in a statement published in the **Federal Register.**

In the review of rules, agencies are required by the Regulatory Flexibility Act to endeavor to minimize any significant economic impact of the rules on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes. During the course of such review, agencies are to consider the following factors: (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and, (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The Regulatory Flexibility Act also requires that each year agencies publish in the **Federal Register** a list of the rules which have a significant economic impact on a substantial number of small entities which are to be reviewed during the succeeding twelve months. The list must include a brief description of each rule, the need for and legal basis of such rule, and must invite public comment. It is anticipated that the Department of Labor will publish its list in the **Federal Register** in October 1981 as an adjunct to its next semiannual agenda, which, as in its last semiannual agenda (April 28, 1981), will be compiled to meet the requirements of both the Regulatory Flexibility Act and Executive Order 12291.

TEN YEAR REVIEW SCHEDULE

I. Mine safety and Health Administration

Years: 1981–1982.
Proposed Review: 30 CFR Part 100, Civil Penalties.
Years: 1981–1984.
Proposed Review: 30 CFR Parts 55–57, Review of Metal and Nonmetal Standards.
Years: 1982–1984.
Proposed Review: 30 CFR Part 48, Training & Retraining of Miners.
Years: 1981–1986.
Proposed Review: 30 CFR Part 50, Notification, Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment and Coal Production in Mines.
Years: 1982–1986.
Proposed Review: 30 CFR Parts 11 through 36, Equipment Approval and Certification Requirements.
Years: 1981–1987.
Proposed Review: 30 CFR Parts 70 (Subparts D, E and F), 71 (Subparts E, F, G, H and I), 74, 75 and 77, Review of Coal Standards.
Years: 1987–1991.
Proposed Review: 30 CFR Parts 70 (Subparts A, B and C), 71 (Subparts A, B, C and D) and 90, Review of Coal Standards.

II. Labor-Management Service Administration

1. The Pension and Welfare Benefits Program

Year: 1982.
Proposed Review:
29 CFR Part 2510.3–37 (Temporary), Multiemployer plan
29 CFR Part 2550.412–1, Temporary bonding requirements
Year: 1983.
Proposed Review:
29 CFR Part 2510.3–1, Employee Welfare Benefit Plan
29 CFR Part 2510.3–2, Employee Pension Benefit Plan
29 CFR Part 2510.3–3, Employee Benefit Plan
Year: 1984.
Proposed Review:
29 CFR Part 2520.101–1, Duty of Reporting and Disclosure
29 CFR Part 2520.102–1, Plan Description
29 CFR Part 2520.102–2, Style and Format of Summary Plan Description
29 CFR Part 2520.102–3, Contents of Summary Plan Description
29 CFR Part 2520.102–4, Option for Different Summary Plan Descriptions
29 CFR Part 2520.102–5, Limited Exemption with Respect to Summary Plan Description of Welfare Plans Providing Benefits through a Qualified Health Maintenance Organization
29 CFR Part 2520.104–5, Deferral of Certain Reporting and Disclosure Requirements Relating to the Summary Plan Description for Welfare Plans
29 CFR Part 2520.104–6, Deferral of Certain Reporting and Disclosure Requirements Relating to the Summary Plan Description for Pension Plans
29 CFR Part 2520.104–28, Extension of Time for Filing and Disclosure of the Initial Summary Plan Description
29 CFR Part 2520.104a–1, Filing with the Secretary of Labor
29 CFR Part 2520.104a–2, Plan Description Reporting Requirements
29 CFR Part 2520.104a–3, Summary Plan Description
29 CFR Part 2520.104a–4, Material Modifications to the Plan and Changes in Plan Description Information
29 CFR Part 2520.104a–7, Summary of Material Modifications

29 CFR Part 2520.104b–1, Disclosure
29 CFR Part 2520.104b–2, Summary Plan Description
29 CFR Part 2520.104b–3, Summary of Material Modifications to the Plan and Changes in the Information Required to be Included in the Summary Plan Description
29 CFR Part 2520.104b–4, Alternative Methods of Compliance for Furnishing Pension Plan Documents to Retired Participants and their Beneficiaries and Separated Participants with Vested Benefits
29 CFR Part 2520.104b–5, ERISA Notice

Year: 1985.

Proposed Review:

29 CFR Part 2550.407a–1, General Rule for the Acquisition and Holding of Employer Securities and Employer Real Property
29 CFR Part 2550.407a–2, Limitation with Respect to the Acquisition of Qualifying Employer Securities and Qualifying Employer Real Property
29 CFR Part 2550.407a–3, Limitation with Respect to the Holding of Qualifying Employer Securities and Qualifying Real Property
29 CFR Part 2550.407d–5, Definition of the term "Qualifying Employer Security"
29 CFR Part 2550.408e, Statutory Exemption for Acquisition or Sale of Qualifying Employer Securities and for Acquisition, Sale, or Lease of Qualifying Employer Real Property

Year: 1986.

Proposed Review: 29 CFR Part 2560.503–1, Claims Procedure.

Year: 1987.

Proposed Review:

29 CFR Part 2520.103–1, Contents of the Annual Report
29 CFR Part 2520.103–2, Contents of the Annual Report for a Group Insurance Arrangement
29 CFR Part 2520.103–3, Exemption from Certain Annual Reporting Requirements for Assets Held in a Common or Collective Trust
29 CFR Part 2520.103–4, Exemption from Certain Annual Reporting Requirements for Assets Held in an Insurance Company Pooled Separate Account
29 CFR Part 2520.103–5, Transmittal and Certification of Information to Plan Administrator for Annual Reporting Purposes
29 CFR Part 2520.103–6, Definition of Reportable Transaction for Annual Return/Report
29 CFR Part 2520.103–7, Special Accounting Rules for Plans Filing the Initial (1975) Annual Report
29 CFR Part 2520.103–8, Limitation on Scope of Accountant's Examination
29 CFR Part 2520.103–9, Direct Filing Rules for Bank Common and Collective Trusts and Insurance Carrier Pooled Separate Accounts
29 CFR Part 2520.103–10, Format and Contents of Annual Return/Report Financial Schedules
29 CFR Part 2520.103–11, Assets held for Investment Purposes
29 CFR Part 2520.104–1, General
29 CFR Part 2520.104–2, Postponing Effective Date of Annual Reporting Requirements and Extending WPPDA Reporting Requirements
29 CFR Part 2520.104–3, Deferral of Certain Initial Reporting and Disclosure Requirements
29 CFR Part 2520.104–4, Alternative Method of Compliance for Certain Successor Pension Plans
29 CFR Part 2520.104–20, Limited Exemption for Certain Small Welfare Plans
29 CFR Part 2520.104–21, Limited Exemption for Certain Group Insurance Arrangements
29 CFR Part 2520.104–22, Exemption from Reporting and Disclosure Requirements for Apprenticeship and Training Plans
29 CFR Part 2520.104–23, Alternative Method of Compliance for Pension Plans for Certain Selected Employees
29 CFR Part 2520.104–24, Exemption for Welfare Plans for Certain Selected Employees
29 CFR Part 2520.104–25, Exemption from Reporting and Disclosure for Day Care Centers
29 CFR Part 2520.104–26, Limited Exemption for Certain Dues Financed Welfare Plans Maintained by Employee Oranizations
29 CFR Part 2520.104–27, Alternative Method of Compliance for Certain Dues Financed Pension Plans Maintained by Employee Organizations
29 CFR Part 2520.104–41, Simplified Annual Reporting Requirements for Plans with Fewer than 100 Participants
29 CFR Part 2520.104–42, Waiver of Certain Actuarial Information in the Annual Report
29 CFR Part 2520.104–43, Exemption from Annual Reporting Requirements for Certain Group Insurance Arrangements
29 CFR Part 2520.104–44, Limited Exemption and Alternative Method of Compliance for Annual Reporting by Unfunded or Insured Welfare and Pension Plans
29 CFR Part 2520.104–45, Temporary Exemption from Reporting Insurance Fees and Commissions for Insured Plans with Fewer than 100 Participants
29 CFR Part 2520.104–46, Waiver of Examination and Report of an Independent Qualified Public Accountant for Employee Benefit Plans with Fewer than 100 Participants
29 CFR Part 2520.104–47, Limited Exemption and Alternative Method of Compliance for Filing of Insurance Company Financial Reports
29 CFR Part 2520.104–48, Alternative Method of Compliance for Model Simplified Employee Pensions—IRS Form 5305–SEP
29 CFR Part 2520.104–49, Alternative Method of Compliance for Certain Simplified Employee Pensions
29 CFR Part 2520.104–50, Short Plan Years, Deferral of Accountant's Examination and Report
29 CFR Part 2520.104a–5, Annual Reporting Filing Requirements
29 CFR Part 2520.104a–6, Annual Reporting for Plans Which are Part of a Group Insurance Arrangement
29 CFR Part 2520.104b–10, Summary Annual Report
29 CFR Part 2520.104b–30, Charges for Documents

Year: 1988.

Proposed Review:

29 CFR Part 2510.3–21, Definition of "Fiduciary"
29 CFR Part 2550.404a–1, Investment Duties
29 CFR Part 2550.404b–1, Maintenance of the Indicia of Ownership of Plan Assets Outside the Jurisdiction of the District Courts of the United States.
29 CFR Part 2550.408b–2, General Statutory Exemption for Services or Office Space
29 CFR Part 2550.408b–4, Statutory Exemption for Investments in Deposits of Banks or Similar Financial Institutions
29 CFR Part 2550.408b–6, Statutory Exemption for Ancillary Services by a Bank or Similar Financial Institution
29 CFR Part 2550.408c–2, Compensation for Services
29 CFR Part 2560.502–1, Requests for Enforcement Pursuant to Section 502(b)(2)
29 CFR Part 2509.75–2, Interpretive Bulletin Relating to Prohibited Transactions
29 CFR Part 2509.75–3, Interpretive Bulletin Relating to Investments by Employee Benefit Plans in Securities of Registered Investment Companies
29 CFR Part 2509.75–4, Interpretive

Bulletin Relating to Indemnification of Fiduciaries
29 CFR Part 2509.75–5, Questions and Answers Relating to Fiduciary Responsibility
29 CFR Part 2509.75–8, Questions and Answers Relating to Fiduciary Responsibility under the Employee Retirement Income Security Act of 1974
29 CFR Part 2509.75–9, Independence of Accountant Retained by Employee Benefit Plan
29 CFR Part 2509.78–1, Interpretive Bulletin Relating to Payments by Certain Employee Welfare Benefit Plans

The following regulations need to be reviewed jointly with the Internal Revenue Service; no joint date has yet been established:

Year: undetermined.
Proposed Review:
29 CFR Part 2550.407d–6 Definition of the Term "Employee Stock Ownership Plan"
29 CFR Part 2550.408b–3, Loans to Employee Stock Ownership Plans

III. Employment and Training Administration

A. Office of National Programs

Years: 1982–1985.
Proposed Review:
29 CFR Part 675 and 688, Indian and Native American Employment and Training Programs under Titles II, III, IV, VI, and VII, of the Comprehensive Employment and Training Act
29 CFR Part 94 Subpart [D], Special Target Groups, Youth Programs and Other Special Programs; and 29 CFR Parts 94–99

B. Unemployment Insurance Services

Years: 1981–1982.
Proposed Review:
29 CFR Part 615, Extended Benefits
20 CFR Part 616, Combined Wage Claims
20 CFR Part 618, Federal Supplemental Benefits
20 CFR Part 619, Special Unemployment Assistance
20 CFR Part 640, Benefit Payment Promptness Standard
20 CFR Part 650, Appeals Promptness Standard
Years: 1982–1986.
Proposed Review:
20 CFR Part 601, Administrative Procedures
20 CFR Part 609, Unemployment Compensation for Federal Civilian Employees
20 CFR Part 614, Unemployment Compensation for Ex-Servicemembers
20 CFR Part 625, Disaster Unemployment Assistance
20 CFR Part 91, Trade Readjustment Assistance

C. Office of Community Employment Programs

Years: 1982–1986.
Proposed Review: 20 CFR Parts 675–679, Comprehensive Employment and Training Act Regulations

D. Office of Youth Programs

Years: 1981–1982.
Proposed Review: 20 CFR Part 680, Comprehensive Employment and Training Act Amendments of 1978, Title IV, Youth Programs.
Years: 1982–1986.
Proposed Review: 20 CFR Part 684, Job Corps Program under Title IVB of the Comprehensive Employment and Training Act.

E. Bureau of Apprenticeship and Training

Years: 1981–1986.
Proposed Review:
29 CFR Part 29, Apprenticeship Programs Labor Standards for Registration
29 CFR Part 30, Equal Employment Opportunity in Apprenticeship and Training

F. United Stated Employment Services

Years: 1981–1982.
Proposed Review:
20 CFR Part 656, Labor Certification Process for the Permanent Employment of Aliens in the United States
20 CFR Part 655, Labor Certification Process for the Temporary Employment of Aliens in the United States
20 CFR Part 653, Services of the Employment Service System: Subpart A—Basic Services and Subpart C—Services for Veterans
20 CFR Part 604, Policies of the United States Employment Service
20 CFR Part 651, General Provisions Governing the Federal-State Employment Service System
20 CFR Part 75, Department of Labor Review and Certification Procedures and Rural Industrialization Loan and Grant Programs under the Consolidated Farm Rural Development Act of 1972
Years: 1983–1986.
Proposed Review:
20 CFR Part 602, Federal-State Employment Service System
20 CFR Part 653, Services of the Employment Service System: Subpart B—Services for Migrants and Seasonal Farmworkers and Subpart E—Support Services
20 CFR Part 658, Administrative Provisions Governing the Employment Service System
Years: 1987–1991.
Proposed Review:
20 CFR Part 621, Certification of Temporary Foreign Labor for Occupations Other than Agriculture or Logging
20 CFR Part 603, State Program Budget Plans under the Wagner-Peyser Act
20 CFR Part 654, Special Responsibilities of the Employment Service

G. Deputy Assistant Secretary for Veterans Employment/Veterans Employment Service

Years: 1981–1982.
Proposed Review:
20 CFR Part 26, Exemplary Rehabilitation Certificates for Ex-Servicemen

IV. Occupational Safety and Health Administration

Years: 1981–1984.
Proposed Review:
29 CFR Part 1919, Gear Certification
29 CFR Part 1907, Accreditation of Testing Laboratories
Years: 1981–1985.
Proposed Review: 29 CFR Part 1928, Occupational Safety and Health Standards for Agriculture.
Years: 1981–1987.
Proposed Review:
29 CFR Part 1915, Safety and Health Regulations for Ship Repair
29 CFR Part 1916, Safety and Health Regulations for Ship Building
29 CFR Part 1917, Safety and Health Regulations for Ship Breaking
Years: 1981–1988.
Proposed Review: 29 CFR Part 1918, Longshoring.
Years: 1981–1991.
Proposed Review: 29 CFR Part 1910, Occupational Safety and Health Standards not specifically listed will be set for a precise schedule for review at a later date, upon further review by the agency.
Years: 1981–1983.
Proposed Review:
29 CFR 1910.1025, Standard for Occupational Exposure to Lead
29 CFR 1910.1043, Standard for Occupational Exposure to Cotton Dust
29 CFR 1910.95, Standard for Occupational Exposure to Noise
29 CFR 1910.1018, Standard for Occupational Exposure to Inorganic Arsenic

29 CFR 1910.134, Standard for Respiratory Protection
29 CFR Part 1990, Standard for the Identification, Classification and Regulation of Potential Occupational Carcinogens
29 CFR 1910.20, Access to Employee Exposure and Medical Records
29 CFR 1910.1001, Standard for Occupational Exposure to Asbestos
Years: 1983–1985.
Proposed Review:
29 CFR 1910.1000, Table Z–2, Cadmium
29 CFR 1910.1000, Tables Z–1 and Z–2, Chromium
29 CFR 1910.1000, Table Z–2, Beryllium
29 CFR 1910.1017, Standard for Occupational Exposure to Vinyl Chloride
Years: 1986–1991.
Proposed Review: 29 CFR 1910.1000, Table Z–1, Standards for Occupational Exposure to Air Contaminants to include: Acetic acid, Acetic anhydride, Acrolein, Allyl alcohol, Allyl chloride, Allyl propyl disulfide, n-Amyl acetate, Arsine, Barium (soluble compounds), Carbaryl (Sevin R), Cyanide, as CN, Ethyl acetate, Ethylene glycol monomethyl ether acetate (Methyl cellosolve acetate), Ethyl ether, Hafnium, Hydrogen bromide, Hydrogen chloride, Hydrogen cyanide, Hydrogen peroxide, Isoamyl acetate, Isoamyl alcohol, Isopropyl acetate, Isopropyl alcohol, Liquified petroleum gas, Methyl alcohol (methanol), Nitric acid, Oil mist, mineral, Phenol, Phosphine, Phosphoric acid, Phosphorus (yellow), Phosphorus pentachloride, Phosphorus pentasulfide, Pyrethrum, Rotenone (commercial), Silver, metal, Silver, soluble compounds as AG, Turpentine, Zinc oxide fume, Zirconium compounds.
Years: 1981–1985.
Proposed Review: 29 CFR Part 1926, Safety and Health Regulations for Construction.

V. Office of the Assistant Secretary for Administration and Management

Years: 1982–1983.
Proposed Review: 41 CFR Part 29, Procurement and Grant Regulations

VI. Employment Standards Administration

A. Office of Workers' Compensation Programs (OWCP)

Year: 1981.
Proposed Review:
20 CFR 702, Administration and Procedures (Longshoremen's and Harbor Workers' Compensation Act (LHWCA) and related statutes)
20 CFR 703, Insurance Regulations (LHWCA and related statutes)
20 CFR 722, Criteria for Determining Whether State Workmen's Compensation Laws Provide Adequate Coverage for Pneumoconiosis and Listing of Approved State Laws
20 CFR 725, Claims for Benefits Under Part C of Title IV of the Federal Mine Safety and Health Act, as amended
20 CFR 726, Black Lung Benefits; Requirements for Coal Mine Operators' Insurance
Year: 1982.
Proposed Review:
20 CFR 1, Performance of Functions Under this Chapter (OWCP Organization and Procedures)
20 CFR 10, Claims for Compensation Under the Federal Employees' Compensation Act, as amended
20 CFR 25, Compensation for Disability of Noncitizen Federal Employees Outside the United States
20 CFR 701, General; Administering Agency; Definitions and Use of Terms (LHWCA and related statutes)
20 CFR 704, Special Provisions for LHWCA Extensions
Year: 1983.
Proposed Review:
20 CFR 61 and 62, Compensation for Injury, Disability, Death, or Enemy Detention of Employees of Contractors with the United States
20 CFR 71, Compensation for Injury, Disability or Death of American Citizens Incurred While Detained by or in Hiding from the Japanese Government
Year: 1985.
Proposed Review: 20 CFR 718, Standards for Determining Coal Miner's Total Disability or Death Due to Pneumoconiosis.
Year: 1985.
Proposed Review: 20 CFR 727, Review of Pending and Denied Claims under the Black Lung Benefits Reform Act of 1977.

B. Office of Federal Contract Compliance Programs (OFCCP)

Years: 1981–1982.
Proposed Review:
41 CFR 60–1, Obligations of Contractors and Subcontractors
41 CFR 60–2, Affirmative Action Programs (except 41 CFR 60–2.11)
41 CFR 60–4, Construction Contractors—Affirmative Action Requirements
41 CFR 60–20, Sex Discrimination Guidelines
41 CFR 60–30, Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246
41 CFR 60–40, Examination and Copying of OFCC Documents
41 CFR 60–50, Guidelines on Discrimination Because of Religion or National Origin
41 CFR 60–60, Contractor Evaluation Procedures for Contractors for Supplies and Services
41 CFR 60–250, Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era
41 CFR 60–741, Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers
Years: 1983–1990.
Proposed Review:
41 CFR 60–2.11, Required Utilization Analysis
41 CFR 60–3, Guidelines on Employee Selection Procedures

C. Wage and Hour Division

Years: 1981–1982.
Proposed Review:
29 CFR 1 and 5, Subpart A, Labor Standards for Davis-Bacon and Related Acts
29 CFR 4, Labor Standards for Federal Service Contracts
29 CFR 6, Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal Service Contracts
29 CFR 505, Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts
29 CFR 516, Records to be kept by Employers
29 CFR 525, Employment of Handicapped Clients in Sheltered Workshops
29 CFR 530, Employment of Homeworkers in Certain Industries
29 CFR 531, Wage Payments under the Fair Labor Standards Act of 1938
29 CFR 541, Defining the Terms "Executive," "Administrative," "Professional," and "Outside Salesman" (Review of Salary Test Levels)
29 CFR 570, Subpart C, Employment of Minors between 14 and 16 Years of Age (Child Labor Regulation 3)
29 CFR 570.52, Motor Vehicle Driver and Outside Helper (Child Labor Hazardous Order No. 2 under the FLSA)
29 CFR 570.61, Occupations Involving Slaughtering, Meat Packing or Processing, or Rendering (Child Labor Hazardous Order No. 10 under the FLSA)
29 CFR 570.62, Occupations Involved

in the Operation of Bakery Machines (Child Labor Hazardous Order No. 11 under the FLSA)

Years: 1983–1987.

Proposed Review:

29 CFR 3 and 5, Subpart B. Copeland Act and Interpretations under the Davis-Bacon and Related Acts

29 CFR 40, Farm Labor Contractor Registration

29 CFR 41, Interpretations of Farm Labor Contractor Registration Act of 1963

29 CFR 529, Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages

29 CFR 541, Defining the Terms "Executive," "Administrative," "Professional," and "Outside Salesman (Aspects of this Regulation not reviewed during 1981–1982)

29 CFR 548, Authorization of Established Basic Rates for Computing Overtime Pay

29 CFR 552, Application of the Fair Labor Standards Act to Domestic Service

29 CFR 779, The Fair Labor Standards Act as Applied to Retailers of Goods and Services

29 CFR 780, Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects under the Fair Labor Standards Act

29 CFR 785, Hours Worked

29 CFR 788, Forestry or Logging Operations in which not more than Eight employees are Employed

29 CFR 793, Exemption of Certain Radio and Television Station Employees from Overtime Pay Requirements under Section 13(b)(9) of the Fair Labor Standards Act

29 CFR 794, Partial Overtime Exemption for Employees of Wholesale or Bulk Petroleum Distributors under Section 7(b)(3) of the Fair Labor Standards Act

Child Labor Hazardous Orders under the FLSA not Reviewed in 1981–1982:

29 CFR 570.51, Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components (Order 1)

29 CFR 570.53, Coal-mine Occupations (Order 3)

29 CFR 570.54, Logging Occupations and Occupations in the Operation of any Sawmill, Lath Mill, Shingle Mill, or Cooperage-Stock Mill (Order 4)

29 CFR 570.55, Occupations Involved in the Operation of Power-Driven Wood-Working Machines (Order 5)

29 CFR 570.56, Exposure to Radioactive Substances and to Ionizing Radiations (Order 6)

29 CFR 570.58, Occupations Involved in the Operation of Power-Driven Hoisting Apparatus (Order 7)

29 CFR 570.59, Occupations Involved in the Operations of Power-Driver Metal Forming, Punching and Shearing Machines (Order 8)

29 CFR 570.60, Occupations in Connection with Mining, Other than Coal (Order 9)

29 CFR 570.63, Occupations Involved in the Operation of Paper-Products Machines (Order 12)

29 CFR 570.64, Occupations Involved in the Manufacture of Brick, Tile and Kindred Products (Order 13)

29 CFR 570.65, Occupations Involved in the Operations of Circular Saws, Band Saws, and Guillotine Shears (Order 14)

29 CFR 570.66, Occupations Involved in the Wrecking, Demolition, and Shipbreaking Operations (Order 15)

29 CFR 570.67, Occupations in Roofing Operations (Order 16)

29 CFR 570.68, Occupations in Excavation Operations (Order 17)

29 CFR 575—Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 year old Minors in Hand Harvesting of Short Season Crops.

Regulations Applicable to Puerto Rico, the Virgin Islands and American Samoa under the Fair Labor Standards Act:

29 CFR 511, Wage Order Procedure for Puerto Rico, the Virgin Islands, and American Samoa

29 CFR 545, Homeworkers in Industries in Puerto Rico

29 CFR 601 through 690 and 699 through 730, Regulations applicable to specific industries in Puerto Rico (see CFR for specific titles)

29 CFR 694, Minimum Wage Rates in Industries in the Virgin Island

29 CFR 695, Homeworkers in Industries in the Virgin Islands

29 CFR 697, Industries in American Samoa

Years: 1988–1990

Proposed Review:

29 CFR 24, Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes

29 CFR 515, Utilization of State Agencies for Investigations and Inspections

29 CFR 519, Employment of Full-Time Students at Subminimum Wages

29 CFR 520, Employment of Student Learners

29 CFR 521, Employment of Apprentices

29 CFR 522, Employment of Learners

29 CFR 523, Employment of Messengers

29 CFR 524, Special Minimum Wages for Handicapped Workers in Competitive Employment

29 CFR 526, Industries of a Seasonal Nature and Industries with Marked Seasonal Peaks of Operation

29 CFR 527, Employment of Student Workers

29 CFR 528, Annulment or Withdrawal of Certificates for the Employment of Student Learners, Apprentices, Learners, Messengers, Handicapped Persons, Student-Workers and Full-time Students in Agriculture or in Retail or Service Establishments at Special Minimum Wage Rates

29 CFR 536, Area of Production

29 CFR 547, Requirements of a "Bona Fide Thrift or Savings Plan"

29 CFR 549, Requirements of a "Bona Fide Profit-Sharing Plan or Trust"

29 CFR 550, Defining and Delimiting the term "Talent Fees"

29 CFR 551, Local Delivery Drivers and Helpers; Wage Payment Plans

29 CFR 553, Employees of Public Agencies Engaged in Fire Protection or Law Enforcement Activities (Including Security Personnel in Correctional Institutions)

29 CFR 775, General

29 CFR 776, Interpretative Bulletin on the General Coverage of the Wage and Hours Provisions of the Fair Labor Standards Act of 1938

29 CFR 778, Overtime Compensation

29 CFR 782, Exemption from Maximum Hours Provisions for Certain Employees of Motor Carriers

29 CFR 783, Application of the Fair Labor Standards Act to Employees Employed As Seamen

29 CFR 784, Provisions of the Fair Labor Standards Act Applicable to Fishing and Operations on Aquatic Products

29 CFR 786, Miscellaneous Exemptions

29 CFR 789, General Statement on the Provisions of Section 12(a) and Section 15(a)(1) of the Fair Labor Standards Act of 1938, Relating to Written Assurances

29 CFR 790, General Statement as to the Effect of the Portal-to-Portal Act of 1947 on the Fair Labor Standards Act of 1938

29 CFR 791, Joint Employment Relationship under Fair Labor Standards Act of 1938

29 CFR 870, Restriction on Garnishment

Child Labor Regulations under the Fair Labor Standards Act not reviewed in 1981–1987:

29 CFR 570, Child Labor Regulations

Orders and Statements of Interception (Aspects other than the Hazardous Orders reviewed in 1981–1987)

29 CFR 579, Child Labor Violations—Civil Money Penalties

29 CFR 580, Civil Penalties for Child Labor Violations—Rules of Practice for Administrative Proceedings

41 CFR 50—Public Contracts (Walsh-Healey Public Contracts Act):

41 CFR 50–201, General Regulations

41 CFR 50–202, Minimum Wage Determinations

41 CFR 50–203, Rules of Practice

41 CFR 50–206, The Walsh-Healey Public Contracts Act Interpretations

41 CFR 50–210, Statements of General Policy and Interpretations not Directly Related to Regulations

Signed this 24 day of June 1981 at Washington, D.C.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81–19112 Filed 6–29–81; 8:45 am]

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Notices

Federal Register
Vol. 46, No. 125
Tuesday, June 30, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF ENERGY

Bonneville Power Administration

1981 Wholesale Power Rates; Order Confirming, Approving, and Placing Increased Wholesale Power Rates in Effect on an Interim Basis

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Notice of Approval on Interim Basis of Bonneville Power Administration Wholesale Power Rates.

SUMMARY: On June *24*, 1981, the Assistant Secretary for Conservation and Renewable Energy pursuant to Delegation Order No. 0204–33, as amended and supplemented, confirmed, approved, and placed in effect on an interim basis, Wholesale Power Rate Schedules PF–1, IP–1, MP–2, CF–1, CE–1, NR–1, NF–1, RP–1, FE–1, SI–1, and the General Rate Schedule Provisions setting forth the terms and conditions of service under the foregoing rate schedules. The wholesale power rates, plus a concommitant increase in transmission rates, will produce an estimated 78.5 percent increase in total revenues throughout the repayment period. This does not include revenues that will be collected from the direct-service industries to cover the costs of acquiring the investor-owned utility exchange resources.

EFFECTIVE DATE: The rates are confirmed and approved on an interim basis effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Ms. Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, Department of Energy, P.O. Box 12999, Portland, Oregon 97212, (503) 234–3361, extension 4261.
Toll-free numbers for Oregon callers: 800–452–8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California: 800–547–6048.
or
Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION: The new rate schedules, applicable to all of Bonneville's power customers, constitute Bonneville's first wholesale power rate increase since the passage of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96–501). Rate Order No. BPA–4 confirming, approving, and placing the wholesale power rates in effect on an interim basis will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on an final basis.

Issued at Washington, D.C. this 24th day of June, 1981.

Joseph J. Tribble,
Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: Bonneville Power Administration—Systemwide Wholesale Power Rates—Rate Order, No. BPA–4.

Order Confirming, Approving, and Placing Increased Power Rates Into Effect on an Interim Basis

June 24, 1981.

The functions of the Secretary of the Interior and the Federal Power Commission under the Bonneville Project Act, 16 U.S.C. 832, the Federal Columbia River Transmission System Act, 16 U.S.C. 838, and other statutes relating to the Bonneville Power Administration (BPA) were transferred to and vested in the Secretary of Energy pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91. The Secretary of Energy, pursuant to section 7(i)(6) of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96–501) is authorized to approve BPA power and transmission rates on an interim basis during a 1-year period, pending establishment of procedures by the Federal Energy Regulatory Commission (FERC) for approving rates on an interim basis, in the event the FERC determines such procedures are necessary. Upon the advice from the FERC that such procedures are necessary and will not be established prior to October 1, 1981, the Secretary of Energy delegated to the Assistant Secretary for Conservation and Renewable Energy in the June 19, 1981 Supplement to Delegation Order No. 0204–33, the authority to confirm, approve, and place into effect such rates on an interim basis. This rate order is issued pursuant to that delegation to the Assistant Secretary.

Background

Existing Rates

Wholesale power from the BPA system is delivered to 161 customers pursuant to rates in effect on an interim basis since December 20, 1979. The rates were approved on an interim basis by the Assistant Secretary for Resource Applications by Rate Order No. BPA–2 issued on December 3, 1979. On that same date the rates were submitted to the FERC for confirmation and approval on a final basis. Under Docket No. EF–80–2011 the FERC issued an order on November 21, 1980, remanding those rates without prejudice. BPA's response indicating the basis on which estimates of the revenues were made and otherwise answering the remand order will be separately submitted.

The eight rate schedules now in effect on an interim basis are:

EC–8, Wholesale Firm Power Rate; EC–9, Reserve Power Rate; IF–2, Wholesale Power Rate for Industrial Firm Power; MF–2, Wholesale Power Rate for Modified Firm Power; F–7, Wholesale Firm Capacity Rate; F–8, Emergency Capacity Rate; J–2, Wholesale Firm Energy Rate; and H–6, Wholesale Nonfirm Energy Rate.

Approval on an interim basis was also granted in Rate Order BPA–2 of BPA's General Rate Schedule Provisions and special contract rates and rate schedule provisions.

Need for Rate Increase

Pursuant to the Bonneville Project Act (Pub L. 75–329 as amended), the Federal Columbia River Transmission System Act (Pub L. 93–454), the Reclamation Project Act of 1939 (Pub L. 85–611 as amended), the Flood Control Act of 1944 (Pub L. 78–534), Section 2 of the Grand Coulee Third Powerhouse Authorization (Pub L. 89–448 as amended) and the Pacific Northwest Electric Power Planning and Conservation Act (Pub L. 96–501), the BPA Administrator

conducted a revised power repayment study to determine the revenue necessary to recover the cost of producing, purchasing, and transmitting the electric power that BPA markets, to repay investments as required by statute, and to recover other costs associated with the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). The results of the study showed the need for a 78.5-percent increase in total revenues over the repayment study period, excluding revenues required to cover the costs of acquiring the investor-owned utility exchange resources. The total revenues needed will be met by the increase in wholesale power rates approved by this order and the increase in transmission rates approved by my Rate Order No. BPA-5.

The costs of the utility exchange resources have not yet been determined. BPA will acquire that power at the average system cost of the seller which will be determined using a methodology currently being developed. The variable "X" represents the dollar amount of the exchange in the appropriate studies and rate schedules.

The existing wholesale power and transmission rate schedules would produce revenues of approximately $630,000,000 in fiscal year 1982, assuming average water conditions. The new wholesale power and transmission rates would produce approximately $1,100,000,000 during that year under these same conditions, excluding revenues associated with the exchange costs. BPA expects the cost of the exchange resources to fall between $350 million and $500 million. The cost of the exchange purchases has not been determined because the methodology for that determination requires a separate review process and separate approval by the FERC.

Present revenues are inadequate for a number of reasons. Since the last time rates were adjusted, there have been significant cost increases, including the addition of new programs required by the Regional Act. The cost increases include substantial increases in the construction cost of nuclear power plants from which BPA has acquired power generation capability, other purchase power costs, interest costs, and the costs to operate, maintain, and construct new Federal generation and transmission facilities. These cost increases have not been matched by revenue increases. In fact, revenues from the 1979 rate levels have been less than forecasted. New programs add substantial costs and include funding for the Regional Planning Council, fish and wildlife, local government assistance, load forecasting, increased public involvement, system planning, energy conservation, and new resources.

Public Notice and Comment

In response to the current power repayment study which showed that revenues from current rates were inadequate to meet BPA's repayment obligation, BPA published in the June 12, 1980, **Federal Register** (45 FR 34885) a "Notice of Intent to Develop Revised Wholesale Power Rates." Between June and December 1980, BPA met with various customer groups to elicit their comments and suggestions for an initial wholesale power rate proposal.

On December 5, 1980, the Regional Act became law. Sections 5, 7, and 9 of that Regional Act altered BPA's rate development procedures, costing methodology, and in some cases, rate design. BPA published proposed wholesale power rates in the February 17, 1981 **Federal Register** (46 FR 12659) based on the requirements of the Regional Act. The initial rate proposals were supported by an environmental assessment, a power repayment study, a cost-of-service analysis, a long run incremental cost analysis, a time-differentiated pricing analysis, and a rate design study.

On March 2, 1981, the formal hearing process required by the Regional Act began with a BPA presentation of the initial rate proposals. The BPA staff was cross-examined and 37 parties presented their testimony. Rebuttal testimony was taken, and oral arguments and briefs were presented. The hearing closed for wholesale power rates on May 4, 1981, with over 6,000 pages of transcript. The BPA staff prepared an evaluation of the record that was made available to the parties on May 27, 1981, for their review. Written comments on the initial proposals were received through May 27, 1981. An addendum to the staff evaluation of the record covering meetings on transmission issues that were received too late to be included in the initial evaluation document was also prepared. The hearing officer certified the record and determined that it was unnecessary to supplement the evaluation of the record. On the basis of the record, the Administrator developed his final proposed rate schedules and General Rate Schedule Provisions. These schedules and provisions are given interim approval by this order.

In addition to studies conducted by BPA, the Administrator issued a Record of Decision documenting the process by which the rates were developed. This includes the significant public comments received, BPA's responses to such comments, and the rationale for the Administrator's decisions.

Studies Conducted by BPA

The new wholesale power rates are based on studies conducted by BPA. Studies were conducted two or more times to reflect the most recent cost data available and to make changes as a result of public comment. The studies conducted wre: Power Repayment Study, April 1, 1980 (revised), February 24, 1981 (revised), April 23, 1981 (current and revised); May 14, 1981 (current and revised); Cost-of-Service Analysis, February 1981, June 1981; Long Run Incremental Cost Analysis, February 1981, June 1981; Time-Differentiated Pricing Analysis, February 1981, June 1981; Wholesale Power Rate Design Study (formerly the Summary Rate Design Study), February 1981, June 1981; Staff Evaluation of Official Record, May 1981, and Addendum, June 1981; Draft Environmental Assessment, February 1981, and a Final Environmenal Assessment, June 1981. The new wholesale power rate schedules are based on results of the final studies that appropriately reflect public comments, criticisms, and suggested alternatives.

Repayment Study

BPA is required by law to set its rates so as to recover the costs ot production, acquisition, conservation, and transmission of electric power, as well as the irrigation costs required to be repaid with power revenues, over a reasonable period of years; to recover other costs and expenses incurred pursuant to the Regional Act and other provisions of law; to pay the principal premiums discounts, expenses, and interest in connection with bonds issued on behalf of BPA; and to make payments to the credit of the Reclamation Fund required to be paid from electricity sales. It must also provide the lowest possible rates to consumers consistent with sound business principles (Section 5 of the Flood Control Act of 1944 and Section 9 of the Federal Columbia River Transmission System Act). Reclamation projects must be scheduled so that the required assistance from power revenues will not average more than $30,000,000 in any period of 20 consecutive years.

The Department of Energy repayment policy is set forth in Department of Energy Order No. RA 6120.2, dated September 20, 1979, which replaced Department of the Interior Policy, 730 DM 3 and 4, without substantive change. BPA's annual revenues must be sufficient to pay all annual operation

and maintenance costs, purchased power costs, interest expenses, and annual costs of bonds issued on behalf of BPA. Reasonable periods of years during which repayments must occur have been specified to be 50 years for Federal hydroelectric generating plants, and within the average service life of the facilities (up to a maximum of 50 years) for the transmission system and replacements. Irrigation assistance must be provided within the periods established for the irrigation water users to repay their share of construction costs. Each annual increment of investment must be amortized within its prescribed period. To the extent possible, while complying with the established repayment periods, revenues available for amortization will be applied to the highest interest-bearing investments first to minimize interest expenses.

BPA's transmission investments are repaid within 35 years after the facilities have been placed in service; original Federal investments in generating projects must be repaid within 50 years after the project begins producing revenues; replacements must be repaid within their estimated service lives up to a maximum of 50 years; and the repayment periods for interest-free irrigation investments range from 40 to 66 years.

The adequacy of revenues from existing power and wheeling rates to meet these cost recovery criteria is determined by preparing a current power system repayment study. This study projects estimated revenues and costs for the entire power system over the remainder of the repayment periods for major investments to determine if there will be enough revenue to recover all costs. The allowable unamortized investment for any given year is the maximum investment that can remain unamortized in that year if the repayment periods established for each power facility are observed. Each year, the amount of new power investment made that year is added to the allowable unamortized investment.

The power repayment study determines whether the repayment criteria are met by showing annual revenues and expenses and by comparing the estimated future unamortized power investment with the allowable unamortized investment. If the unamortized investment exceeds the allowable amount for any year, an increase in revenues will be necessary to assure complete recovery of all power costs within the required repayment period.

Cost-of-Service Analysis

The Cost-of-Service Analysis (COSA) was used to determine the average cost of providing power to each of BPA's classes of service. BPA followed generally accepted utility methods in preparing the study, although modifications were made to reflect the repayment method used by Federal power marketing agencies to determine revenue requirements. While the results of the COSA were used extensively in the design of rates, final rates also reflect adjustments in costs based on the results of the other studies, as well as considerations of value of service, equity, continuity of rates, and ease of administration.

In addition to providing information on the cost of serving various customer classes, the analysis was designed to respond to Section 10 of the Federal Columbia River Transmission System Act which requires that "the recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system."

Three major steps were followed in preparing the COSA. First, investment and annual costs were divided according to functions performed by the power system. These functions were defined as generation, transmission, and metering and billing. Second, generation costs were classified to energy and capacity. Third, functionalized and classified costs were allocated to the service classes. The service classes include power rates, wheeling rates, other services, and miscellaneous services and revenues. The power rate category was further divided into the subcategories of priority firm power, reserve power, industrial firm power, modified firm power, annual and seasonal firm capacity, new resource firm power, and nonfirm energy.

Long-Run Incremental Cost Analysis

The BPA Long Run Incremental Cost (LRIC) Analysis is a cost-of-service analysis which focuses on the incremental costs incurred to meet load growth requirements or the cost saved by not consuming additional increments of power. This analysis differs from an average cost-of-service analysis where the primary function is to reflect the costs which a utility is required to recover based on particular accounting practices. BPA conducted the LRIC Analysis to obtain important information on the direction of future costs and rates.

The LRIC Analysis focuses on the costs BPA will incur during a planning period through 1989, adjusted to a 1982 constant price level. Included in the study are costs for constructing, operating, and maintaining new Federal generation and transmission facilities and costs associated with the Washington Public Power Supply System nuclear plants.

The LRIC of generation capacity is based on hydro peaking units added to the FCRPS through 1989. The long run incremental cost of energy is based on the cost associated with the net-billed portion of the Washington Public Power Supply System projects Nos. 1, 2, and 3. The LRIC of transmission is based on the cost of Federal transmission facilities added over the planning period to serve load growth and to provide transmission services for the movement of power for other utilities.

Time-Differentiated Pricing Analysis

The Time-Differentiated Pricing Analysis (TDPA) differentiated both incremental and embedded costs by time period. Separate analyses were conducted for capacity costs and for energy costs. The study results show that BPA's embedded historical costs for capacity vary over the year, with three separate distinguishable periods. The three capacity periods are: (1) December through May, Monday through Friday, 7 a.m. to 10 p.m. (winter); (2) June through November, Monday through Friday, 7 a.m. to 10 a.m. (summer); and (3) all remaining hours of the year (offpeak). Saturday is an onpeak day in BPA's curent rates, but the study indicates that it is now marginally offpeak.

The energy analysis of embedded historical costs indicates that there are two periods in which costs vary. There is a summer season from April through August and a winter season from September through March. The cost differences for these two periods are based on costs associated with storage of water used primarily to generate energy during the winter season.

Wholesale Power Rate Design Study

The Wholesale Power Rate Design Study (WPRDS) shows the development of the final rate schedules through a series of rate design steps. The Repayment Study and the COSA provide the foundation for the development of the rate levels. The LRIC Analysis provides a guide for developing rates from an economic efficiency perspective. The TDPA is used to design rates which reflect time-differentiated costs. The WPRDS shows how the cost information produced by the COSA is further treated to reflect several cost adjustments relating to fixed contractual obligations, credit of

nonfirm energy revenues, time differentiation of costs, recovery of other costs, and other adjustments which achieve rate design objectives.

Staff Evaluation of the Official Record and Addendum

The Staff Evaluation of Official Record notes and discusses each major comment received during the public involvement process. The staff evaluation contains an outline of the issues raised in response to the February 1981 rate proposal and details BPA's assessment of these issues. All issues are combined by generic category.

In June 1981, BPA updated the evaluation with an Addendum to the Staff Evaluation of Official Record. The Addendum details comments received since mid-May 1981, related to BPA's interim transmission arrangements. As in the main staff evaluation, it includes BPA's assessment of the issues raised.

Rate Environmental Assessment

The Draft (February 1981) and Final Rate Environmental Assessment (EA) (June 1981) were used by BPA to identify and analyze alternative revenue levels and rate designs. In addition to the 78.5 percent revenue increase, the EA identified two lower revenue level alternatives (no change and 30 percent increase) and one revenue alternative based on the LRIC Analysis which represented a 720 percent increase. The EA described each alternative revenue level, quantified the alternative, reviewed the effects of the alternative on BPA, its customers, and the ultimate consumers of the region, and analyzed the environmental impact of each alternative. The Rate EA also contains a discussion of rate design alternatives and their probable impacts.

Discussion

Revenue Requirement Issues

The power repayment study determines the total revenues which must be collected from rates, excluding revenues associated with the costs of the exchagne resources to be acquired from investor-owned utilities and paid for by the direct-service industrial customers. Issues on revenue requirements relate to forecasts of revenues and costs and to methods used in repayment analysis.

Accuracy of Forecasts

Revenues

Comments received regarding the initial revenue forecast included concerns that the projected loads needed to be updated; that revenue from the sale of power purchased to meet firm load deficits was not included in the forecast; and that there was a discrepancy in the purchased power expense included in the initial Repayment Study and COSA. In the final Repayment Study, BPA used updated load data. Additional adjustments were also made to public agency loads including a reduction 492 average megawatts to reflect historical differences between projected and actual loads, and a 46-megawatt reduction to public agency loads for conservation.

While earlier versions of the Repayment Study did not include revenues from the sale of power purchased to meet firm load deficits for investor-owned utilities, rates were applied to those loads in the final revenue forecasts to show that the rates recover revenues sufficient to meet repayment criteria.

The discrepancy in purchased power expense between the Repayment Study and the COSA has been corrected. The purchased power expense in the final Revised Repayment Study is now compatible with expenses in the COSA.

Under critical water conditions, BPA now projects the purchase of 491 average megawatt at a total cost of $159.9 million, plus the purchase of 208 average megawatts of power from Portland General Electric's (PGE's) Boardman Plant for $88.1 million. The power purchase forecast under average water conditions is 266 average megawatt at a total cost of $104.7 million, plus the cost of purchasing power from PGE's Boardman plant of $73.8 million. The cost estimate under average water conditions was incorporated in both the final Repayment Study and COSA.

The basis for the forecast of nonfirm revenues is the secondary energy analysis which projects sales of nonfirm energy by month for 40 historical water years to determine averages. For the initial proposal, this analysis projected regional sales of nonfirm energy and applied percentages to the regional markets to approximate Federal sales and Federal nonfirm energy sales revenues. Several comments were received indicating that a Federal secondary energy analysis rather than a regional analysis would be a more appropriate and accurate method of determining Federal nonfirm resources, revenues, and the level of sales to the various markets. For the final Repayment Study, a Federal secondary energy analysis was prepared. The analysis assumes displacement of short term power purchases required to serve the firm loads, the shifting of firm energy load carrying capability to serve the top quartile of the direct-service industrial load for 6 months of the year, service to the top quartile for the remainder of the year with nonfirm energy when possible, and the subsequent sale of remaining nonfirm resources to the various secondary energy markets.

Other comments received on the initial secondary energy analysis indicated some discrepancies between that analysis and the analysis used in the determination of purchased power for FY 1982 for the initial proposal. Specifically, an analysis assuming load growth over the critical period was made to determine the secondary energy available to displace power purchases, while an analysis assuming no load growth was made to estimate secondary energy sales. Also, the reduction in secondary available for sale due to shifting the firm energy load carrying capability was not reflected in the initial revenue forecast. Both of these discrepancies have been corrected in the final revenue forecast.

The revenue forecast is affected by how available energy is used. Representatives of the Public Power Council maintained that BPA's assumed use of hydroelectric energy which is in excess of a critical-year supply to displace power purchases proportionally for both the Federal base system and new resource pools is inconsistent with the preference clause of the Bonneville Project Act. These parties argued that preference extends to nonfirm energy as well as firm energy. Preference does extend to nonfirm energy, but energy is only nonfirm when it is not needed to serve firm or quasi-firm loads. Using hydroelectric energy which exceeds a critical year supply to displace BPA's most expensive purchases is more cost-effective than the sale of those resources to the quasi-firm top quartile of the direct-service industrial load or to the nonfirm energy markets. If only a portion of power purchases can be displaced, the highest incremental cost resources will be displaced first to maximize fuel cost savings. Operationally, BPA does not differentiate between purchases for the Federal base system deficits and those for the new resource pool deficit. Power purchases are made only to the extent necessary to serve firm loads. To the extent that Federal resources are available to meet those commitments, power purchases will not be made.

The revenue forecast used in the Repayment Study submitted to the parties in late April assumed that the firm energy load carrying capability of the hydro system would be adjusted to

provide service to the top quartile of the direct-service industrial customers for the first 6 months of the operating year. As stated above, it was also assumed that hydroelectric energy in excess of a critical year supply would be used to provide service to the top quartile before it would be sold in the various nonfirm energy markets. Representatives of the region's private and publicly-owned utilities contended that an adjustment of the firm energy load carrying capability to provide service to the top quartile of the direct-service industrial load is not permitted under the Coordination Agreement of 1964 because the top quartile is not a firm load as defined in the Regional Act.

In accordance with the Regional Act, the top quartile is considered a firm load for operating purposes and provides operating reserves for BPA which may be restricted at any time in order to protect firm loads within the region. BPA is obligated to operate to serve the top quartile as if it were firm, the sale of energy to the direct-service industries is not a nonfirm sale, although the top quartile is interruptible to protect firm loads. The adjustment of the firm energy load carrying capability to serve the top quartile load of the direct-service industries is therefore proper, and the preference provisions of the Bonneville Project Act and the Regional Act are not violated by serving the top quartile load prior to serving the nonfirm energy markets.

In the initial proposal, BPA estimated that a reduction of approximately 150 megawatts in firm energy loads would occur as a direct result of expenditures on conservation programs and the granting of billing credits. The total impact of this estimate was not reflected explicitly in the revenue forecast. Representatives of the InterCompany Pool indicated that the revenue forecast would be more accurate if BPA adjusted firm loads to account for the impact of conservation programs. This is important because it has an impact on the overall rate of load growth used in the revenue forecast as well as on the level of rates. BPA subsequently recalculated the costs and anticipated reductions in load associated with each of the programs. Current projected loads of the investor-owned utilities already reflect anticipated conservation program benefits. However, the projected loads of the public utilities and cooperatives do not incorporate a load adjustment reflecting these conservation programs. Consequently, the projected firm energy loads and revenues associated with the loads of the public utilities have been reduced by the projected amount of conservation.

Escalation

The Repayment Study supporting the initial power rate proposal used an annual 12-percent escalation rate. Representatives of the InterCompany Pool questioned the appropriateness of the 12-percent rate. Upon reconsideration, BPA determined that the Fiscal Year 1982 Budget Gross National Product deflator rate was the most appropriate rate to use, since it is widely used in the Federal government and because it is representative of the results of several other indices. Consequently, escalation rates for FY 81 and FY 82 or 10.5 percent and 9.3 percent, respectively, were used in the final Repayment Study. BPA rejected use of the revised Fiscal Year 1982 Gross National Product deflator as too low an inflation estimate for electric utilities which typically experience inflation in excess of general indices.

Washington Public Power Supply System (WPPSS)

The Repayment Study supporting the initial power rate proposal included the costs of bonds issued for WPPSS Nuclear Project Nos. 1 and 2 after July 1, 1982. Representatives of the State utility commissions suggested that the Repayment should exclude costs for WPPSS Nuclear Projects Nos. 1 and 2 that occur beyond the test year. This suggestion seemed appropriate and was adopted. The cost of bonds issued after July 1, 1982 were excluded in the final Repayment Study.

Methodology

The existing Repayment Study methodology incorporates the principle of repaying high interest-bearing investments first to the extent possible while repaying every investment within its repayment period. In addition, capitalized deferred expenses must be paid prior to the amortization of any Federal investment. These policies are established in DOE Order RA 6120.2, section 8, part C(3).

Parties to the rate hearings raised three major concerns with respect to the Repayment methodology: (1) whether the study could determine the minimum revenue requirement that would recover costs, (2) what the potential future impacts of amortizing high interest-bearing investment first would be, and (3) whether the priority given to the payment of deferred capitalized expenses was appropriate.

The optimization feature of the Repayment Study computer program determines the lowest revenue level that satisfies the cost recovery criteria within one-tenth of one percent. Given the numerous estimates inherent in a rate filing, a further refinement of this level of accuracy is not warranted. This computer program has been reviewed extensively to assure that it accurately performs the required calculations.

It is true that the policy of repaying highest interest-bearing investments first compresses the period in which lower interest-bearing investments are repaid. However, this does not increase the likelihood that a substantial increase in rates will be needed in the future to repay the low interest-bearing investments. The only reasons for additional rate increases in the future will be additional investments or higher operational costs that are not reflected in the present rates.

With respect to the concern that the payment of capitalized deferred expenses ahead of repaying Federal investments is inconsistent with minimization of rates, it is true that indefinitely deferring these expenses would reduce rates as long as interest rates on bonds are higher than the current interest rates used to capitalize deferred expenses. By the same reasoning, rates would be lower if BPA continued to defer paying annual expenses and used its revenue to retire the higher interest-bearing bonds instead. However, the statutory requirement is not to minimize rates; but rather to set them as low as possible consistent with sound business principles. The payment of annual expenses must have priority to comply with sound business principles.

Other Revenue Requirement Issues

Other revenue requirement issues are discussed in the Staff Evaluation of Official Record and the Administrator's Record of Decision.

Cost-of-Service Analysis Issues

Because the results of the COSA impact final rates, BPA received a significant number of comments on the methods that were used in preparing this study. The comments that were received concerned alternative interpretations of the Regional Act with respect to defining rate pools, the division of costs between capacity and energy, segmentation of transmission costs, and allocation of costs to various classes of service.

Rate Pools

The primary concern raised with respect to BPA's interpretation of Sections 7(b), 7(c), and 7(f) of the Regional Act revolves around the issue

of the allocation of the cost of the three resource pools to rate pools. The three resource pools are distinguished as (1) Federal base system resources; (2) resources acquired through the Section 5(c) residential exchange; and (3) any additional new resources acquired by the Administrator. Three rate pools are also defined in the Regional Act. Section 7(b) directs the Administrator to set a rate applicable to the preference customer and residential/rural exchange loads. Section 7(c) provides for the rate or rates applicable to the direct-service industries, and the rates provided for in 7(f) will be applicable to new large single loads of the preference customers and for service to investor-owned utilities' deficits in the previous year plus any load growth for the current year.

A sufficient amount of Federal base system resources has been assigned to the 7(b) rate pool to serve the entire 7(b) load. The proportionate cost of these resources was the basis for determining the PF–1 rate. A small amount of Federal base system was not required to serve 7(b) loads. The costs of the remaining portion of Federal base system resources, and all the costs of resources acquired through the residential exchange were assigned to be recovered from the 7(c) loads. These costs were the basis for determining the IP–1 and MP–1 rates. The 7(f) loads were assigned the costs of all additional new resources. These costs formed the basis for the NR–1 rate.

The InterCompany Pool contends that this assignment inappropriately grants a special "junior preference" to the direct-service industries and conflicts with both the intent of the Regional Act and its legislative history. The InterCompany Pool advocates two cost pools, the first of which would be identical to those costs assigned to the 7(b) rate pool established by BPA. The second pool, however, would consist of the costs of all remaining resources. This cost pool would provide the base for developing the rate that would be used to serve the direct-service industries, as well as the new resource rate which would apply to new large single loads of preference customers and to the power supply requirements (including deficits and load growth) of the investor-owned utilities. Section 7(f) of the Regional Act grants to the Administrator discretion in the determination of the appropriate assignment of resource costs to the new resource rate pool. In addition, the legislative history of the Regional Act supports the method of cost assignment proposed by BPA rather than the method proposed by the InterCompany Pool by continually referring to the 7(b) rate as the "new resources rate" and indicating that such rate would "likely to be at the marginal cost of power."

Another issue raised by the InterCompany Pool relates to the potential willingness of utilities to sell resources to BPA for inclusion in the New Resource pool. It was suggested that by assigning the costs of conservation and billing credits to the new resource pool, in the absence of a corresponding assignment of the load reduction associated with conservation to that pool, BPA would create a situation in which the resulting new resource rate would exceed the average cost of new resources. Under these circumstances it would not be cost effective for utilities to sell new resources to BPA as intended under the Regional Act.

No allocation of billing credit costs to the New Resource cost pool is made in developing the final rates, and both the costs and the load reductions associated with conservation on investor-owned utility systems are being assigned to that pool. Reducing load in the New Resource pool reduces the need for higher cost purchase power. In most cases it is estimated that the cost of conservation programs funded by BPA will be less than the cost of new resources added to the New Resource pool. Finally, the use of Federal secondary resources to meet a portion of the New Resource pool load will further reduce the NR–1 rate to a level that is expected to be attractive to utilities that are developing resources.

Definition of the Federal Base System and Allocation of Short-Term Purchase Power Costs

Several preference customer representatives have suggested that BPA should not have allocated deficit purchase power costs to the Federal base system pool in view of the fact the Federal base system resources are more than adequate to meet the 7(b) pool loads. In the absence of the Regional Act, BPA would have been making purchases to serve the firm loads of the preference customers and the direct-service industries. Those purchase power costs would have been allocated proportionately on the basis of load to the preference customers and the direct-service industries. The Regional Act was not intended to remove from the preference customers the responsibility for sharing a portion of the cost of meeting BPA's deficit.

It was further suggested that BPA would be circumventing the resource acquisition procedures of the Regional Act by proposing use of its short-term purchase authority under the Transmission System Act to meet its deficit. However, Section 6(a)(2) of the Regional Act specifically recognizes the Administrator's right to make short-term purchases under the Transmission System Act and places no restrictions on that authority.

Energy reserves are provided to BPA through the rights BPA has to restrict the second quartile of the direct-service industrial customer load. Another suggestion regarding assignment of purchase power costs was that BPA should restrict direct-service industrial second quartile loads before purchasing power to meet priority firm loads. The purpose of a reserve is to serve as a resource of last resort, and the value of the reserve is the right to restrict. Once the restriction is exercised, its value is lost and the reserve must be reestablished as quickly as possible. The reserve is intended to function not as an economical alternative to other resources, but as a final backup that can be relied on to protect the quality of firm service.

A final concern expressed relates to the use of Federal hydroelectric energy to meet a portion of the deficit assigned to the New Resource pool. Preference customer representatives have suggested this would violate the preference clause by depriving them of their preference to nonfirm energy. They also suggest this would represent a change in BPA's nonfirm energy policy. Under the Regional Act, BPA's deficit is a regional deficit and the Administrator must seek to meet it in an economically prudent manner. The use of available hydroelectric resources to meet a portion of this deficit is reasonable and proper and is not a violation of the preference clause. Furthermore, the use of this energy to offset a portion of the regional deficit is not in conflict with, or a change in, BPA's policy on nonfirm energy.

After BPA meets its firm and quasi-firm load obligations secondary energy becomes available which BPA then markets based on its secondary energy policy. This policy provides a maximum amount of decision flexibility in order to insure that specific goals can be met through the sale of secondary energy, and does not set forth procedures by which the goals are to be achieved. The goals of the secondary energy policy include (1) encouragement of widespread use, (2) compliance with Public Law 88–552, (3) distribution of the benefits of nonfirm sales to all ratepayers in the region, (4) consideration of existing market conditions, (5) minimization of effects on

fish and wildlife, (6) consideration of the purpose or use to which nonfirm energy would be put, (7) encouragement of conservation and renewable resource development, (8) conformity to National Energy Policy, and (9) subordination of revenue maximization to the foregoing objectives.

Allocation of Conservation Costs

Several concerns were raised regarding the appropriate method for allocating both the costs and projected load reductions associated with conservation programs. One suggestion was that it would be best to use a uniform allocation of conservation costs across all energy use, given the lack of information currently available concerning the future distribution of conservation benefits. A number of parties have suggested that both the costs and the load reductions associated with conservation should be assigned to those customers whose loads are being reduced through the conservation programs. This alternative is consistent with BPA's treatment of conservation in the final rates. The load reductions and costs associated with conservation programs funded by BPA on preference customers' systems have been assigned to the Federal base system pool. The load reductions and costs associated with conservation programs funded by BPA on investor-owned utility systems have been assigned to the New Resources pool.

Classification of Generation Costs

Since differences exist in the purpose and operation of hydro facilities and thermal plants, these facilities were classified separately. The direct service industries have suggested that this is inappropriate and argued for application of a fixed/variable cost method to all generation costs. Other parties have agreed with the general BPA approach but suggest that additional costs be classified to energy. The fixed/variable approach would result in classification of virtually all hydroelectric generation costs to capacity as well as most thermal generation costs to capacity. The fixed/variable approach would not reflect the capacity and energy relationship developed during the planning of a hydro system. In either case, a number of necessarily subjective decisions must be made in arriving at the resulting classification percentages. The potential problems associated with the cost causation approach are greatly exceeded by the failure of the fixed/variable approach to appropriately reflect the operational and planning characteristics of the Federal Columbia River Power System. The problem with a fixed/variable approach is that it classifies capacity and energy strictly from an operational standpoint and completely disregards why the costs were incurred initially. The Federal Energy Regulatory Commission has indicated general support for the classification scheme used by BPA in its order remanding BPA's 1979 Wholesale Power Rates without prejudice (45 FR 79545, 79548).

Segmentation

In order to enhance the equity of transmission system cost allocation and to insure compliance with the requirement of the Transmission System Act to equitably allocate Federal transmission costs between Federal and non-Federal power, BPA's transmission costs were separated into seven segments. These segments consist of (1) generation integration, (2) integrated network, (3) intertie, (4) fringe area, (5) preference customer delivery, (6) direct-service industrial delivery, and (7) investor-owned utility delivery.

Two concerns have been raised pertaining to segmentation. First, it was suggested that any lines over 69 kV that serve only a direct-service industry load should be assigned to that direct-service industry delivery segment rather than to the integrated network. BPA has not included lines above 69 kV leading from integrated network or fringe substations to investor-owned utilities or preference customer substations in the delivery segments for those customers. To follow the suggested procedure for lines serving direct service industries only would constitute unwarranted class discrimination. In addition, lines above 69 kV serving only a direct-service industry usually have a higher capacity than the substations they serve. The lines are expected to be extended to serve other substations and customers at some future time. To assign the total costs of these lines to the delivery segment of an existing customer would result in an inequitable overallocation of costs to that customer's service class.

The second concern regarding segmentation related to the general validity of BPA's segmentation method. It was suggested the studies of actual coincident power flows or coincident peak loads would better reflect actual facility use. Such approaches may be valid alternatives to the approach used, but are not necessarily preferable. BPA's approach is consistent with a cost causation approach to cost assignment and validly reflects a close approximation to actual use of facilities.

Allocation of Costs to Classes of Service

Energy-related costs were allocated among the classes of service in direct proportion to the kilowatthours of energy associated with each class. No adverse comments were received concerning this standard method of allocating energy-related costs.

Capacity-related costs were allocated according to the 12 coincidental peak (12 CP) method. The 12 CP method results in allocation of capacity-related costs to each customer class in proportion to the projected coincidental peak demands for the class, averaged over the 12 months in the test year. The use of coincidental rather than noncoincidental peak appropriately reflects the benefits that accrue to the system as a whole because of customer diversity.

Several concerns about the method of allocating capacity costs have been expressed. The direct service industries suggested the use of a 12 CP allocation method for capacity related costs is inconsistent with BPA's Time Differentiated Pricing Analysis and results in an excessive allocation of these costs to high load factor customers. The Time-Differentiated Pricing Analysis does indicate there should be a seasonal differentiation of generation capacity costs. Therefore, the seasonal load amounts are used to allocate the generation capacity costs among classes of service. This rate design step effectively replaces the use of the 12 CP allocation method for generation capacity costs.

A final concern expressed over the 12 CP method related to the use of maximum noncoincidential demand in some cases and average demand in others to develop noncoincidential demands. It was suggested that such a procedure might produce a biased allocation. Since BPA's coincidence factors are based on average demand, the use of average demand in those cases where no forecast is available for maximum noncoincidental demand would not produce a biased allocation of capacity costs.

Allocation of Exchange Resource Costs.

In the initial 1981 rate proposal, BPA assumed that the residential exchange loads had a load factor of 100 percent. It followed that the exchange resources were also at a 100 percent load factor. A number of parties expressed concern over the appropriateness of this assumption. Consequently, the allocation of exchange costs is now based on the ratio of the preference customers' 12 CP to their average energy requirement. The energy requirement of

the exchange load is then multiplied by this ratio to arrive at a 12 CP estimate for the exchange costs. Therefore, the resulting allocation is a reflection of the load factor of the preference customers. This procedure is the best and most reasonable method currently available to BPA for allocating the exchange costs.

Some parties have suggested that the costs of the exchange should be treated as an accounting transaction rather than a resource transaction. The direct-service industries have further suggested excluding the treatment of these costs from the COSA. They indicate this would avoid the unnecessary introduction of estimating errors relating to the load factor and average system cost assumptions into the analysis. The Regional Act requires BPA to treat the exchange resources as a resource acquisition and grants the Administrator the authority to make the appropriate allocation. The inclusion of the exchange resources in the COSA is necessary in order to arrive at an appropriate allocation of the cost of the Federal transmission system as well as the exchanage resources.

Allocation of Fish and Wildlife Expenses

In BPA's initial proposal, the cost of facilities associated with the mitigation of impacts to fish and wildlife by hydroelectric plants were assigned to all power users, based on the assumption that these mitigation efforts would benefit all citizens of the region, rather than just those served by Federal base system resources. It was suggested by a representative of the InterCompany Pool that the need for mitigation facilities at hydroelectric plants was directly related to the plants themselves and should be included as a cost of the plants and be recovered from customers supplied by the plants. The Regional Act provides for the collection of costs for fish and wildlife mitigation through power rates. The Regional Act does not indicate that this cost should be collected only from customers served by hydroelectric facilities. It is anticipated that at least a portion of the expense associated with fish and wildlife may be directed toward programs which are unrelated to the effects of hydro plants. As the programs for which these expenses are incurred become better defined, it may be possible to develop a more disaggregated allocation of these costs for future rate filings.

Allocation of Intertie Costs

The costs of the Pacific Northwest/Pacific Southwest Intertie have been allocated to nonfirm energy service and variouos intertie transmission services. The portion of intertie costs assigned to nonfirm energy reflects the fact that an original purpose for construction of the intertie was the transmission of nonfirm energy. A representative for Pacific Gas and Electric has suggested the BPA's allocation of transmission capacity costs to nonfirm energy is inappropriate in view of the fact that nonfirm energy purchasers enjoy no capacity rights. Additional concerns voiced by Southwest representatives relate to the consideration given to intertie functions other than transmission of nonfirm energy in allocating intertie costs.

The allocation of a portion of the intertie costs to nonfirm energy, based on cost causation and operational use, is not intended to reflect any entitlement by nonfirm energy purchases to transmission capacity rights. The intertie costs not assigned to nonfirm energy were allocated to seasonal capacity, formula power transmission, the Columbia Storage Power Exchange, capacity/energy exchange, and non-firm energy transmission. This allocation appropriately reflects the services provided by the intertie.

Other Cost-of-Service Issues

Other cost-of-service issues are discussed in the Staff Evaluation of Official Record and the Administrator's Record of Decision.

Long Run Incremental Cost Issues

The Long Run Incremental Cost (LRIC) Analysis is a cost-of-service analysis focused on incremental costs either incurred to meet load growth requirements or saved by not meeting an additional increment of load. The LRIC Analysis provides the basis for the classification of certain generation costs between capacity and energy and for certain rate design adjustments.

Combustion Turbine Analysis

In the initial proposal BPA indicated that while combustion turbines were the traditional least cost source of peaking capacity for utilities in general, hydro peaking units were selected. The rationale was that BPA did not have the authority to acquire combustion turbines and that hydro units were already being constructed to meet the increase in peaking demands. An analysis of the difference between the LRIC of capacity based on a combustion turbine or a hydro peaking unit indicated that the difference in cost was not significant, with combustion turbine being the higher cost of the two. With the passage of the Regional Act and BPA's new resource acquisition, the combustion turbine issue received significant comment during the hearing process. The comments directed to the analysis of a simple cycle combustion turbine indicated the following: (1) the reserve factor used was inappropriate; (2) the price of oil was low; (3) the capacity factor was high; (4) the interest rate used to capitalize investment was high; (5) the energy produced while using the combustion turbine should be valued; and (6) the cost of a combustion turbine should be used by BPA as the basis for the long run incremental cost of capacity.

The reserve factor applied in the combustion turbine analysis was not intended to be resource specific but to represent the reserve factor that would be applied to an additional increment of generating capacity regardless of the source of the capacity. The portion of the reserve factor related to the hdyro realization adjustment is not appropriate for analyzing a combustion turbine and consequently, it has been excluded from the reserve factor used in the combustion turbine analysis for the final study.

The price of oil developed for the analysis did not accurately reflect the current projected market prices for the test year. The oil price data submitted in testimony by the Public Generating Power Pool and Snohomish County Public Utility District has been used in the final analysis, and the average price for 1980 has been escalated to 1982 dollars.

The capacity factor used in the final analysis is 7.5 percent. This rate is supported by the Federal Energy Regulatory Commission that recommends use of a capacity factor of 7.5 percent for combustion turbines when evaluating hydroelectric power.

The interest rate applied to the capital cost was 12 percent, which represents the incremental rate at which BPA can borrow money from the U.S. Treasury. The analysis assumes that BPA would be funding the combustion turbine and, consequently, the 12 percent rate of interest is appropriate.

There appears to be a point at which continued operation of the turbine would be for the purpose of providing energy and that a credit is needed to offset these costs. To determine the energy credit, an iteration process was used. This resulted in an energy credit of 60.8 mills per kilowatt hour applied to the variable costs of the simple cycle combustion turbine for the final analysis.

With the energy credit applied, a 7.5 percent capacity factor, the higher fuel cost, and the revised reserve factor, the long run incremental cost of a

combustion turbine is $61.09 per kilowatt. This result supports BPA's use of the chosen hydro units to determine the long run incremental cost of capacity of $55.32 per kilowatt.

Capacity

Many comments were received regarding the long run incremental cost of capacity. Some of the comments indicated that BPA should not include certain peaking units in the LRIC Analysis. Another issue concerned the appropriate value for the energy produced by the hydro peaking units. For the final LRIC Analysis, the number of peaking units included in the LRIC of capacity was expanded to include all existing and planned peaking units through FY 1989. Costs for existing units were escalated to FY 1982 dollars. This expansion increased the sample size and will lead to increased stability in the LRIC of capacity. In addition, four of the Bonneville Second Powerhouse units and the Libby Reregulating Dam units are excluded from the LRIC of capacity determination. This change ensures that only those units considered to be entirely peaking units, i.e., no incremental energy produced, are included in the LRIC of capacity determination.

Energy

BPA received several comments on the LRIC of energy determination. Some comments indicated that BPA should base its LRIC of energy determination on the costs of WPPSS Nos. 4 and 5 instead of WPPSS Nos. 1, 2, and 3, or if not WPPSS Nos. 4 and 5, then WPPSS No. 3 should be the only unit used. BPA used the costs of WPPSS Nos. 1, 2, and 3, adjusted to FY 1982 constant dollars and averaged over the three units, as the basis for the LRIC of energy. In this way, BPA developed costs for a representative additional thermal baseload plant.

Other comments concerned the costs included by BPA for the LRIC of energy determination. It was recommended that waste disposal, decommissioning, and environmental costs related to nuclear power production facilities be included. BPA agreed that all quantifiable costs related to a facility should be included in the LRIC determination. BPA decided that certain costs such as waste disposal and environmental costs will require further study before they can be included in the LRIC Analysis. However, for the final LRIC Analysis, BPA included projected costs for decommissioning WPPSS units 1, 2, and 3 in the determination of the LRIC of energy.

Rate Design Issues

The results of all the other studies described in this order plus the following rate design objectives were used to develop the final rates: (1) total revenues must be adquate to meet total repayment obligations; (2) the cost burden must be distributed in an equitable manner among recipients of the service; (3) rates must be designed to encourage conservation and minimize environmental impacts; and (4) rates must be designed to encourage efficient use of the Federal Columbia River Power System by reflecting costs incurred and benefits received. Consideration also was given to rate continuity, ease of administration, revenue stability, and ease of understanding.

Adjustment to Reflect Long Run Incremental Costs

Three rate schedules (NF–1, nonfirm energy; CF–1, firm capacity; and ET–2, energy transmission) are expected to produce revenues in excess of allocated costs. These revenues have been credited to transmission and generation capacity costs. In the final study, a credit of $91.421 million was applied to Federal base system summer generation capacity costs and $29.857 million were applied to the new resources summer generation capacity costs. Transmission capacity cost credits were applied to the transmission portion of wholesale power costs ($26.814 million) and to the wheeling rates ($4.214 million).

The crediting of excess revenues to capacity costs reflects the incremental cost relationship between capacity and energy which is developed in the LRIC analysis. The cost relationship between capacity and energy is changing as BPA purchases the output of new thermal plants. By comparing the results of the COSA with those of the LRIC analysis, this changing relationship is evident. These studies show that although all costs are increasing, the costs of supplying energy are increasing at a faster rate than the costs of supplying new capacity. The ratio of the LRIC demand rate to the average demand rate is 3.1 to 1, while the ratio of the LRIC energy costs to the average energy costs is 10.6 to 1.

A comment was received that suggested the excess revenues be credited to energy instead of capacity. The reason offered was that NF–1 sales are energy-only transactions and have no effect on system peaking capability presently or in future years. This suggestion was not adopted because it is important to reflect the changing cost relationship between capacity and energy.

Time-Differentiated Pricing

BPA received many comments on the Time-Differentiated Pricing Analysis and incorporated some of these comments into the design of the new rate schedules. Rate schedules PF–1, NR–1, IP–1, and MP–1 contain both daily and seasonal differentials in the capacity rate and a seasonal differential in the energy rate.

BPA received comments questioning the method selected to determine seasonal and diurnal capacity periods. It was suggested that BPA should not have based the selection of seasonal capacity pricing periods on probability of negative margin data and that a more appropriate method would entail an analysis of monthly peak load data. The probability of negative margin method was criticized because the results can be influenced by the scheduling of maintenance. It was noted that probabilities of negative margin can be shown during months with high scheduled maintenance even though capacity requirements are much less during these months than during other months of the pricing period. Use of the suggested alternative method may result in different pricing periods. Additionally, some customers and customer groups argued that the daily peak period is too long to allow effective shifting of the load to the offpeak period.

Monthly peak load data are inadequate for determining pricing periods because these data reflect only demand for power. Probability of negative margin data take into account both the projected demand for capacity and the monthly availability of resources considering hydrological conditions, hydro and thermal capacity, and maintenance. While the probability of negative margin is influenced to a certain degree by maintenance schedules, it still represents the best indicator of appropriate time periods for developing rates. Moreover, probability of negative margin reflects both the supply of and demand for electricity, and this is preferable to examining only one side of the relationship, as is the case with using only load or generating data.

Federal base system, new resource, and exchange resource costs are time differentiated. Although rates are based on average costs, offpeak generation capacity and transmission costs are set at zero to reflect the fact that the time-differentiation of long run incremental capacity costs finds these costs to be incurred solely in response to additional

peak period usage. Generation capacity costs are apportioned to the winter and summer weekdays with Saturday included in the peak period based on the relative distribution of embedded costs to these time periods. Energy costs associated with the three resource pools are apportioned to the September through March (winter) and April through August (summer) periods based on the distribution of Federal base system energy costs. Specifically, 62.8 percent are assigned to the winter period and 37.2 percent to the summer period.

BPA received four types of comments on these decisions. These included: (1) the logic for including Saturday in the peak period is invalid; (2) the structure of long run incremental cost has not been sufficiently incorporated in the design of time-differentiated rates; (3) demand charges based on time-differentiated noncoincidental peaks do not properly reflect cost causation; and (4) the legitimacy of time-differentiating new resource and exchange costs on the basis of a Federal base system analysis is open to criticism.

The Time-Differentiated Pricing Analysis presented evidence that Saturday is marginally offpeak. Saturday's peak hours during FY 1975–79 average much closer to Sunday's than weekdays. This is a different statement than saying that Saturday is identical to Sunday or that daytime loads on either day are less than average nighttime loads. Statistically, this analysis shows that Saturday's peak was greater than Sunday's but closer to Sunday than weekday's. Clearly Saturday daytime loads belong to an intermediate period. Therefore, to provide continuity of rates and to avoid potential conflict with existing contracts, Saturday remains within the peak period.

The final studies credited excess revenues to summer generation capacity costs only, in contrast to the initial proposal which credited them to both seasons on a pro rata basis. This change provides more emphasis on long run incremental costs.

The California Energy commission contends that a kilowatthour energy charge more fairly recovers capacity costs than a time-differentiated demand charge based on individual customer's periodic peak usage. Although there is some truth in the Commission's position that, for a hydro system, peaking capability depends to an extent on the duration of previous demands as well as the hourly peak level of these demands, the sustained peak demands over time contribute more directly to energy requirements. Complete reliance on only a kilowatthour charge would ignore differences in capacity costs imposed by different customers consuming the same kilowatthours but at different onpeak kilowatts.

With respect to the criticism of the time differentiation of the new resource and exchange costs on the basis of a Federal base system analysis, the alternative was to not time differentiate them. The technical mix of the exchange and new resources and the timing of their associated loads are not expected to duplicate the technology and load shape of the historic Federal Columbia River Power System. However, there is no documentation on which to base a time-differentiation analysis of these resource pools other than the analysis of the Federal base system.

Value of Reserves

BPA's firm power sales contracts with the direct-service industries provide BPA with certain rights to restrict power deliveries to these customers. These restriction rights provide reserves to the Federal System that otherwise would have to be provided by generation resources or additional transmission facilities. In the 1974 and 1979 rate filings an availability credit was given as compensation for BPA's restriction rights on direct-service industry load. The 1979 availability credit was based on the costs of power to replace expected restrictions and was not based on any analysis of reserves. The Regional Act in Section 7(c)(3) states that BPA will determine the direct-service industries rate with consideration for the value of the reserves they provide.

BPA initially proposed a reserves credit of $86 million, based on an incremental cost reserve value of $479 million in fiscal year 1982. Both the public utility representatives and the investor-owned utility representatives argued that the $86 million was substantially greater than it should be, while the direct-service industries advocated increasing the proposed credit. The final value of reserves study resulted in a reserve credit of $76 million. In computing the operating and stability reserves credit in the initial proposal, incorrect ratios of average costs to incremental costs were used, and this was corrected. In addition, a further adjustment was made to reflect the LRIC relationship of capacity and energy.

The study of the value of these reserves provided through restriction rights was based on BPA's cost of alternative generation and transmission facilities for providing reserves. BPA's LRIC was used to represent the alternative cost of providing these reserves because the direct-service industry contracts are currently being renegotiated and the mutal decision of providing reserves through restriction rights has to be made again. However, while the value of the reserves is at the margin, it would be inequitable to grant the direct-service industries a reserve credit based on incremental costs because the direct-service industries and BPA's other customers are charged for power on the basis of average costs rather than marginal costs. A reserve credit based on marginal costs would be a windfall to the direct-service industries and unnecessarily burdensome for BPA's customers who are allocated the costs of the reserve credit.

Charges for Delivery Facilities

The 1974 firm power rate schedule included a separate charge based on the voltage of the customer's point of delivery. The charge was initiated to recognize that some customers take power at higher voltages and require less transformation than others. In 1979 this transformation charge was eliminated.

Customers have raised the issue again, suggesting that if BPA does not include a transformation charge in its rates, then some adjustment should be provided to customers who provide their own transformation. BPA has not reinstated a transformation charge because combining the costs for delivery facilities with other demand costs so that they are distributed among all firm power customers through the demand charge is: (1) consistent with Section 9 of the Federal Columbia River Transmission System Act which requires that rate schedules be established with a view to encouraging the widest possible diversified use of electric power; (2) more equitable since it spreads the economic impact of transformation costs among all of the firm power customers rather than concentrating it on a limited number of customers who could be severely affected; and (3) consistent with the concept of postage stamp rates.

Low Density Discount

A low density discount is included in the PF–1 Priority Firm Power Rate Schedule, pursuant to Section 7(d)(1) of the Regional Act, to avoid adverse impacts on residential consumers with low system densities. The amount of the discount will depend on either the ratio of the purchaser's preceding calendar year total electrical energy requirements to the purchaser's depreciated investment in electric plant in service

(excluding generating plant) on December 31 of that year, or the purchaser's ratio of residential consumers per mile of distribution line. The discount is: (1) 7 percent if such ratio is equal to or less than 15 kilowatthours per dollar of net investment, or if the number of consumers per mile of line is two or less; (2) 5 percent if such ratio is greater than 15 and equal to or less than 25 kilowatthours per dollar of net investment, or if the number of consumers per mile of line is four or less; and (3) 3 percent if such ratio is greater than 25 and equal to or less than 35 kilowatthours per dollar of net investment, or if the number of consumers per mile of line is six or less. The customer will receive the highest discount for which the utility qualifies. In addition, no customer with more than 10 residential consumers per mile of distribution line may qualify for a discount regardless of the investment ratio. This latter restriction was not included in the initial proposal and has been added as a result of comments received during the hearing process.

Other comments were received concerning eligibility requirements and criteria for calculating the discount. Some parties asserted that only preference customers should receive the discount. However, there is nothing in the Regional Act or its legislative history which would limit the discount to preference customers only. The legislative history of S. 885 indicates that the discount was proposed as an amendment by Senator Jackson and was to be offered specifically to public bodies and cooperatives. The Senate Committee on Energy and Natural Resources substituted the words "of the Administrator's customers" for the words "to public bodies and cooperatives."

Specific criteria to disqualify customers was not included, contrary to one suggestion, since BPA will review and determine eligibility of all customers for the discount at least annually. The discount criteria also will be evaluated regularly to determine whether it should be altered and whether the discounts should continue to be offered. Because of the need to review the discount periodically and because the discount is included in Section 7, which is the rate directives section of the Regional Act the low-density discount is considered to be a rate rather than a contract matter. Another party recommended the inclusion of an additional criterion involving the comparison of residential power costs of neighboring utilities. However, this would create a large administrative problem, and would develop information that is only peripheral to the issue.

At-Site Power

At-site power is made available under PF–1, IP–1 and MP–1 rate schedules for those customers that presently purchase power under existing contracts at the at-site rate. These customers are entitled by contract to an adjustment of $0.257 per kilowatt-month. This adjustment is about 25 percent of the proposed postage stamp transmission component of the wholesale rate schedules and is less than the 46 percent adjustment originally developed for the Bonneville Project in 1938. The present at-site customers are adjacent to The Dalles, John Day, Hungry Horse, and Ice Harbor Projects. The conditions at these projects do not correspond to those existing at the Bonneville Project Act in 1938, that were the basis for the $3.00 per kilowatt-year adjustment. At-site delivery no longer provides any significant reduction in the transmission system required to integrate a project; therefore, BPA does not plan to extend the at-site provisions for existing customers nor enter into any new agreements for at-site power.

An adjustment has been made to recover the $1.827 million that is given as an at-site discount. This deficiency is recovered from all users of the transmission system. This adjustment was not made in the initial proposal.

Two of the at-site customers, who had to install or acquire all the transmission facilities from the at-site point-of-delivery and pay for losses on those facilities, now recognize that the costs of these facilities exceed, or will soon exceed, the economic benefits of the at-site adjustment of the rate schedule. The at-site customer, in effect, is or will be paying a premium. While these existing customers will continue to receive no more than the credit required by the contract provisions, BPA expects to negotiate, when requested by the customer, a change of conditions to permit the customer to eliminate the at-site provisions of their contracts.

Streamflow Conditions Adjustments

A streamflow conditions adjustment was included in the PF–1, IP–1, MP–1, NR–1, RP–1, and FE–1 rate schedules in the initial wholesale rate proposal. Monthly adjustments were to be applied to all firm energy sales if actual and forecasted streamflow conditions indicated below average streamflow conditions for the remainder of the year. The major purpose of the streamflow adjustment was to provide a mechanism to alleviate the short term cash flow problem created by poor water conditions. In the past, BPA has responded to this situation by deferring payments to the Treasury for the amortization of the Federal investment in power system facilities, and if needed, for accrued interest on the Federal investment. Any amounts deferred are subsequently included in determining BPA's future revenue requirements and need for rate adjustments.

The streamflow adjustment in the initial proposal did not require BPA to utilize any of its deferral capabilities prior to imposing a streamflow conditions adjustment. Several parties argued that this was inequitable, in that no credits would be given to the firm energy customers when water conditions and revenues were better than projected. It is still possible for BPA to tolerate significant revenue fluctuations from year to year by deferring some interest payments and planned amortization payments. In determining the appropriateness of including the streamflow adjustment in the final rate schedules, this deferral capability was taken into account.

An analysis of BPA's potential cash flow situation during the test year, assuming critical water conditions, shows that the BPA's deferral capabilities would be sufficient to cover all but the most severe cash shortfall. The results of this analysis, along with consideration of the concerns expressed by customers about the potential adverse impact of the adjustment on an individual utility's financial viability, have led to the removal of the streamflow conditions adjustment from the rate schedules. BPA will continue to analyze such a mechanism, and will more thoroughly identify and assess how it could be designed and implemented, so that it can be addressed in a future rate filing.

Equalization of Demand Charges

Comments were received that the equalization of the demand charges nullifies the COSA results and thus, ignores the cost basis of the rates. The effect of the adjustment is to reduce the industrial firm power rate and overprice the cost of the investor-owned utility exchange resources to the benefit of the direct-service industries, and to increase the priority firm rate to the detriment of public agencies and the investor-owned utility residential and farm customers. However, the adjustment permitted by Section 7(e) of the Regional Act was applied to demand charges that were relatively close in magnitude. The

provision of a uniform rate for all capacity charges facilitates the administration of the rates and provides for continuity.

Adjustment of Seasonal Demand Rates

After the equalizing of the demand costs among users of the Federal base system, the summer capacity cost indicated a decrease over the current summer demand rate, while the winter capacity cost increased substantially over the current winter demand rate. For purposes of equity and to avoid encouraging additional capacity usage, the current summer capacity charge was increased by 21 percent, the rate of inflation between 1980 and 1982. Costs were removed from the winter capacity component and placed in the summer demand rate. As a result, the real cost of summer capacity when compared with the general level of inflation in the economy is the same under the 1979 rate and the 1981 rate.

Computed Demand: Overrun Charge

Most of BPA's preference customers rely on BPA for all of their power needs. A few, however, own generation facilities. Several of these allow BPA to operate their facilities or have their resources delivered directly to BPA. Others operate their own facilities. Some preference customers that do own and operate their own generation facilities are designated by the Administrator to purchase on a computed demand basis because operation of their resources can adversely impact the Federal system either through losses of power or revenue. BPA is obligated to provide the difference between the computed demand customer's load and their forecasted resource capability.

A utility that is designated to purchase on a computed demand basis has an ability and an obligation, due to the coordinated operation of resources by utilities in the Northwest, to produce an assured resource capability. The computed demand billing factors provide BPA with a means of assuring that the amount of firm power delivered to a customer does not exceed the customer's net requirements, thereby assuring BPA that the customer is using its own assured resources for its load.

When a computed demand customer receives more Federal firm power than it is entitled to, under certain conditions the excess amount is called an unauthorized increase or overrun. Several comments were received concerning this overrun charge. BPA concluded that the determination criteria for the unauthorized increase should be applied uniformly and treated as a contract matter. It is very difficult for a customer to buy on a computed demand basis. Due to variations in load, a computed demand customer, despite its best efforts, might not be able to avoid an overrun. Recognizing the difficulty of this situation, BPA has been negotiating with the computed demand customers over the last 2½ years to develop a set of basic principles that will help alleviate overruns in almost all cases. In the process of negotiating current power sales contracts, BPA is comtemplating including these basic principles so they would apply uniformly to all customers.

Parties also questioned the appropriateness of the level of the overrun charge, stating that the charge should be based on the cost to BPA of purchasing power to meet the overrun load. The overrun charge is not a cost-based charge. It is set at 130 mills per kilowatthour, a level high enough to discourage BPA's customers from taking an unauthorized amount of power.

Industrial Firm Rate Change on October 1, 1981, IP–1 and MP–1

Part of the resources serving the direct-service industry load have been identified as the exchange resources. The average system cost methodology that determines the cost of these resources has not yet been developed.

Therefore, the direct-service industry rate contains an "X" which represents the costs of the exchange resources. When the exchange commences after October 1, 1981, the greater of the base rate or a rate based on the monthly exchange cost and a projected average monthly total DSI billing energy, will apply. The exchange rate is designed such that if all of the eventual parties to the exchange do not sign contracts at the same time, the rate will compensate by increasing as exchange obligations are added.

Nonfirm Energy Rate, NF–1

The new rate schedule NF–1 for nonfirm energy continues to provide flexible rates that will permit BPA to adapt to market and water supply conditions. The introduction of a flexible nonfirm rate in 1979 was controversial and elicited a great deal of comment during the public involvement process. This high level of interest has continued because an associated issue is one of equity between Regional customers and the Southwest. Recommendations for alternative nonfirm rates based on a fixed rate structure were received which would be more beneficial to the Southwest.

While the nonfirm energy rate adopted in 1979 (H–6) was based on a share-the-savings principle, the new NF–1 rate is based on the cost of resources that contribute to the availability of nonfirm energy. The NF–1 nonfirm energy rate is based on the costs of power from hydroelectric facilities, power purchases, and other resources, all of which aid in maintaining the capability of BPA to meet firm load obligations under critical water, but contribute to resources exceeding resource requirements with the occurrence of greater than critical streamflows. The rate charged under the NF–1 rate schedule is based upon: (1) the diurnally differentiated cost of hydroelectric power, which is 4.5 mills per kilowatthour during the period Monday through Saturday, 7 a.m. through 10 p.m., and 3.0 mills per kilowatthour for all other hours of the year; (2) the cost of a power purchase; (3) the cost of other resources which have been operated; or (4) a weighted average based on costs from the preceding categories. A charge of 2.0 mills per kilowatthour, the average cost of transmission is added to the kilowatthour charge for each sale of nonfirm energy. The floor rates, which are equal to the diurnally-differentiated cost of hydroelectric power plus the 2.0 mills transmission charge, are 5.0 mills per kilowatthour during offpeak hours and 6.5 mills per kilowatthour during peak hours. The ceiling rate at any time is equivalent to the cost of the most expensive power purchase or resource operated since the preceding July 31 or since the last time that all Federal Columbia River Power System reservoirs were substantially full. For contracts that refer to this rate schedule for determining the value of energy, the rate is 9.6 mills per kilowatthour. This rate is equal to the projected average NF–1 sales rate.

The costs from categories 1–3 above may be combined to derive an average charge. As an amount of energy associated with any given power purchase or resource is used to derive a charge for a sale of nonfirm energy, that purchase or resource cost will no longer be used to determine the rate for subsequent sales of nonfirm energy. The average NF–1 sales rate of 9.6 mills per kilowatthour was changed from the 7.5 mills per kilowatthour assumed for the initial proposal on the basis of an analysis of monthly secondary energy sales and monthly operation of thermal resources and power purchases under average water conditions for fiscal year 1982.

Due to the variability of market and water conditions, a flexible rate structure is the most appropriate for

marketing BPA's nonfirm energy. A fixed rate structure that is set too low could not offer justification for operating thermal generation in order to make nonfirm energy sales. A fixed rate that is set too high would at times preclude BPA from selling available nonfirm energy thus forcing BPA to spill water. A high fixed rate would not provide the operators of Northwest thermal with an economic incentive to purchase nonfirm energy from BPA while continuing to operate their low cost thermal, and thus displace relatively higher cost oil-fired thermal. This variable rate structure will assure BPA of maximum flexibility to respond to market conditions.

Any rate based on the cost-of-service allocation process or the variable production cost of hydroelectric power would be unreasonably low. The COSA allocates only intertie costs to nonfirm service because development of generation resources is designed to meet firm loads under critical water conditions. It is also generally known that the variable production cost of hydroelectric power is less than 1 mill per kilowatthour. If the nonfirm rate were based on these costs, benefits from sales of nonfirm would be distributed inequitably because the Southwest would receive a greater portion of the benefits than the Northwest. In addition to benefitting from the Northwest integrated generation and transmission system which was built at a great financial and environmental cost to the Region, the Southwest would realize a savings of 40 to 50 mills for every kilowatthour of nonfirm energy that they purchase. In addition, thermal plants are sometimes operated concurrently with sales of secondary energy to provide energy for secondary sales. A low rate based on the above costs would not cover the thermal operating costs and thus, would not justify the continued operation of the thermal plants. This would be detrimental to nonfirm energy purchasers, assuming that they would be willing to pay a rate sufficient to justify continued plant operation.

It has been suggested that BPA is required to base its rates for each general class of service on the costs of providing that service. However, a review of the cost language contained in the pertinent statutes clearly rejects this suggestion. In fact, it becomes apparent from a reading of the legislative history of the Bonneville Project Act that one of its primary objectives would not have been met if cost-based rates were required. An objective of the bill was to encourage the most widespread use of electric power in the region. A widely debated issue was whether a uniform rate, which is not based on cost, would encourage widespread use more than a zone rate, which is lowest at the dam and increases with distance. The concern was that customers located farthest from the dams would not be able to pay actual costs using zone rates and the objective of widespread use would not be attained.

Both the language of Section 7(a)(1) of the Regional Act, the rate directives section, and the legislative history clearly indicate that Section 7(a)(1) is a restatement of the standards set forth in the Bonneville Project Act and the Transmission System Act. The Senate Report on the Regional Act notes:

> Section 7(a).—This section restates the Administrator's obligation periodically to establish and modify electric power and transmission rates. These rates *shall continue to be established* at levels to recover revenues sufficient to pay all of the Administrator's costs." S. Rep. No. 272, 96th Cong. 1st Sess. 31 (1979) (Emphasis added).

The House Interior Report similarly notes:

> Section 7(a) *continues the requirement* of existing law that BPA set its rates to recover, *in total*, the full cost (but not more than the full cost) of its financial obligations." H. Rep. No. 976, 96th Cong. 2d Sess. 52 (1980) (Emphasis added).

Thus, BPA is directed to set rates that are as low as possible consistent with sound business principles as long as they are cumulatively high enough to repay all appropriate costs. The language in the Bonneville Project Act, the Federal Columbia River Transmission System Act, and the Regional Act does not impose a cost-of-service requirement, but relates only to the revenue requirement. Additionally, rules of statutory construction support this view in that it would be improper to imply a cost-of-service standard when this requirement is not explicitly set forth in the statutes.

The contention that Section 7 of the Bonneville Project Act imposes a cost-of-service standard on BPA was rejected in *Pacific Power and Light* v. *Duncan*, 499 F. Supp. 672 (D. Or. 1980), appeal dismissed, No. 80-3517 (9th Circ., Feb. 13, 1981). The court noted, with reference to Section 7 of the Bonneville Project Act and BPA's PURPA 111 Order, 44 FR 68948 (1979), discussed infra:

> Despite all the references to cost, the two quoted passages do not support an inference that cost is the only basis upon which rates may be computed. The qualifying phrases 'having regard to,' 'may include,' and 'to the maximum extent practicable,' indicate that the discretion granted in 16 U.S.C. section 825s, 832e, 838g; and 43 U.S.C. section 485h(c) were not significantly altered by the requirement to consider costs in calculating rates. See *City of Santa Clara." Pacific*, supra, 499 F. Supp at 683.

The court continued to note that "(T)he statutory schemes, taken as a whole, invest the Secretary with such broad discretion, that with respect to the ratemaking challenged here, judicial review is not available because there is no law to apply." *Id.* at 683.

This conclusion was further upheld in *The Montana Power Company and Idaho Power Company v. Edwards et al.*, Civil No. 80-842 PA (D Or. May 18, 1981) (not yet reported), where the court noted:

> Although plaintiffs did not directly challenge the rate design, they impliedly did so when asserting a breach of contract. I note that the particular rates challenged here are not susceptible to judicial review because there is no law to apply. PP&L, at 681-683, *Id.* at 7 (citations omitted).

Rates based on considerations other than cost of service have met with administrative approval. Three other power marketing administrations, Southeastern, Southwestern, and Western Area Power Administrations, have received approval on share-the-savings rates. This rate structure has also been commonly used by investor-owned utilities, including Pacific Power and Light and Montana Power Company. It is also common utility practice to base nonfirm energy rates on the recovery of incremental costs plus up to 100 percent of fixed costs. The utilities mentioned above as well as Idaho Power Company and Puget Sound Power and Light Company use this sort of pricing for certain nonfirm energy sales.

In departing from a strict cost-of-service methodology for the NF-1 rate, BPA is conforming properly with its cost of service determination under section 111 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-917, 92 Stat. 3117 et seq. (16 U.S.C. 2601 et seq.). After adopting the cost of service standard, BPA states:

> * * * The rate design will always consider such an embedded cost-of-service analysis but will also consider other factors, such as marginal or long-run incremental cost principles, the purposes of conservation, efficient use of resources, and equity, and the need to meet legal considerations.

Thus, it is clear that other factors in addition to a COSA must be considered when designing rates.

Another area of concern to the parties was whether the NF-1 rate schedule complied with BPA's stated rate objectives. The first of the assertions in regard to the objectives was that a poor

water year may jeopardize BPA's ability to meet its annual repayment requirement because the amount of revenue from NF–1 sales is dependent upon water conditions. Furthermore, commenters claimed that if NF–1 were based on cost of service, BPA would not be exposing itself to the same degree of revenue instability and would be able to meet the repayment obligation.

BPA's ability to repay the investment would not be jeopardized by a failure to collect a forecasted amount of revenues in any 1 year. Revenue instability results primarily from water conditions rather than from the amount of revenue forecast to be collected from its nonfirm energy sales. Regardless of the rate structure, water conditions dictate the level of nonfirm sales that is possible.

Another issue regarding the rate objectives is the contention that NF–1 customers are subsidizing firm power customers by paying the costs of purchased power and thermal generation that are incurred for firm power service. However, the NF–1 rate is equitably based on the costs of resources that contribute to the availability of nonfirm energy and implicitly recognizes the value of the generation and transmission systems of the Pacific Northwest from which nonfirm customers receive an enormous benefit.

Concern was expressed that the NF–1 rate will have a negative effect on conservation by not reflecting the true costs of firm energy. That is, it is believed that because nonfirm energy is priced above its cost and firm power rates are correspondingly lower, consumption by firm power customers is encouraged. Currently, however, there is insufficient information available with regard to the relative elasticity of demand of Northwest customers versus Southwest customers to conclude that the crediting of nonfirm energy revenue to firm capacity costs instead of other costs would result in a net total increase in consumption.

Another concern is that BPA's nonfirm energy rate will not always be the lowest cost alternative available to utilities, and thus, nonfirm energy will be spilled rather than be used to displace higher cost resources. BPA does not expect a situation to occur when water would be spilled because of the price of nonfirm energy. A great deal of flexibility has been incorporated in the NF–1 rate to respond to water and market conditions. In addition, it is BPA's policy to avoid spill situations. When necessary, BPA will sell at the floor rates, 6.5 mills per kilowatt hour during peak hours and 5.0 mills per kilowatthour during all other hours, until the secondary market is saturated in order to minimize spill. The Southwest operates high-cost oil-fired thermal at an incremental cost of over 40 mills, and thus, it seems unlikely that they would not be willing to buy any available low-cost energy.

The final comments regarding the rate objectives dealt with rate continuity, ease of administration and ease of understanding. Although it is true that the proposed NF–1 rate has a different structure than the present H–6 nonfirm energy rate, it does not appear that this would disturb the California parties who have objected vigorously to the H–6 rate. In fact, some of the administrative problems of H–6 have been eased with the NF–1 rate. Voluminous records would not have to be kept nor would utilities have to supply information to BPA on a daily basis. The rate is not difficult to understand, and the administration of the rate has been well detailed during the rate development process.

Various reasons were offered as to why the transmission component of NF–1 should be reduced or deleted. The arguments include: (1) the BPA transmission system is designed to meet peak demands of firm customers, (2) NF–1 customers enjoy no capacity rights on BPA's system, (3) there is no significant incremental transmission cost associated with surplus sales, (4) BPA is proposing to recover the same transmission costs twice, (5) the capacity/energy exchange agreements were not considered in formulating the transmission charge, and (6) intertie costs should not be allocated to nonfirm energy service.

The NF–1 transmission component explicitly recognizes the benefits of the Northwest integrated transmission system to nonfirm purchasers by charging the average cost of Federal base system energy transmission. In addition, recognition of a specific charge facilitates the process of crediting nonfirm revenues to allocated transmission costs in the rate design process.

The capacity/energy exchange agreements were not considered germane to discussions of the NF–1 rate. If capacity/energy exchange customers are given the option of not returning the energy, they pay 3 mills per kilowatt-hour under the contract agreement. BPA is not recovering transmission costs twice since the nonfirm revenues are credited to transmission costs and netted out before the transmission charges for other service classes are calculated.

The position that transmission capacity costs should not be allocated to nonfirm energy service is not inconsistent with a Federal Energy Regulatory Commission (FERC) decision, Kentucky Utilities Co., Opinion No. 116, Docket No. ER 78–147, issued April 2, 1981. FERC ruled that customers subject to curtailment of delivery or interruption by the utility should not be allocated transmission capacity costs. This FERC decision is not applicable to BPA's NF–1 service over the intertie. FERC's decision is based on the fact that no evidence was in the record to show that the customer had caused the utility to build any transmission facilities. BPA allocates intertie costs to nonfirm service because the legislative history of the intertie authorization indicated that the intertie was built, in part, to provide for nonfirm energy transmission.

Finally, the construction of a third Northwest-Southwest intertie transmission line would not be delayed unduly by the NF–1 rate structure. According to a General Accounting Office report, "Oil Savings from Greater Intertie Capacity Between the Pacific Northwest and California," the nonfirm energy rate is one of many factors that must be considered when planning a third intertie. Other major factors include the projected Northwest energy deficit, expected sales from Canada, oil prices, the amount of surplus energy available for California private utilities, and the ability to obtain Congressional approval to construct another intertie.

Variable Charge in the Wholesale Firm Capacity Rate Schedule, CF–1

BPA's current F–7 capacity rate schedule is for the sale of peaking capacity. This schedule separately identifies rates for: (a) annual capacity (delivery of capacity throughout the year as requested by the customer) and (b) seasonal capacity (capacity delivered during 5 summertime months, principally to Pacific Southwest utilities). To encourage capacity purchasers to limit their usage of Federal generating facilities and maximize use of their own facilities, the capacity rate in the F–7 schedule includes an additional monthly charge for capacity usage in excess of 6 hours per day. The reason for this additional charge is that the Federal hydro system cannot generate as much capacity during sustained daily periods as it can for shorter periods. The CF–1 rate schecule supersedes the F–7 rate schedule.

The development of this additional charge for sustained peaking in the F–7 rate and for the intial proposal for CF–1 was based on an alternative cost principal applied to an estimate of the

fuel savings realized by the customer not having to operate a combustion turbine peaking plant. This methodology was criticized by those who felt this type of sustained peaking charge was neither equitable nor cost based.

BPA's F-7 variable share-the-savings technique (halving the difference between baseload unit and peaking unit power costs) is a viable ratemaking alternative. However, in the final CF-1 rate, the charge has been related to costs incurred. In addition, the charge will be applied to capacity useage in excess of 9 hours a day rather than 6. The new cost-based variable charge is $.029 a kilowatt-month for each additional hour of capacity in excess of 9 hours a day. The 9 hour duration was selected because it corresponds to the duration of the preference customer's peak period demand on the Federal system.

New Resources Firm Power Rate Schedule, NR-1

Section 7(f) of the Regional Act requires the establishment of this new rate. The NR-1 rate is available for the purchase of firm power for resale or for direct consumption by purchasers other than direct-service industrial customers. It can be used by investor-owned utilities to purchase power to serve their previous year's deficit plus any load growth for the current year and by public bodies or cooperatives to purchase power to serve their new large single loads. It is based only on the costs of the "new resources" pool. Federal base system resources and exchange resources are serving the loads provided under Sections 7(b) and 7(c) of the Regional Act, and are therefore not available to serve NR-1 loads.

This rate has been time differentiated in the same manner as the priority firm rate. The demand charge is also set equal to the demand charge for the PF-1 rate schedule. This adjustment represents an increase in costs classified to capacity and allocated to the rate. The energy charge was decreased to compensate for the increase in the demand charge.

Irrigation

BPA has incorporated features in its PF-1 rate schedule which tend to mitigate the effects of the rate increase on irrigators. For example, applying more excess revenues to summer capacity costs instead of prorating them between summer and winter capacity costs has resulted in a reduction in the initially proposed summer demand rate.

Many comments were received advocating special rate considerations for irrigators. However, BPA rates are designed to be fair and equitable for all its customers without making special concessions for any customer, customer group, or customer class which are not defensible on cost or value basis or which are not legislatively mandated. BPA has phased out special irrigation promotion rates based on current costs of providing service to this group. The new PF-1 rate, in addition to reflecting an apportionment of costs between summer and winter demand components that is more favorable to heavy users of summer demand, provides a lower charge for power taken during the offpeak period. To the extent that irrigators or other customer groups can take advantage of and benefit from the offpeak service provision, they can reduce their costs for a given demand level of electric service. Utilities with large irrigation loads also benefit from the low density discount.

Special Industrial Power Rate Schedule, SI-1

During the public hearings held by BPA regarding its proposals to increase power and transmission rates, the Hanna Nickel Smelting Company requested a special power rate pursuant to the requirements of Section 7(d)(2) and Section 7(c)(3) of the Regional Act. Section 7(d)(2) allows the Administrator to establish a discount rate that need not be cost-based, if any direct-service industrial customer using raw materials indigenous to the region will suffer adverse impacts of increased rates pursuant to the Regional Act, and if all power sold to such a customer may be interrupted or withdrawn to meet firm loads in the region. The Administrator determined that Hanna Nickel Smelting Company (Hanna) is eligible for a special rate under Section 7(d)(2) of the Regional Act.

Establishment of a special rate requires that Hanna be offered a special class of service. Hanna has accepted another quartile of interruptible power, and BPA is therefore able to forego a $6.9 million purchase of 26 average megawatts of firm power which would otherwise be necessary to cover a portion of the firm energy deficit of the Federal base system. If the special Hanna rate were subsidized by other purchasers, it would only be to the extent that rates to other customers included a charge for recovery of credit given to Hanna is recognition of energy reserves no longer being provided by Hanna. To eliminate this potential subsidy, the $6.9 million cost savings has been reduced by the amount of reserve credit associated with the value of energy reserves not provided by Hanna but paid for through other's rates. The net cost savings that will be realized by the special quality of service arrangements with Hanna is $5.7 million.

If the quantity of power exchanged pursuant to Section 5(c) of the Regional Act and its associated costs equal the maximum amounts forecast by BPA, a cost-based rate for Hanna might still result in serious adverse impacts for Hanna. Conversely, if the $5.7 million net savings is credited to Hanna and the quantity and/or costs of exchange power are substantially less than BPA estimates, Hanna might actually receive a rate reduction. To preclude these potentially undesirable results, the special Hanna rate schedule has both a ceiling and a floor. If the ceiling rate applies from the initial date of the exchange, Hanna will need to obtain a significantly greater price per pound for its nickel as well as continue its efforts to cut costs and improve efficiency in order to avoid adverse impacts. The floor rate is the rate applicable to all direct-service industrial customers when there is no exchange. Contract provisions are under negotiation that will recover costs of serving Hanna that are not recovered through application of the rate, if there are such nonreimbursed costs, and if Hanna's sales price for nickel increases and/or the Hanna operation realizes profits. Independent audits and quarterly meetings to review plant operations and management will be conducted during the period of time Hanna is on a special rate.

Other Rate Design Issues

Other wholesale power rate design issues are discussed in the Staff Evaluation of Official Record and the Administrator's Record of Decision.

Other Considerations

General Rate Schedule Provisions

The General Rate Schedule Provisions which are attached to the order have remained unchanged in substance from those which accompany existing rates. A few wording changes have been made which allow the Provisions to conform to the new rate schedules. In response to comments received during the rate development process, some of the provisions will be superseded by contract terms upon completion of contracts now being negotiated.

Public Utility Regulatory Policies Act

BPA is a nonregulated utility, having more than 500 million kilowatthours in annual sales for direct use. It is therefore required by the Public Utility Regulatory Policies Act (PURPA) (Pub. L. 95-617, 92 Stat. 3117) among other things, to consider, after public notice and hearings, each of six specified

ratemaking standards (Section 111(a), PURPA). Hearings were held pursuant to public notice (44 FR 35285, June 19, 1979) on July 19, 1979. The BPA Administrator issued a Determination Order concerning the rate standards on November 19, 1979 (44 FR 68948).

Effective Date of Order

It is not possible to give 30 days notice before the effective date of the rates approved on an interim basis by this order. BPA power sales contracts limit rate adjustments to fixed dates, and the next date is July 1, 1981. If this contractually fixed date is missed, the next opportunity for adjustment will be July 1, 1982. In the interim, BPA, which is self-financed, would experience severe cash flow difficulties, in addition to falling behind in its obligation to repay the Federal Treasury for the capital cost of power projects. Rates are subject to the final confirmation and approval by the Federal Energy Regulatory Commission (FERC), and the rates approved herein are subject to refund if lesser rates are ultimately approved by the FERC.

Availability of Information

Information regarding these rates including studies, hearing transcripts, and other supporting material is available for public review in the office of the Public Involvement Coordinator, Bonneville Power Administration Building, 1002 N.E. Holladay Street, Portland, Oregon 97212, and in the office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Environmental Impact

BPA prepared a Draft Environmental Assessment, the availability of which was announced in BPA's Federal Register Notice (46 FR 12659). BPA's Final Environmental Assessment is available for review at the locations indicated in this order and copies may be obtained by writing to the addressees indicated. BPA has a record of decision, incorporated into the "Administrator's Record of Decision 1981 Transmission Rate Proposal and 1981 Wholesale Power Rate Proposal," designed to document the decisionmaking process related to the National Environmental Policy Act. The record is available for review at the locations indicated in this order and copies of the Record of Decision may be obtained by the public by writing to the addressees indicated.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1981, the attached wholesale power rate schedules, PF–1, IP–1, MP–1, CF–1, CE–1, NR–1, NF–1, RP–1, FE–1, and SI–1, together with the attached General Rate Schedule Provisions. These rates and provisions shall remain in effect on an interim basis through June 30, 1982, or until the FERC confirms and approves them or substitute rates on a final basis.

Issued at Washington, D.C. this 24th day of June, 1981.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Wholesale Power Rate Schedules and General Rate Schedule Provisions

Schedule PF–1—Priority Firm Power Rate

Section 1. *Availability:* This schedule is available for the purchase of firm power to be used within the Pacific Northwest for resale or for direct consumption by public bodies, cooperatives, Federal agencies, and investor-owned utilities participating in the exchange under Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). This schedule supersedes Schedule EC–8 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

a. *Demand Charge:*

(1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $2.80 per kilowatt of billing demand.

(2) for the billing months June through November, Monday thorugh Saturday, 7 a.m. through 10 p.m.: $1.44 per kilowatt of billing demand.

(3) all other hours: No demand charge.

b. *Energy Charge:*

(1) for the billing months September through March: 7.4 mills per kilowatthour of billing energy.

(2) for the billing months April through August: 6.9 mills per kilowatthour of billing enegy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

a. For any purchaser not designated to purchase under subsection 3(b), 3(c), or 3(d):

(1) the contract demand as specified in the contract;

(2) the measured demand for the billing month adjusted for power factor;

(3) the measured energy for the billing month.

b. Designation of a purchaser to purchase on a computed demand basis will be according to this section unless the terms of an existing contract executed after December 5, 1980 provide otherwise. For any purchaser designated by BPA to purchase on a computed demand basis because of such purchaser's potential ability either to sell generation from its resources in such a manner as to increase BPA's obligation to deliver firm power to such purchaser in an amount in excess of BPA's obligation prior to such sale, or to redistribute the generation from its resources over time in such a manner as to cause losses of power or revenue on the Federal System; provided, however, that when a purchaser operates two or more separate systems, only those systems designated by BPA will be covered by this subsection:

(1) the peak computed demand for the billing month;

(2) the average energy computed demand for the billing month;

(3) the lesser of the peak computed demand for the billing month or 60 percent of the highest peak computed demand during the previous 11 billing months;

(4) the measured demand for the billing month adjusted for power factor;

(5) the measured energy for the billing month;

(6) the contract demand as specified in an agreement between a purchaser and BPA for a specified period of time.

c. For any purchaser contractually limited to an allocation of capacity and/or energy as determined by BPA pursuant to the terms of a purchaser's power sales contract:

(1) the allocated demand for the billing month, as specified in the contract;

(2) the measured demand for the billing month adjusted for power factor;

(3) the allocated energy for the billing month, as specified in the contract;

(4) the measured energy for the billing month.

d. For any purchaser participating in the exchange under Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act:

(1) sixty percent of the energy associated with the utility's residential load as specified in the contract for each billing period;

(2) the demand calculated by applying the load factor, determined as specified in the contract, to the energy in 3(d)(1) for each billing period.

Section 4. *Determination of Billing Demand and Billing Energy:*

a. For a purchaser governed by subsection 3(a):

(1) the billing demand for the month shall be factor (a)(1) or 3(a)(2), as specified in the purchaser's power sales contract, except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing demand for the month shall be factor 3(c)(2), provided, however, that billing demand factor 3(c)(2), before adjustment for power factor, shall not exceed factor 3(c)(1).

(2) the billing energy for the month shall be factor 3(a)(3), except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing energy shall be factor 3(c)(4), provided, however, that factor 3(c)(4), shall not exceed factor 3(c)(3).

b. For a purchaser governed by subsection 3(b):

(1) the billing demand for the month shall be the largest of factors 3(b)(3), and 3(b)(4), or 3(b)(6), if applicable. Factor 3(b)(4), before adjustment for power factor, shall not exceed the largest of factors 3(b)(1), 3(b)(2), or 3(b)(6) if applicable, except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing demand for the month shall be factor 3(c)(2), provided, however, that billing demand factor 3(c)(2), before adjustment for power factor, shall not exceed factor 3(c)(1).

(2) the billing energy for the month shall the factor 3(b)(5) except that at such time as BPA determines that the limitation in Section 3(c) is necessary. The billing energy shall be factor 3(c)(4), provided, however, that factor 3(c)(4), shall not exceed factor 3(c)(3). Factor 3(b)(5) shall not exceed factor 3(b)(2) times the number of hours during such months.

c. For purchaser governed by subsection 3(d):

(1) The billing demand for the month shall be factor 3(d)(2).

(2) The billing energy for the month shall be factor 3(d)(1).

Section 5. *Adjustment:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. *At-Site Power:* At-site power purchased for consumption by a purchaser shall be used within 15 miles of the powerplant specified in the power sales contract. At least 90 percent of any at-site power purchased for resale shall be used within 15 miles of the specified powerplant.

The monthly demand charge for at-site firm power will be the monthly demand charge for priority firm power reduced by $0.257 per kilowatt of billing demand.

At-site priority firm power is made available only for those utility customers purchasing at-site firm power under existing contracts. At-site priority firm power may be purchased by such utility customers under new contracts only until a date certain specified in such new contracts. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay in amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by BPA. This use-of-facilities charge shall be in addition to the charge determined by the application of Section 2 of the Rate Schedule as reduced by the provisions of this subsection.

c. *Low-Density Discount:* A predetermined discount will be applied each month of a calendar year to the charges for power purchased under contracts between BPA and its customers. The amount of such discount is based on the ratio of the total annual energy requirements of the purchaser's electric operations during the preceding calendar year to the purchaser's depreciated investment in electric plant in service (excluding generating plant) at the end of such year, or the purchaser's ratio of residential consumers per mile of line. This calculation of such ratio will be made using the customer's entire system. Provided that the purchaser's ratio of residential consumers per mile of line does not exceed ten, this discount shall be:

(1) Seven percent if such ratio is less than 15 kilowatthours per dollar of net investment or if the number of consumers per mile of lie is two or less.

(2) Five percent if such ratio is equal to or greater than 15 and less than 25 kilowatthours per dollar of net investment, or if the number of consumers per mile of line is four or less.

(3) Three percent if such ratio is equal to or greater than 25 and less than 35 kilowatthours per dollar of net investment, or if the number of consumers per mile of line is six or less.

Section 6. *Unauthorized Increase:* That portion of (a) any 60-minute clock-hour integrated demand or scheduled demand (the total amount of power scheduled to the purchaser from BPA) that cannot be assigned to a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month which cannot be assigned to a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to (a) and the total of such amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be $0.13 per kilowatthour.

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule IP-1—Wholesale Power Rate for Industrial Firm Power

Section 1. *Availability:* This schedule is available for the purchase by existing direct-service industrial customers of industrial firm power and/or authorized increase on a contract demand basis and for auxiliary power requested by the purchaser and made available an auxillary demand by BPA on an intermittent basis. This rate schedule supersedes Schedule IF-2 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

a. *Demand Charge:*

(1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $2.80 kilowatt of billing demand.

(2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.44 per kilowatt of billing demand.

(3) all other hours: No demand charge.

b. *Energy Charge:*

The greater of:

(1) for the billing months September through March: 7.4 mills per kilowatthour of billing energy; for the billing months April through August: 6.9 mills per kilowatthour of billing, or

(2) for the billing months September through March: (1.7+(X/2465)) mills per kilowatthour of billing energy; for the billing months April through August: (1.6+(X/2480)) mills per kilowatthour of billing energy.

Where X=the actual month's cost in thousands of dollars incurred by the Administrator pursuant to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

a. operating demand;
b. curtailed demand;
c. restricted demand;
d. measured energy.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demands for industrial firm power and authorized increase, respectively, and for auxiliary power requested by the purchaser and made available by BPA as an auxiliary demand on an intermittent basis will be the lowest of the respective operating demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy distributed proportionately among the respective demands for each hour each such demand is applicable during the billing month.

Section 5. *Adjustments:*

a. *Value of Reserves:* A monthly billing credit for the value of the reserves provided

by purchasers of industrial firm power shall be:

(1) $0.33 per kilowatt of billing demand.

(2) 2.3 mills per kilowatthour of billing energy.

The adjustment shall be applied to the same billing factors which are used to determine the billing for power purchased under this rate schedule.

b. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the appropriate demand (operating, curtailed, or restricted) for each month by 1 percent for 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes or power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

c. *At-Site Power:* At-site industrial firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site industrial firm power will be the monthly demand charge for industrial firm power reduced by $0.257 per kilowatt of billing demand.

At-site industrial firm power is made available only for those industrial customers purchasing at-site industrial firm power under existing contracts. At-site industrial firm power may be purchased by such industrial customers under new contracts only until a date certain specified in such new contracts. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by BPA. The use of facilities charge shall be in addition to the charge determined by application of Section 2 of the Rate Schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase:* Any amount by which any 60-minute clock-hour integrated demand exceeds that sum of the billing demand for such hour before adjustment for power factor, plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be assessed a charge of $0.13 per kilowatthour.

Section 7. *Special Conditions—Advance of Energy:* BPA may elect to advance energy under terms and conditions of the purchaser's power sale contract.

Section 8. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the applicable General Rate Schedule Provisions.

Schedule MP–1—Wholesale Power Rate for Modified Firm Power

Section 1. *Availability:* This schedule is available for the purchase by existing direct-service industrial customers of modified firm power on a contract demand basis for direct consumption by existing direct-service industrial customers until existing contracts terminate. This schedule is also available for the purchase of authorized increase power on a contract demand basis. This rate schedule supersedes Schedule MF–2 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

a. *Demand Charge:*

(1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $2.80 per kilowatt of billing demand.

(2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.44 per kilowatt of billing demand.

(3) all other hours: No demand charge.

b. *Energy Charge:*

The greater of:

(1) for the billing months September through March: 7.4 mills per kilowatthour of billing energy; for the billing months April through August: 6.9 mills per kilowatthour of billing, or

(2) for the billing months September through March: (1.7+(X/2465)) mills per kilowatthour of billing energy; for the billing months April through August: (1.6+(X/2480)) mills per kilowatthour of billing energy.

Where X=the actual month's cost in thousands of dollars incurred by the Administrator pursuant to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchases under this rate schedule are as follow:

a. contract demand;

b. curtailed demand;

c. restricted demand;

d. measured energy.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demand for modified firm power and authorized increase, respectively, will be the lowest of the respective contract demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measured energy distributed proportionately among the respective demands for each hour each such demand is applicable during the billing month.

Section 5. *Adjustments:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or power sales contract, may be made by increasing the appropriate demand (contract, curtailed, or restricted) for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

b. *At-Site Power:* At-site modified firm power shall be used within 15 miles of the powerplant.

The monthly demand charge for at-site modified firm power will be the monthly demand charge for modified firm power reduced by $0.257 per kilowatt of billing demand.

At-site modified firm power will be made available under existing contracts, providing for at-site modified firm power at a Federal hydroelectric generating plant or at a point adjacent thereto, and at a voltage, all as designated by BPA. If deliveries are made from an interconnection with the Federal System other than at one of such designated points, the purchaser shall pay an amount adequate to cover the annual cost of the facilities which would have been required to deliver such power to such point from either the generator bus at the generating plant, or from the adjacent point as designated by BPA. This use of facilities charge shall be in addition to the charge determined by application of Section 2 of the Rate Schedule as reduced by the provisions of this subsection.

Section 6. *Unauthorized Increase:* Any amounts by which any 60-minute clock-hour integrated demand exceeds the sum of the billing demand for such hour (before adjustment for power factor) plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be assessed a charge of $0.13 per kilowatthour.

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule CF–1—Wholesale Firm Capacity Rate

Section 1. *Availability:* This schedule is available for the purchase of firm capacity without energy on a contract demand basis for supply during a contract year of 12 months, or during a contract season of 5 months, June 1 through October 31. This schedule supersedes Schedule F–7 which we into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

A. *Contract Year Service:* $25.44 per kilowatt per year of contract demand.

b. *Contract Season Service:* $11.76 per kilowatt per season of contract demand.

c. The capacity rate specified in subsections a. and b. above shall be increased by $0.029 per kilowattmonth of billing demand for each hour that the purchaser's monthly demand duration exceeds nine (9) hours. The purchaser's demand duration for the month shall be determined by dividing the kilowatthours supplied under this rate schedule to a purchaser on the day of maximum kilowatthour use between the hours of 7 a.m. and 10 p.m., excluding Sundays, by the purchaser's contract demand effective for such month. If, however, BPA does not require the delivery of peaking replacement energy by the purchaser during certain periods, the additional charge above will not be made for such periods.

Section 3. *Billing Factors:* The billing demand will be the contract demand.

Section 4. *Special Provision:* Contracts for the purchase of firm capacity under this schedule will include provisions for replacement by the purchaser of energy accompanying the delivery of such capacity.

Section 5. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the applicable General Rate Schedule Provisions.

Schedule CE–1Emergency Capacity Rate.

Section 1. *Avaialability:* This schedule is available for purchase of emergency capacity requested by a purchaser's system and it has capacity available for such purpose. This schedule supersedes Schedule F–8 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:* $0.56 per kilowatt of demand per calendar week or portion thereof. For deliveries over the Pacific Northwest-Pacific Southwest intertie, made available for the account of a purchaser at the Oregon-California or the Oregon-Nevada order, the charge will be increased by $0.22 per kilowatt per week. Bills will be rendered monthly.

Section 3. *Billing Factors:* The billing demand will be the maximum amount requested by the purchaser and made available by DPA during a calendar week, provided that if BPA is unable to meet subsequent requests by a purchaer for delivery at the demand previously established during such week, such billing demand for such week shall be the lower demand which BPA is able to supply.

Section 4. *Special Provision:* Energy delivered with such capacity shall be returned to BPA within 7 days of the date of delivery at times and rates of delivery agreed to by the purchaser and BPA prior to delivery. BPA may agree to accept delay of return energy beyond 7 days if it so agrees prior to the delivery of capacity.

Section 5. *General Provisons:* Sales of power under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule NR–1—New Resource Firm Power Rate

Section 1. *Availability:* This schedule is available for the purchase of firm power for resale or for direct consumption by purchasers other than direct-service industrial purchasers who puchase power under rate Schedules IP–1 or MP–1.

Section 2. *Rate:*

a. *Demand Charge:*

(1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $2.80 per kilowatt of billing demand.

(2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.44 per kilowatt of billing demand.

(3) all other hours: No demand charge.

b. *Energy Charge:*

(1) for the billing months September through March: 30.8 mills per kilowatthour of billing energy.

(2) for the biling months April through August: 24.7 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

a. For any purchaser not designated to purchase under subsection 3(b) or 3(c):

(1) the contract demand as specified in the contract;

(2) the measured demand for the billing month adjusted for power factor;

(3) the measured energy for the billing month.

b. Designation of a pruchaser to purchase on a computed demand basis will be according to this section unless the terms of an existing contract executed after after December 5, 1980 provide otherwise. For any purchaser designated by BPA to purchase on a computed demand basis because or such purchaser's potential ability either to sell generation from its resources in such a manner as to increase BPA's obligation to deliver firm power to such purchaser in an amount in excess of BPA's obligation prior to such sale, or to redistribute the generation from its resources over time in such a manner as to cause losses of power or revenue on the Federal System; provided, however, that when a purchaser operates two or more separate systems, only those systems designated by BPA will be covered by this subsection:

(1) the peak computed demand for the billing month;

(2) the average energy computed demand for the billing month;

(3) the lesser of the peak computed demand for the billing month or 60 percent of the highest peak computed demand during the previous 11 billing months;

(4) the measured demand for the billing month adjusted for power factor;

(5) the measured energy for the billing month;

(6) the contract demand as specified in an agreement between a purchaser and BPA for a specified period of time.

c. For any purchaser contractually limited to an allocation of capacity and/or energy as determined by BPA pursuant to the terms of a purchaser's power sales contract:

(1) the allocated demand for the billing month, as specified in the contract;

(2) the measured demand for the billing month adjusted for power factor;

(3) the allocated energy for the billing month, as specified in the contract;

(4) the measured energy for the billing month.

Section 4. Determination of Billing Demand and Billing Energy:

a. For a purchaser governed by subsection 3(a):

(1) the billing demand for the month shall be factor 3(a)(1) or 3(a)(2), as specified in the purchaser's power sales contract, except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing demand for the month shall be factor 3(c)(2), provided, however, that billing demand factor 3(c)(2), before adjustment for power factor, shall not exceed factor 3(c)(1).

(2) the billing energy for the month shall be factor 3(a)(3) except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing energy shall be factor 3(c)(4), provided, however, that factor 3(c)(4) shall not exceed factor 3(c)(3).

b. For a purchaser governed by subsection 3b:

(1) the billing demand for the month shall be the largest of factors 3(b)(3), and 3(b)(4), or 3(b)(6) if applicable. Factor 3(b)(4), before adjustment for power factor, shall not exceed the largest of factors 3(b)(1), 3(b)(2), or 3(b)(6) if applicable, except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing demand for the month shall be factor 3(c)(2), provided, however, that billing demand factor 3(c)(2), before adjustment for power factor, shall not exceed factor 3(c)(1).

(2) the billing energy for the month shall be factor 3(b)(5) except that at such time as BPA determines that the limitation in Section 3(c) is necessary, the billing energy shall be factor 3(c)(4), provided, however, that factor 3(c)(4) shall not exceed factor 3(c)(3). Factor 3(b)(5) shall not exceed factor 3(b)(2) times the number of hours during such month.

Section 5. *Adjustments:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict

deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 6. *Unauthorized Increase:* That portion of (a) any 60-minute clock-hour integrated demand or scheduled demand (the total amount of power scheduled to the purchaser from BPA) that cannot be assigned to a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month which cannot be assigned to a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to (a) and the total of such amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be $0.13 per kilowatthour.

Section 7. *General Provisions:* Sales of power under this Schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule NF-1—Wholesale Nonfirm Energy Rate

Section 1. *Availability:* This schedule is available for the purchase on nonfirm energy both inside and outside the Pacific Northwest. This schedule is also available for energy delivered for emergency use under the conditions set forth in Section 5.1 of the General Rate Schedule Provisions. This schedule is not available for the purchase of energy which BPA has a firm obligation to supply. This schedule supersedes Schedule H-6 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

a. *Nonfirm Energy Rate:* The rate shall be the average cost of transmission which is 2.0 mills per kilowatthour, plus one of the following:

(1) the diurnally differentiated average cost of power from hydroelectric facilities, which is 4.5 mills per kilowatthour during the period Monday through Saturday, 7 a.m. through 10 p.m.; and 3.0 mills per kilowatthour for all other hours of the year, or

(2) the cost of a power purchase in mills per kilowatthour incurred since the preceding July 31, or the last time that all FCRPS reservoirs were substantially full, if they were not substantially full on that date, to the extent such purchase cost is unrecovered, or

(3) BPA's cost of other resources in mills per kilowatthour operated since the preceding July 31, or the last time that all FCRPS reservoirs were substantially full, if they were not substantially full on that date, to the extent such purchase cost is unrecovered, or

(4) a weighted average in mills per kilowatthour based on costs from the preceding categories.

As an amount of energy associated with any given power purchase or resource is used to derive a charge for a sale of an equivalent amount of nonfirm energy, that purchase or resource cost will no longer be used to determine the rate for subsequent sales.

b. *Contract Rate:* For contracts which refer to this schedule for determining the value of energy, the rate is 9.6 mills per kilowatthour.

Section 3. *Delivery:* BPA shall determine the availability of energy hereunder and the rate of delivery thereof.

Section 4. *General Provisions:* Sale of energy under this schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the applicable General Rate Schedule Provisions.

Schedule RP-1—Reserve Power Rate

Section 1. *Availability:* This schedule is available for the purchase of:

a. firm power to meet a purchaser's unanticipated load growth as provided in a purchaser's power sales contract;

b. power for which BPA determines no other rate schedule is applicable; or

c. power to serve a purchaser's firm power loads in circumstances where BPA does not have a power sales contract in force with such purchaser, and BPA determines that this rate should be applicable. This rate schedule supersedes Schedule EC-9 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:*

a. *Demand Charge:*

(1) for the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $12.57 per kilowatt of billing demand.

(2) for the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $3.47 per kilowatt of billing demand.

(3) all other hours: No demand charge.

b. *Energy Charge:* 62.1 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

a. the contract demand as specified in the contract;

b. the measured demand;

c. the contract amount of energy for the month;

d. the measured energy for the month.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demand and billing energy shall be determined as provided in a purchaser's power sales contract. If BPA does not have a power sales contract in force with a purchaser, the billing demand and billing energy shall be the measured demand adjusted for power factor and measured energy.

Section 5. *Unauthorized Increase:* That portion of (a) any 60-minute clock-hour integrated demand or scheduled demand (the total amount of power scheduled to the purchaser from BPA) that cannot be assigned to a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such hour, or (b) the total of a purchaser's 60-minute clock-hour integrated or scheduled demands during a billing month which cannot be assigned to a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser or to a type of power which the purchaser acquires from sources other than BPA which BPA delivers during such month, may be considered an unauthorized increase. Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase pursuant to (a) and the total of such amounts which are in fact considered unauthorized increases shall be excluded from the total of the integrated or scheduled demands for such month in determining the amount which may be considered an unauthorized increase under (b).

The charge for an unauthorized increase shall be $0.13 per kilowatt hour.

Section 6. *Adjustments.*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the measured demand for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 7. *General Provisions:* Sales of power under this Schedule shall be subject to the provisions of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule FE–1—Wholesale Firm Energy Rate

Section 1. *Availability:* This schedule is available for contract purchase of firm energy, to be delivered for the uses, in the amounts, and during the period or periods specified in such contract. This schedule supersedes Schedule J–2 which went into effect on an interim basis on December 20, 1979.

Section 2. *Rate:* 10.0 mills per kilowatthour of billing energy.

Section 3. *Billing Factors:* The contract energy is the billing factor.

Section 4. *Determination of Billing Energy:* The billing energy shall be determined as provided in the purchaser's power sales contract.

Section 5. *Delivery:* Delivery of energy under this rate schedule is assured during the contract period. However, BPA may interrupt the delivery of firm energy hereunder, in whole or in part, at any time that BPA determines that BPA is unable because of system operating conditions, including lack of generation or transmission capacity, to effect such delivery.

Section 6. *Adjustments:*

a. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the contract energy delivered for each month by 1 percent for each 1 percent or major fraction thereof by which the average lagging power factor, or average leading power factor, at which energy is supplied during such month is less than 95 percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to the purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75 percent lagging or 75 percent leading.

Section 7. *General Provisions:* Sales of power under this schedule shall be subject to the provisons of the BPA Project Act, as amended, the Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the General Rate Schedule Provisions.

Schedule SI–1—Special Industrial Power Rate

Section 1. *Availability:* This schedule is available for the Hanna Nickel Smelting Company's purchase of a special class of industrial power and/or authorized increase on a contract demand basis and for additional power requested by the purchaser and made available as authorized increase by Bonneville on an intermittent basis. This rate schedule is made available pursuant to section 7(d)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act).

Section 2. *Rate:*

a. *Demand Charge:*

(1) For the billing months December through May, Monday through Saturday, 7 a.m. through 10 p.m.: $2.80 per kilowatt of billing demand.

(2) For the billing months June through November, Monday through Saturday, 7 a.m. through 10 p.m.: $1.44 per kilowatt of billing demand.

(3) All other hours: No demand charge.

b. *Energy Charge:*

The greater of:

(1) For the billing months September through March: 7.4 mills per kilowatthour of billing energy; for the billing months April through August: 6.9 mills per kilowatthour of billing energy; or

(2) For the billing months September through March: [(X/2465)–4.8) mills per kilowatthour; for the billing months April through August: [(X/2480)–4.9] mills per kilowatthour.

Where X = the actual monthly costs in thousands of dollars incurred by the Administrator pursuant to section 5(c) of the Regional Act. But the energy charge is not to exceed 10.6 mills per kilowatthour in any month, excluding any surcharges that will be made applicable pursuant to provisions of the contract to recover the costs of services if conditions affecting profitability of the purchaser's operation improves.

Section 3. *Billing Factors:* The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

a. contract demand;

b. curtailed demand;

c. restricted demand;

d. measured energy.

Section 4. *Determination of Billing Demand and Billing Energy:* The billing demands for this special class of industrial power and authorized increase, respectively, and for additional power requested by the purchaser and made available by Bonneville as authorized increase on an intermittent basis will be the lowest of the respective contract demand, curtailed demand, or restricted demand after each such demand is adjusted for power factor. The billing energy associated with each of the respective billing demands will be the measure energy distributed proportionately among the respective demands for each hour each such demand is applicable during the billing month.

Section 5. *Adjustments:*

a. *Value of Reserves:* An adjustment for the value of the reserves provided by purchasers of this special class of industrial power shall be:

(1) $0.33 per kilowatt of billing demand.

(2) 2.3 mills per kilowatthour of billing energy.

The adjustment shall be applied to the same billing factors which are use to determine the billing for power purchased under this rate schedule.

b. *Power Factor:* The adjustment for power factor, when specified in this rate schedule or in the power sales contract, may be made by increasing the appropriate demand (operating, curtailed, or restricted) for each month by 1-percent for 1-percent or major fraction thereof by which the average lagging power factor or average leading power factor at which energy is supplied during such month is less than 95-percent, such average power factor to be computed to the nearest whole percent from the formula given in Section 9.1 of the General Rate Schedule Provisions.

The adjustment for power factor may be waived in whole or in part by BPA. Unless specifically otherwise agreed, BPA may, if necessary to maintain acceptable operating conditions on the Federal System, restrict deliveries of power to a purchaser at a point of delivery or for a system at any time that the average power factor for all classes of power delivered to a purchaser at such point of delivery or for such system is below 75-percent lagging or 75-percent leading.

Section 6. *Unauthorized Increase:* Any amount by which any 60-minute clock-hour integrated demand exceeds that sum of the billing demand for such hour before adjustment for power factor, plus any applicable scheduled demands which the purchaser acquires through other contracts for such hour will be assessed a charge of $0.13 per kilowatthour.

Section 7. *Special conditions—Advance of Energy:* BPA may elect to advance energy under terms and conditions of the purchaser's power sale contract.

Section 8. *General Provisions:* Sales of power under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended, The Regional Preference Act, the Federal Columbia River Transmission System Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the applicable General Rate Schedule Provisions.

General Rate Schedule Provisions

Section 1.1. *Priority and New Resource Firm Power:* Priority and new resource firm power is electric power which BPA will make continuously available to a purchaser to meet its net firm load requirements within the Pacific Northwest except when restricted because the operation of generation or transmission facilities used by BPA to service such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract. Such restriction of priority and new resource firm power shall not be made until industrial firm power has been restricted in accordance with Section 1.4 and until modified firm power has been restricted in accordance with Section 1.2.

Section 1.2. *Modified Firm Power:* Modified firm power is electric power which BPA will make continuously available to a purchaser on a contract demand basis subject to: (a) the restriction applicable to priority and new resource firm power, and (b) the following:

When a restriction is made necessary because the operation of generation or transmission facilities used by BPA to serve such purchaser and one or more priority and new resource firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the

Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract BPA shall restrict such purchaser's contract demand for modified firm power to the extent necessary to prevent, if possible, or minimize restriction of any priority and new resource firm power, provided, however that:

(1) such restriction of modified firm power shall not exceed at any time 25 percent of the contract demand therefor, and

(2) the accumulation of such restrictions of modified firm power during any calendar year, expressed in kilowatthours, shall not exceed 500 times the contract demand therefor. When possible, restrictions of modified firm power will be made ratably with restrictions of industrial firm power based on the proportion that the respective contract demands bear to one another. The extent of such restrictions shall be limited for modified firm power by this subsection and for industrial firm power by the Restriction of Deliveries Section of the General Contract Provisions of the contract.

Section 1.3. *Firm Capacity:* Firm capacity is capacity which BPA assures will be available to a purchaser on a contract demand basis except when operation of generation or transmission facilities used by BPA to serve such purchaser is suspended, interrupted, interfered with, curtailed, or restricted as the result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

Section 1.4. *Industrial Firm Power:* Industrial firm power is electric power which BPA will make continuously available to a purchaser on a contract demand basis subject to: (a) the restriction applicable to priority and new resource firm power, and (b) the following:

(1) the restrictions given in the Restrictive of Deliveries Section of the Power Sales Provisions of the contract.

(2) when a restriction is made necessary because of the operation of generation or transmission facilities used by BPA to serve such purchaser and one or more priority and new resource firm power purchasers is suspended, interrupted, interfered with, curtailed, or restricted as a result of the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract, BPA shall restrict such purchaser's operating demand for industrial firm power to the extent necessary to prevent, if possible, or minimize restriction of priority and new resource firm power. When possible, restrictions of industrial firm power will be made ratably with restrictions of modified firm power based on the proportion that the respectivce contract and operating demands bear to one another. The extent of such restrictions shall be limited for modified firm power by Section 1.2(b) of these General Rate Schedule Provisions and for industrial firm power by the Restrictions of Deliveries Section of the contract.

Section 1.5. *Authorized Increase:* An authorized increase is an amount of electric power specified in the contract in excess of the contract or operating demand for priority firm power, new resource firm power, modified firm power, or industrial firm power that BPA may be able to make available to the purchaser upon its request. The purchaser shall make such request in writing stating the amount of increase requested, the purpose for which it will be used, and the period for which it is needed. Such request shall be made prior to the first calendar month beginning such specified period. BPA will then determine whether such increase can be made available, but it shall retain the right to restrict the delivery of such increase if it determines at any subsequent time that such increase will no longer be available.

The purchaser may curtail an authorized increase, in whole or in part, at the end of any billing month within the period such authorized increase is to be made available.

Section 1.6. *Firm Energy:* Firm energy is energy which BPA assures will be available to a purchaser during the period or periods specified in the contract except during hours as may be specified in the contact and when the operation of the Government's facilities used to serve the purchaser are suspended, interrupted, interfered with, curtailed, or restricted by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service Sections of the General Contract Provisions of the contract.

Section 2.1 *Contract Demand:* The contract demand shall be the number of kilowatts that the purchaser agrees to purchase and BPA agrees to make available. BPA may agree to make deliveries at a rate in excess of the contract demand at the request of the purchaser (authorized increase), but shall not be obligated to continue such excess deliveries.

Section 2.2. *Measured Demand:*

a. The purchaser's measured demand will be determined according to this section unless the terms of a contract executed after December 5, 1980 provide otherwise.

b. Except where deliveries are scheduled as hereinafter provided, the measured demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands at which electric energy is delivered to the purchaser at each point of delivery during each time period specified in the applicable rate schedule during any billing period. Such largest 60-minute integrated demand shall be determined from measurements made as specified in the contract, or as determined in Section 3.2 herein. BPA, in determining the measured demand, will exclude any abnormal 60-minute integrated demands due to or resulting from (a) emergencies or breakdowns on, or maintenance of, the Federal System facilities, and (b) emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated as determined by BPA. For those contracts to which BPA is a party and which provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute integrated demand assigned to any class of power shall be determined as specified in the contract. The portion of the total measured demand so assigned shall constitute the measured demand for such class of power.

If the flow of electric energy to a purchaser's system through two or more points of delivery cannot be adequately controlled because such points are interconnected within the purchaser's system, or the purchaser's system is interconnected directly or indirectly with the Federal System, the purchaser's measured demand for each class of power for such system for any billing period shall be the largest of the hourly amounts of such class of power which are scheduled for delivery to the purchaser during each time period specified in the applicable rate schedule.

Section 2.3. *Peak Computed Demand and Energy Computed Demand:*

The purchaser's peak computed demand and energy computed demand will be determined according to this section unless terms of a contract executed after December 5, 1980 provide otherwise.

The purchaser's peak computed demand for each billing month shall be the largest amount during such month by which the purchaser's 60-minute system demand exceeds its assured peaking capability.

The purchaser's average energy computed demand for each billing month shall be the amount during such month by which the purchaser's actual system average load exceeds its assured average energy capability.

a. *General Principles:*

(1) The assured peaking and average energy capability of each of the purchaser's systems shall be determined and applied separately.

(2) As used in this section, "year" shall mean the 12-month period commencing July 1.

(3) The critical period is that period, determined for the purchaser's system under adverse streamflow conditions adjusted for current water uses, assured storage operation, and appropriate operating agreements, during which the purchaser would have the maximum requirement for peaking or energy after utilizing the firm capability of all resources available to its system in such a manner as to place the least requirement for capacity and energy on BPA.

(4) Critical water conditions are those conditions of streamflow based on historical records, adjusted for current water uses, assured storage operation, and appropriate operating agreements, for the year or years which would result in the minimum capability of the purchaser's firm resources during the critical period.

(5) Prior to the beginning of each year the purchaser shall determine the assured capability of each of the purchaser's systems in terms of peaking and average energy for each month of each year or years within the critical period. The firm capability of all resources available to the purchaser's system shall be utilized in such a manner as to place the least requirement for capacity and energy on BPA. Such assured capability shall be effective after review and approval by BPA.

(6) The purchaser's assured energy capability shall be determined by shaping its firm resources to its firm load in a manner which places a uniform requirement on BPA within each year of the critical period with such requirement increasing each year not in excess of the purchaser's annual load growth.

(7) As used herein, the capability of a firm resource shall include only that portion of the total capability of such resource which the purchaser can deliver on a firm basis to its load. The capabilities of all generating facilities which are claimed as part of the purchaser's assured capability shall be determined by test or other substantiating data acceptable to BPA. BPA may require verification of the capabilities of any or all of the purchaser's generating facilities. Such verification will not be required more often than once each year for operating plants, or more often than once each third year for thermal plants in cold standby status, if BPA determines that adequate annual preventive maintenance is performed and the plant is capable of operating at its claimed capability.

(8) In determining assured capability, the aggregate capability of the purchaser's firm resources shall be appropriately reduced to provide adequate reserves.

b. *Determination of Assured Capability:* The purchaser's assured peaking and energy capabilities shall be the respective sums of the capabilities of its hydroelectric generating plants based on the most critical water conditions on the purchaser's system, the capabilities of its thermal generating plants based on the adverse fuel or other conditions reasonably to be anticipated; and the firm capabilities of other resources made available under contracts prior to the beginning of the year, after deduction of adequate reserves. Assured capabilities shall be determined for each month if the purchaser has seasonal storage. The capabilities of the purchaser's firm resources shall be determined as follows:

(1) *Hydroelectric Generating Facilities:* The capability of each of the purchaser's hydroelectric generating plants shall be determined in terms of both peaking and average energy using critical water conditions. The average energy capability shall be that capability which would be available under the storage operation necessary to produce the claimed peaking capability.

Seasonal storage shall mean storage sufficient to regulate all the purchaser's hydroelectric resources in such a manner that when combined with the purchaser's thermal generating facilities, if any, and with firm capacity and energy available to the purchaser under contracts, a uniform energy computed demand for a period on one (1) month or more would result.

A purchaser having seasonal storage shall, within 10 days after the end of each month in the critical period, notify BPA in writing of the assured energy capability to be applied tentatively to the preceding month; such notice shall also specify the purchaser's best estimate of its average system energy load for such month. If such notice is not submitted, or is submitted later than 10 days after the end of the month to which it applies, subject to the limitations stated herein, the assured energy capability determined for such month prior to the beginning of the year shall be applied to such months and may not be changed thereafter.

If notice has been submitted pursuant to the preceding paragraph, the purchaser shall, within 30 days after the end of the month, submit final specification of the assured energy capability to be applied to the preceding month; provided that the assured energy capability so specified shall not differ from the amount shown in the original notice by more than the amount by which the purchaser's actual average system energy load for such month differs from the estimate of that load shown in the original notice. If the assured energy capability for such month differs from that determined prior to the beginning of the year for such month, the purchaser, if required by BPA, shall demonstrate by a suitable regulation study based on critical water conditions that such change could actually be accomplished, and that the remaining balance of its total critical period assured energy capability could be developed without adversely affecting the firm capability of other purchaser's resources. The algebraic sum of all such changes in the purchaser's assured energy capability shall be zero at the end of the critical period or year, whichever is earlier. Appropriate adjustments in the assured peaking capability shall be made if required by any change in reservoir operation indicated by such revisions in the monthly distribution of critical period energy capability.

(2) *Thermal Generating Facilities:* The capability of each of the purchaser's thermal generating plants shall be determined in terms of both peaking and average energy. Such capabilities shall be based on the adverse fuel or other conditions reasonably to be anticipated. The effect of limitations on fuel supply due to war or other extraordinary situations will be evaluated at the time of occurrence.

(3) *Other Sources of Power:* The assured capability of other resources available to the purchaser on a firm basis under contracts shall be determined prior to each year in terms of both peaking and average energy.

c. *Determintation of Computed Demand:* The purchaser's computed demand for each billing month shall be the greater of:

(1) The largest amount during such month by which the purchaser's actual 60-minute system demand, excluding any loads otherwise provided for in the contract, exceeds its assured peaking capability for such month, or period within such month, or

(2) The largest amount for such month, or period within such month, by which the purchaser's actual system average energy load, excluding the average energy loads otherwise provided for in the contract, exceeds its assured average energy capability.

The use of computed demands as one of the alternatives in determining billing demand is intended to assure that each purchaser who purchases power from BPA to supplement its own firm resources will purchase amounts of power substantially equivalent to the additional capacity and energy which the purchaser would otherwise have to provide on the basis of normal and prudent operations, viz, sufficient capacity and energy to carry the load through the most critical water or other conditions reasonably to be anticipated, with an adequate reserve.

Since the computed demand on the relationships of capability of resources to system requirements, the computed demand for any month cannot be determined until after the end of the month. As each purchaser must estimate its own load, and is in the best position to follow its development from day to day, it will be the purchaser's responsibility to request scheduling of priority and new resource firm power, including any increase over previously established demands, on the basis estimated by the purchaser to result in the most advantageous purchase of the power to be billed at the end of the month.

Section 2.4. *Restricted Demand:* A restricted demand shall be the number of kilowatts of priority firm power, new resource firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results when BPA has restricted delivery of such power for one (1) clock-hour or more. Such restrictions by BPA are made pursuant to the power sales contract for industrial firm power and pursuant to Section 1.1 and 1.2 of the General Rate Schedule Provisions for priority and new resource firm power and modified firm power, respectively. Such restricted demand shall be determined by BPA after the purchaser has made its determination to accept such restriction or to curtail its contract demand for the month in accordance with Section 2.5 of the General Rate Schedule Provisions.

Section 2.5. *Curtailed Demand:* A curtailed demand shall be the number of kilowatts of priority firm power, new resource firm power, modified firm power, industrial firm power, or authorized increase of any of the preceding classes of power which results from the purchaser's request for such power in amounts less than the contract demand therefor. Each purchaser of industrial firm power or modified firm power may curtail its demand in accordance with the contract. Each purchaser of an authorized increase in excess of priority firm power, new resource firm power, modified firm power, or industrial firm power may curtail its demand in accordance with Section 1.5 of the General Rate Schedule Provisions.

Section 3.1. *Billing:* Unless otherwise provided in the contract, power made available to a purchaser at more than one point of delivery shall be billed separately under the applicable rate schedule or schedules. The contract may provide for combined billing under specified conditions and terms when (a) deliver at more than one point is beneficial to BPA, or (b) the flow of power at the several points of delivery is reasonably beyond the control of the purchaser.

If deliveries at more that one point of delivery are billed on a combined basis for the convenience of the customer, a charge will be made for the diversity between the measured demands at the several points of delivery. The charge for the diversity shall be determined in a uniform manner among purchasers and shall be specified in the contract.

Section 3.2. *Determination of Estimated Billing Data:* If the purchased amounts of capacity, energy, or the 60-minute integrated demands for energy must be estimated from data other than metered or scheduled

quantities, BPA and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on estimated billing quantities, a determination binding on both parties shall be made in accordance with the arbitration provisions of the contract.

Section 4.1. *Application of Rates During Initial Operation Period:* For an intital operating period, not in excess of 3 months, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant of important part thereof, BPA may agree (a) to bill for service to such new, additional, or reactivated plant facilities on the basis of the measured demand for each day, adjusted for power factor, or (b) if such facilities are served by a distributor purchasing power therefor from BPA to bill that portion of such distributor's load which results from service to such facilities on the bais of the measured demand for each day, adjusted for power factor. Any rate schedule provisions regarding contract demand, billing demand, and minimum monthly charge which are inconsistent with this Section shall be inoperative during such intital operating period.

The initial operating period and the special billing provisions may, on approval by Bonneville, be extended beyond the intitial 3 month period for such additional time as is justified by the developmental character of the operations.

Section 5.1. *Energy Supplies for Emergency Use:* A purchaser taking priority and/or new resource firm power shall pay in accordance with Wholesale Nonfirm Energy Rate Schedule NF–1 and Emergency Capacity Schedule CE–1 for any electric energy which has been supplied; (a) for use during an emergency on the purchaser's system; or (b) following an emergency to replace energy secured from sources other than BPA during such emergency, except that mutual emergency assistance may be provided and settled under exchange agreements

Section 6.1. *Billing Month:* Meters will normally be read and bills computed at intervals of 1 month. A month is defined as the interval between meter-reading dates which normally will be approximately 30 days. If service is for less or more than the normal billing month, the monthly charges stated in the applicable rate schedule will be appropriately adjusted. Winter and summer periods identified in the rate schedules will begin and end with the beginning and ending of the purchaser's billing month having meter-reading dates closest to the periods so identified.

Section 7.1. *Payment of bills:* Bills for power shall be rendered monthly and shall be payable at BPA's headquarters. Failure to receive a bill shall not release the purchaser from liability for payment. Demand and energy billings under each rate schedule application shall be rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

If BPA is unable to render the purchaser a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill, if so issued, shall have the validity of and be subject to the same repayment provisions as shall a final bill.

Bills not paid in full on or before the close of business of the 20th day after the date of the bill shall bear an additional charge which shall be the greater of one-fourth percent (0.25%) of the amount unpaid or $50. Thereafter a charge on one-twentieth percent (0.05%) of the sum of the initial amount remaining unpaid and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full. The provisions of this paragraph shall not apply to bills rendered under contracts with other agencies of the United States.

Remittance received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the 20th day after the date of the bill. If the 20th day after the date of the bill is a Sunday or other nonbusiness day of the purchaser, the next following business day shall be the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the 20th day must bear a postal department cancellation in order to avoid assessment of such further charges.

BPA may, whenever a power bill or a portion thereof remains unpaid subsequent to the 20th day after the date of the bill, and after giving 30 days advance notice in writing, cancel the contract for service to the purchaser, but such cancellation shall not affect the purchaser's liability for any charges accrued prior thereto.

Section 8.1. *Approval of Rates:* Schedules of rates and charges, or modifications thereof, for electric power sold by BPA shall become effective on a final basis after confirmation and approval by the Federal Energy Regulatory Commission. Pending the establishment of procedures by the Commission to approve rates on a final basis, the entity or entitites having been designated by the Secretary of Energy prior to December 5, 1980, shall have authority to confirm and approve schedules of rates and charges on an interim basis.

Section 9.1. *Average Power Factor:* The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \frac{\text{Kilowatthours}}{\sqrt{(\text{Kilowatthours})^2 + (\text{Reactive Kilovoltamperehours})^2}}$$

The data used in the above formula shall be obtained from meters which are ratcheted to prevent adverse registration.

When deliveries to a purchaser at any point of delivery include more than one class of power or are under more than one rate schedule, and it is impracticable to separately meter the kilowatthours and reactive kilovoltamperehours for each class, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for each of the separate classes of power and rate schedules.

Section 10.1. *Temporary Curtailment of Contract Demand:* The reduction of charges for power curtailed pursuant to the purchaser's contract and Section 1.5 and 2.5 hereof shall be applied in a uniform manner.

Section 11.1. *General Provisions:* The Wholesale Rate Schedules and General Rate Schedule Provisions of the BPA Power Administration effective July 1, 1981, supersede in their entirety BPA's Wholesale Power Rate Schedule Provisions effective December 20, 1979.

[FR Doc. 81–19132 Filed 6–29–81; 8:45 am]
BILLING CODE 6450–01–M

1981 Transmission Rates; Order Confirming, Approving, and Placing Increased Transmission Rates in Effect on an Interim Basis

AGENCY: Bonneville Power Administration, Department of Energy.

ACTION: Notice of Approval on Interim Basis of Bonneville Power Administration Transmission Rates.

SUMMARY: On June 24, 1981, the Assistant Secretary for Conservation and Renewable Energy pursuant to Delegation Order No. 0204–33, as amended and supplemented, confirmed, approved, and placed in effect on an interim basis, Transmission Rate Schedules FPT–2, ET–2, UFT–2, IR–1, and the associated General Transmission Rate Schedule Provisions setting forth the terms and conditions of service under the transmission rate schedules. The transmission rates, plus a concommitant increase in wholesale power rates will produce an estimated 78.5 percent increase in total revenues throughout the repayment period. This does not include revenues that will be collected from the direct-service industries to cover the cost of acquiring investor-owned utility exchange resources.

EFFECTIVE DATE: The rates are confirmed and approved on an interim basis effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, Department of Energy, P.O. Box 12999, Portland, Oregon 97212, (503) 234–3361, extension 4261, Toll-free numbers for Oregon callers: 800–452–8429; for callers from Washington, Idaho,

Montana, Utah, Nevada, Wyoming, and California: 800–547–6048; or
Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, 12th Street & Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–8338.

SUPPLEMENTARY INFORMATION: The new rate schedules, applicable to all of Bonneville's transmission customers, constitute Bonneville's first transmission rate increase since the passage of the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96–501). Rate Order No. BPA–5 confirming, approving, and placing the transmission rates in effect on an interim basis will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued at Washington, D.C. this 24th day of June 1981.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Department of Energy, Assistant Secretary for Conservation and Renewable Energy

Order Confirming, Approving, and Placing Increased Transmission Rates Into Effect on an Interim Basis

June 24, 1981.

In the Matter of Bonneville Power Administration——Systemwide Transmission Rates, Rate Order No. BPA–5.

The functions of the Secretary of the Interior and the Federal Power Commission under the Bonneville Project Act, 16 U.S.C. 832, the Federal Columbia River Transmission System Act, 16 U.S.C. 838, and other statutes relating to the Bonneville Power Administration (BPA) were transferred to and vested in the Secretary of Energy pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91. The Secretary of Energy, pursuant to section 7(i)(6) of the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96–501) is authorized to approve BPA power and transmission rates on an interim basis during a 1-year period, pending establishment of procedures by the Federal Energy Regulatory Commission (FERC) for approving rates on an interim basis, in the event the FERC determines such procedures are necessary. Upon advice from the FERC that such procedures are necessary and will not be established prior to October 1, 1981, the Secretary of Energy delegated to the Assistant Secretary for Conservation and Renewable Energy in the June 19, 1981 Supplement to Delegation Order No. 0204–33, the authority to confirm, approve, and place into effect such rates on an interim basis. This rate order is issued pursuant to that delegation to the Assistant Secretary.

Background

Existing Rates

Existing transmission rates were conditionally approved on an interim basis on June 10, 1977 by the Federal Power Commission. That conditional confirmation and approval was extended on July 6, 1978 by the Economic Regulatory Administration for a 1-year period, and further extended on May 12, 1979, by the Assistant Secretary for Resource Application for an indefinite period. The rates superseded by the new rate schedules were remanded without prejudice by a Federal Energy Regulatory Commission Order issued December 1, 1980, Docket No. E–9563. The record for those rates is being further developed and will be separately submitted to the Commission.

The three rate schedules now in effect on an interim basis are:

FPT–1, for the firm transmission of electric power and energy using unspecified portions of the Federal transmission systems; UFT–1, for the firm transmission of electric power and energy using specified portions of the Federal transmission systems; and ET–1, for the incidental transmission of electric power and energy using excess capacity of the Federal transmission system.

Need for Rate Increase

Pursuant to the Bonneville Project Act (Pub. L. 75–329 as amended), the Federal Columbia River Transmission System Act (Pub. L. 93–454), the Reclamation Project Act of 1939 (Pub. L. 85–611 as amended), the Flood Control Act of 1944 (Pub. L. 78–534), Section 2 of the Grand Coulee Third Powerhouse Authorization (Pub. L. 89–448 as amended) and the Pacific Northwest Electric Power Planning and Conservation Act. (Pub. L. 96–501), the BPA Administrator conducted a revised power repayment study to determine the revenue necessary to recover the cost of producing, purchasing, and transmitting the electric power BPA markets, to repay investments as required by statute, and to recover othe costs associated with the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). The results of the study showed the need for a 78.5 percent increase in total revenues over the repayment study period, excluding revenues required to cover the cost of acquiring investor-owned utility exchange resources. Total revenues needed will be met by the increase in transmission rates approved by this order and the increase in wholesale rates approved by my Rate Order No. BPA–4.

Because the Repayment Study is concerned only with the adequacy of total revenues, BPA prepared a Cost-of-Service Analysis to separately identify the costs of providing transmission services. The most recent version of this study shows that revenues under the three transmission rate schedules need to be increased an average of 43 percent in order to recover the allocated costs.

The existing transmission rate schedules would produce revenues of approximately $30,154,000 in fiscal year 1982. The new transmission rates would produce approximately $43,000,000 during that year.

Public Notice and Comment

In response to the Cost-of-Service Analysis which showed that revenues form current transmission rates were inadquate to meet the allocated costs to transmission, BPA published in the May 25, 1979, **Federal Register** (44 FR 30405) a "Notice of Intent to Revise Transmission Rates." In December 1980, BPA met with various customer groups to elicit their comments and suggestions for an initial transmission rate proposal.

On December 5, 1980, the Regional Act became law. Sections 5, 7, and 9 of that Act altered BPA's rate development procedures, the costing methodology, and in some cases, rate design. BPA published proposed transmission rates in the February 17, 1981 **Federal Register** (46 FR 12659) based on the procedures identified in the Regional Act. The intitial transmission rate proposal was supported by an environmental determination, a power repayment study, a cost-of-service analysis, a long run incremental cost analysis, a time-differentiated pricing analysis, and a transmission rate design study.

On March 2, 1981, the formal hearing process required by the Regional Act began with a BPA presentation of the initial rate proposals. The BPA staff was cross-examined and 37 parties presented their testimony. Rebuttal testimony was taken, and oral arguments and briefs were presented. The hearings closed for wholesale power rates on May 4, 1981, and for transmission rates on May 27, 1981. The hearing process for transmission rates was extended through May 27, 1981, to allow inclusion of the transcript of meetings for consideration of contract matters offered for the first time in this rate filing. The BPA staff prepared an evaluation of the record which was made available to the parties on May 27,

1981, for their review. In addition, BPA staff prepared an addendum to the staff evaluation of the record covering transmission issues that were received too late to be included in the initial evaluation document. On the basis of the record, the BPA Administrator developed his final proposed transmission rate schedules and General Transmission Rate Schedule Provisions. These schedules and provisions are given interim approval by this order.

In addition to studies conducted by BPA, the Administrator issued a Record of Decision documenting the process by which both the wholesale power and transmission rates were developed. This includes the significant public comments received, BPA's responses to such comments, and the rationale for the Administrator's decisions.

I am unable to give 30 days prior notice before the effective date of these transmission rates and BPA's wholesale power rates because the record in this proceeding did not close until May 27, 1981 and the rate design process required that the studies indicated herein be reconducted. In order to assure recovery of revenues on a timely basis I am making these transmission rates effective on July 1, 1981, concurrent with the wholesale power rates which must, by contract, be adjusted July 1, 1981.

Studies Conducted by BPA

The new transmission rates are based on studies conducted two or more times by BPA to reflect the most recent cost data available, and to make changes as a result of public comment. In addition to those studies itemized and discussed in Order No. BPA–4 which support both the wholesale power and transmission rates, a February 5, 1981 Environmental Determination for BPA's 1981 transmission rate filing was prepared and two transmission rate design studies were conducted, an initial study in February 1981 and the final studies in June 1981. The new transmission rate schedules are based on results of the final studies that appropriately reflect public comments, criticisms, and suggested alternatives.

Transmission Rate Design Study

The Transmission Rate Design Study formulates a system of transmission rate schedules that recovers the revenue requirement allocated to the firm transmission component in the Cost-of-Service Analysis and provides rates for nonfirm and specific facility uses. A variety of factors are important in the design of BPA's transmission rate schedules. Primary among these factors is BPA's legislative requirement to equitably allocate the recovery of costs of the transmission system between Federal and non-Federal power utilizing the system and the obligations of its current wheeling contracts. Additional factors that are considered in the design of the transmission rate schedules are: competition from non-Federal transmission facilities, treatment of non-Federal costs and use, cost studies (Long Run Incremental Cost Analysis and Time-Differentiated Pricing Analysis in addition to the Cost-of-Service Analysis), equitable sharing of the benefits and risks of the Federal Columbia River Transmission System, efficient resource utilization, rate integrity, rate continuity, and ease of administration of the rate schedules.

While continuing BPA's present transmission rate structure would serve the purpose of rate continuity and integrity and would be consistent with contractual obligations, many of the other rate objectives would not be accomplished. However, a uniform, postage stamp rate schedule with a broader, more flexible service would also meet BPA's statutory requirements and would better serve the other rate objectives. As a result of these circumstances, optional transmission rate schedules have been developed. For convenience, these schedules have been referred to as Set A and Set B.

Set A schedules update BPA's current transmission rates and as such reflect historic decisions embodied in the present contractual arrangements. In the initial proposal, Set B included two rate schedules which, in the final study, were combined. Set B now refers only to the IR–1 schedule. It reflects many of the other rate design objectives and provides customers with a broader, more flexible service at a uniform rate. The IR–1 schedule is designed as an interim, 1-year set of rates and contracts to offer more flexible service while BPA develops new transmission policy. In February 1981, BPA published a Notice of Intent to develop a new transmission policy that will be responsive to customers' changing needs and consistent with management of the transmission system in the public interest.

The Set A schedules consist of three rate schedules: Formula Power Transmission (FPT–2) for wheeling of firm power over unspecific facilities, Energy Transmission (ET–2) for wheeling of nonfirm power, and Use-of-Facilities Transmission (UFT–2) for wheeling of firm power over specific and limited facilities. Set B, the Integration of Resources (IR–1) schedule, is for the integration of resources into the network and for firm intertie service. The IR–1 schedule is intended to be an option to FPT–2. Either one of these schedules may be used with ET–2 and UFT–2 schedules to provide a customer with all the transmission services required.

A transmission customer electing to retain the service, rate form, and loss determination provisions of existing contracts would utilize Set A rates.

For those parties electing the alternative transmission service and the standardized loss determination methodology offered by BPA under interim contracts for the period prior to the development of the transmission policy, the IR–1 rate will be applicable along with the UFT–2 and ET–2 rate schedules for use-of-facilities arrangements and nonfirm energy transmission. To provide transmission customers with an opportunity to receive service under the IR–1 schedule without permanently terminating existing contracts and to provide a period for development of a long-range transmission policy, Set B service and rates will be available for a 1-year trial period after which time a customer can choose to return to Set A service and rates or opt for the service offered to all customers under the new transmission policy formulated during this next year.

Discussion

Because of the dual nature of the hearings, covering both wholesale and transmission rate development, comments and criticisms were received which were pertinent to both rate filings. Those issues which are addressed in Rate Order No. BPA–4 (wholesale power rates) are not duplicated here. Only those major issues unique to the transmission rate filing are discussed here. These issues fall into three broad categories: cost issues, rate design issues, and service issues.

Claffification of Transmission System Costs

BPA's initial proposal classified all transmission costs to capacity. However, BPA staff noted that it might be appropriate to classify some transmission costs to energy and invited comment on methods to do so. Several comments suggested that some costs should be classified to energy and two methodologies were proposed. The difficulty is using either of the proposed methodologies resides in the manner in which transmission costs are incurred. Increments of transmission investment are made for a variety of reasons, many of which are not related solely to either capacity or energy transactions during

the test year. While transmission investment may be incurred to provide for peakloads in the test year or beyond, or to reduce energy losses, other reasons for an investment could be to improve reliability of the transmission system, to improve the stability of generation, to mitigate environmental concerns, and to reduce noise. Another difficulty that must be addressed is that transmission system uses frequently change over time and differ markedly from the purposes for which the facilities were originally planned. BPA determined that neither of the two proposed methodologies recognize the full range of cost causation factors. BPA classified transmission costs to capacity but used a 12 CP allocation factor which recognizes an energy component through an averaging of the 12 coincidental peaks. BPA plans to further review classification of transmission costs to capacity and energy in future rate filings.

Level of Costs

Because BPA incurs costs to provide reliable transmission service to all of its customers as opposed to piecemeal transmission components for individual customers, it may be that the rates resulting from a system costing approach could be higher than the alternative transmission costs available to a particular customer. One utility suggested that it could construct its own transmission system at a cost lower than the charges resulting from BPA's IR–1 rate. BPA will continue to encourage its customers to submit evidence that its alternative transmission costs are less than the charges under BPA's rates so that any potential for the construction of duplicate transmission facilities can be averted. To date BPA has received no evidence that this problem exists. The IR–1 rate therefore contains no special provisions related to the potential problem.

Distance Factor in Rate Design

BPA received comments both for and against recognizing the distance between a customer's resource and its load as a relevant factor in developing transmission rates. Some argued that distance is an important cost causation factor and should be recognized in order to prevent construction of duplicative short distance facilities. Others argued that distance is not an identifiable cost factor in an integrated transmission system because of diversity (in the use of resources to meet load) and displacement (a customer's resource may not be physically meeting that customer's load but is instead meeting another customer's load). BPA finds the relationship between distance and cost to be an extremely tenuous one and therefore did not apply it in the costing process. Consistent with this finding, the IR–1 rate also excludes distance as a separate rate factor. However, since the existing FPT contracts contain distance as a factor, the FPT–2 rate for these contracts continues using distance as one of the rate factors. All customers with firm wheeling contracts have the option of selecting rate schedule FPT–2 with its distance component or rate schedule IR–1 which does not have one.

Service Related Issues

BPA received several suggestions for modifying the transmission services it provides. Notable among these were: (1) the one way restrictions in FPT rates should be eliminated, (2) BPA should offer the transmission customers the same services as those customers would have obtained if the customer had constructed the transmission system, (3) the availability of the schedules should be sufficiently broad to allow a customer to choose which rate schedules to apply to specific transactions, and (4) losses should be treated as a rate matter.

The so-called one-way restriction refers to application of a transmission rate to transmission service from a specific receipt point to a designated delivery point. Consequently, the rates would be applied to service between those same points in the opposite direction even though the transmission required would be a net amount. This restriction does not apply to the IR–1 rate but continues to be a feature of the FPT–2 rate schedule.

The new rates do allow the customers the choice of limited service under the Set A rates or broad service under IR–1 rate. Should a customer choose the IR–1 rate, then it will be entitled to engage in transactions with any other customer who also chooses that rate at no additional charge. This option is believed to be similar to the type of service available to a sole owner of a transmission system. The new rates also respond in part to the request for the availability of multiple rates. The customers can choose between FPT and IR schedules but is not allowed to mix the two. Allowing a mixture of the two appears to be contrary to the principles involved in developing either alone. For example, BPA rationalizes that if distance is important (as it is under the FPT–2 rates) then it should be important for all of a customer's transactions and not just those transactions which are "short" and result in a lower customer charge. Finally, the treatment of losses offered under the IR–1 rate is also responsive to the customers' comments. Further mitigation of the concerns about losses may occur as BPA develops its transmission policy. At this time, however, BPA is constrained to treating losses for customers remaining on the Set A rates in the manner specified in the contracts.

General Transmission Rate Schedule Provisions

The General Transmission Rate Schedule Provisions for the Set A rate schedules are largely unchanged from existing provisions and continue the philosophy inherent in existing contracts. In addition, General Transmission Rate Schedule Provisions are included for the alternate Set B rate schedules. The latter provisions reflect the broad range of services available under the IR–1 rate schedule.

Other Transmission Rate Issues

Other transmission rate issues are discussed in the Staff Evaluation of the Official Record and the Administrator's Record of Decision.

Availability of Information

Information regarding these rates including studies, hearing transcripts, and other supporting material is available for public review in the office of the Public Involvement Coordination, Bonneville Power Administration Building, 1002 N.E. Holladay Street, Portland, Oregon 97212, and in the office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secreatry of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1981, the attached transmission rate schedules, FPT–2, UFT–2, ET–2, and IR–1, together with the attached General Transmission Rate Schedule Provisions (Set A) and General Transmission Rate Schedule Provisions (Set B). These rates and provisions shall remain in effect on an interim basis through June 30, 1982, or until the FERC confirms and approves them or

substitute rates on a final basis. Pursuant to Delegation Order 0204–33, as amended, if lower rates are ultimately approved by FERC, the revenues collected in excess of such finally approved rates shall be refunded with interest to the extent determined by the Commission.

Issued at Washington, D.C. this 24th day of June 1981.

Joseph J. Tribble,

Assistant Secretary Conservation and Renewable Energy.

Transmission Rate Schedules

Set A Rates:

Schedule FPT–2—Formula Power Transmission

Section 1. *Availability:* This schedule supersedes FPT–1 and is available for existing and new Agreements which provide for firm transmission of electric power and energy using the Integrated Network segment, and/or the PNW–PSW Intertie Segment. This schedule is for full-year and partial-year service and for either continuous service or intermittent service so long as a firm availability of service is required.

Section 2. *Rate:*

A. *Full-Year Service:* The monthly charge per kilowatt of Transmission Demand shall be one-twelfth of the sum of the Main Grid Charge, the Secondary System Charge and Intertie Charge, as applicable and as specified in the Agreement.

1. *Main Grid Charge:* The Main Grid Charge shall be the sum of one or more of the following factors as specified in the Agreement:

a. Main Grid Distance Factor—The amount computed by multiplying the Main Grid Distance by $0.0200 per mile;

b. Main Grid Integration Terminal Factor—$0.16;

c. Main Grid Miscellaneous Facilities Factor—$0.89;

d. Main Grid Terminal Factor—$0.16; and

e. Main Grid Delivery Terminal Factor—$0.25.

2. *Secondary System Charge.* The Secondary System Charge shall be the sum of one or more of the following factors associated with deliveries at 115 kV as specified in the Agreement:

a. Secondary Transformation Factor—$1.41;

b. Secondary System Integration Terminal Factor—$0.41;

c. Secondary System Distance Factor—The amount determined by multiplying the Secondary System Distance by $0.1029 per mile;

d. Secondary System Intermediate Terminal Factor—$0.41;

e. Secondary System Delivery Terminal Factor—$0.48.

3. *Intertie Charge*—for use of Intertie facilities—$3.56.

B. *Partial-Year Service:* The monthly charge per kilowatt of capacity shall be as specified in Section 2.A. for all months of the year except:

1. For unplanned firm service, such as emergency station service when a generating unit is down, the yearly charge shall be equal to one monthly charge as defined in Section 2.A. so long as the use during each year does not exceed 730 hours. If the use during each year exceeds 730 hours, the yearly charge shall be as specified in Section 2.A.

2. For agreements whose term is 5 years or less and which specify service for fewer than 12 months per year, the charge shall be:

a. during months for which service is specified, the monthly charge defined in Section 2.A., and

b. during other months, the monthly charge defined in Section 2.A. multiplied by 0.2.

Section 3. *Determination of Transmission Demand:* Unless otherwise stated in the agreement, the factor to be used in determining the kilowatts of Transmission Demand is the largest of:

A. the Transmission Demand specified in the Agreement;

B. the highest Measured or Scheduled Demand for the month; or

C. the Ratchet Demand.

Section 4. *General Provisions:* Services provided under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended; the Federal Columbia River Transmission System Act; the Pacific Northwest Electric Power Planning and Conservation Act; and the 1981 General Transmission Rate Schedule Provisions. The meaning of terms used in this rate schedule shall be as defined in the Agreement or any of the above Acts or Provisions which are attached to the Agreement.

Schedule ET–2—Energy Transmission

Section 1. *Availability:* This schedule supersedes ET–1 and is available for nonfirm transmission of non-Federal electric energy using excess capacity of the FCRTS. This rate is not available for the transmission of energy that is used to meet firm obligations on a planning basis, nor for energy which cannot be interrupted.

Section 2. *Rates:* The charge for nonfirm transmission of non-Federal nonfirm electirc energy shall be based on the following rates.

	Mills/kWh
1. Delivery over integrated network	0.97
2. Delivery over the PNW–PSW intertie	1.46
3. Delivery over PNW–PSW intertie including use of PNW Transmission system	2.43

Section 3. *General Provisons:* Services provided under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended; The Federal Columbia River Transmission System Act; the Pacific Northwest Electric Power Planning and Conservation Act; and the 1981 General Transmission Rate Schedule Provisions. The meaning of terms used in this rate schedule shall be as defined in the agreement or any of the above Acts or Provisions which are attached to the Agreement.

Schedule UFT–2—Use-of-Facilities Transmission

Section 1. *Availability:* This schedule is available for the firm transmission of electric power and energy over specified FCRTS facilities installed or operated primarily for the benefit or convenience of a limited number of customers. This schedule is not appropriate for new agreements for service over the Integrated Network Segment, or the PNW–PSW Intertie Segment.

Section 2. *Rates:* The monthly charge per kilowatt of Transmission Demand specified in the Agreement shall be one-twelfth of the Annual Cost per kilowatt of Capacity of the specified facilities. Such Annual Cost shall be determined in accordance with Section 3.

Section 3. *Determination of Transmission Rate:*

A. From time to time, but not more often than once in each Contract Year, BPA shall determine the following data for the facilities which have been constructed or otherwise acquired by BPA and are used to transmit electric power and energy thereunder:

1. Capital cost of each such facility as specified in the most recently published plant investment records of BPA which are issued in support of the Federal Columbia River Power System financial statement.

2. Annual Interest and Amortization Ratios for each such facility using the most recent system average cost factors developed from actual Interst and Amortization costs for specific categories of FCRTS facilities and from data included in the financial statement.

3. Operation, maintenance, adminstrative and general, and general plant costs of such facilities using the most recent system average costs for specific categories of FCRTS facilities.

4. The yearly noncoincidental peak demands of all users of such facilities.

B. The monthly charge per kilowatt of Transmission Demand shall be one-twelfth of the sum of the Annual Cost per kilowatt of each of the FCRTS facilities used. The Annual Cost per kilowatt of each facility constructed or otherwise acquired by BPA shall be determined in accordance with the following formula:

$$(I \times R_D) + B$$

Where B = Operation, maintenance, adminstrative and general, and general plant cost of such facility as determined in A.3.

I = Capital cost of such facility as determined in A.1.

R = Annual Interest and Amortization Ratio for such facility as determined in A.2.

D = the sum of the yearly noncoincidental demands on the facility as determined in A.4.

The Annual Cost per kilowatt of facilities listed in the Agreement which are owned by another entity, and used by BPA for making deliveries to the Transferee, shall be determined from the costs specified in the Agreement between BPA and such other entity.

Section 4. *Determination of Transmission Demand:* Unless otherwise stated in the Agreement, the factor to be used in determining the kilowatts of Transmission Demand shall be the largest of:

A. the Transmission Demand specified in the Agreement;

B. the highest Measured or Scheduled Demand for the month, the Measured Demand being adjusted for power factor; or

C. the Ratchet Demand.

Section 5. *General Provisions:* Services provided under this schedule shall be subject to the provisons of the Bonneville Project Act, as amended; the Federal Columbia River Transmission System Act; the Pacific Northwest Electric Power Planning and Conservation Act; and the 1981 General Transmission Rate Schedule Provisions. The meaning of terms used in this rate schedule shall be as defined in the Agreement or any of the above Acts or Provisions which are attached to the Agreement.

General Transmission Rate Schedule Provisions

1. *Interpretation.* The provisions in the Agreement to which these General Transmission Rate Schedule Provisions (GTRSP) are attached as an exhibit shall be part of these GTRSP for the purpose of determining the meaning of any provision contained herein. If a provision in such Agreement is in conflict with a provision contained herein, the former provision shall prevail.

2. *Bonneville Service Area.* The Bonneville Power Administration (BPA) shall operate and maintain the Federal Columbia River Transmission System (FCRTS) within the Pacific Northwest and shall construct such improvements, betterments, system additions and replacements within the Pacific Northwest as it determines are appropriate and required to:

a. integrate and transmit "electric power" from existing or additional Federal or non-Federal generating units;

b. provide service to the BPA wholesale power and wheeling customers;

c. provide interregional transmission facilities; or

d. maintain the electrical stability and electric reliability of the Federal Columbia River Power System.

3. *Availability of Transmission Service.* Any capacity in the FCRTS which BPA determines to be in excess of the capacity required to transmit Federal power will be made available to all utilities on a fair and nondiscriminatory basis by the application of schedules identified in the Schedule of Transmission Rates, dated 1981 or as subsequently revised.

4. *Billing Details.*

a. The Transmission Billing Determinant is the electric power quantified by the method specified in the Transmission Agreement or Transmission Rate Schedule. Scheduled power or metered power will be used.

b. Bills for transmission service will be computed and rendered monthly, generally on a calendar-month basis.

c. Bills not paid in full on or before the close of business of the twentieth day after the date of the bill shall bear an additional charge which is the greater of one-fourth percent (0.25%) of the amount unpaid or $50. Thereafter, a charge of one-twentieth percent (0.05%) of the sum of the initial amount remaining unpaid and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full. The provisions of this paragraph do not apply to bills rendered under contracts with other agencies of the United States.

Remittances received by mail shall be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the twentieth day after the date of the bill. If the twentieth day after the date of the bill is a Sunday or other nonbusiness day of the customer, the following day is the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the twentieth day shall bear a postal department cancellation in order to avoid assessment of such further charges.

BPA may, whenever a transmission bill or a portion thereof remains unpaid subsequent to the twentieth day after the date of the bill, and after giving 30 days' advance notice in writing, cancel the Agreement, but such cancellation shall not affect the customer's liability for any charges accrued prior thereto.

If BPA is unable to render the customer a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill, if so issued, shall have the validity of, and shall be subject to, the same payment provisions as a final bill. Failure to receive a bill shall not release the customer from liability for payment. Billings under each rate schedule application are rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

d. For an initial operating period, not to exceed 3 months, beginning with the commencement of operation of a new generating plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, BPA may agree to modify the measured or scheduled demand established for that period, or make other adjustments which are determined to be appropriate.

e. The transmission customer shall furnish BPA necessary information for making any computation required for the purposes of determining the proper charges for the use of the FCRTS and shall cooperate with BPA in exchanging such additional information as may be reasonably useful for respective operations.

5. *Definitions.* Capitalized terms that are used in the Transmission Rate Schedules shall be as defined below, or, if not so defined, as defined in the Agreement.

a. *Agreement:* The transmission agreement to which this exhibit is attached.

b. *Connection Point:* Refers collectively to the following:

(1) Point of Integration (POI): Connection points where a non-Federal project is integrated with the FCRTS.

(2) Point of Delivery (POD): Connection points where power is delivered to a customer from the FCRTS. The power may be Federal or non-Federal.

(3) Point of Exchange (POE): Connection points listed in an Exchange Agreement. Power may be delivered or received at POE without special accounting.

c. *Electric Power* (or simply Power if no confusion would result without a modifier of mechanical, chemical, or electrical): Electric peaking capacity (kW), or electric energy (kWh), or both.

d. *Firm Transmission Service:* Firm availability of transmission service for any power scheduled or otherwise made available, limited only by the amount and time period specified in the Agreement. Firm transmission service is supplied for all types of power, such as firm, nonfirm, exchange, interruptible, or other.

e. *Interest and Amortization Ratio:* The annual interest and amortization costs of the Federal Columbia River Transmission System, or any applicable portion thereof, divided by the investment in such system or portion thereof.

f. *Main Grid:* That portion of the FCRTS with facilities rated 230 kV and higher, exclusive of the Intertie.

g. *Main Grid Deliveryd Terminal:* 230 kV Terminal Facilities associated with a Point of Delivery.

h. *Main Grid Distance:* The distance in airline miles on the Main Grid between the Point of Integration and the Point of Delivery, multiplied by 1.15.

i. *Main Grid Integration Terminal:* The Main Grid Terminal Facilities located at the Point of Integration.

j. *Main Grid Miscellaneous Facilities:* Switching, transformation and other backup facilities of the Main Grid required to integrate the Main Grid.

k. *Main Grid Terminal:* Terminal facilities on the Main Grid adjacent to the Secondary System.

l. *Nonfirm Transmission Service:* Service for which BPA will accept power only when it determines excess capacity is available. Once BPA accepts power for transmission service, the service provided is the same for firm and nonfirm transmission service.

m. *Ratchet Demand:* The maximum past or present demand established during the previous 11 billing months based on the highest scheduled demand during that time.

n. *Secondary System:* That portion of the FCRTS facilities with operating voltage of 115 kV or 69 kV, exclusive of Main Grid facilities, Intertie facilities, and lower voltage (less than 69 kV) FCRTS facilities which may be used on a use-of-facility basis.

o. *Secondary System Delivery Terminal:* A Point of Delivery from a Main Grid substation at 115 kV or 69 kV, or a terminal located at a Point of Delivery from the Secondary System.

p. *Secondary System Distance:* The number of circuit miles of Secondary System transmission lines between the Main Grid and the Point of Delivery or the lower voltage FCRTS facilities which may be used on a use-of-facility basis, as specified in the Agreement.

q. *Secondary System Integration Terminal:* The first Terminal Facility in the Secondary System.

r. *Secondary System Intermediate Terminal:* The final Terminal Facilities in the Secondary System.

s. *Secondary Transformation:* Transformation from Main Grid to Secondary System facilities.

Set B Rates:

Schedule IR–1—Integration of Resources

Section 1. *Availability.* This schedule is available for the integration of non-Federal resources by the Integrated Network Segment of FCRTS and for firm transmission over the Pacific Northwest-Pacific Southwest Intertie. This schedule is available only to utilities who agree to convert all firm transmission agreements using the Integrated Network and Intertie Segments (except Columbia Storage Power Exchange and other agreements as mutually agreed) to interim agreements consistent with this rate schedule.

Section 2. *Rate.*

a. *Network Service:* The monthly charge shall be the sum of:

(1) $0.1749 per kilowatt of Network Billing Demand, and

(2) $0.00056 per kilowatthour of Network Billing Energy.

b. *Intertie Service:* The monthly charge for firm service over the PNW–PSW Intertie shall be the charges in 2(a) plus the sum of:

(1) $0.3024 per kilowatt of Intertie Billing Demand, and

(2) $0.00081 Per kilowatthour of Intertie Billing Energy.

Section 3. *Determination of Billing Demand and Billing Energy.* The Billing Demand for the Network and for the Intertie shall be as specified in the Agreement. The Network Billing Energy shall be all power scheduled to the Integrate Network from resources specified in the Agreement. The Intertie Billing Energy shall be all firm energy scheduled over the Intertie pursuant to the terms of the Agreement.

Section 4. *General Provisions.* This Rate Schedule shall continue in effect until July 1, 1982. This schedule shall not be used for long-term agreements. The Services provided under this schedule shall be subject to the provisions of the Bonneville Project Act, as amended; the Federal Columbia River Transmission System Act; the Pacific Northwest Electric Power Planning and Conservation Act; the General Wheeling Provisions, Form 3, and the General Transmission Rate Schedule Provisions. The meaning of terms used in this rate schedule shall be as definded in the Agreement or any of the above Acts or Provisions which are attached to the Agreement.

General Transmission Rate Schedule Provisions (GTRSP) for Set B Transmission Schedules

1. *General:* This GTRSP applies to any and all Set B Rate Schedules. The provisions in the Interim IR Agreement to which this GTRSP is attached as an exhibit shall be part of this GTRSP for the purpose of determining the meaning of any provision contained herein. If a provision in such Agreement is in conflict with a provision contained herein, the provision in the Agreement shall prevail.

2. *Availability:* Any capacity, in the Federal Columbia River Transmission System (FCRTS) which BPA determines to be in excess of the capacity required to transmit Federal power and previous firm obligations of non-Federal power, will be made available to all utilities on a fair and nondiscriminatory basis. Charges for the use of the FCRTS will be as identified in the Transmission Schedules.

3. *Billing Details:*

a. Bills for transmission service will be computed and rendered monthly, generally on a calendar-month basis.

b. Bills not paid in full on or before the close of business of the twentieth day after the date of the bill shall bear an additional charge which is the greater of one-fourth (0.25) percent of the amount unpaid or $50. Thereafter, a charge of one-twentieth (0.05) percent of the sum of the initial amount remaining unpaid and the additional charge herein described shall be added on each succeeding day until the amount due is paid in full. The provisions of this paragraph do not apply to bills rendered under contracts with other agencies of the United States.

Remittance received by mail shall be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the twentieth day after the date of the bill. If the twentieth day after the date of the bill is a Sunday or other nonbusiness day of the customer, the following day is the last day on which payment may be made to avoid such further charges. Payment made by metered mail and received subsequent to the twentieth day shall bear a postal department cancellation in order to avoid assessment of further charges.

BPA may, whenever a transmission bill or a portion thereof remains unpaid subseqent to the twentieth day after the date of the bill, and after giving 30 days' advance notice in writing, cancel the Agreement, but such cancellation shall not affect the customer's liability for any charges accrued prior thereto.

If BPA is unable to render the customer a timely monthly bill which includes a full disclosure of all billing factors, it may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill, if so issued, shall have the validity of, and shall be subject to, the same payment provisions as a final bill. Failure to receive a bill shall not release the customer from liability for payment. Billings under each rate schedule application are rounded to whole dollar amounts, by elimination of any amount of less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

c. For an initial operating period, not to exceed three months, beginning with the commencement of operation of a new generating plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, BPA may agree to modify the measured or scheduled demand established for that period, or make other adjustments which are determined to be appropriate.

d. The transmission customer shall furnish BPA necessary information for making any computation required for the purposes of determining the proper charges for the use of the FCRTS and shall cooperate with BPA in exchanging such additional information as may be reasonably useful for respective operations.

4. *Definitions:* Capitalized terms (other than titles, proper nouns, and other words which normally have the first letter capitalized) and expressions in "quotes" that are used in Transmission Schedules, GTRSP, or in the Agreement shall be as defined below, or if not so defined, as defined in the Agreement. If a definition in the Agreement is in conflict with a definition below, the definition in the Agreement shall prevail.

a. Agreement: The interim, 1 year Integration of Resources Agreement to which this GTRSP is attached as an exhibit.

b. "approved point of connection:" Those points of connection which BPA and the customer using SET B Transmission Schedule agree are reasonable points of connection.

c. BPA: The Bonneville Power Administration, its Administrator, or his staff to which he has delegated certain responsibilities.

d. Contract Year—means the period of time commencing at 12:01 a.m., on July 1, 1981, and ending at 12:00 p.m., on June 30, 1982.

e. FCRTS: The Federal Columbia River Transmission System which includes those transmission facilities located within the Pacific Northwest that BPA has constructed or acquired for marketing Federal power or for transmitting non-Federal power.

f. "firm non-Federal resource:" The resource that a non-Federal utility identifies in the Pacific Northwest Utilities Conference committee's West Group Forecast and is required to meet that utilities' firm loads and capacity reserves. Those resources that provide a surplus in a particular year may also be considered a "firm non-Federal resource" on a case by case basis if other non-Federal customers in the same class have deficits which can be met by the surplus.

g. FPT Schedule: The Formula Power Transmission Rate Schedule identifies 14 different rates for various transmission facilities.

h. GTRSP: The General Transmission Rate Schedule Provisions supplements various Rate Schedules.

i. Intertie Service: That transmission service provided by the PNW–PSW Intertie which consists of 2–500kV and 1–800kV transmission lines between the Columbia River and the southern Oregon border.

j. Network Service: That transmission service provided by the Network Segment of the FCRTS.

k. Pacific Northwest: (1) the region consisting of the States of Oregon, Washington, and Idaho, the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming within the Columbia River drainage basin; and (2) any contiguous areas, not in excess of seventy-five airline miles from the area referred to above, which are a part of the service area of a rural electric cooperative customer that is served by the Administrator and has a distribution system from which it serves both within and without such region.

l. Power: electric peaking capacity, or electric energy or both.

m. Transmission Schedules: Any of the various transmission rate schedules identified in Set B Transmission Schedules.

n. UFT Schedule: The Use of Facilities Rate Schedule which identifies the methodology to

use for developing a rate for proportional use of specific facilities.

5. *General Provisions:* This GTRSP for Set B Transmission Schedules has a limited purpose for a limited time, probably 1 year, during which a new transmission policy will be developed. Consequently, this GTRSP is expected to be superseded within 1 year.

[FR Doc. 81-19182 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Closed Meeting of a Panel Selected by the Plant Variety Protection Board

AGENCY: Agricultural Marketing Service.

ACTION: Notice of Public Availability of Report.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 of October 6, 1972 (86 Stat. 770), and Office of Management and Budget Circular No. A-63, revised March 27, 1974, a panel selected by the Plant Variety Protection Board, held a closed meeting on April 15, 1981 (pursuant to section 10(d) of the Federal Advisory Committee Act, section 552b(c)(3) of the Government in the Sunshine Act, 5 U.S.C 552b, and section 56, Confidential Status of Application, of the Plant Variety Protection Act, 7 U.S.C. 2321 *et seq.*). The purpose of this meeting was to consider an appeal from the Commissioner's decision to deny an application for a plant variety protection certificate.

ADDRESSES: Copies of the report of this meeting have been filed and are available for public inspection at the Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, James Madison Building, 101 Independence Avenue, SE., Washington, D.C. 20540, and the Plant Variety Protection Office, National Agricultural Library Building, Room 500, Beltsville, Maryland 20705.

Done at Washington, D.C.: June 25, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-19209 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-02-M

Office of the Secretary

Meat Import Limitations; Third Quarterly Estimate

Public Law 88-482, approved August 22, 1964, as amended by the Meat Import Act of 1979, (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lambs, and goats, (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated quantity of meat articles prescribed by Section 2(c) of the Act.

As published on November 26, 1980 (45 FR 78740), the estimated aggregate quantity of meat articles prescribed by Section 2(c) of the Act during the calendar year 1981 is 1,315 million pounds.

In accordance with the requirements of the Act, the third quarterly estimate for 1981 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1981 is 1,322 million pounds.

Done at Washington, D.C., 24th day of June 1981.

John R. Block,

Secretary.

[FR Doc. 81-19120 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-10-M

Rural Electrification Administration

Lower Valley Power and Light, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to Lower Valley Power and Light, Inc., (LVPL) of Afton, Wyoming, for construction of 36 km (23 mi) of 115 kV transmission line from the Tincup Substation to the Afton Substation in Lincoln County, Wyoming.

REA reviewed a Borrower's Environmental Report (BER) prepared by LVPL and determined that it represents an accurate assessment of the environmental impacts of the project. Based upon the BER and information from other sources, REA has prepared an Environmental Assessment concerning the proposed project and its impacts and concluded that the proposed project would not represent a major Federal action significantly affecting the quality of the human environment.

REA has determined that the proposed project will not adversely affect floodplains, wetlands, federally listed threatened or endangered species, important farmland, or known cultural resources. Alternatives examined include no action, use of existing facilities, underground construction, and alternative routes. After reviewing these alternatives, REA has determined that the proposed project best meets LVPL's needs with the minimum of environmental impact.

REA's Finding of No Significant Impact, the Environmental Assessment and LVPL's BER may be reviewed in or requested from the Office of the Director, Distribution Systems Division, Room 3304 South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, phone (202) 447-4413, or at the office of Lower Valley Power and Light, Inc., (Mr. Boyd Parker, Manager) P.O. Box 188, Afton, Wyoming 83110, phone (307) 886-3175.

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

Dated at Washington, D.C., this 25th day of June, 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-19215 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-15-M

Plains Electric Generation Transmission Cooperative, Inc.; Intent To Prepare an Environmental Impact Statement and Announcement of Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance to Plains Electric Generation and Transmission Cooperative, Inc., (Plains) 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107. In connection with the proposed project, REA intends to hold two (2) public scoping meetings to aid in the Federal decisionmaking process and formulation of issues to be addressed in the EIS.

The EIS will address the need for a proposed 345 kV transmission line intertie connecting the Colorado and New Mexico transmission systems from a switching station in the vicinity of Taos, New Mexico, to the San Luis Valley Substation, northwest of Alamosa, Colorado, with delivery point facilities to provide energy to Questa,

New Mexico, and Alamosa, Colorado, and other reasonable alternatives and their environmental impacts. The proposed project will provide local support to the San Luis Valley region. Additionally, it will improve system reliability as well as provide other benefits associated with the interconnection of the two systems.

Alternatives to be considered by REA are described in REA Bulletin 20–21:320–21 and may include among other options: (1) no project, (2) conservation and load management, (3) alternative methods of providing power, (4) alternative corridors, and (5) alternative construction methods.

Public scoping meetings will be held on August 6, 1981, at 7:00 p.m., in the Alamosa City Hall Council Chambers, 425 Fourth Street, Alamosa, Colorado, and on August 7, 1981, at 7:00 p.m., in the conference room of the U.S. Forest Service, Carson National Forest Office, Cruz Alto Road, Taos, New Mexico (call 505–758–2237 for directions). These public scoping meeting will be chaired by a representative of REA.

These public scoping meetings will be held in order to solicit public input and comments including, but not limited to, the proposed project's possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the REA EIS. A record will be made of the meeting and comments will be addressed in the EIS.

All agencies, groups and individuals are invited to attend and participate in this series of public scoping meetings. All interest parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, if they desire to have their comments as part of the formal record for these scoping meetings. Comments may be sent to Frank W. Bennett, Director, Power Supply Division, Room 5168, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, phone: (202) 447–6183. Requests for addition information concerning the scoping meetings may also be directed to Mr. Stanley K. Bazant, Manager, Plains Electric Generation and Transmission Cooperative, Inc., phone: (505) 884–1881.

REA financing assistance to Plains will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with environmental impact statement procedures required by the National Environmental Policy Act of 1969.

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

Dated at Washington, D.C., this 25th day of June 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-19216 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-15-M

Southern Illinois Power Cooperative Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare an Environmental Impact Statement in connection with proposed financing assistance by REA for Southern Illinois Power Cooperative (SIPC), of Marion, Illinois, to construct approximately 25.75 km (16 miles) of 161 kV transmission line and a 161/69 kV substation.

The transmission line will be built between the existing Elizabethtown Substation in Hardin County, Illinois, and the proposed Gallatin Substation in Gallatin County, Illinois.

SIPC has prepared a Borrower's Environmental Report (BER) concerning the proposed project. It was evaluated independently by REA in its Environmental Assessment (EA). Various alternatives to the proposed project were examined. These alternatives include no action, alternative transmission routes, and alternative construction materials. REA has determined that the proposed transmission line and associated new substation will have no significant effect on the human environment and that it will best serve SIPC's present electric power needs and future loads within areas of its members. Based on this determination, REA has reached a Finding of No Significant Impact, in accordance with Sections IV.B and IV.D.1 of REA Bulletin 20–21:320–21, Part I.

Copies of SIPC's BER and of REA's EA, as well as copies of REA's Finding of No Significant Impact of this project, may be reviewed or obtained in the office of the Director, Power Supply Division, Room 5168, South Agriculture Building, Washington, D.C. 20250, or at the office of the cooperative, Southern Illinois Power Cooperative, Rural Route 4, Marion, Illinois 62959.

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

Dated at Washington, D.C., this 25th day of June, 1981.

Joe S Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-19217 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-15-M

SCIENCE AND EDUCATION ADMINISTRATION

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776) the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: July 29–31, 1981

Time: 8:30 a.m.–5:00 p.m., July 29–30.
8:30 a.m.–3:00 p.m., July 31.

Place: The Park Hilton, Sixth and Seneca, Seattle, Washington 98101

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be reviewing and discussing agricultural research and extension programs in preparation for its annual report to the Secretary of Agriculture.

Contact Person for Agenda and More Information: Marvin E. Konyha, Interim Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 357–A Administration Building, U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202–447–3684.

Done at Washington, D.C., this 22d day of June 1981.

John G. Stovall,

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 81-19214 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-03-M

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776) the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board Work Group on Extension Programming.

Date: July 13, 1981.

Time: 8:30 a.m.-noon

Place: Sky Host Inn, 1360 Virginia Ave., East Point, Georgia 30344.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board Work Group will be reviewing and discussing agricultural extension programs in preparation for the Board's annual report to the Secretary of Agriculture.

Contact Person for Agenda and More Information: Marvin E. Konyha, Interim Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 357–A Administration Building, U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202–447–3684.

Done at Washington, D.C., this 22 day of June 1981.

John G. Stovall,

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 81-19213 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-03-M

Soil Conservation Service

Blue Springs RC&D Measure, Florida; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Mitchell, State Conservationist, Soil Conservation Service, 401 S.E. 1st Avenue, Gainesville, Florida 32601, telephone 904–377–8732.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Blue Springs RC&D Measure, Lafayette County, Florida.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. James W. Mitchell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for recreation facilities and critical area treatment. The planned works of improvement include picnic tables, barbeque grills, a picnic shelter, a water well, comfort stations, and a parking area. Conservation practices include diversions, spring bank stabilization, and seeding.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. James W. Mitchell. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until July 30, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 16, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 8119211 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-16-M

East Carroll Watershed, Louisiana; Availability of a Record of Decision

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, P.O. Box 1630, Alexandria, Louisiana 71301, telephone number 318–473–7751.

NOTICE: Mr. Alton Mangum, responsible Federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of Louisiana, is hereby providing notification that a record of decision to proceed with installation of the East Carroll Watershed project is available. Single copies of this record of decision may be obtained from Alton Mangum at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 19, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-19212 Filed 6-29-81; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Birch 3-Ply Doorskins From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On February 23, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on birch 3-ply doorskins from Japan. The review covered 10 of the 16 known exporters through January 31, 1980, and the remaining 6 exporters for various time periods up to December 31, 1979.

Interested parties were given an opportunity to submit written comments or requests a hearing on these preliminary results. Based on comments received from various exporters and importers, the Department has made adjustments which result in new weighted average margins for four of the exporters. The margins in the preliminary review remain unchanged for 12 of the 16 exporters.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2923).

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1976, a dumping finding with respect to birch 3-ply doorskins from Japan was published in the **Federal Register** as Treasury Decision 76–48 (41 FR 7389). On February 23, 1981, the Department of Commerce ("the Department") published in the **Federal Register** a notice of "Preliminary Results of Administrative Review of antidumping Finding" (46 FR 13532–3). The Department has now completed its administrative review of that finding.

Scope of the Review

Imports covered by this review are shipments of birch 3-ply doorskins manufactured in a variety of types, sizes

and colors. Birch 3-ply doorskins are currently classifiable under items 240.1420, 240.1440 and 240.1460 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the 16 known exporters of Japanese birch 3-ply doorskins to the United States. They are listed below, together with the period of review for each exporter. The review does not include the January 1, 1979 through January 31, 1980 exports of three firms, Nichimen Co., Ltd., C. Itoh Co., Ltd., and Toyo Menka Kaisha, Ltd.; these shall be covered by subsequent preliminary and final notices during the current review. The Department had insufficient information to review the January 1980 exports of three additional firms, Associated Lumber & Trading Co., Ltd., Mitsui & Co., Ltd., and Nissho-Iwai Co., Ltd.; these will be included in the next administrative review of the finding.

Analysis of Comments Received

As a result of comments submitted by exporters and importers, we have adjusted the margins cited in the preliminary notice for 4 of the 16 exporters. In three cases the Department made clerical errors which have been corrected. The fourth adjustment in margins was due to a printing error in the preliminary notice which the Department has also corrected.

The exporters and importers submitted other comments for which we have made no adjustments. Certain exporters arqued that the Department should treat a period when no sales occured as a period with zero margins for deposit purposes. We reject that argument, for in a period of no exports the Department has no basis for comparing foreign market value with U.S. price, and therefore cannot determine a margin. These reasons are set out in more detail in our final notice on spun acrylic yarn from Japan (46 FR 32928). The deposit rate shall be that margin found in the most recent period with shipments. A submitted alternative to the Department's use of quarterly exchange rates was rejected by us as inconsistent with section 353.56 of the Commerce Regulations. We also rejected as administratively infeasible a proposal that the Customs Service apply deposit requirements against purchase price rather than entered value. Finally, we rejected the contention that the scope of the finding does not include oversize birch 3-ply doorskins, that is, those larger than 47" x 85". This is consistent with the Treasury Department's prior practice in this case.

Final Results of the Review

As a result of adjustments made based on comments received and our subsequent analysis, we determine that the following weighted average margins exist:

Japanese exporter (manufacturer)	Time period	Margin (percent)
1. Associated Lumber & Trading Co., Ltd	1/1/78-12/31/78	0
(Mfr.-Sanmoku Lumber Co., Ltd.)	1/1/79-12/31/79	4.55
2. Nissho-Iwai Co., Ltd	1/1/79-12/31/79	[1] 1.59
(Mfr.-Matsumoku Industries, Ltd.)	1/1/78-12/31/78	2.16
(Mfr.-Sattsuru Veneer Co., Ltd.)	1/1/78-12/31/78	0
3. Nichimen Co., Ltd	1/1/78-12/31/78	0
4. Shingu Shoko, Ltd	1/1/78-12/31/78	0
	1/1/79-1/31/80	[1] 0
5. Mitsubishi Corp	1/1/78-12/31/78	0
(Mfr.-Sattsuru Veneer Co., Ltd.)	1/1/79-1/31/80	2.00
(Mfr.-Marutama Industries Co., Ltd	1/1/79-1/31/80	0
6. C. Itoh & Co., Ltd.:		
(Mfr.-Matsumoku Industries, Ltd.)	1/1/78-12/31/78	.25
(Mfr.-Nitta Veneer Co., Ltd.)	1/1/78-12/31/78	.92
(Mfr.-Nitta Veneer Co., Ltd.)	1/1/79-12/31/79	0
(Mfr.-Showa Lumber Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Sattsuru Veneer Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Teshiogawa Lumber Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Sanmoku Lumber Co., Ltd¼.)	1/1/78-12/31/76	14.40
7. Mitsui & Co., Ltd	1/1/77-12/31/77	0
(Mfr.-Sanmoku Lumber Co., Ltd.)	1/1/78-12/31/78	3.10
	1/1/79-12/31/79	0
(Mfr.-Teshiogawa Lumber Co., Ltd.)	1/1/78-12/31/78	0
	1/1/79-12/31/79	0
(Mfr.-Matsumoku Industries, Ltd.)	1/1/78-12/31/78	2.90
	1/1/79-12/31/79	0
(Mfr.-Marutama Industries, Ltd.)	1/1/78-12/31/78	0
	1/1/79-12/31/79	0
8. Ikeuchi Industry Co., Ltd	1/1/78-12/31/78	0
	1/1/79-1/31/80	1.83
9. Toyo Menka Kaisha, Ltd.:		
(Mfr.-Nitta Veneer Mfg. Co., Ltd.)	1/1/78-12/31/78	16.00
(Mfr.-Marutama Industries Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Sattsuru Veneer Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Teshiogawa Lumber Co., Ltd.)	1/1/78-12/31/78	0
(Mfr.-Sanmoku Lumber Co., Ltd.)	1/1/78-12/31/78	2.50
10. Nitta Veneer Mfg. Co., Ltd	1/1/78-12/31/78	3.67
	1/1/79-12/31/79	[1] 3.67
11. Kiyosato Rinsan Co., Ltd	1/1/78-1/31/80	[1] 65
12. Keisei Lumber Co., Ltd	1/1/78-1/31/80	[1] 0
13. Yuasa Trading Co., Ltd	1/1/79-1/31/80	[1] 0
14. Fujikawa Veneer Co., Ltd	1/1/79-1/31/80	[1] 0
15. Okura & Co., Ltd	7/1/79-1/31/80	[1] 1.75
16. Iwakura Gumi Lumber	4/1/79-1/31/80	[1] 7.20

[1] No shipments during this period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries by these firms with purchase dates during the periods involved. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Because the weighted average margin for C. Itoh exports of Matsumoku doorskins is *de minimis*, that is, less than 0.5%, the Department waives the deposit requirement for these exports. The deposit requirements, and waiver of deposit, shall remain in effect until publication on the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of February 1982. For Nichimen, C. Itoh, and Toyo Menka, the deposit requirements shall stay in effect until publication of the final notice for these firms' 1979 exports.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

B. Waring Partridge, III,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-19189 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-25-M

Fresh Cut Roses From Colombia; Dismissal of Antidumping Petition

AGENCY: U.S. Department of Commerce.

ACTION: Dismissal of Petition.

SUMMARY: The Department has received a petition requesting that an antidumping duty be imposed with respect to the importation of fresh cut roses from Colombia. The petition and one of the supporting documents contain conflicting information. As a result, they do not contain sufficient inforamtion to support the allegation of sales at less than fair value. Therefore, the Department is dismissing the petition and terminating the proceeding.

EFFECTIVE DATE: June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Jack Davies, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3174).

SUPPLEMENTARY INFORMATION: On June 4, 1981, we received a petition from Roses Incorporated of Haslett, Michigan. The petition alleged that fresh cut roses from Colombia are being sold in the U.S. at less than fair value, and that these

imports are materially injuring a U.S. industry.

Under section 732(c) of the Tariff Act of 1930 (19 U.S.C. 1673a(c)) (the Act), we must determine, within 20 days after a petition is filed, whether the petition alleges the elements necessary for the imposition of an antidumping duty under section 731 and contains information reasonably available to the petitioner supporting the allegations.

The Senate Finance Committee Report on the Trade Agreements Act of 1979 (the TAA) reiterates that dismissal of the petition is appropriate when we are "* * * convinced that the petition and supporting information fail to state a claim upon which relief can be granted under section 731 or the petitioner does not provide information supporting the allegations which is reasonably available to him." (S. Rep. No. 96-249, 96th Cong., 1st Sess. 63 (1979)). In the floor debates on the TAA, Senators Danforth and Ribicoff provided additional guidance on the standard for determining the sufficiency of the petition:

Mr. Danforth. Is it not the intent of congress that the administering authority use the same test in determining the sufficiency of a petition as our Federal courts, today, employ in determining whether a complaint states a claim upon which relief can be granted?

Mr. Ribicoff. Answer is "yes".

Mr. Danforth. *Should not the administering authority, like the courts, look only to the four corners of the petition—the pleading—and the information filed supporting the allegations and not elsewhere?*

Mr. Ribicoff. *Definitely yes.*

Mr. Danforth. Since at this stage, it is not the intent of Congress to have ongoing an advocacy proceeding, petitions or information seeking to rebut the allegations should not be considered by the administering authority, is this not correct?

Mr. Ribicoff. That is correct. This is not to say, however, that the administering authority, like a court, may not take "judicial notice" of facts within the public domain. (125 Cong. Rec. S103318 (daily ed. July 23, 1979) (emphasis added)).

On its face, the petition and its supporting information contain conflicting information on U.S. price and constructed value calculations:

(A) U.S. price data contained in a market study the petitioner submitted in support of his petition differs from the U.S. price data presented in the petition. The price information in the study, when compared with the constructed value data in the petition, would eliminate any indication of sales at less than fair value in the U.S. market. The petitioner does not indicate why he chose one set of price data over the other or how to reconcile the discrepancies.

(B) From the information contained in the petition and the market study, it is possible to calculate an average bloom rate per rose plant in different ways, yielding very different bloom rate estimates. The bloom rate, as a measure of productivity, is of particular importance because small variances in this rate can greatly affect the per unit cost of production and consequently the constructed value calculations.

Due to the conflicting nature of the information in the petition with that found in the supporting study, we determine that the petitioner has not sufficiently supported the allegations in his petition. Thus, under section 732(c)(3), we are dismissing the petition and terminating the proceeding.

We are furnishing a copy of this determination to the U.S. International Trade Commission in accordance with section 732(d)(1) of the Act.

Leonard Shambon,

Acting Deputy Assistant Secretary for Import Administration.

June 24, 1981.

[FR Doc. 81-19208 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

Change in Membership of Performance Review Board

This notice announces a change in membership of the Performance Review Board (PRB) for the Maritime Administration. The purpose of the PRB, as established by the Assistant Secretary for Maritime Affairs (44 FR 63130, Nov. 2, 1979), is to assure the equitable treatment of Maritime Administration members of the Senior Executive Service.

The names, titles and terms of the new members of the PRB who have been appointed are:

Mr. James G. Gross, Deputy Assistant Administrator for Research and Development, Maritime Administration, Washington, D.C. 20230. Term —1 year.

Mr. Ronald K. Kiss, Director, Office of Ship Construction, Maritime Administration, Washington, D.C. 20230. Term—1 year.

Mr. James S. Dawson, former Secretary, Maritime Administration/Maritime Subsidy Board (Retired). Term—1 year.

The following persons no longer serve on the PRB:

Mr. John J. Nachtsheim, former Assistant Administrator for Shipbuilding and Shipbuilding Operations, Maritime Administration, Washington, D.C. 20230.

Mr. James A. Higgins, former Assistant Administrator for Commercial Development, Maritime Administration, Washington, D.C. 20230.

Persons desiring any further information about the membership of the PRB may contact Ms. Myra R. Wells, Director, Office of Personnel, Maritime Administration, Washington, D.C. 20230 (202) 377-3616.

Dated: June 24, 1981.

Robert J. Patton, Jr.

Secretary.

[FR Doc. 81-19119 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-15-M

National Bureau of Standards

Federal Information Processing Standards 60-1, 61, 62, 63 Technical Verification Guidance

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098-10101) announcing that the Secretary had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which has been redesignated 60-1), FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078-50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

Those standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294), and December 3, 1979 (44 FR 69317).

Each of those standards includes provision for verification of conformance to be made by demonstration or other means acceptable to the Government prior to acceptance of equipment having an interface required to conform. Accordingly, on December 11, 1979; February 27, 1980; and April 7, 1981, the National Bureau of Standards (NBS) annnounced in the **Federal Register** (44 FR 71444-71445, 45 FR 12862, and 46 FR 20719) the establishment of a verification service for those standards which is expected to result in equipment being placed on a list for use in Federal

automatic data processing procurement. NBS maintains this list and distributes it to all Federal agencies and interested parties upon request.

Following the December 11, 1979, and February 27, 1980, notices, NBS proposed in a notice published on June 25, 1980 (45 FR 42783–42784), that the applicability section of each of the standards referenced above be revised so as to (1) identify explicity NBS as the source for specifying the verification procedures and techniques to be employed with those standards, (2) conduct or arrange to have conducted verification following those procedures and techniques, and (3) issue related technical guidance concerning technical interface implementation approaches that will meet the verification requirement. Accordingly, it was proposed that the last paragraph of the applicability section of the above cited standards have appended to it the following language:

> The Director of the National Bureau of Standards shall, through publication of notices in the **Federal Register**, specify the verification procedures and techniques to be employed and shall conduct or arrange to have conducted this required verification. The Director shall provide, upon request or when he otherwise determines it to be necessary and appropriate, guidance as to whether specific technical interface implementation approaches will meet the verification requirement. Such guidance shall be published in summary form through notices in the **Federal Register**, specifying the manner in which persons may obtain copies of the full guidance provided.

This is the fifth notice providing specific guidance concerning technical interface implementation approaches. The first such notice was published in the **Federal Register** on August 13, 1980 (45 FR 53856–53857) and set out the paragraph numbering system that would be followed in listing and responding to questions in that first notice and subsequent notices. The second notice was published in the **Federal Register** on October 17, 1980 (45 FR 68989–68990). The third notice was published in the **Federal Register** on December 16, 1980 (45 FR 82687–82689). The fourth notice was published in the **Federal Register** on March 6, 1981 (46 FR 15526–15528) and was the subject of two correction notices, both on March 25, 1981 (46 FR 18575).

FIPS 60–1, 61, 62, and 63 are intended to achieve full plug-to-plug interchangeability of peripheral components. This general intent is the basis for this guidance.

5.1 How does the FIPS 60–1 through 63 verification process recognize that equipment on either side of the interface may contain reloadable (and thus changeable) microprogramming?

With current technolgy, it is expected that equipment implementing FIPS 60–1 through 63 will employ hardware logic for high speed operations and microprogramming for slower speed operations. It is also expected that microprograms can and will be changed more easily and more often than hardware.

Assuming that revised microprograms will retain compatibility with previous releases and assuming continued vertifiability with respect to the relevant FIPS, the verification certificates and the verification list will not explicitly identify the microprograms contained in verified equipment.

Equipment which is marketed under a brand name different from that of the manufacturer and/or marketed by an organization other than the manufacturer requires special attention. The following questions must be answered as indicated in order for equipment to be eligible for verification.

1(Q). Is any modification made to the equipment's hardware or microprogram?

1(A). If the answer is No, verification is possible based on previously verified equipment. If the answer is Yes, continue with the following questions.

2(Q). Is the modification more significant than a cosmetic change (cabinetry, brand name logo, model number)?

2(A). If the answer is No, verification is possible based on previously verified equipment. If the answer is Yes, continue with the next question.

3(Q). Will the equipment in question successfully operate in conjunction with equipment on the other side of the interface which has been previously verified, independent of the brand of that equipment?

3(A). If the answer is No, the equipment is not verifiable.

5.2 In FIPS PUB 63, the sense information formats in section 3.2.2 on page 43 do not agree with section 3.2 on page 50, section 3.2 on page 64, or with section 3.2 on page 78. Which is in errror?

There are two typographial errors on page 43. The third and fourth sentences of section 3.2.2 on page 43 should read: "Three of these formats, numbered 1, 2, and 3, are employed for reporting manufacturer-related maintenance and diagnostic information. The remaining four formats , numbered 0, 4, 5, and 6, are employed for reporting specific subsystem and device-dependent conditions or states."

Because it is possible to respond fully to the foregoing questions in such a brief fashion, NBS has decided not to avail itself of the opportunity to summarize the guidance provided for in the interim revision of FIPS PUBS 60–1 through 63. The guidance provided in response to questions 5.1 and 5.2 is, therefore considered complete. Requests for additional FIPS 60–1 through 63 verification guidance should be addressed to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: FIPS 60–1 through 63 Verification Guidance.

Dated: June 25, 1981

Ernest Ambler,

Director.

[FR Doc. 81-19183 Filed 6-29-81; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

Regulatory Flexibility Act Review Plan

AGENCY: Department of Commerce.

ACTION: Review Plan for Department Regulations.

SUMMARY: In compliance with the Regulatory Flexibility Act of 1980 (the Act), the Department of Commerce is publishing a Review Plan for regulations that have been identified as having a "significant economic impact upon a substantial number of small entities." Section 610 of the Act requires that regulations significantly affecting "small entities" be reviewed over a 10-year period. The purpose of the Review Plan is to provide information to the public on such regulations and the schedule for their review.

FOR FURTHER INFORMATION: Comments or inquiries of a general nature about the Review Plan should be directed to: Robert T. Miki, Director of Regulatory Policy, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–2482.

For additional information on the regulations listed in the Review Plan contact: Roger J. Mallet, Office of Regulatory Policy, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–2153.

SUPPLEMENTARY INFORMATION: The Department has 13 primary operating units in addition to departmental offices. Operating units, such as the Maritime Administration, have major regulatory activities whereas other operating units, such as the Minority Business Development Agency, currently have no regulations in effect. Departmental offices have few regulations affecting the public.

The Department developed an Inventory of regulations which was

published in the **Federal Register** on October 27, 1980, (45 FR 71083). The Inventory, which lists 241 regulations, provides a ranking of the relative importance of each regulation as well as a review schedule. Most of the Department's regulations affect large economic entities, such as the maritime industry, or large political entities, such as states or regional and metropolitan areas. As a result, the Department has determined that only a few regulations have a "significant economic impact upon a substantial number of small entities."

The National Marine Fisheries Service (NMFS), in the National Oceanic and Atmospheric Administration, has the greatest number of regulations affecting small entities. Under the Fishery Conservation and Management Act of 1976 (FCMA), NMFS administers fishery management regulations, as well as other regulations, that affect segments of the fishing and fish processing industries. These regulations may have a significant impact on large numbers of small entities, particularly small independent fishermen.

Explanation of Information Contained in the Review Plan

The Department's Review Plan is contained in the Appendix. The Review Plan contains 14 regulations. Eleven regulations are administered by NMFS. One regulation each is administered by the International Trade Administration (ITA), the Maritime Administration (MARAD) and the National Telecommunications and Information Administration (NTIA). The Review Plan provides the title, a brief description, the legal authority, and the review schedule for each of the 14 regulations.

The Act requires that regulations significantly affecting "small entities" be reviewed over a 10-year period. The Department has scheduled the review of nine regulations within the first five years. The remaining five regulations will be reviewed during the second half of the 10-year review cycle. Specific review dates for these five regulations will be provided when the Department revises it Review Plan in June 1986.

The Act requires that agencies review their regulations with the objective of minimizing the economic impact on "small entities." The Department unit reviews will consider the following factors:

1. Continued need for the regulation;
2. Nature of complaints or comments received from the public;
3. Complexity of the regulation;
4. Extent the regulation overlaps, duplicates or conflicts with other Federal regulations, and, to the extent feasible, with state and local government regulations; and
5. Length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors which affect the regulation have changed.

Public Comments

The Department is soliciting comments from the public on the following questions: (1) Whether the Department's Review Plan is a complete listing of its regulations. (2) Whether regulations listed present the most problem to small entities in terms of compliance or reporting costs? (3) Whether regulations affecting small entities should be candidates for possible repeal, and (4) Whether there are closely related regulations that should be reviewed together.

Comments on the Department's Review Plan should be submitted to the Department's Office of Regulatory Policy by July 31, 1981.

Malcolm Baldridge,

Secretary of Commerce.

BILLING CODE 3510-BT-M

Department of Commerce

APPENDIX

Review Plan for Regulations Significantly Impacting Small Entities

Department Unit	Title/Description	Legal Authority	Review Date 1/
ITA	Export Administration Regulation (15 C.F.R Parts 368, and 370-399) The regulation establishes Commerce Department controls for purposes of national security, foreign policy, and short supply over the exports of U. S. good and technology.	50 U.S.C. App. 2401 et seq.	Review to be scheduled for second half of review cycle.
MARAD	Approval of Charters of Certain Vessels to Aliens. (46 C.F.R. 221.7) The regulation provides for blanket approval, for a period not to exceed six months, of charters of vessels to aliens. Among the exceptions are all bareboat charters, irrespective of vessel size, which require specific approval.	46 U.S.C. 808, 835 and 839	April 1981 - July 1981
NMFS	Regulation Governing the Taking and Importing of Marine Mammals: Taking and Related Acts Incidental to Commercial Fishing Operations (50 C.F.R 216.24) The regulation describes the procedures for obtaining general permits and certificates for the incidental catch of marine mammals and the gear requirements for the tuna fishery and the Japanese salmon gillnet fishery.	16. U.S.C. 1351-1407	Various sections of the regulation were published in final form in the Federal Register between October 1980 and May 1981. Review is planned during the second half of the review cycle.
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: Inspection and Certification (50 C.F.R Part 260) The regulation governs the conduct of the voluntary fish and fishery products inspection, grading and certification program which is made available to the seafood industry on a fee-for-service basis.	Agricultural Marketing Act of 1946	October 1, 1981 - January 31, 1982
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Fish Steaks (50 C.F.R Part 262) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafood. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades for fish steaks is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Summer 1981 - Winter 1981/82

1/ The Regulatory Flexibility Act requires a 10-year review cycle. Because of the limited number of Department regulations subject to the Act, DOC plans to review most regulations by June 1986, or during the first half of the review cycle. Those regulations not set for review by this date will be scheduled for review over the second half of the review cycle. The Department will revise its review plan and provide specific review dates for those regulations by June 1986.

Department of Commerce

Review Plan for Regulations Significantly Impacting Small Entities

Department Unit	Title/Description	Legal Authority	Review Date 1/
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Whole or Dressed Fish (50 C.F.R. Part 261) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafoods. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades for whole or dressed fish is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Summer/Fall 1981
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks and Products Made Therefrom (50 C.F.R. Part 264) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafoods. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades of frozen fish blocks and products derived from fish blocks is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Regulation last reviewed in 1979. Review is planned during second half of the review cycle.
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Crustacean Shellfish Products (50 C.F.R. Part 265) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafoods. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades of crustacean shellfish products is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Summer/Fall 1981
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Molluscan Shellfish (50 C.F.R. Part 266) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafoods. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades of molluscan shellfish products is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Regulation last reviewed in 1979. Review is planned during second half of the review cycle.

1/ The Regulatory Flexibility Act requires a 10-year review cycle. Because of the limited number of Department regulations subject to the Act, DOC plans to review most regulations by June 1986, or during the first half of the review cycle. Those regulations not set for review by this date will be scheduled for review over the second half of the review cycle. The Department will revise its review plan and provide specific review dates for those regulations by June 1986.

Department Unit	Title/Description	Legal Authority	Review Date 1/
NMFS	Processed Fishery Products, Processed Products thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Fish Fillets (50 C.F.R. Part 263) The regulation describes uniform levels of quality (A, B, C, and substandard) for major types of seafood. The purpose of the standards is to facilitate marketing and trade in these commodities. Determination of grades for fish fillets is performed by Federal inspectors on a fee-for-service basis. Use of the standards by industry and trade is voluntary.	Agricultural Marketing Act of 1946	Regulation last reviewed in 1979. Review is planned during second half of the review cycle.
NMFS	High Seas Salmon Fishery Management Plan (FMP) - Amendment No. 1 (46 Fed. Reg. 30633) The objective of the regulation is to promote conservation of ocean salmon resources, and to bring regulations in the fishery conservation zone (FCZ) into conformity with regulations promulgated by the State of Alaska. The amendment addresses the following problems: excessive effort and harvest in the FCZ with consequent negative impacts on depressed naturally spawning stocks of Southeast Alaskan and Pacific Northwest Chinook salmon; and inadequate inseason collection of catch information which hinders the ability to monitor the fishery.	16 U.S.C. 1801 et seq.	Calendar Year 1986
NMFS	Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico (46 Fed. Reg. 27489) The objectives of the FMP are to optimize yield from young maturing shrimp, coordinate development of shrimp management measures by the Gulf of Mexico Fishery Management Council with shrimp management programs of the several States, and promote consistency with the Endangered Species Act and the Marine Mammal Protection Act. The shrimp fishery is located in the fishery conservation zone (FCZ) in the Gulf of Mexico as well as in the areas of jurisdiction of various Gulf States. The problems in the shrimp fishery include: conflict among user groups as to area and size at which shrimp are to be harvested; discard of shrimp through the wasteful practice of culling; conflicts with other fisheries, such as the stone crab fishery in southern Florida, the groundfish fishery of the north central Gulf, the reef fish fishery in the Gulf; and the incidental capture of sea turtles.	16 U.S.C. 1801 et seq.	Calendar Year 1986

1/ The Regulatory Flexibility Act requires a 10-year review cycle. Because of the limited number of Department regulations subject to the Act, DOC plans to review most regulations by June 1986, or during the first half of the review cycle. Those regulations not set for review by this date will be scheduled for review over the second half of the review cycle. The Department will revise its review plan and provide specific review dates for those regulations by June 1986.

Department of Commerce

Review Plan for Regulations Significantly Impacting Small Entities

Department Unit	Title/Description	Legal Authority	Review Date 1/
NMFS	Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (FMP) (50 C.F.R. Part 661) (Fishing year 1981) The 1981 amendment and implementing regulations are intended to prevent overfishing, to apportion equitably the ocean harvest between commercial and recreational fisheries, to allow more salmon to survive the ocean fisheries and reach the various inside fisheries, to meet the U.S. obligations to treaty Indian fisheries, and to achieve spawning escapement requirements. Specific management measures and implementing regulations vary by fisheries and area, but generally establish fishing seasons, provide harvest guidelines or quotas and other inseason management modifications, set daily catch limits for recreational fisheries and size limits on fish.	16 U.S.C. 1801 et seq.	Calendar Year 1986
NTIA	Public Telecommunications Facilities Program (15 C.F.R. Part 2301) The regulation implements a grant-in-aid program for the planning and construction of public telecommunications facilities. Organizations eligible to receive grants under the program include nonprofit organizations, as well as State and local governments.	47 U.S.C. 390 et seq.	October 1981 - April 1982

1/ The Regulatory Flexibility Act requires a 10-year review cycle. Because of the limited number of Department regulations subject to the Act, DOC plans to review most regulations by June 1986, or during the first half of the review cycle. Those regulations not set for review by this date will be scheduled for review over the second half of the review cycle. The Department will revise its review plan and provide specific review dates for those regulations by June 1986.

[FR Doc. 81-19078 Filed 6-29-81; 9:18 am]

BILLING CODE 3510-BT-C

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Correction of System Notices

AGENCY: Correction to published system notices.

SUMMARY: On June 4, 1981, the Department of the Army published notification of the deletion of five system notices and amends two system notices for system of records subject to the Privacy Act of 1974. Two of the system notices to be deleted were improperly identified. System A0228.04aDAMH, entitled: "Historical photographic Files" was incorrectly identified as A0228.aDAMH and System A0701.07bAMC entitled: "Retirement Services Control Reference Paper Files" was incorrectly identified as A0701.bAMC.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General (DAAG-AMR-R) HQDA, Room 1146, Hoffman Building 1, Alexandria, VA 22331. Telephone 703/325-6163.

SUPPLEMENTARY INFORMATION: The notice of the deletion of the two systems notices cited above was published in FR Doc. 81-16878 (46 FR 29981 at page 29982) June 4, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer Washington, Headquarters Services Department of Defense.

June 24, 1981.

[FR Doc. 81-19188 Filed 6-29-81; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Plan of Action To Implement the International Energy Program

AGENCY: Department of Energy.

ACTION: Extension of Public Comment Period.

On May 8, 1981, the Department of Energy published in the **Federal Register** and requested public comments on a draft "Plan of Action to Implement the International Energy Program", 46 FR 26026. Comments were requested by July 10, 1981.

The Department of Energy hereby extends the public comment period to September 4, 1981.

DATE: All comments received by September 4, 1981, will be considered.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Craig S. Bamberger, Assistant General Counsel, International Trade and Emergency Preparedness (GC-11), Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252-2900.

Issued in Washington, D.C., June 24, 1981.

R. Tenney Johnson,

General Counsel.

[FR Doc. 81-19128 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Decision and Order

On June 17, 1980, the Lindsay Oliver Growers (Lindsay), Lindsay Olive Growers; 650 West Tulah Road Lindsay, California 93247 Applicaton for Designation as a Producer of a Petroleum Substitute in the Domestic Crude Oil Allocation Program filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) an application for designation as a producer of a petroleum substitute pursuant to 10 CFR 211.67(a)(5) (the Entitlements Program).

ERA is issuing this Decision and Order pursuant to Subpart G of 10 CFR Part 205 (Administrative Procedures and Sanctions) and Section 211.67(a)(5) of Subpart C of 10 CFR Part 211 (Mandatory Petroleum Allocation Regulations).

II. Background

Section 211.67 of the Mandatory Petroleum Allocation Regulations provides that upon application the ERA may desigante on a case-by-case basis a synthetic fuel as a petroleum substitute.

The fuels for which entitlements are being sought must satisfy the definition of petroleum substitute set forth in Section 211.62. The relevant portion of the definition states:

> Petroleum substitute means * * * (b) as designated in orders issued by ERA following review of applications submitted under Subpart G of Part 205 of this chapter, (1) any other fuel derived from solid-waste materials; or (2) any other fuel in a liquid form which is derived from domestic biomass, coal or tar sands.

The program was designed to "provide appropriate incentives for new technology while ensuring that crude oil substitutes not needing entitlement benefits or not materially contributing to a reduction in imported oil do not participate in the program." [43 Fr 21429] Thus, the ERA has administered the program "in a way that will carry out the spirit of the regulation, which is to encourage the development and use of domestically derived petroleum substitutes that have the potential of reducing our dependence on imported oil." [43 FR 21429]

Applications for designation of a material as a petroleum substitute under section (b) of the definition of "petroleum substitute" are handled on a case-by-case basis pursuant to the *Guidelines for Evaluation of Applications for Designation as a Producer, Marketer or Consumer of Petroleum Substitutes in the Entitlements Program* (Guidelines, 44 FR 6895, February 5, 1979). [1]

ERA may designate the producer, marketer, or consumer of the petroleum substitute as the party to receive entitlement benefits. The producer will in many cases, although not in all cases, be the designated recipient.

III. Comments Received

On September 3, 1980, the ERA issued a notice listing sixty-three (63) firms, including Lindsay, which had filed applications for entitlement benefits for petroleum substitutes. See 45 FR 59613 (September 10, 1980). The notice invited written comments from interested persons. Comments were submitted by Atlantic Richfield Company (ARCO), Gulf Oil Corporation (Gulf), and the Standard Oil Company of Ohio (Sohio). These commenters raised general legal challenges to the DOE regulations permitting the issuance of entitlements for petroleum substitutes. These legal contentions were fully considered and rejected by the U.S. District Court in Atlantic Richfield Co. v. DOE, No. 80-1427 (E.D. Pa. November 6, 1980).

Comments specific to the use of olive pits were received from ARCO. ARCO opposes the approval of Lindsay's application on the grounds that the raw material for the alternative fuel is merely the waste product for Lindsay's principal business activity. ARCO objects further because Lindsay's use of

[1] At the time of the adoption of the Guidelines in February 1979, only liquid fuels were eligible for inclusion in the entitlements program on a case-by-case bais. In November 1979, section 211.67(a)(5) was amended to expand the scope of the case-by-case category to permit the issuance of entitlements to certain gaseous and solid fuels [44 FR 66183, November 19, 1979]. While the Guidelines have not been amended to reflect the eligibility of non-liquid fuels, the preamble to the November 1979 final rule that made such fuels eligible for inclusion in the entitlements program stated that the gaseous and solid petroleum substitutes, newly eligible for case-by-case consideration, would receive the same treatment as those liquid petroleum substitutes that already were eligible on a case-by-case basis for inclusion in the entitlements program. Accordingly, those criteria set forth in the Guidelines (e.g., whether substitution for petroleum will occur or whether the process in producing the petroleum substitute results in a net energy gain or higher-valued fuel) apply to the consideration of all case-by-case determinations of whether a material shall be designated as a petroleum substitute.

the petroleum substitute in lieu of more conventional fuel (natural gas) represents a cost savings which, in and of itself, provides a sufficient incentive for the applicant to use the petroleum substitute. Finally, ARCO assets that Lindsay is not a potential user of a refined petroleum product and, therefore, is not eligible for entitlements benefits.

An applicant does not become ineligible for entitlement benefits because its own solid waste materials for the production of a petroleum substitute. Further, an applicant is not required to show whether there is a net cost savings. Nor is a firm's need for entitlement benefits determinative. *See*, Chevron USA, Inc., *et al.*, 6 DOE ¶ 80,136 at p. 80,656 (August 7, 1980). ARCO's comment that the applicant is a user of natural gas and not a refined petroleum product is addressed in the body of this Decision and Order.

IV. Description of the Application

Lindsay filed its application with ERA on June 17, 1980. The Lindsay facility located in Lindsay, California, is a cooperative venture owned by 400 central California olive growers. The facility processes olives into pitted black ripe olives which are then canned. The pits produced as by-products of olive processing are burned to produce steam for warming olives and sterilizing the canned olives. The facility is powered otherwise by either electricity or natural gas. The pit burner consumes 30 tons of wet pits per day and is equipped with electric motors and a start-up burner fueled by natural gas.

V. Analysis

The material used by Lindsay as fuel and for which Lindsay seeks entitlement benefits is olive pits. It is ERA's determination that this material is, as represented by Lindsay, domestically found solid waste. As such, the material used by Lindsay for fuel purposes is included within the definitions of "petroleum substitute" in Section 211.62.

The olive pits used as fuel are a waste by-product of Lindsay's canning operation and require no processing to be used as fuel. Hence no higher valued fuel is required to produce the fuel and production of the fuel is a net gain of energy.

Paragraph 5(f) of the Guidelines provides that entitlement benefits will not be issued to a petroleum substitute prior to a showing by the applicant that the petroleum substitute will replace the use of crude oil or refined petroleum products. This criterion, which in effect limits eligibility to those fuels that are in competition with petroleum, was adopted as a means of insuring, to the extent administratively practicable, that entitlement benefits would be issued only to those firms that can demonstrate that their production, marketing or consumption of a petroleum substitute represents a means of lessening our national dependency on foreign oil.

Lindsay has failed to demonstrate how its use of olive pits constitutes a substitution of that material for a petroleum product as contemplated by the petroleum substitute entitlements provisions and Guidelines. Lindsay indicates in its application that its consumption of olive pits reduces its requirement for natural gas.[2] Accordingly, Lindsay's application does not demonstrate that olive pits used as fuel by that firm substitute for the use of crude oil or refined petroleum products within the meaning of paragraph 5(f) of the Guidelines.

In summary, Lindsay's application indicates that:

(a) Lindsay uses domestically found solid waste materials as a source of fuel;

(b) Lindsay's operations result in a net energy gain;

(c) Lindsay's operations do not utilize significant volumes of a higher-valued fuel; and

(d) Lindsay has failed to demonstrate that the burning of olive pits results in the substitution of a petroleum substitute for crude oil or a petroleum product.

VI. Order

In consideration of the foregoing, the ERA hereby denies the application of Lindsay Olive Growers, for designation as a producer of petroleum substitutes under 10 CFR 211.67 (a)(5). In accordance with the provisions of 10 CFR Part 205, any aggrieved party may file an appeal from this Decision and Order with the Office of Hearings and Appeals of the Department of Energy. The provisions of 10 CFR Part 205, Subpart H, set forth procedures and criteria which govern the filing and determination of any such appeal.

This decision is based upon the presumed validity of statements, allegations, and documentary material submitted by the applicant. It may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

[2] Lindsay's application does indicate that at times, when natural gas was unavailable, it has "used Diesel fuel for a few weeks." However, since Lindsay has provided no information concerning the volumes or manner in which it has used diesel fuel in the past, such usage has not been considered in reviewing Lindsay's application.

Issued in Washington, D.C. on June 19, 1981.

F. Scott Bush,

Acting Director Office of Program Operations Economic Regulatory Administration.

[FR Doc. 81-19187 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. G-7007-003, et al.]

Cities Service Company, et al.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

June 24, 1981.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 2, 1981, 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). 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
G-7007-003, D, Apr. 17, 1981	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Cities Service Gas Company, Hickok, Kansas	(1)	
CI80-458-001, June 18, 1981	Aminoil USA Inc., 2800 North Loop West, Houston, Texas 77018.	Tennessee Gas Pipeline Company, South Timbalier block 36 Field, Block 31, Offshore, Louisiana.	(2)	15.025

¹ Producer abandonment Application Involving the Release of Limited Volumes of Gas From Contractual Dedication to be Used As an Alternative Fuel to Oil.
² On February 11, 1981, Aminoil and Tennessee executed an amendment to the July 1980 base contract to provide that the point of delivery be changed to be South Timbalier Area Block 35 "D" platform.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 8119218 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-84-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 24, 1981.

JD NO	JA DKT	API NO	C	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-MCKELVY OPERATING CORP				RECEIVED: 05/29/81 JA: KS					
8133396	K-79-1978	1505500000		108-SA		F M GREATHOUSE #1	HUGOTON	15.0	NORTHERN NATURAL
8133397	K-79-1977	1505500000		108-SA		FOSTER #1	HUGOTON	10.0	NORTHERN NATURAL
-R J PATRICK OPERATING CO				RECEIVED: 05/26/81 JA: KS					
8133394	K81-0046	1503320369		103		RALPH BAKER NO 1-SWOPE		91.3	
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-MICHIGAN OIL COMPANY				RECEIVED: 05/21/81 JA: MI					
8133431		2106500000		102-4		VFW NATIONAL HOME ET AL #2-18	ONONDAGA 18	0.0	CONSUMERS POWER C
-TENNECO OIL COMPANY				RECEIVED: 05/28/81 JA: MI					
8133395		2110132160		102-4		VAGI ET AL #3-8A	MAPLE GROVE 17A-23N-14W	132.0	CONSUMERS POWER C
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-PARAGON RESOURCES INC				RECEIVED: 05/22/81 JA: NY					
8133445	435	3101311305		108		UNIT NO 286 - ANTHONY STREUBEL	LAKESHORE	7.8	NATIONAL FUEL GAS
8133447	436	3101311635		108		UNIT NO 287 - BETTY KING	LAKESHORE	4.1	NATIONAL FUEL GAS
8133448	437	3101311636		108		UNIT NO 288 - CARL BERGER	LAKESHORE	1.6	NATIONAL FUEL GAS
8133449	438	3101311697		108		UNIT NO 289 - CLARENCE ERICKSON	LAKESHORE	2.6	NATIONAL FUEL GAS
8133450	439	3101311658		108		UNIT NO 290 - ROBERT RAYNOR	LAKESHORE	3.6	NATIONAL FUEL GAS
8133451	440	3101311637		108		UNIT NO 291 - ROBERT RAYNOR	LAKESHORE	8.5	NATIONAL FUEL GAS
8133432	441	3101311648		108		UNIT NO 292 - EMERSON AMES	LAKESHORE	11.4	NATIONAL FUEL GAS
8133433	442	3101311638		108		UNIT NO 293 - CARL BERGER	LAKESHORE	4.7	NATIONAL FUEL GAS
8133434	444	3101311650		108		UNIT NO 295 - EMERSON AMES	LAKESHORE	6.0	NATIONAL FUEL GAS
8133452	445	3101311671		108		UNIT NO 296 - JAMES ONOFRIO	LAKESHORE	5.7	NATIONAL FUEL GAS
8133438	424	3101311585		108		UNIT NO 309 - CLARENCE BARBER	LAKESHORE	6.8	NATIONAL FUEL GAS
8133436	418	3101311598		108		UNIT NO 345 - LYLE NYHART	LAKESHORE	5.5	NATIONAL FUEL GAS
8133435	420	3101311499		108		UNIT NO 347 - EDWARD CRAWFORD	LAKESHORE	8.5	NATIONAL FUEL GAS
8133437	422	3101311504		108		UNIT NO 350 - BURTON AUSTIN	LAKESHORE	5.4	NATIONAL FUEL GAS
8133439	427	3101311595		108		UNIT NO 357 - WARREN SMITH	LAKESHORE	4.9	NATIONAL FUEL GAS
8133440	428	3101311616		108		UNIT NO 358 - KENNETH TARBOX	LAKESHORE	2.9	NATIONAL FUEL GAS
8133441	430	3101311617		108		UNIT NO 360 - WARREN SMITH	LAKESHORE	6.1	NATIONAL FUEL GAS
8133442	431	3101311644		108		UNIT NO 361 - PAUL JACOBS	LAKESHORE	10.2	NATIONAL FUEL GAS
8133443	432	3101311702		108		UNIT NO 363 - FREDERICK WOOD	LAKESHORE	4.5	NATIONAL FUEL GAS
8133444		3101311795		108		UNIT NO 366 - HOBART WEISE	LAKESHORE	17.0	NATIONAL FUEL GAS
8133446	152	3101310972		108		UNIT NO 519 - ALFRED CARDOT	LAKESHORE	5.4	NATIONAL FUEL GAS
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED: 05/21/81 JA: OK					

JD NO	JA DKT	API NO	C	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133353	08869	3503920336		103		FRED BAILEY UNIT #1	WEATHERFORD	800.0	
8133288	08822	3503920343		103		TRUMAN UNIT NO 1	S E THOMAS	825.0	WESTERN FARMERS E
8133330	01183	3505920112		108		WILLARD UNIT #1	MOCANE-LAVERNE	5.0	MICHIGAN WISCONSI
-AMOCO PRODUCTION CO				RECEIVED: 05/26/81 JA: OK					
8133400	08838	3504321040		103		SCHOMP UNIT NO 1 (MORROW)	PUTNAM	50.0	MOBIL OIL CORP
8133399	08839	3504321040	-	103		SCHOMP UNIT NO 1 (RED FORK)	PUTNAM	50.0	MOBIL OIL CORP
-ANADARKO PRODUCTION COMPANY				RECEIVED: 05/21/81 JA: OK					
8133338	07160	3501321306		103		METCALF A NO 1	HOOKER N E	840.0	PANHANDLE EASTERN
-ANDOVER OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133291	08821	3501721665		102-2		MILLER #30-4		185.0	DELHI GAS PIPELIN
8133291	08821	3501721665		103		MILLER #30-4		185.0	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED: 05/21/81 JA: OK					
8133339	8085	3504320811		103		VANCERWORK #3	PUTNAM	36.5	MICHIGAN WISCONSI
-ARCO OIL AND GAS COMPANY				RECEIVED: 05/26/81 JA: OK					
8133426	09091	3504722276		102-4		KRAMER NO 1	SOUTH DOUGLAS	73.0	ARCO
-ARKLA EXPLORATION COMPANY				RECEIVED: 05/21/81 JA: OK					
8133332	08990	3500920308		102-2		STREET #1-36	NORTH CARTER	70.0	ARKANSAS LOUISIAN
-B J BROWN				RECEIVED: 05/21/81 JA: OK					
8133318	08516	3509100000		108		PATTON #2	COALTON	18.0	PHILLIPS PETROLEU
8133317	08515	3509100000		108		PATTON #3	COALTON	18.0	PHILLIPS PETROLEU
8133316	08514	3509100000		108		PATTON #4	COALTON	18.0	PHILLIPS PETROLEU
8133301	08513	3509100000		108		PATTON #5	COALTON	18.0	PHILLIPS PETROLEU
-B R POLK INC				RECEIVED: 05/21/81 JA: OK					
8133278	8783	3508321434		103		BETTY MAE #1	S LUCIEN	50.0	EASON OIL CO
8133369	8784	3508321568		103		JEWEL SIMPSON #1	N E LOVELL	50.0	EASON OIL CO
8133387	08893	3508321435		103		ROXANA SCHAEFER #1	S MARSHALL	50.0	EASON OIL CO
-BEARD OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133314	08468	3511921202		103		BENTLEY #3	SOUTH EAST PARADISE	40.0	CITIES SERVICE GA
-BEREN CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133265	08796	3515121011		102-4		CRAWFORD #1-15	NORTHEAST WAYNOKA	103.0	PANHANDLE EASTERN
8133260	8786	3513921249		102-4		DUNBAR #1-20	NORTH TEXOMA	234.0	PHILLIPS PETROLEU
8133320	08776	3515121026		102-4		NIEMAN #1	NORTHEAST WAYNOKA	9.4	PANHANDLE EASTERN
8133259	08777	3500721798		102-4		NOLDER #1-19	EAST BOYD	228.0	KANSAS NEBRASKA N
-BERRY PETROLEUM CORP				RECEIVED: 05/21/81 JA: OK					
8133335	08587	3507322579		103		MCALLISTER #35-1	SOONER TREND	150.0	PHILLIPS PETROLEU
-BOBBY ROWE OIL PROPERTIES				RECEIVED: 05/21/81 JA: OK					
8133281	08601	3511100000		108		JENKINS #1	BEGGS DIST	30.0	PHILLIPS PETROLEU
8133302	08602	3511100000		108		JENKINS #2	BEGGS DIST	29.0	PHILLIPS PETROLEU
8133337	08603	3511100000		108		JENKINS #3	BEGGS DIST	30.0	PHILLIPS PETROLEU
8133357	08606	3511100000		108		ZELLE #1	HAMILTON SWITCH	27.0	PHILLIPS PETROLEU
8133358	08607	3511100000		108		ZELLE #3	HAMILTON SWITCH	14.0	PHILLIPS PETROLEU
8133359	08608	3511100000		108		ZELLE #4	HAMILTON SWITCH	14.0	PHILLIPS PETROLEU
8133255	08609	3511100000		108		ZELLE #5	HAMILTON SWITCH	14.0	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED: 05/21/81 JA: OK					
8133323	08891	3507322670		103		LAURA #1-22		105.0	CONOCO INC
8133336	08586	3507322671		103		SHORT #1-23	SOONER TREND	0.0	CONOCO INC
-CANEY VALLEY OIL & GAS CO				RECEIVED: 05/21/81 JA: OK					
8133280	08940	3514721170		102-2		ATOR #9		18.0	DIAMOND-S GAS SYS
8133272	08931	3514721327		102-2		GORDON #15		18.0	DIAMOND-S GAS SYS
8133378	08932	3514721421		102-2		GORDON #17		18.0	DIAMOND-S GAS SYS
8133277	08938	3514721172		102-2		HAWES #8		18.0	DIAMOND-S GAS SYS
8133375	08939	3514721264		102-2		MCMILLIAN #10		18.0	DIAMOND-S GAS SYS
8133376	08935	3514721265		102-2		MCMILLIAN #13		18.0	DIAMOND-S GAS SYS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
8133380	8933	3514721420		102-2		MCMILLIAN #16		18.0	DIAMOND-S GAS SYS
8133377	08934	3514720988		102-2		SMITH #2		18.0	DIAMOND S GAS SYS
8133379	08936	3514720987		102-2		SMITH #3		18.0	DIAMOND-S GAS SYS
8133276	08937	3514721171		102-2		THOMPSON #7		18.0	DIAMOND-S GAS SYS
-CAYMAN EXPLORATION CORP				RECEIVED: 05/21/81 JA: OK					
8133370	08769	3504722180		103		ARMSTRONG #1	SOONER TREND	18.3	PANHANDLE EASTERN
8133319	08768	3507322458		103		GUNSAULLUS #1	SOONER TREND	18.3	CITIES SERVICE GA
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 05/26/81 JA: OK					
8133429	09012	3507322549		103		CLARENCE MOERY NO 2	SOONER TREND	160.0	PHILLIPS PETROLEU
8133409	8790	3509321878		103		SMITH-DENNING NO 2	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
8133425	9011	3509321654		103		T D GOODWIN #2	EAST CHANEY DELL	0.0	CITIES SERVICE GA
-CHASE EXPLORATION CORP				RECEIVED: 05/21/81 JA: OK					
8133300	7917	3507121665		103		TATE #2-6		3.5	CITIES SERVICE GA
-CIMARRON PETROLEUM CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133346	08870	3508321306		103		CPC #139 WELCH		273.8	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED: 05/26/81 JA: OK					
8133401	08977	3507322609		103		KIRSCH 12-1	SOONER TREND	65.7	CITIES SERVICE GA
8133406	08978	3504722172		103		ROY 1-1	SOONER TREND	273.8	CHAMPLIN PETROLEU
8133402	08976	3507322557		103		UNDERWOOD 2-1	SOONER TREND	55.0	CITIES SERVICE GA
-CLEMENTS ENERGY INC				RECEIVED: 05/21/81 JA: OK					
8133362	08770	3504921064		103		SIMMONS NO 9-1		36.5	AMINOIL USA INC
-DAVIS OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133296	07067	3501721523		103		AIRPORT TRUST #5	NORTH FORK	400.0	PHILLIPS PETROLEU
8133269	03924	3503920234		103		BOYD MILLER NO 3	SOUTH THOMAS	400.0	ONG WESTERN INC
8133270	03922	3501721135		103		HOUGH NO 1		153.0	PHILLIPS PETROLEU
8133381	04011	3501120878		103		SHERMAN NO 1	ELM GROVE	260.0	OKLAHOMA NATURAL
8133295	03928	3503920213		103		STEARNS NO 2	SOUTH THOMAS	700.0	TRANSOK PIPELINE
8133382	03956	3503920247		103		STEARNS NO 3	SOUTH THOMAS	700.0	TRANSOK PIPELINE
-DEMINEX US OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133289	08808	3504932464		103		L W WILLIAMS NO 1	S W PAOLI B	182.5	WARREN PETROLEUM
-DOUBLE DIAMOND INC				RECEIVED: 05/26/81 JA: OK					
8133408	08805	3507322726		103		GEIS #1	LOYAL	10.0	CITIES SERVICE CO
-DYCO PETROLEUM CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133331	11792	3512920512		107-DP		WRIGHT #1-20	REYDON NW	250.0	
-EL DORADO DRILLING INC				RECEIVED: 05/21/81 JA: OK					
8133360	8781	3507121209		103		ROLLY #1	WILDCAT	12.3	SUN GAS CO
8133361	8779	3507121424		103		ROLLY #2	WILDCAT	22.1	SUN GAS CO
8133363	8778	3507120423		103		ROLLY #3	WILDCAT	22.1	SUN GAS CO
-FOLLETT OPERATING CO				RECEIVED: 05/21/81 JA: OK					
8133299	08858	3500721788		103		GRAVES #1		270.0	PANHANDLE EASTERN
8133347	08860	3500721820		103		LEACH #1	MOCANE - LAVERNE	270.0	PANHANDLE EASTERN
-FUNK EXPLORATION INC				RECEIVED: 05/21/81 JA: OK					
8133349	07833	3507322583		103		SIMMONS #1	WEST EDMOND	0.0	CONOCO INC
8133350	07834	3507322537		103		WITTROCK #1	WEST EDMOND	0.0	CONOCO INC
-GEMINI OIL CO				RECEIVED: 05/21/81 JA: OK					
8133367	08765	3504721863		103		COLLIER #1	SOUTH GARBER	0.0	GRACE PETROLEUM
8133366	08764	3504721883		103		COLLIER #2	SOUTH GARBER	0.0	GRACE PET
8133365	08762	3504721853		103		HALL #1	SOUTH GARBER	0.0	GRACE PETROLEUM
8133364	08763	3504721884		103		HALL #2	SOUTH GARBER	0.0	GRACE PETROLEUM
-GULFSTREAM PETROLEUM CORP				RECEIVED: 05/21/81 JA: OK					
8133334	08981	3509321859		103		HALL WELL NO 1-29	SOUTH MENO	0.0	PIONEER GAS PRODU
8133333	08982	3509321876		103		KENNEDY WELL NO 1-16	EAST RUSK	0.0	OKLAHOMA NATURAL
8133305	08979	3509321926		103		OTT WELL NO 1-25	WEST AMES	0.0	OKLAHOMA NATURAL

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133315	08980	3509321811		103		SCHWIND WELL NO 1-12	SOUTH RINGWOOD	0.0	OKLAHOMA NATURAL
-HALLIBURTON OIL PRODUCING COMPANY				RECEIVED: 05/21/81 JA: OK					
8133293	08872	3507322658		103		POLLARD B #1	WEST LOVELL	5.0	EASON OIL CO
-HAMILTON BROTHERS OIL CO				RECEIVED: 05/26/81 JA: OK					
8133424	09049	3512120705		102-4		THORNTON RAILEY NO 1-20 (ATOKA)	WILDCAT	480.0	ARKANSAS LOUISIAN
8133419	09050	3512120705		102-3		THORNTON RAILEY NO 1-20 (WAPANUCKA)	WILDCAT	216.0	ARKANSAS LOUISIAN
-HARPER OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133389	08915	3508321473		103		EMMERICH #1	SOONER TREND	36.0	EASON OIL CO
8133344	6496	3500900070		108		PENNINGTON #1	SOUTH ERICK	10.0	EL PASO NATURAL G
-HELMERICH & PAYNE INC				RECEIVED: 05/21/81 JA: OK					
8133345	11764	3514920082		107-DP		FLAMING NO 1-20		2920.0	MICHIGAN WISCONSI
-HOLDEN ENERGY CORP				RECEIVED: 05/21/81 JA: OK					
8133385	08758	3501900000		102-4		REED 1-1	SOUTH HEALDTON	88.0	AMINOIL USA INC
8133386	08760	3501900000		102-4		REED 2-1	JOINER CITY	37.0	AMINOIL USA INC
8133383	08756	3501921941		102-4		REED 34-1	JOINER CITY	250.0	AMINOIL USA INC
8133384	08757	3501900000		102-4		REED 35-1	JOINER CITY	13.9	AMINOIL USA INC
8133279	08759	3501900000		102-4		ROCKLAND 18-1	S E JOINER CITY	78.0	AMINOIL USA INC
-J W ALBRITTON				RECEIVED: 05/21/81 JA: OK					
8133306	08903	3512321038		108		MCANALLY #6	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
-J W ALBRITTON				RECEIVED: 05/26/81 JA: OK					
8133414	08906	3512300000		108		AMY DYER #4	NORTH OF ADA	2.2	ARKANSAS LOUISIAN
8133405	08908	3512320868		10R		DYER #1-A	NORTH OF ADA	2.2	ARKANSAS LOUISIAN
8133415	08907	3512320889		108		DYER #2-A	NORTH OF ADA	2.2	ARKANSAS LOUISIAN
8133413	08905	3512320944		108		DYER #3-A	NORTH OF ADA	2.2	ARKANSAS LOUISIAN
8133404	08910	3512321058		108		DYER #4-A	NORTH OF ADA	2.9	ARKANSAS LOUISIAN
8133403	08911	3512300000		108		LOWE #4 NOW BUSBY #4	NORTH OF ADA	1.7	ARKANSAS LOUISIAN
8133428	08900	3512300000		108		MCANALLY #1	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
8133422	08898	3512320728		108		MCANALLY #2	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
8133421	08899	3512320986		108		MCANALLY #3	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
8133416	08896	3512320995		108		MCANALLY #4	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
8133427	08897	3512321028		108		MCANALLY #5	NORTH OF ADA	1.2	ARKANSAS LOUISIAN
8133411	08904	3512300000		108		MOUNT #1	NORTH OF ADA	4.2	ARKANSAS LOUISIAN
8133412	08902	3512300000		108		MOUNT #1-A	NORTH OF ADA	4.2	ARKANSAS LOUISIAN
8133410	08901	3512300000		108		SKIRVIN #1	NORTH OF ADA	1.9	ARKANSAS LOUISIAN
-JIMMY GRAY INC 79-1 PROGRAM				RECEIVED: 05/21/81 JA: OK					
8133304	09056	3504921465		103		JUDY NO 1	FLORENCE CHAPEL SOUTHWES	0.0	WARREN PETROLEUM
-JOHN A TAYLOR				RECEIVED: 05/21/81 JA: OK					
8133322	05234	3508720287		102-4		HARMON 1-14	NORTH DIBBLE	183.0	SUN GAS CO
-JONES & PELLOW OIL CO				RECEIVED: 05/21/81 JA: OK					
8133292	08855	3501922026		103		HUNSUCKER 11-2	TATUM	90.0	MOBIL OIL CORP
-KENT PHILLIPS EXPLORATION LTD				RECEIVED: 05/21/81 JA: OK					
8133325	08859	3501721707		103		BLEVINS #1-33		500.0	CONOCO INC
8133343	07197	3501721450		102-4		CHEEK #1-35	RICHLAND	0.0	CONOCO INC
-KERR-MCGEE CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133352	08871	3512120733		103		ROBERTS NO 2	RUSSELLVILLE	0.0	SOUTHEAST TRANSMI
-KETAL OIL PRODUCING CO				RECEIVED: 05/21/81 JA: OK					
8133307	08576	3504722103		103		MARION NO 1	SOUTH GARBER	183.0	
-L & N EXPLORATION INC				RECEIVED: 05/21/81 JA: OK					
8133275	08927	3508321395		103		FAGAN #2-19	NW RUSSELLVILLE	15.0	EASON OIL CO
8133274	08928	3508321347		103		NOBEE #1-34	EAST PLEASANT VALLEY	73.0	EASON OIL CO
-LADD PETROLEUM CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133391	8862	3505120973		102-4		BILLY EISENHOUR NO 1	MINCO WEST	547.5	
8133356	8866	3505120844		102-4		GOOD NO 1	AMBER	127.0	

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133285	08804	3505120972		103		HUSTED NO 1	MINCO WEST	479.0	
8133393	8864	3505120972		102-4		HUSTED NO 1	MINCO WEST	479.0	SOUTHERN NATURAL
8133267	08803	3509321891		103		JESTER NO 2	RINGWOOD	9.5	OKLAHOMA NATURAL
8133355	8863	3505120974		102-4		SPROWLS NO 1	MINCO WEST	1231.8	SOUTHERN NATURAL
8133268	8865	3504721363		103		WEINKAUF NO 2	ELK HORN	191.6	AMINOIL USA INC
-LINCOLN ROCK CORP				RECEIVED: 05/26/81 JA: OK					
8133420	06903	3508500000	D	103		28B #1	NORTHEAST MARIETTA	5.0	CIMARRON TRANSMIS
-LUBELL OIL CO				RECEIVED: 05/21/81 JA: OK					
8133264	08807	3506321230		103		LUBELL NO 2-21 MANUAL	GILCREASE	140.0	PUBLIC SERVICE CO
-MARATHON OIL COMPANY				RECEIVED: 05/26/81 JA: OK					
8133423	09026	3503920303		102-2		ARNEY STATE WELL NO 1	WILDCAT	91.0	
-PETRO-LEWIS CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133263	08929	3505121015		103		FRITT #4	WEST MARLOW	350.0	ARKANSAS LOUISIAN
-PETROMARK EXPLORATION INC				RECEIVED: 05/21/81 JA: OK					
8133371	8792	3507322570		103		PECK #28-1	SOONER TREND	100.0	CITIES SERVICE GA
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 05/21/81 JA: OK					
8133321	08321	3513900000		108-ER		BISKRA NO 1	GUYMON HUGOTON	4.8	PANHANDLE EASTERN
8133308	08530	3513900000		108		COVER #1	GUYMON HUGOTON	21.0	PANHANDLE EASTERN
8133329	07200	3500700000		108		YORK # 1	CAMRICK	20.0	NATURAL GAS PIPEL
-PIONEER PRODUCTION CORPORATION				RECEIVED: 05/21/81 JA: OK					
8133368	08736	3515121075		102-2		VINSON - PETTIT #1-26	WILDCAT	185.0	PANHANDLE EASTERN
-POLARIS ENERGY CORP				RECEIVED: 05/21/81 JA: OK					
8133273	08930	3511122539		103		HUCKABEE #1-A	BALD HILL	136.1	PHILLIPS PETROLEU
-PORTS OF CALL OIL CO				RECEIVED: 05/26/81 JA: OK					
8133417	08837	3501721713		103		MESA NO 19-1	YUKON	91.0	PHILLIPS PETROLEU
-RAINS & WILLIAMSON OIL CO INC				RECEIVED: 05/21/81 JA: OK					
8133388	08895	3505320614		103		HORNING #1	CHEROKITA	182.0	SUN GAS CO
-RATLIFF EXPLORATION CO				RECEIVED: 05/21/81 JA: OK					
8133372	08715	3508321336		103		MUSIL #1	S E MARSHALL	0.0	EASON OIL CO
-RED EAGLE OIL CO				RECEIVED: 05/21/81 JA: OK					
8133313	08450	3509321879		103		DUERKSEN NO 1	NW FAIRVIEW	100.0	PANHANDLE EASTERN
-RICKS EXPLORATION CO				RECEIVED: 05/21/81 JA: OK					
8133282	08568	3515121065		103		FARRIS 11A	N OAKDALE	240.0	PANHANDLE EASTERN
-ROBERT P LAMMERTS				RECEIVED: 05/21/81 JA: OK					
8133374	6900	3505920885		103		HAYES 22-2	N BOILING SPRINGS	0.0	DELHI GAS PIPELIN
-SEARCH DRILLING CO				RECEIVED: 05/21/81 JA: OK					
8133290	08834	3500721893		103		FLOCK #1-20	LOGAN	251.0	PHILLIPS PETROLEU
8133294	08832	3500721892		103		WHISENANT #1-22		164.0	KANSAS NEBRASKA N
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED: 05/21/81 JA: OK					
8133266	08843	3510320823		103		BELVA #1	POLO	0.0	ARCO OIL & GAS CO
8133298	08844	3510321120		103		BELVA #2	POLO	0.0	ARCO OIL GAS CO
8133262	08841	3510321004		103		MERRILL #2	POLO	0.0	ARCO OIL & GAS CO
-STEVE JERNIGAN INC				RECEIVED: 05/21/81 JA: OK					
8133303	08474	3504520867		102-2		JAMES #1	W GOODWIN	0.0	
8133258	08470	3504520856		102-2		KELLN #1	W GOODWIN	0.0	
8133283	08471	3504520857		102-2		NIGHTINGALE #1	W GOODWIN	0.0	
-SWAN PETROLEUM CORP				RECEIVED: 05/21/81 JA: OK					
8133354	8787	3504520801		103		REININGER #1	SE FARGO	0.0	NORTHERN NATURAL
8133284	8788	3504520818		103		SCHNEIDER #1	SE FARGO	0.0	NORTHERN NATURAL
-TEMPLEX INC				RECEIVED: 05/21/81 JA: OK					
8133373	8580	3510720802		103		LUCINDA WEST NO 1	S W PHAROAH LAKE	73.0	PHILLIPS PET CO
-TENNECO OIL COMPANY				RECEIVED: 05/21/81 JA: OK					
8133326	08878	3504321046		102-4		FRANS 1-9	NOBSCOT NW	666.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME
8133351	07488	3513700000		108		J C GRAHAM #3
-THE GHK COMPANY				RECEIVED: 05/21/81 JA: OK		
8133297	08916	3503920364		102-2		#1-21 PECK
-TOWER OIL AND GAS COMPANY INC				RECEIVED: 05/21/81 JA: OK		
8133257	08415	3504722300		103		SEMRAD #1
-TOWNER PETROLEUM CO				RECEIVED: 05/21/81 JA: OK		
8133324	08913	3507920376		103		ROY REED #29-1
-UNION OIL COMPANY OF CALIF				RECEIVED: 05/21/81 JA: OK		
8133271	11617	3500920331		107-DP		ALVIN REAM #1-22
-UNION TEXAS PETROLEUM				RECEIVED: 05/26/81 JA: OK		
8133398	09021	3500920322		102-4		KENNEMER NO 1-6
-UNIT DRILLING & EXPLORATION CO				RECEIVED: 05/21/81 JA: OK		
8133287	08823	3505120883		103		CLAIBORNE NO 1
-VULCAN ENERGY CORP				RECEIVED: 05/21/81 JA: OK		
8133392	08774	3507322509		103		VOGT #1
-WALKER & WITHROW INC				RECEIVED: 05/21/81 JA: OK		
8133286	08825	3501721626		103		CARY #23-1
-WENEXCO INC				RECEIVED: 05/26/81 JA: OK		
8133430	09111	3504920950		102-4		BLEVINS #1-7
-WESSELY ENERGY CORPORATION				RECEIVED: 05/26/81 JA: OK		
8133407	07773	3504921351		102-4		MANTOOTH NO 2 049-62515
-WESTERN OIL RESOURCES LTD				RECEIVED: 05/21/81 JA: OK		
8133309	07985	3511720645		103		JOHNSON #2
8133341	07976	3511720648		103		JOHNSON #3
8133340	07977	3511720695		103		JOHNSON #4
8133312	07979	3511720721		103		JOHNSON #6
8133328	07980	3511720733		103		JOHNSON #7
8133256	07990	3511720732		103		JOHNSON GB-2
8133261	07989	3511720631		103		JOHNSON GBL
8133311	07981	3511720626		103		LITTLE 0-1
8133310	07983	3511720628		103		MOORE C-1
8133348	07986	3511720734		103		MOORE GT-4
8133327	07984	3511720613		103		MOORE GTB
8133342	07974	3511720686		103		SCHOOL LAND #1
-WISHBONE OIL & GAS				RECEIVED: 05/21/81 JA: OK		
8133390	08924	3504900000		103		GRANT #3
-WOODS PETROLEUM CORPORATION				RECEIVED: 05/26/81 JA: OK		
8133418	09060	3501520938		102-3		THIESSEN #32-1

FIELD NAME	PROD	PURCHASER
SHO-VEL-TUM	9.4	AMINOIL USA INC
EAST CARPENTER	630.0	
SOONER TREND	73.0	PANHANDLE EASTERN
WILDCAT	270.0	ARKANSAS LOUISIAN
S W SWEETWATER	150.0	
CARTER AREA SECTION 6 T8	548.0	
CHICKASHA SE	135.0	ARKANSAS LOUISIAN
SOONER TREND	100.0	PHILLIPS PET CO
YUKON	133.0	CONOCO INC
WILDCAT	250.0	WELLHEAD ENTERPRI
GOLDEN TREND	38.0	CITIES SERVICE GA
HALLETT SECTION 12-20N-7	19.2	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	29.7	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	14.4	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	93.1	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	136.4	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	100.8	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	25.2	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	7.4	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	11.6	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	24.1	MID-AMERICA GAS L
HALLETT SECTION 12-20N-7	11.8	MID-AMERICA GAS L
HALLETT SECTION 13-20N-7	4.0	MID-AMERICA GAS L
WILD HORSE	91.3	AMINOIL USA INC
MOUND VALLEY	1497.0	ARKANSAS LOUISIAN

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 15, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OSC lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–19219 Filed 6–29–81; 8:45 am]
BILLING CODE 6450–85–M

Determinations by Jursidictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 24, 1981.

JD NO	JA DKT	API NO	D	SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
-B G DENTON				RECEIVED: 05/28/81 JA: LA				
8133681	80-4301	1702120400		102-4	OLINKRAFT NO 2 156825	SARDIS CHURCH	125.0	UNITED GAS PIPELI
-D B MCCLINTON				RECEIVED: 05/28/81 JA: LA				
8133676	80-4288	1700120899		102-4	A LEONARDS HEIRS B-7 168345	SOUTH BAYOU MALLET	365.0	TEXAS GAS TRANSMI
-DAMSON OIL CORPORATION				RECEIVED: 05/28/81 JA: LA				
8133675	80-4270	1701920892		102-4	FARMERS LAND & CANAL CO INC	SOUTH MANCHESTER	0.0	LOUISIANA INTRAST
8133674	80-4269	1701900080		102-4	FARMERS LAND & CANAL CO INC	SOUTH MANCHESTER	0.0	LOUISIANA INTRAST
-EDWIN L & BERRY R COX				RECEIVED: 05/28/81 JA: LA				
8133680	80-4290	1701920899		102-4	CLARA BARBE NO 1	GILLIS ENGLISH BAYOU FIE	181.0	CONOCO INC
8133679	80-4293	1701920950		102-4	CLARA BARBE NO 2	GILLIS ENGLISH BAYOU	781.0	CONOCO INC
-EXCHANGE OIL & GAS CORPORATION				RECEIVED: 05/28/81 JA: LA				
8133678	80-4292	1709920710		102-4	WILLIAMS INC NO 1	MYSTIC BAYOU	365.0	MONTEREY PIPE LIN
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED: 05/28/81 JA: LA				
8133672	80-3558	1702321452		102-4	CAMERON PARISH SCHOOL BOARD NO 25	JOHNSON BAYOU	720.0	TRANSCONTINENTAL
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 05/28/81 JA: LA				
8133682	81-207	1702321365		102-4	S L 7555 #2 (ST)	NORTH SABINE LAKE	50.0	TRANSCONTINENTAL
-PENNZOIL PRODUCING COMPANY				RECEIVED: 05/28/81 JA: LA				
8133673	80-4024	1710922266		102-4	CONTINENTAL LAND & FUR D NO 2	KENT BAYOU	100.0	
-SOUTH LOUISIANA PRODUCTION CO INC				RECEIVED: 05/28/81 JA: LA				
8133677	80-4291	1771120239		102-4	STATE LEASE 7758 WELL NO 1	SHIP SHOAL BLOCK 67	730.0	
-WOODS & DEAS				RECEIVED: 05/28/81 JA: LA				
8133687	81-514	1711122307		102-4	ADKINS #1 166467	CORNEY BAYOU	100.0	MISS RIVER TRANSM
8133685	81-512	1711122501		102-4	COLLET #1 #169045	CORNEY BAYOU	75.0	MISSISSIPPI RIVER
8133684	81-511	1711122489		102-4	ELLIOTT #2 #168916	CORNEY BAYOU	75.0	MISSISSIPPI RIVER
8133686	81-513	1711122696		102-4	ELLIOTT NO 3 #170360	CORNEY BAYOU	73.0	MISSISSIPPI RIVER
8133683	81-510	1711122555		102-4	LEE ESTATE #1	CORNEY BAYOU	75.0	MISSISSIPPI RIVER
8133689	81-550	1711122802		102-4	RABUN ESTATE #1	CORNEY BAYOU	73.0	MISSISSIPPI RIVER
8133688	81-515	1711122132		102-4	T W ELLIOTT #1 166467	CORNEY BAYOU	146.0	MISS RIVER TRANSM
WEST VIRGINIA DEPARTMENT OF MINES								
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED: 05/26/81 JA: WV				
8133477		4709701793		108	A - 724	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS
8133548		4704102936		103	A-805	HACKERS CREEK DISTRICT	0.0	EQUITABLE GAS CO
8133511		4708504854		103	A-866	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8133549		4704102911		103	A-891	HACKERS CREEK DISTRICT	0.0	CONSOLIDATED GAS
8133502		4709702106		103	A-894	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8133494		4708300350		103	A-904	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
-ALLSTATE ENERGY CORP				RECEIVED: 05/26/81 JA: WV				
8133528		4708502047		108	SMITH #1	TROY SMITH	14.6	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED: 05/26/81 JA: WV				

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133571		4708100454			103	EAGLE LAND CO #3-079591	PAINT CREEK	36.0	COLUMBIA GAS TRAN
8133600		4701900426			103	IMPERIAL COLLIERY #1-086391	GAULEY MOUNTAIN	110.0	
8133601		4701900427			103	IMPERIAL COLLIERY #2-086401	GAULEY MOUNTAIN	43.0	
8133579		4700500000			103	SOUTHERN LAND CO #5 - 080071	LOGAN - WYOMING	27.0	
-BEREA OIL AND GAS CORPORATION		RECEIVED: 05/26/81 JA: WV							
8133560		4710700000			103	C HOWARD #3	UNION	17.0	
8133561		4710721029			103	CARL S HOWARD #2	UNION	17.0	
8133563		4710720929			103	CLAUDE MCCALE #1	UNION	17.0	
8133562		4710720981			103	WILKINSON-BLANKENSHIP #1	UNION	17.0	
-BRAXTON OIL AND GAS CORP		RECEIVED: 05/26/81 JA: WV							
8133484		4704102932			103	NO 1 HULL	WALKERSVILLE	5.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP		RECEIVED: 05/26/81 JA: WV							
8133565		4708100485			103	BEAVER COAL CO A-26	TOWN	25.0	COLUMBIA GAS TRAN
8133567		4708100507			103	BEAVER COAL CO A-41	TOWN	25.0	COLUMBIA GAS TRAN
8133566		4708100504			103	BEAVER COAL CO A-45	SLAB FORK	25.0	COLUMBIA GAS TRAN
8133569		4708100525			103	BEAVER COAL CO A-52	TOWN	30.0	COLUMBIA GAS TRAN
8133568		4708100520			103	BEAVER COAL CO A-53	TOWN	30.0	COLUMBIA GAS TRAN
8133575		4707900961			103	J L MCLEAN A-12	UNION	15.0	TENNESSEE GAS PIP
8133473		4707900979			103	J L MCLEAN A-20	UNION	6.3	TENNESSEE GAS PIP
8133574		4707900965			103	J L MCLEAN A-31	UNION	10.0	TENNESSEE GAS PIP
8133472		4707900983			103	J L MCLEAN A-46	UNION	7.5	TENNESSEE GAS PIP
8133573		4707900977			103	J L MCLEAN A-47	UNION	15.0	TENNESSEE GAS PIP
8133572		4707900978			103	J L MCLEAN A-50	UNION	20.0	TENNESSEE GAS PIP
8133578		4703903513			103	SILER COAL & LAND A-4	WASHINGTON	11.0	TENNESSEE GAS PIP
8133577		4703903614			103	SILER COAL & LAND A-6	WASHINGTON	5.0	TENNESSEE GAS PIP
8133576		4703903615			103	SILER COAL & LAND A-7	WASHINGTON	11.0	TENNESSEE GAS PIP
-CHASE PETROLEUM		RECEIVED: 05/26/81 JA: WV							
8133457		4708504568			102-3	BITNER #1	UNION DISTRICT	828.0	
-COMMERCE ENERGY RESOURCES		RECEIVED: 05/26/81 JA: WV							
8133510		4708504881			103	PEGGY COFFMAN #1	UNION	20.0	COLUMBIA GAS TRAN
8133512		4708504859			103	PEGGY COFFMAN #5	UNION	25.0	COLUMBIA GAS TRAN
8133509		4708504920			103	PEGGY COFFMAN #6	UNION	25.0	COLUMBIA GAS TRAN
8133508		4708504924			103	PEGGY COFFMAN #7	UNION	25.0	COLUMBIA GAS TRAN
8133507		4708504925			103	PEGGY COFFMAN #8	UNION	25.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 05/26/81 JA: WV							
8133463		4704700806			108	CONSOLIDATION COAL CO 12613	PINEVILLE A59442	21.0	GENERAL SYSTEM PU
8133460		4703302159			108	DORA E MCWHORTER 12608	WEST VIRGINIA OTHER A857	14.0	GENERAL SYSTEM PU
8133519		4700100854			108	GEORGE E MARTIN 12357	WEST VIRGINIA OTHER A857	11.0	GENERAL SYSTEM PU
8133459		4709100165			108	JOHN H GRIMES 12527	WEST VIRGINIA OTHER A857	5.0	GENERAL SYSTEM PU
8133518		4702102328			108	LOUIS BENNETT	WEST VIRGINIA OTHER A857	1.0	GENERAL SYSTEM PU
8133520		4700100811			108	MALCOM-TALBOTT 12248	WEST VIRGINIA OTHER A857	9.0	GENERAL SYSTEM PU
8133521		4703302137			108	MILTON S DAVIS 12598	WEST VIRGINIA OTHER A857	14.0	GENERAL SYSTEM PU
8133461		4703302157			108	NORA G DAVISSON 12607	WEST VIRGINIA OTHER A857	21.0	GENERAL SYSTEM PU
8133466		4700100987			108	RISSA H BOWERS 12461	WEST VIRGINIA OTHER A857	4.0	GENERAL SYSTEM PU
8133462		4704700618			108	ROSE L DENNIS 11642	PINEVILLE A59442	13.0	GENERAL SYSTEM PU
8133517		4703301173			108	VIRGINIA RAYMOND 12423	WEST VIRGINIA OTHER A857	10.0	GENERAL SYSTEM PU
-CROCKETT GAS CO		RECEIVED: 05/26/81 JA: WV							
8133522		4709927040			108	CROCKETT GAS CO WELL #2	SOUTHERN WEST VIRGINIA	34.1	GAS SUPPLY CORP
-D C MALCOLM INC		RECEIVED: 05/26/81 JA: WV							
8133480		4707900957			103	B C TORMEY HRS #1	ST ALBANS - BURDETTE	30.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC		RECEIVED: 05/26/81 JA: WV							
8133491		4703322013			108	MARY JACKSON - M ROGERS #2 K-L-231	SARDIS	20.0	CARNEGIE NATURAL
8133493		4703322203			103	R B CURREY #1 K-L-257	UNION	30.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
8133492		4703300000		103		R COFFINDAFFER #1 K-L-232	UNION	30.0	CONSOLIDATED GAS
-FIZER GAS CO						RECEIVED: 05/26/81 JA: WV			
8133524		4709929120		108		FIZER GAS COMPANY WELL #1	SOUTHERN WEST VIRGINIA	0.0	GAS SUPPLY CORP
-FRANKLIN ADKINS						RECEIVED: 05/26/81 JA: WV			
8133464		4702123202		108		RYMER #2	GLENVILLE DISTRICT	18.0	CONSOLIDATED GAS
-HATTIE GAS CO						RECEIVED: 05/26/81 JA: WV			
8133523		4709921378		108		HATTIE GAS CO #1 WELL	SOUTHERN	10.3	GAS SUPPLY CORP
-INDUSTRIAL GAS ASSOCIATES						RECEIVED: 05/26/81 JA: WV			
8133555		4701702491		103		D SMITH NO 1 DOD-2491	CENTRAL DISTRICT	23.0	CARNEGIE NATURAL
8133554		4701702497		103		G HURST NO 1 DOD-2497	CENTRAL DISTRICT	23.0	CARNEGIE NATURAL
8133553		4701702498		103		G HURST NO 2 DOD-2498	CENTRAL DISTRICT	23.0	CARNEGIE NATURAL
8133552		4701702514		103		J MONTGOMERY NO 1 DOD-2514	CENTRAL DISTRICT	23.0	CARNEGIE NATURAL
-J & J ENTERPRISES INC						RECEIVED: 05/26/81 JA: WV			
8133597		4701722552		103		B-307	COVE	200.0	COLUMBIA GAS TRAN
8133598		4701722553		103		B-308	COVE	200.0	COLUMBIA GAS TRAN
8133558		4700121349		103		B-339	VALLEY	200.0	CONSOLIDATED GAS
8133564		4709520782		103		J-162	CENTERVILLE	200.0	CARNEGIE NATURAL
8133599		4701722599		103		J-38	NEW MILTON	200.0	CONSOLIDATED GAS
-JAMES F SCOTT						RECEIVED: 05/26/81 JA: WV			
8133550		4703302469		103		PATRICIA BECKER S-320	UNION	32.0	CONSOLIDATED GAS
-JOHNSON GAS CO						RECEIVED: 05/26/81 JA: WV			
8133465		4707902188		108		JOHNSON GAS CO #1 ORVILLE JOHNSON	PUTNAM COUNTY TEAYS VALL	360.0	PENNZOIL CO
-KATHY ANNE GAS CO						RECEIVED: 05/26/81 JA: WV			
8133527		4709929390		108		KATHY ANNE GAS COMPANY #1	SOUTHERN WEST VIRGINIA	14.3	GAS SUPPLY CORP
-KILGORE GAS CO						RECEIVED: 05/26/81 JA: WV			
8133490		4701100460		108		G R KINNARD ETAL	CABELL CO	3.1	DEVON CORP
-L&M PETROLEUM INC						RECEIVED: 05/26/81 JA: WV			
8133454		4707320998		107-DV		BILLY ELDER #3	WASHINGTON	12.0	COLUMBIA GAS TRAN
8133455		4707320962		107-DV		FRANK CARPENTER #1	WASHINGTON	13.0	COLUMBIA GAS TRAN
8133456		4707320952		107-DV		H A CARPENTER HEIRS #3	UNION	18.3	COLUMBIA GAS TRAN
-LAUDERMAN OIL & GAS DRILLING						RECEIVED: 05/26/81 JA: WV			
8133468		4707300873		103		GALE SISTERS #2 WELL	WASHINGTON	18.3	COLUMBIA GAS TRAN
-M & F OIL & GAS CO						RECEIVED: 05/26/81 JA: WV			
8133516		4710301201		108		M A & BEN HEADLEY #1	GRANT	0.8	PENNZOIL CO
-MCCOY GAS CO						RECEIVED: 05/26/81 JA: WV			
8133526		4709929010		108		MCCOY GAS CO #1	SOUTHERN	3.1	GAS SUPPLY CORP
-PENNZOIL COMPANY						RECEIVED: 05/26/81 JA: WV			
8133541		4704302181		108		A E SMITH #1	DUVAL	0.0	CONSOLIDATED GAS
8133542		4704302171		108		B S OXLEY #1	DUVAL	0.0	CONSOLIDATED GAS
8133583		4704302134		108		G T LAWRENCE #6	DUVAL	0.0	CONSOLIDATED GAS
8133470		4708702729		108		H D SERGENT #4	WALTON	0.0	CONSOLIDATED GAS
8133580		4704302287		108		J A MIDKIFF #1	WASHINGTON	0.0	CONSOLIDATED GAS
8133533		4704302216		108		J M DUNLAP #2	DUVAL	0.0	CONSOLIDATED GAS
8133532		4704302225		108		J S BURDETTE #2	DUVAL	0.0	CONSOLIDATED GAS
8133534		4704302215		108		J W CURNES #3	DUVAL	0.0	CONSOLIDATED GAS
8133495		4704302276		108		J W HARLESS #1	DUVAL	0.0	CONSOLIDATED GAS
8133584		4704302135		108		JAS LAWSON #1	DUVAL	0.0	CONSOLIDATED GAS
8133590		4704302144		108		JAS LAWSON #10	DUVAL	0.0	CONSOLIDATED GAS
8133591		4704302145		108		JAS LAWSON #11	DUVAL	0.0	CONSOLIDATED GAS
8133585		4704302136		108		JAS LAWSON #2	DUVAL	0.0	CONSOLIDATED GAS
8133586		4704302137		108		JAS LAWSON #3	DUVAL	0.0	CONSOLIDATED GAS
8133587		4704302139		108		JAS LAWSON #5	DUVAL	0.0	CONSOLIDATED GAS
8133588		4704302142		108		JAS LAWSON #8	DUVAL	0.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133589		4704302143		108		JAS LAWSON #9	DUVAL	0.0	CONSOLIDATED GAS
8133547		4704302159		108		JOEL MCCORMICK #1	DUVAL	0.0	CONSOLIDATED GAS
8133539		4704302204		108		LAFAYETTE ALFORD #2	DUVAL	0.0	CONSOLIDATED GAS
8133538		4704302205		108		LAFAYETTE ALFORD #3	DUVAL	0.0	CONSOLIDATED GAS
8133537		4704302206		108		LAFAYETTE ALFORD #4	DUVAL	0.0	CONSOLIDATED GAS
8133531		4704302227		108		MAHALA COON #1	DUVAL	0.0	CONSOLIDATED GAS
8133530		4704302228		108		MAHALA COON #2	DUVAL	0.0	CONSOLIDATED GAS
8133501		4704302283		108		MASON & TACKETT #6	DUVAL	0.0	CONSOLIDATED GAS
8133536		4704302211		108		O F BELL #2	DUVAL	0.0	CONSOLIDATED GAS
8133535		4704302212		108		O F BELL #6	DUVAL	0.0	CONSOLIDATED GAS
8133475		4708701579		103		S P SHAVER #4	WALTON	0.0	
8133540		4704302193		108		STEPHENSON ET AL #1	DUVAL	0.0	CONSOLIDATED GAS
8133544		4704302168		108		T F NELSON #1	DUVAL	0.0	CONSOLIDATED GAS
8133543		4704302169		108		T F NELSON #3	DUVAL	0.0	CONSOLIDATED GAS
8133546		4704302162		108		THOMAS MCDOWELL #3	DUVAL	0.0	CONSOLIDATED GAS
8133545		4704302163		108		THOMAS MCDOWELL #4	DUVAL	0.0	CONSOLIDATED GAS
8133496		4704302245		108		W M GOODE #11	DUVAL	0.0	CONSOLIDATED GAS
8133529		4704302238		108		W M GOODE #2	DUVAL	0.0	CONSOLIDATED GAS
8133499		4704302239		108		W M GOODE #3	DUVAL	0.0	CONSOLIDATED GAS
8133498		4704302241		108		W M GOODE #7	DUVAL	0.0	CONSOLIDATED GAS
8133497		4704302243		108		W M GOODE #9	DUVAL	0.0	CONSOLIDATED GAS
8133453		4704501031		108		YAWKEY-FREEMAN #30	YAWKEY-FREEMAN	5.2	CONSOLIDATED GAS
-PETROLEUM ENTERPRISES				RECEIVED: 05/26/81 JA: WV					
8133504		4709500757		103		A E PRATT TYL-0757	CENTERVILLE DISTRICT	23.0	CARNEGIE NATURAL
8133506		4709500731		103		C K MCCULLOUGH NO 1 TYL-0731	CENTERVILLE DISTRICT	23.0	CARNEGIE NATURAL
8133505		4709500755		103		C K MCCULLOUGH NO 2 TYL-0755	CENTERVILLE DISTRICT	23.0	CARNEGIE NATURAL
8133503		4709500000		103		E MULVAY NO 1 TYL-0759	CENTERVILLE DISTRICT	23.0	CARNEGIE NATURAL
8133551		4701702554		103		R MCCULLOUGH NO 1 DOD-2554	CENTRAL DISTRICT	23.0	CONSOLIDATED GAS
-RALPH KIRTLEY				RECEIVED: 05/26/81 JA: WV					
8133514		4701100302		108		NIDA #1	CITY OF HUNTINGTON	5.6	DEVON CORP
-ROUZER OIL CO				RECEIVED: 05/26/81 JA: WV					
8133592		4701501036		108		BETTIE G BELL #5	BOMONT	2.0	COLUMBIA GAS TRAN
-ROYAL OIL & GAS CORPORATION				RECEIVED: 05/26/81 JA: WV					
8133467		4702103544		103		WALTER MOORE B #1	NORMANTOWN	4.0	CONSOLIDATED GAS
-SHOALS GAS CO				RECEIVED: 05/26/81 JA: WV					
8133525		4709928720		108		SHOALS GAS CO WELL #1	SOUTHERN WEST VIRGINIA	7.9	GAS SUPPLY CORP
-STANLEY GAS CO				RECEIVED: 05/26/81 JA: WV					
8133513		4709900000		108		STANLEY GAS CO WELL #1	SOUTHERN WEST VIRGINIA	20.7	GAS SUPPLY CORP
-STERLING DRILLING & PROD CO INC				RECEIVED: 05/26/81 JA: WV					
8133476		4708703350		103		WILMOTH #333	GEARY DISTRICT	23.4	COLUMBIA GAS TRAN
-TEXAS INTERNATIONAL PET CORP				RECEIVED: 05/26/81 JA: WV					
8133570		4708100516		103		BERWIND LAND #1	MARSH FORK	71.0	COLUMBIA GAS TRAN
8133580		4700501278		103		BERWIND LAND #7	CROCK	163.0	COLUMBIA GAS TRAN
8133581		4700500000		103		BERWIND LAND CO #10	CROCK	232.0	COLUMBIA GAS TRAN
8133582		4700501313		103		BERWIND LAND CO #3	CROCK	146.0	COLUMBIA GAS TRAN
8133557		4700501277		103		BERWIND LAND CO #4	CROCK	566.0	COLUMBIA GAS TRAN
8133559		4700501274		103		BERWIND LAND CO #5	CROCK	144.0	COLUMBIA GAS TRAN
8133556		4700501276		103		BERWIND LAND CO #9	CROCK	89.0	COLUMBIA GAS TRAN
8133595		4700501319		103		BERWIND LAND COMPANY #8	CROCK	290.0	COLUMBIA GAS TRAN
8133479		4706700539		103		BETHLEHEM MINES CORP #38	TWENTY MILE CREEK	11.0	CABOT CORP
8133471		4706700538		103		BETHLEHEM MINES CORP #49	TWENTY MILE CREEK	91.0	CABOT CORP
8133515		4710900832		108		POCAHONTAS #C-10	BARKERS RIDGE	15.0	CONSOLIDATED GAS
8133458		4704700809		108		POCAHONTAS LAND CORP A-49	NORTH FORK	74.2	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133474		4708100372		103		ROWLAND LAND COMPANY #A-3	MARSH FORK	17.0	COLUMBIA GAS TRAN
8133596		4700501326		103		WESTERN POCAHONTAS #10	CROOK	15.0	COLUMBIA GAS TRAN
8133488		4700501327		103		WESTERN POCAHONTAS #11	CROOK DISTRICT MARSH FOR	37.0	COLUMBIA GAS TRAN
8133593		4700501315		103		WESTERN POCAHONTAS #2	CROOK	226.0	COLUMBIA GAS TRAN
8133594		4700501317		103		WESTERN POCAHONTAS #4	CROOK	147.0	COLUMBIA GAS TRAN
8133487		4700501320		103		WESTERN POCAHONTAS #8	CROOK	73.0	COLUMBIA GAS TRAN
-UNION DRILLING INC		RECEIVED: 05/26/81 JA: WV							
8133469		4708300341		103		CLEO W TACY #2 1540	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRAN
8133478		4709702123		103		FLODA DINSER #1 1603	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8133486		4700101402		103		HENRY C WOODYARD #1 1590	ELK DISTRICT	0.0	CONSOLIDATED GAS
-UNITED OPERATING CO		RECEIVED: 05/26/81 JA: WV							
8133485		4700101321		103		KENNETH THORN 1-A	TYGART RIVER VALLEY	0.0	CONSOLIDATED GAS
-UNITED PETRO LTD		RECEIVED: 05/26/81 JA: WV							
8133483		4710500869		103		OLIN D NUZUM #1-A	GARFIELD	6.0	CABOT CORP
-WEBSTER MYERS		RECEIVED: 05/26/81 JA: WV							
8133482		4707900440		108		L W DUKE ET AL WELL #1	CHARLEYS CREEK	8.8	DEVON CORP
8133489		4707900000		108		MCCOMAS WELL #1	MCCOMAS	2.3	DEVON CORP
8133481		4707900522		108		WILLIAM FISHER ET AL - WELL #1	DUNBAR	4.8	DEVON CORP
**********									
** U.S. GEOLOGICAL SURVEY - METAIRIE,LA									
**********									
-AMINOIL USA INC		RECEIVED: 05/26/81 JA: LA 3							
8133605	G0-1715	1771140509		102-5		OCS-G-0434 WELL NO D-5A	SHIP SHOAL 154	18.0	TENNESSEE GAS PIP
-COLUMBIA GAS DEVELOPMENT CORP		RECEIVED: 05/26/81 JA: LA 3							
8133648	G1-1915	1770240433		102-5		A-1	WEST CAMERON	1460.0	COLUMBIA GAS TRAN
8133649	G1-1916	1770240487		102-5		A-2	WEST CAMERON	912.0	COLUMBIA GAS TRAN
-EXXON CORPORATION		RECEIVED: 05/26/81 JA: LA 3							
8133657	G1-1936	1781740116		102-1		OCS-G 3799 NO A-6	MISSISSIPPI CANYON	300.0	SOUTHERN NATURAL
-GULF OIL CORPORATION		RECEIVED: 05/26/81 JA: LA 3							
8133625	G1-1878	1772040079		102-5		OCS G-1101 WELL G-6 WD BLK 117	WEST DELTA	73.0	TEXAS EASTERN TRA
8133612	G1-1827	1771540340		102-5		OCS-G-2621 NO F-3	SOUTH TIMBALIER	135.0	TEXAS EASTERN TRA
-HUNT OIL COMPANY		RECEIVED: 05/26/81 JA: LA 3							
8133611	G1-1821	1770940404		102-5		WELL NO 4	EUGENE ISLAND	919.0	MICHIGAN WISCONSI
-MCMORAN OFFSHORE EXPLORATION CO		RECEIVED: 05/26/81 JA: LA 3							
8133670	G1-1973	1770540439		107-DP		OCS-G 3390 #12	VERMILION	7300.0	TRANSCONTINENTAL
-MOBIL OIL EXPLORATION & PROD S E		RECEIVED: 05/26/81 JA: LA 3							
8133626	G1-1879	1771340045		102-5		SOUTH PELTO 11 #19A	SOUTH PELTO	365.0	TRANSCONTINENTAL
8133627	G1-1880	1771340045		102-5		SOUTH PELTO 11 #19C (ALT)	SOUTH PELTO	1460.0	TRANSCONTINENTAL
-OCEAN PRODUCTION CO		RECEIVED: 05/26/81 JA: LA 3							
8133646	G1-1910	1771140532		102-5		OCS - 067 NO 34A	SHIP SHOAL	175.0	TRANSCONTINENTAL
8133613	G1-1828	1771145270		102-5		OCS-G-1023 NO E-12A	SHIP SHOAL 222 FIELD	1825.0	TRANSCONTINENTAL
8133647	G1-1911	1771140516		102-5		OCS - 067 NO 37C	SHIP SHOAL	200.0	TRANSCONTINENTAL
8133609	G0-1785	1771340080		102-5		OCS - 073 NO 34B	SOUTH PELTO	730.0	TRANSCONTINENTAL
8133608	G0-1784	1771340080		102-5		OCS-073 NO 34A	SOUTH PELTO	1100.0	TRANSCONTINENTAL
-PENNZOIL OIL & GAS INC		RECEIVED: 05/26/81 JA: LA 3							
8133618	G1-1860	1770440474		102-5		PENNZOIL COMPANY OCS-G 2439 EAST	EAST CAMERON AREA SOUTH	3500.0	
8133619	G1-1861	1770440482		102-5		PENNZOIL COMPANY OCS-G 2439 EAST	EAST CAMERON AREA SOUTH	4400.0	
-QUINTANA OFFSHORE INC		RECEIVED: 05/26/81 JA: LA 3							
8133669	G1-1968	1771140522		107-DP		OCS-G-3411 WELL NO 1	SHIP SHOAL	365.0	
-SHELL OIL CO		RECEIVED: 05/26/81 JA: LA 3							
8133664	G1-1954	1770840173		102-5		OCS-G 2280 C-11	SOUTH MARSH ISLAND	73.0	TRANSCONTINENTAL
8133650	G1-1922	1770840379		102-5		OCS-G 2280 D-3	SOUTH MARSH ISLAND	180.0	TRANSCONTINENTAL
8133655	G1-1928	1770940283		107-DP		OCS-G 3152 JA-1 (FORMERLY NO 1)	EUGENE ISLAND	5200.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133623	G1-1876	1772340081		102-5		SP 61 OCS-G 1609 NO D-19	SOUTH PASS	0.0	SOUTHERN NATURAL
8133620	G1-1864	1772340082		102-5		SP 61 OCS-G 1609 NO D-23	SOUTH PASS	0.0	SOUTHERN NATURAL
8133639	G1-1901	1772340080		102-5		SP 61 OCS-G 1614 NO D-29	SOUTH PASS	0.0	SOUTHERN NATURAL
8133624	G1-1877	1772340062		102-5		SP 61 OCS-G 1614 NO D-3	SOUTH PASS	0.0	SOUTHERN NATURAL
-SONAT EXPLORATION COMPANY		RECEIVED: 05/26/81 JA: LA 3							
8133614	G1-1856	1770340202		102-5		OCS-G-2038 WELL #B-3	EAST CAMERON	2000.0	SEA ROBIN PIPELIN
8133615	G1-1857	1770340202		102-5		OCS-G-2038 WELL #B-3D	EAST CAMERON	1700.0	SEA ROBIN PIPELIN
8133616	G1-1858	1770340201		102-5		OCS-G-2038 WELL #B-4	EAST CAMERON	4200.0	SEA ROBIN PIPELIN
8133617	G1-1859	1770340215		102-5		OCS-G-2038 WELL NO B-9	EAST CAMERON	4200.0	SEA ROBIN PIPELIN
8133654	G1-1926	1770340142		102-1		OCS-G-3537 WELL #B-1	EAST CAMERON	175.0	SOUTHERN NATURAL
8133662	G1- 1947	1770340213		102-1		OCS-G-3537 WELL #B-6	EAST CAMERON	1400.0	SOUTHERN NATURAL
8133671	G1-1974	1770440469		102-1		OCS-G-4100 WELL NO B-11	EAST CAMERON	300.0	SOUTHERN NATURAL
-TENNECO OIL COMPANY		RECEIVED: 05/26/81 JA: LA 3							
8133653	G1-1925	1771140562		102-1		SHIP SHOAL 170 A-8	SHIP SHOAL	3025.0	TENNESSEE GAS PIP
-UNION OIL COMPANY OF CALIF		RECEIVED: 05/26/81 JA: LA 3							
8133652	G1-1929	1770240592		102-5		OCS-G 2437 NO A-7	WEST CAMERON	365.0	COLUMBIA GAS TRAN
8133651	G1-1923	1770240604		102-5		OCS-G 2437 NO A-8	WEST CAMERON	1095.0	COLUMBIA GAS TRAN
8133665	G1-1955	1771540344		102-1		OCS-G 4000 WELL NO A-1	SOUTH TIMBALIER	0.0	TENNESSEE GAS PIP
8133666	G1-1956	1771540376		102-1		OCS-G 4000 WELL NO A-2	SOUTH TIMBALIER	0.0	TENNESSEE GAS PIP
8133667	G1-1957	1771540385		102-1		OCS-G 4000 WELL NO A-4	SOUTH TIMBALIER	0.0	TENNESSEE GAS PIP
8133668	G1-1958	1771540392		102-1		OCS-G 4000 WELL NO A-6	SOUTH TIMBALIER	0.0	TENNESSEE GAS PIP
-AMINOIL DEVELOPMENT INC		RECEIVED: 05/26/81 JA: TX 3							
8133656	G1-1931	4271140244		102-4		A-14	HIGH ISLAND A-330	1113.0	NATURAL GAS PIPEL
8133638	G1-1897	4271140438		102-5		HIGH ISLAND BLOCK A-317 WELL A-14	HIGH ISLAND	986.0	NATURAL GAS PIPEL
*8133604	G1-1711	4271140262		102-5		OCS-G-2421 WELL NO A-16	HIGH ISLAND	760.0	NATURAL GAS PIPEL
-HOUSTON OIL & MINERALS CORPORATION		RECEIVED: 05/26/81 JA: TX 3							
8133630	G1-1887	4270940390		102-5		OCS-G-2685 #A-1 ALTERNATE	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133629	G1-1886	4270940390		102-5		OCS-G-2685 #A-1 L	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133628	G1-1885	4270940390		102-5		OCS-G-2685 #A-1 U	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133632	G1-1889	4270940395		102-5		OCS-G-2685 #A-2L	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133631	G1-1888	4270940395		102-5		OCS-G-2685 #A-2U	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133635	G1-1892	4270940409		102-5		OCS-G-2685 #A-3 ALTERNATE	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133634	G1-1891	4270940409		102-5		OCS-G-2685 #A-3 L	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133633	G1-1890	4270940409		102-5		OCS-G-2685 #A-3U	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133637	G1-1894	4270940544		102-5		OCSG-2685 #A-4 L	HIGH ISLAND	2.0	NATURAL GAS PIPEL
8133636	G1-1893	4270940544		102-5		OCSG-2685 #A-4 U	HIGH ISLAND	2.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC		RECEIVED: 05/26/81 JA: TX 3							
*8133606	G0-1748	4270940343		102-5		A-16A	HIGH ISLAND	43.5	NATURAL GAS PIPEL
*8133607	G0-1749	4270940343		102-5		A-16B	HIGH ISLAND	31.6	NATURAL GAS PIPEL
*8133610	G0-1787	4270940180		102-5		OCS-G-2393 NO A-8A	HIGH ISLAND	64.5	NATURAL GAS PIPEL
-SHELL OIL CO		RECEIVED: 05/26/81 JA: TX 3							
8133640	G1-1903	4270940494		102-5		OCS-G 3117	HIGH ISLAND	7000.0	UNITED GAS PIPE L
8133641	G1-1904	4270940451		102-5		OCS-G 3117 JA-1	HIGH ISLAND	5250.0	UNITED GAS PIPE L
8133642	G1-1905	4270940503		102-5		OCS-G 3117 JA-3	HIGH ISLAND	7000.0	UNITED GAS PIPE L
8133643	G1-1906	4270940512		102-5		OCS-G 3117 JA-4	HIGH ISLAND	3500.0	UNITED GAS PIPE L
8133644	G1-1907	4270900000		102-5		OCS-G 3117 JA-5	HIGH ISLAND	3500.0	UNITED GAS PIPE L
8133645	G1-1908	4270940562		102-5		OCS-G 3117 JA-6	HIGH ISLAND	3500.0	UNITED GAS PIPE L
8133658	G1-1937	4271540002		102-1		OCS-G 4143 JB-1	SABINE PASS	3650.0	FLORIDA GAS TRANS
8133659	G1-1938	4271540002		102-1		OCS-G 4143 JB-1D	SABINE PASS	3650.0	FLORIDA GAS TRANS
8133660	G1-1939	4271540004		102-1		OCS-G 4143 JB-2	SABINE PASS	3650.0	FLORIDA GAS TRANS
8133661	G1-1940	4271540006		102-1		OCS-G 4143 JB-3	SABINE PASS	1825.0	FLORIDA GAS TRANS
-SUPERIOR OIL CO		RECEIVED: 05/26/81 JA: TX 3							
8133663	G1-1949	4270840071		102-5		BLOCK NO 139 WELL NO 2L	HIGH ISLAND	0.0	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133622	81-1874	4270840074		102-5		BLOCK NO 139 WELL NO 3	HIGH ISLAND	0.0	NATURAL GAS PIPEL
8133621	81-1872	4270840065		102-5		BLOCK 139 WELL NO 1	HIGH ISLAND	0.0	NATURAL GAS PIPEL
** DEPARTMENT OF ENERGY									
-NAVAL PETROLEUM RESERVES IN CALIFOR		RECEIVED: 05/26/81 JA: CA 9							
8133602		0402900000		102-2		31S - R36I	NAVAL PETROLEUM RESERVES	365.0	CHEVRON USA INC
8133603		0402900000		103		7R - R37E	NAVAL PETROLEUM RESERVES	91.0	CHEVRON USA INC

OTHER PURCHASERS

8133604 TRANSCONTINENTAL GAS P L CORP
8133606 TRANSCONTINENTAL GAS P L CORP
8133607 TRANSCONTINENTAL GAS P L CORP
8133610 TRANSCONTINENTAL GAS PL CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations mays, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 15, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Other Purchasers

8133604 Transcontinental Gas PL Corp
8133606 Transcontinental Gas PL Corp
8133607 Transcontinental Gas PL Corp
8133610 Transcontinental Gas PL Corp

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-19230 Filed 6-29-81; 8:45 am]
BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-DOUBLE M OIL CO						RECEIVED: 04/20/81 JA: NB			
81273118		2603300000			103	#1 NIEMANN		200.0	
TEXAS RAILROAD COMMISSION									
-A E HERRMANN CORP						RECEIVED: 05/28/81 JA: TX			
8133095	34252	4223330787			103	LUGINBHYL #5 - ID #02204	PANHANDLE-HUTCHINSON COU	16.2	PHILLIPS PETROLEU
8133096	34253	4223330810			103	LUGINBHYL #6 ID #02204	PANHANDLE-HUTCHINSON COU	23.4	PHILLIPS PETROLEU
-ACIETEROS LTD						RECEIVED: 05/28/81 JA: TX			
8133051	34170	4249330703			102-2	THOMS-WILSON #1	JYF	0.0	CLAJON GAS CO
-AMERICAN PUBLIC ENERGY CO						RECEIVED: 05/28/81 JA: TX			
8133133	34360	4235730776			103	ROGERS L #1 04229	HORIZON (CLEVELAND)	8.0	PHILLIPS PETROLEU
8133092	34239	4235730774			103	SWINK "C" #1	HORIZON (CLEVELAND)	6.0	PHILLIPS PETROLEU
8133106	34268	4235730773			103	SWINK F #1 04244	HORIZON-CLEVELAND	0.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO						RECEIVED: 05/28/81 JA: TX			
8133126	34335	4218930329			103	ANTON IRISH CLEARFORK UNIT #444	ANTON IRISH	5.8	PIONEER NATURAL G
8133116	34307	4213533411			103	GOLDSMITH LANDRETH DEEP UNIT #196	GOLDSMITH (CLEARFORK)	11.3	PHILLIPS PETROLEU
8133117	34308	4239100742			108	IRA HEARD B 8 U	GRETA/L-05/	7.1	EXXON CO U S A
8133125	34334	4221933021			103	LEVELLAND UNIT #777	LEVELLAND	9.6	AMOCO PRODUCTION
8133124	34333	4221933017			103	LEVELLAND UNIT #779	LEVELLAND	18.1	AMOCO PRODUCTION
8133230	34651	4221933016			103	LEVELLAND UNIT #781	LEVELLAND	18.2	AMOCO PRODUCTION
*8133118	34309	4216730795			103	MARRS MCLEAN A R/A D #12	HIGH ISLAND	0.0	JOHN W MECOM
8133231	34652	4220330784			102-4	WARE GAS UNIT /A/ WELL NO 1	BLOCKER/COTTON VALLEY/	330.0	UNITED GAS PIPE L
8133231	34652	4220330784			107-TF	WARE GAS UNIT /A/ WELL NO 1	BLOCKER/COTTON VALLEY/	330.0	UNITED GAS PIPE L
-ANDERSON PETROLEUM INC						RECEIVED: 05/28/81 JA: TX			
8133013	33026	4210532259			107-TF	L B COX JR A 1-11	OZONA (CANYON SAND)	30.0	ANDERSON PIPELINE
-ANDOVER OIL COMPANY						RECEIVED: 05/28/81 JA: TX			
8133091	34237	4240931489			103	PERSON #3	MATHIS EAST (5400)	60.0	VAL GAS CO
-ARCO OIL AND GAS COMPANY						RECEIVED: 05/28/81 JA: TX			
8133053	34174	4249531264			103	E G HUTCHINGS NO 1	KERMIT FIELD (SEVEN RIVE	3.5	PHILLIPS PETROLEU
8133054	34175	4249531265			103	E G HUTCHINGS NO 2	KERMIT FIELD (SEVEN RIVE	9.0	PHILLIPS PETROLEU
-BEAL OPERATING						RECEIVED: 05/28/81 JA: TX			
8133119	34312	4208332234			102-4	T GRIFFIS A #2 (91233)	LITTLE LONGHORN (MORRIS)	97.0	ODESSA NATURAL CO
-BENGAL PRODUCING CO						RECEIVED: 05/28/81 JA: TX			
*8133015	33040	4232900000			108	FASKEN 2-7 (06378)	SPRABERRY AREA TREND	0.0	PHILLIPS PETROLEU
-BLACK ROCK OIL & GAS CO INC						RECEIVED: 05/28/81 JA: TX			
*8133195	34478	4232300000			108	BAKER RANCH NO G-2 #71968	GENESIS (OLMOS 2080)	14.4	WEBB INDUSTRIES I
*8133196	34479	4232300000			108	BAKER RANCH NO M-1 #62221	AMY-J (ESCONDIDO)	4.8	WEBB INDUSTRIES I
-BOB WALLACE OIL INC						RECEIVED: 05/28/81 JA: TX			
8133226	34623	4206530831			103	BURNETT (04490) NO 7	PANHANDLE CARSON COUNTY	100.0	PANHANDLE EASTERN
-BURNS PETROLEUM						RECEIVED: 05/28/81 JA: TX			

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133148	34378	4214930600		103		CAIN #1	GIDDINGS (AUSTIN CHALK)	50.0	PHILLIPS PETROLEU
8133149	34379	4214930671		103		CAIN A #2	GIDDINGS (AUSTIN CHALK)	20.0	PHILLIPS PETROLEU
8133152	34382	4207731845		103		CONWAY NO 3	SHANNON (CADDO)	20.0	TAYLOR OPERATING
8133146	34375	4207700000		103		GARRETT B #2	WATSON	7.5	FAGADAU ENERGY CO
8133150	34380	4214930501		103		JUERGEN-UNGER UNIT AO 1	GIDDINGS (AUSTIN CHALK)	1.0	PHILLIPS PETROLEU
8133151	34381	4214930500		103		JUERGEN-WOOD UNIT #1	GIDDINGS (AUSTIN CHALK)	15.0	PHILLIPS PETROLEU
8133147	34376	4207731652		103		SPEEGLE-SHEPHERD UNIT #1	DEER CREEK SE (MISSISSIP	3.0	FAGADAU ENERGY CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 05/28/81 JA: TX					
8133002	32812	4238331779		102-2		COPE-BODINE NO 2	CONGER SW (PENN)	99.0	NORTHERN NATURAL
8133002	32812	4238331779		103		COPE-BODINE NO 2	CONGER SW (PENN)	99.0	NORTHERN NATURAL
*8133129	34341	4235500000		108		J S ELIFF #42	AUGA DULCE	5.5	TENNESSEE GAS PIP
8133009	32933	4217331099		102-2		P L CRAVENS NO 1	CONGER SW (PENN)	60.0	NORTHERN NATURAL
8133009	32933	4217331099		103		P L CRAVENS NO 1	CONGER SW (PENN)	60.0	NORTHERN NATURAL
-CHAPARRAL MINERALS INC				RECEIVED: 05/28/81 JA: TX					
8133222	34599	4205130991		103		W H GIESENSCHLAG #3 (12530)	CALDWELL (AUSTIN CHALK)	139.0	FERGUSON CROSSING
-CHEVRON U S A INC				RECEIVED: 05/28/81 JA: TX					
8133000	32287	4200331938		103		COLUMBUS GRAY 19 #21	FUHRMAN-MASCHO	2.9	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED: 05/28/81 JA: TX					
8133156	34400	4214930669		102-2		BARAT A NO 1 (13689)	GIDDINGS (AUSTIN CHALK)	74.0	FALCON GAS CO
8133155	34399	4214930752		102-2		HAWK A NO 1 (13706)	GIDDINGS (AUSTIN CHALK)	115.0	FALCON GAS CO
-COASTAL OIL & GAS CORP				RECEIVED: 05/28/81 JA: TX					
8133169	34422	4237530793		103		BIVINS 1618RO	PANHANDLE (RED CAVE)	30.0	COLORADO INTERSTA
8133107	34271	4237530795		103		BIVINS 1620RO	PANHANDLE (RED CAVE)	65.0	COLORADO INTERSTA
8133108	34272	4237530757		103		BIVINS 1735RO	PANHANDLE (RED CAVE)	1.0	COLORADO INTERSTA
8133193	34474	4237530760		103		BIVINS 3312 S	PANHANDLE (RED CAVE)	44.0	COLORADO INTERSTA
8133170	34424	4237530761		103		BIVINS 3484 S	PANHANDLE (RED CAVE)	6.0	COLORADO INTERSTA
8133194	34475	4237530799		103		BIVINS 5019RO	PANHANDLE (RED CAVE)	38.0	COLORADO INTERSTA
8133109	34273	4237530819		103		BIVINS 5038 RO	PANHANDLE (RED CAVE)	25.0	COLORADO INTERSTA
8133110	34274	4237530818		103		BIVINS 5065RO	PANHANDLE (RED CAVE)	68.0	COLORADO INTERSTA
-COLA PETROLEUM INC				RECEIVED: 05/28/81 JA: TX					
*8133220	34591	4238331639		103		LEONA 166 #1	CALVIN (DEAN)	19.1	UNION TEXAS PETRO
*8133209	34548	4238331529		103		ROACH 166 #1	CALVIN (DEAN)	39.6	UNION TEXAS PETRO
-CONOCO INC				RECEIVED: 05/28/81 JA: TX					
8133145	34373	4222732158		103		G O CHALK - #22 ID #02684	HOWARD GLASSCOCK	3.7	PHILLIPS PETROLEU
-CROMERA OIL & GAS CO				RECEIVED: 05/28/81 JA: TX					
8133165	34417	4236300000		108		CARTER BARNEY ESTATE 4-A#65422	COSTELLO (BIG SALINE)	6.4	SOUTHWESTERN GAS
8133166	34418	4236300000		108		CARTER UNIT 3 TRI-STATE MACH #1-42	COSTELLO (BIG SALINE)	10.2	SOUTHWESTERN GAS
8133164	34416	4236700000		108		L W LESIKAR #1 ID77044	MEEKER (CONGL 4000)	9.1	UPHAM OIL & GAS C
8133030	33862	4223732225		103		SPENCER SODOWSKY #1 ID-19003	ARCO (CONGLOMERATE)	102.5	SOUTHWESTERN GAS
8133163	34415	4236300000		108		TRI-STATE LEASING CORP #1-75251	PALO PINTO CO REG (GAS)	8.3	SOUTHWESTERN GAS
-CUMMINS & WALKER OIL CO INC				RECEIVED: 05/28/81 JA: TX					
8133016	33141	4228300000		103		SOUTH TEXAS SYNDICATE A 86 NO 1	WASHBURN RANCH (WILCOX L	146.0	TRANSCONTINENTAL
-DALLAS PRODUCTION INC				RECEIVED: 05/28/81 JA: TX					
8133005	32906	4222130619		102-2		SANDERS A NO 1	MCINTOSH (STRAWN)	87.0	SOUTHWESTERN GAS
-EL PASO NATURAL GAS COMPANY				RECEIVED: 05/28/81 JA: TX					
8133184	34451	4243532181		107-TF		SHURLEY #11	SAWYER CANYON	119.0	EL PASO NATURAL G
8133181	34448	4243532180		107-TF		SHURLEY #12	SAWYER CANYON	365.0	EL PASO NATURAL G
8133182	34449	4243532188		107-TF		SHURLEY #13	SAWYER CANYON	119.0	EL PASO NATURAL G
8133183	34450	4243532190		107-TF		SHURLEY #15	SAWYER CANYON	100.0	EL PASO NATURAL G
-ENERGETICS INC				RECEIVED: 05/28/81 JA: TX					
8133004	32869	4214930457		102-2		ALMA PIETSCH #1 ID# 13013	GIDDINGS (AUSTIN CHALK)	20.0	PHILLIPS PETROLEU
8133026	33840	4214930742		102-2		C B KULHANEK #1 ID #13680	GIDDINGS (AUSTIN CHALK)	20.0	PHILLIPS PETROLEU
8133012	33023	4214930454		102-2		HITT-SHEPARD #1 ID 13372	GIDDINGS (AUSTIN CHALK)	130.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133025	33838	4214930459		102-2	W T KIESCHNIK NO 1 ID #12889	GIDDINGS (AUSTIN CHALK)	10.0	PHILLIPS PETROLEU
-ENERGY RESERVES GROUP INC				RECEIVED: 05/28/81 JA: TX				
8133214	34566	4238331783		103	ONA WELLS #4	CALVIN (DEAN)	5.4	UNION TEXAS PETRO
8133212	34564	4238331703		103	RUPERT P RICKER KG #10	CALVIN (DEAN)	27.0	UNION TEXAS PETRO
8133213	34565	4238331704		103	RUPERT P RICKER KO #11	CALVIN (DEAN)	20.2	UNION TEXAS PETRO
8133216	34572	4238331849		103	VESTER HUGHES #11	SPRABERRY (TREND AREA)	33.8	EL PASO NATURAL G
8133215	34570	4238331848		103	VESTER HUGHES #12	SPRABERRY (TREND AREA)	25.2	EL PASO NATURAL G
8133211	34562	4238331847		103	VESTER HUGHES #13	SPRABERRY (TREND AREA)	17.3	EL PASO NATURAL G
-ENRE CORP				RECEIVED: 05/28/81 JA: TX				
8133228	34636	4242932730		102-4	LILLIE BELLE THOMPSON #5 (16751)	LILLY BELL E (ELLEN)	51.0	WARREN PETROLEUM
-ENSERCH EXPLORATION INC				RECEIVED: 05/28/81 JA: TX				
8133127	34337	4238331784		103	FRIEND A NO 3	FARMER	19.0	NORTHERN NATURAL
-EXXON CORPORATION				RECEIVED: 05/28/81 JA: TX				
*8133236	34666	4236530661		103	F H DONALD #2 (CFEC #500)	CARTHAGE (COTTON VALLEY)	670.0	ARMCO STEEL CORP
8133248	34730	4237133315		103	FORT STOCKTON UNIT #908	FT STOCKTON (YATES LOWER	16.0	NUECES CO
*8133244	34722	4200332555		103	FULLERTON CLEARFORK UNIT #2535	FULLERTON	13.0	PHILLIPS PETROLEU
*8133024	33787	4200332483		103	FULLERTON CLEARFORK UNIT #3019	FULLERTON	15.0	PHILLIPS PETROLEU
8133249	34731	4229530935		103	HENRY FRASS JR E #5	FRASS (TONKAWA)	16.0	TRANSWESTERN PIPE
8133246	34727	4229530582		103	HENRY FRASS JR H #4	FRASS (TONKAWA)	34.0	TRANSWESTERN PIPE
8133247	34729	4210332599		103	J B TUBB A/C 1 #236L	SAND HILLS (TUBB)	184.0	EL PASO NATURAL G
8133036	33901	4245930458		103	JACK JONES EST G U #2	GILMER (JURASSIC)	400.0	DELHI GAS PIPELIN
8133036	33901	4245930458		107-TF	JACK JONES EST G U #2	GILMER (JURASSIC)	400.0	DELHI GAS PIPELIN
*8133021	33687	4226130238		103	N E RITA GAS UNIT 1 WELL 1 (89458)	RITA NE (I-70)	106.0	ARMCO STEEL CORP
*8133020	33640	4204730559		103	R J K JR TR VIBORAS PAST 68-F	VIBORAS	730.0	ARMCO STEEL CORP
8133245	34724	4216531954		103	ROBERTSON CLFK UNIT #8201	ROBERTSON N (CLFK 7100)	15.0	PHILLIPS PETROLEU
*8133022	33691	4204730614		103	SANTA FE RANCH 38-D (82217)	SANTA FE (E-09)	183.0	ARMCO STEEL CORP
-FOY BOYD MANAGEMENT CORP				RECEIVED: 05/28/81 JA: TX				
8133235	34665	4243532260		107-TF	ALLISON #1	BRANCH NORTH (CANYON SAN	75.0	EL PASO NATURAL G
-FRANK CASS				RECEIVED: 05/28/81 JA: TX				
8133086	34220	4238300000		103	HUGHES-TRIGG RRC NO 08489	SPRABERRY (TREND AREA)	30.0	EL PASO NATURAL G
-FRANK J KING				RECEIVED: 05/28/81 JA: TX				
*8133132	34358	4236731878		102-4	H B NETTLETON NO 1	CLAYTON (CONGLOMERATE)	125.0	TEXAS UTILITIES F
-GEODYNAMICS OIL & GAS				RECEIVED: 05/28/81 JA: TX				
8133161	34410	4205130725		102-2	BRAVENEC A #1	CALDWELL (AUSTIN CHALK)	88.0	CHAMPLIN PETROLEU
-GETTY OIL COMPANY				RECEIVED: 05/28/81 JA: TX				
8133087	34221	4234130583		103	M B ARMSTRONG NO 27	PANHANDLE HUTCHINSON	3.7	PANHANDLE EASTERN
-GRACE PETROLEUM CORPORATION				RECEIVED: 05/28/81 JA: TX				
8133089	34234	4223530285		108	BROCKS NO 5	BROCKS	3.1	NORTHERN NATURAL
8133090	34236	4223500000		108	BYLER A-2	BROOKS	9.0	CRA INC
-GULF OIL CORPORATION				RECEIVED: 05/28/81 JA: TX				
8133174	34436	4239300000		108	ADELIA CLARK B #1	QUINDUNO	18.0	NATURAL GAS PIPEL
8133243	34716	4223700000		108	J C RIGGS #1	BOOKSVILLE BEND (CONGL G	18.0	SOUTHWESTERN GAS
8133173	34435	4239300000		108	JOHN HAGGARD #27	QUINDUNO	15.0	NATURAL GAS PIPEL
8133040	34069	4249501131		108	L DAUGHERTY WELL NO 2	KERMIT	2.5	CABOT CORP
8133044	34155	4249501063		108	L DAUGHERTY WELL NO 32	KERMIT	2.0	CABOT CORP
8133045	34156	4249501071		108	L DAUGHERTY WELL NO 36	KERMIT	2.7	CABOT CORP
8133043	34154	4249501076		108	L DAUGHERTY WELL NO 41	KERMIT	1.7	CABOT CORP
8133047	34160	4249501080		108	L DAUGHERTY WELL NO 49	KERMIT	1.6	CABOT CORP
8133046	34158	4249501096		108	L DAUGHERTY WELL NO 60	KERMIT	3.0	CABOT CORP
-GULF SANDS OIL CO				RECEIVED: 05/28/81 JA: TX				
8133186	34458	4202531383		103	ERIC HARTZENDORF NO 1	TYNAN E (FRIO 3400)	67.0	GULF STATES EQUIT
8133185	34457	4202531442		103	HARTZENDORF (KARSCH) NO 1	TYNAN (STILLWELL)	109.0	GULF STATES EQUIT
8133131	34357	4202531266		102-4	SIDNEY SUGAREK NO 1 (ID NO 89869)	LITTLE JOHN (1350)	0.0	GULF STATES EQUIT

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-H B RHOADS & ASSOCIATES						RECEIVED: 05/28/81 JA: TX			
8133218	34576	4239931526		103		STRAACH NO 1 WELL #08572	URBAN (MILES)	54.7	ODESSA NATURAL CO
-H W STRICKLAND						RECEIVED: 05/28/81 JA: TX			
8133198	34486	4223733182		102-4		CLAY NO 2	BOGEN (MISSISSIPPI)	85.0	SOUTHWEST GAS PIP
-HARRISON INTERESTS LTD						RECEIVED: 05/28/81 JA: TX			
8133130	34349	4210532459		107-TF		NO 17 UNIVERSITY LAND 38-38	HOWARDS CREEK (CANYON)	110.0	INTRATEX GAS CO
-HAWN BROTHERS						RECEIVED: 05/28/81 JA: TX			
8133019	33299	4204130526		102-2		#1 WYNNE-SULLIVAN	KURTEN (WOODBINE)	18.3	PRODUCERS GAS CO
-HENDERSON CLAY PRODUCTS INC						RECEIVED: 05/28/81 JA: TX			
8133052	34173	4240130971		102-3		LEATH ESTATE WELL #1 91568	HENDERSON NORTH (COTTON	402.0	UNITED GAS PIPELI
8133052	34173	4240130971		107-TF		LEATH ESTATE WELL #1 91568	HENDERSON NORTH (COTTON	402.0	UNITED GAS PIPELI
-HNG OIL COMPANY						RECEIVED: 05/28/81 JA: TX			
8133003	32829	4224531406		102-4		BLAUW PAETZ #6	STOWELL (SULLIVAN F)	12.4	WINNIE PIPELINE C
8133003	32829	4224531406		103		BLAUW PAETZ #6	STOWELL (SULLIVAN F)	12.4	WINNIE PIPELINE C
8133239	34680	4245431806		103		FELDMAN 113 #2 25231	RHODA WALKER (CANYON 590	12.8	CLAJON GAS CO
8133238	34679	4247532055		103		FELDMAN 113 #4 (25231)	RHODA WALKER (CANYON 590	18.3	CLAJON GAS CO
8133023	33746	4247932368		102-2		MARY ETTA LESSOR #2	BIG COWBOY (WILCOX 4800)	81.7	HOUSTON PIPELINE
8133023	33746	4247932368		103		MARY ETTA LESSOR #2	BIG COWBOY (WILCOX 4800)	81.7	HOUSTON PIPELINE
8133224	34618	4243532207		103		RICHARDSON 134 #1 85136	SAWYER/CANYON/	39.1	INTRATEX GAS CO
8133224	34618	4243532207		107-TF		RICHARDSON 134 #1 85136	SAWYER/CANYON/	39.1	INTRATEX GAS CO
8133180	34447	4243532312		103		WADE 52 #2 ID# 89162	MIERS E (STRAWN)	186.0	INTRATEX GAS CO
8133001	32596	4243532294		103		WARD 114-5 (86515)	SAWYER/CANYON/	84.7	INTRATEX GAS CO
8133001	32596	4243532294		107-TF		WARD 114-5 (86515)	SAWYER/CANYON/	84.7	INTRATEX GAS CO
8133225	34620	4243130866		103		WILKINSON 182 #1 (90322)	CREDO E /CISCO UPPER/	41.2	INTRATEX GAS CO
8133237	34677	4243130915		103		WILKINSON 9 #2	CREDO E/CISCO UPPER/	77.4	INTRATEX GAS CO
-HUNT OIL COMPANY						RECEIVED: 05/28/81 JA: TX			
8133082	34209	4221330288		103		FAIRWAY (JAMES LIME) UNIT #746-2	FAIRWAY (JAMES LIME) UNI	87.0	LONE STAR GAS CO
-IFA ENTERPRISES						RECEIVED: 05/28/81 JA: TX			
*8133251	34748	4223531562		103		ETHEL L AULT ET AL #3	ARDEN S (CANYON SD LO)	113.8	ESPERANZA PIPELIN
-INLAND OCEAN INC						RECEIVED: 05/28/81 JA: TX			
8132999	32285	4231100000		103		HAGIST RANCH 6 #1	HAGIST RANCH NO (FRIO 12	18.3	VALERO ENERGY COR
-J A D OIL & GAS						RECEIVED: 05/28/81 JA: TX			
8133229	34639	4206500000		108		MCCONNELL #3 RRC #02982	PANHANDLE	1.0	GETTY OIL CO
-J B HERRMANN						RECEIVED: 05/28/81 JA: TX			
8133097	34254	4223330824		103		LUCAS #1 ID #04565	PANHANDLE-HUTCHINSON COU	14.4	PHILLIPS PETROLEU
8133098	34255	4223330907		103		LUCAS #3 ID #04565	PANHANDLE-HUTCHINSON COU	7.2	PHILLIPS PETROLEU
8133099	34256	4223330991		103		LUCAS #4 ID #04565	PANHANDLE-HUTCHINSON COU	7218.0	PHILLIPS PETROLEU
-JOHN G MIDDLETON						RECEIVED: 05/28/81 JA: TX			
8133172	34432	4208931105		102-4		R L MINTER NO 1	ROCK ISLAND W	54.7	HOUSTON PIPE LINE
-KENNEDY & CHANEY						RECEIVED: 05/28/81 JA: TX			
8133038	34015	4247500000		103		DORR NO 10 #07229	WARD SOUTH	63.0	DELHI GAS PIPELIN
-KERR-MCGEE CORPORATION						RECEIVED: 05/28/81 JA: TX			
8133179	34441	4223330831		103		COCKRELL NO 31	PANHANDLE (HUTCHINSON)	28.0	GETTY OIL CO
8133178	34440	4223331012		103		COCKRELL NO 32	PANHANDLE (HUTCHINSON)	19.0	GETTY OIL CO
8133176	34438	4223330838		103		PITTS NO 116	PANHANDLE (HUTCHINSON)	0.0	GETTY OIL CO
8133175	34437	4223330841		103		PITTS NO 119	PANHANDLE (HUTCHINSON)	11.0	GETTY OIL CO
8133177	34439	4223330989		103		PITTS 122	PANHANDLE (HUTCHINSON)	23.0	GETTY OIL CO
-LA SALLE ENERGY CORP						RECEIVED: 05/28/81 JA: TX			
8133037	33947	4205100000		102-2		MISS ELLIE #1	GIDDINGS	102.2	CLAJON GAS CO
-LADD PETROLEUM CORPORATION						RECEIVED: 05/28/81 JA: TX			
8133121	34326	4210533125		103		A MILLSPAUGH 12-4	OZONA (CANYON SAND)	205.0	VALERO TRANSMISSI
8133121	34326	4210533125		107-TF		A MILLSPAUGH 12-4	OZONA (CANYON SAND)	205.0	VALERO TRANSMISSI
8133042	34148	4210533061		103		C SUTTON #16-1	OZONA (CANYON SAND)	167.1	
8133042	34148	4210533061		107-TF		C SUTTON #16-1	OZONA (CANYON SAND)	167.1	

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME		FIELD NAME	PROD	PURCHASER
-LAGUNA PETROLEUM CO						RECEIVED: 05/28/81 JA: TX				
*8133210	34561	4211531413			103	SPRUILL #1		GIN NORTH (8000)	8.6	PHILLIPS PETROLEU
-LYONS PETROLEUM INC						RECEIVED: 05/28/81 JA: TX				
8133085	34219	4220330756			102-4	ALVIN CHILDS NO 1		PINE BLUFF (PAGE 6500)	192.0	EAST TEXAS INDUST
8133085	34219	4220330756			103	ALVIN CHILDS NO 1		PINE BLUFF (PAGE 6500)	192.0	EAST TEXAS INDUST
-MADERA R F						RECEIVED: 05/28/81 JA: TX				
8133167	34419	4236300000			108	CLARA WATSON #2 ID68188		EMORY (BIG SALINE)	4.5	SOUTHWESTERN GAS
8133168	34420	4236300000			108	TRI-STATE LEASING #1 ID40159		EMORY (BIG SALINE 4116)	20.0	SOUTHWESTERN GAS
-MAGNUM RESOURCES INC						RECEIVED: 05/28/81 JA: TX				
8132998	32282	4250334202			103	RAMSOURS A #1 --- 20617		SCHULZ & BRANNAN (STRAWN	104.0	SUN GAS GATHERING
-MCFARLANE OIL CO INC						RECEIVED: 05/28/81 JA: TX				
8133254	34763	4246900000			103	LANDER NO 1		PLACEDO WEST 6050 SD FIE	0.0	TENNECO CHEMICALS
8133252	34755	4246900000			103	MCFARLANE FEE NO 3		PLACEDO FIELD	0.0	TENNECO CHEMICALS
-NEWBOURNE OIL COMPANY						RECEIVED: 05/28/81 JA: TX				
8133084	34218	4235700000			103	HARDY 81 #2 WELL RRC ID #		BULER NORTH (CLEVELAND)	20.0	TRANSWESTERN PIPE
-NGF OIL CORP						RECEIVED: 05/28/81 JA: TX				
8133050	34168	4231732266			103	CRIM #1		SPRAYBERRY (TREND AREA)	28.8	PHILLIPS PETROLEU
8133154	34395	4231732258			103	GULF A #1		SPRAYBERRY (TREND AREA)	17.6	PHILLIPS PETROLEU
8133153	34394	4231732190			103	NAIL C UNIT #1		SPRAYBERRY (TREND AREA)	23.4	NORTHERN NATURAL
-NIDWAY OIL CORP						RECEIVED: 05/28/81 JA: TX				
8133217	34575	4205131170			102-4	GUS KNESEK ESTATE NO 1		CALDWELL (AUSTIN CHALK)	219.0	CLAJON GAS CO
-NITCHELL ENERGY CORPORATION						RECEIVED: 05/28/81 JA: TX				
8133250	34733	4249731900			103	A A DRUMMOND #1-U		LEFTWICK (STRAWN)	1900.0	NATURAL GAS PIPEL
8133203	34520	4236700000			108	C C LANKIN #1		BETHESDA BIG SALINE	11.0	SOUTHWESTERN GAS
8133202	34518	4249700000			108	E M BAUGH UNIT #1		BOONSVILLE (BEND CONGL G	9.0	SOUTHWESTERN GAS
8133204	34521	4242900000			108	FAMBRO -35- #1		BRITTANY SE (STRAWN)	1.0	SOUTHWESTERN GAS
8133206	34524	4236300000			108	MORGAN JONES ESTATE #1		PALO PINTO SW (STRAWN)	6.0	SOUTHWESTERN GAS
8133207	34525	4242900000			108	R L GREENLEE #1		LAKE DANIELS (STRAWN)	1.0	SOUTHWESTERN GAS
8133205	34522	4249700000			108	TACKEL #1		BOONSVILLE (BEND CONGL G	10.0	SOUTHWESTERN GAS
8133088	34223	4249700000			108	W H PORTWOOD #2		BOONSVILLE (BEND CONGL G	0.0	NATURAL GAS PIPEL
8133208	34526	4236700000			108	WESLEY STRAIN #3		BRAZOS EAST (CADDO)	2.0	SOUTHWESTERN GAS
-NORAN EXPLORATION INC						RECEIVED: 05/28/81 JA: TX				
8133232	34654	4223531549			103	MAYER -A- #2		SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
-NR OIL CO						RECEIVED: 05/28/81 JA: TX				
8133143	34371	4247500000			103	I B MCFARLAND SEC 29 NO 11 #07359		WARD-ESTES NORTH	0.4	
8133135	34363	4247500000			103	LOUIS RICHTER NO 84 #07342		WARD-ESTES NORTH	10.2	CABOT CORP
8133136	34364	4247500000			103	LOUIS RICHTER NO 85 #07342		WARD-ESTES NORTH	0.4	CABOT CORP
8133137	34365	4247500000			103	LOUIS RICHTER NO 87 #07342	•	WARD-ESTES NORTH	0.4	CABOT CORP
8133138	34366	4247500000			103	LOUIS RICHTER NO 88 #07342		WARD-ESTES NORTH	0.4	CABOT CORP
8133139	34367	4247500000			103	LOUIS RICHTER NO 89 #07342		WARD-ESTES NORTH	0.4	CABOT CORP
8133140	34368	4247500000			103	LOUIS RICHTER NO 90 #07342		WARD-ESTES NORTH	6.5	CABOT CORP
8133141	34369	4247532109			103	LOUIS RICHTER NO 91 #07342		WARD-ESTES NORTH	7.5	CABOT CORP
8133142	34370	4247500000			103	MCFARLAND I B SEC 37 NO 26		WARD - ESTES NORTH	4.0	
8133144	34372	4247500000			103	W D JOHNSON B NO 7 #07329		WARD-ESTES NORTH	0.4	
-NIGAS SUPPLY INC						RECEIVED: 05/28/81 JA: TX				
8133104	34263	4206530860			103	BURNETT 1-120 LEASE		PANHANDLE - CARSON FIELD	75.0	PANHANDLE EASTERN
8133103	34262	4206530861			103	BURNETT 2-120 LEASE		PANHANDLE - CARSON FIELD	60.0	PANHANDLE EASTERN
8133102	34261	4206530862			103	BURNETT 3-120 LEASE		PANHANDLE - CARSON FIELD	75.0	PANHANDLE EASTERN
-NUCORP ENERGY INC						RECEIVED: 05/28/81 JA: TX				
8133049	34167	4217730632			103	HAVEL UNIT NO 1 #06482		PILGRIM (AUSTIN CHALK)	20.0	TIPPERARY GATHERI
8133014	33038	4228730749			102-2	SUSIE CLEMONS UNIT NO 1		GIDDINGS (AUSTIN CHALK)	43.8	PHILLIPS PETROLEU
-OIL AND GAS CO						RECEIVED: 05/28/81 JA: TX				
8133041	34093	4205100000			102-2	JOHANNA VAVRA #1		GIDDINGS (AUSTIN CHALK)	385.8	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-OILWELL OPERATORS INC						RECEIVED: 05/28/81 JA: TX			
8133081	34206	4217900000		108		BARRETT 23256	PANHANDLE-WEST	1.0	CITIES SERVICE CO
8133080	34205	4217900000		108		BELL #1 00261	PANHANDLE-GRAY	7.0	CITIES SERVICE CO
8133079	34204	4217900000		108		BELL #3 00261	PANHANDLE-GRAY	7.0	CITIES SERVICE CO
8133073	34197	4206500000		108		BRYAN #1 00072	PANHANDLE-CARSON	4.0	CABOT PIPELINE CO
8133072	34196	4206500000		108		BRYAN #2 00072	PANHANDLE-CARSON	4.0	CABOT PIPELINE CO
8133062	34183	4206500000		108		BYRUM #1 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133061	34182	4206500000		108		BYRUM #2 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133060	34181	4206500000		108		BYRUM #3 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133059	34180	4206500000		108		BYRUM #4 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133058	34179	4206500000		108		BYRUM #5 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133057	34178	4206500000		108		BYRUM #6 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133056	34177	4206500000		108		BYRUM #7 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133055	34176	4206500000		108		BYRUM #8 00126	PANHANDLE-CARSON	2.0	GETTY OIL CO
8133065	31489	4217900000		108		DICKEY B 26485	PANHANDLE-EAST	11.0	PHILLIPS PETROLEU
8133071	34195	4217900000		108		HOPKINS #1 02173	PANHANDLE-GRAY	6.0	PHILLIPS PETROLEU
8133070	34194	4217900000		108		HOPKINS #2 02173	PANHANDLE-GRAY	6.0	PHILLIPS PETROLEU
8133075	34199	4217900000		108		J S MORSE 25832	PANHANDLE-EAST	6.0	COLTEXO CORP
8133078	34202	4217900000		108		MEERS #1 00255	PANHANDLE-GRAY	7.0	CITIES SERVICE CO
8133077	34201	4217900000		108		MEERS A #1 00256	PANHANDLE-GRAY	7.0	CITIES SERVICE CO
8133076	34200	4217900000		108		MEERS A #2 00256	PANHANDLE-GRAY	7.0	CITIES SERVICE CO
8133069	34193	4217900000		108		MELTON #1 02203	PANHANDLE-GRAY	8.0	PHILLIPS PETROLEU
8133068	34192	4217900000		108		MELTON #2 02203	PANHANDLE-GRAY	8.0	PHILLIPS PETROLEU
8133067	34191	4217900000		108		MELTON #3 02203	PANHANDLE-GRAY	8.0	PHILLIPS PETROLEU
8133066	34190	4217900000		108		MELTON #4 02203	PANHANDLE-GRAY	8.0	PHILLIPS PETROLEU
8133064	34188	4217900000		108		MORSE 1-65 26468	PANHANDLE-EAST	4.0	PHILLIPS PETROLEU
8133063	34187	4217900000		108		MORSE 2-65 26469	PANHANDLE-EAST	3.0	PHILLIPS PETROLEU
8133074	34198	4217900000		108		WRIGHT 25833	PANHANDLE-EAST	21.0	COLTEXO CORP
-ORLA PETCO INC						RECEIVED: 05/28/81 JA: TX			
8133111	34277	4210931421		103		BILL MEEKER NO 2	ED KENNEDY (CHERRY CANYO	21.9	
-PALCO INC						RECEIVED: 05/28/81 JA: TX			
8133034	33889	4223300000		103		REINER A #1	PANHANDLE HUTCHINSON	75.0	PANHANDLE PRODUCI
8133035	33890	4223300000		103		REINER A #2	PANHANDLE HUTCHINSON	91.0	PANHANDLE PRODUCI
-PARKER & PARSLEY INC						RECEIVED: 05/28/81 JA: TX			
8133242	34690	4231732274		103		GLASCOCK WELL NO 1	SPRABERRY (TREND AREA)	15.0	ADOBE OIL & GAS C
8133241	34689	4232930963		103		KOONCE WELL NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEU
8133240	34688	4232930972		103		STROUD UNIT A WELL NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEU
-PENNZOIL PRODUCING COMPANY						RECEIVED: 05/28/81 JA: TX			
8133029	33853	4236531001		107-TF		HULL UNIT NO A-21	CARTHAGE/COTTON VALLEY/	550.0	UNITED GAS PIPE L
-PETROLEUM TECHNICAL SERVICES CO						RECEIVED: 05/28/81 JA: TX			
8133048	34164	4236732084		103		HOBSON UNIT A NO 1	MALES (4850)	36.5	SOUTHWESTERN GAS
8133083	34210	4205131211		103		RUSSELL NO 1	GIDDINGS (AUSTIN CHALK)	127.0	FERGUSON CROSSING
-PHILLIPS PETROLEUM COMPANY						RECEIVED: 05/28/81 JA: TX			
8133093	34244	4217900000		108		JOHNSON AA #18	PANHANDLE GRAY	0.0	
8133219	34587	4249531258		103		WALTON B NO 7 (26408)	KEYSTONE (COLBY)	34.3	SID RICHARDSON
-R & J PRODUCTION						RECEIVED: 05/28/81 JA: TX			
8133100	34259	4206530864		103		BURNETT #5 LEASE	PANHANDLE - CARSON FIELD	50.0	PANHANDLE EASTERN
8133101	34260	4206530863		103		BURNETT LEASE #4	PANHANDLE - CARSON FIELD	60.0	PANHANDLE EASTERN
-RALPH L WAY INC						RECEIVED: 05/28/81 JA: TX			
8133122	34328	4210532776		103		UNIVERSITY-DYCO A #3	FARMER (SAN ANDRES)	3.8	NORTHERN NATURAL
*8133128	34338	4210533169		103		UNIVERSITY-DYCO C #3	FARMER (SAN ANDRES)	16.2	J L DAVIS
-REALITOS ENERGY CORP						RECEIVED: 05/28/81 JA: TX			
8133188	34467	4217531347		102-4		W T NEYLAND NO 1	GANTT (FRIO 2140)	180.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-RED RIVER PETROLEUM OF TEXAS						RECEIVED: 05/28/81 JA: TX			
8133094	34251	4209330783		103		WALKER NO 1	MITTIE (MARBLE FALLS)	260231.2	LONE STAR GAS CO
-SAGE ENERGY CO						RECEIVED: 05/28/81 JA: TX			
8133017	33268	4247730388		102-2		LONGPOINT #1 RRC #13653	GIDDINGS (AUSTIN CHALK)	556.0	PHILLIPS PETROLEU
-SAN JUAN EXPLORATION CO						RECEIVED: 05/28/81 JA: TX			
8133008	32926	4220330681		102-4		BAKER ESTATE WELL #11	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
8133008	32926	4220330681		107-TF		BAKER ESTATE WELL #11	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
8133006	32924	4220330640		102-4		DUNN GAS UNIT #1	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
8133006	32924	4220330640		107-TF		DUNN GAS UNIT #1	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
8133007	32925	4220303507		102-4		E F SMITH WELL #1	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
8133007	32925	4220303507		103		E F SMITH WELL #1	WHELAN (COTTON VALLEY)	0.0	ARKANSAS LOUISIAN
-SAXON OIL COMPANY						RECEIVED: 05/28/81 JA: TX			
8133123	34351	4238331810		103		GARDNER NO 3	BENEDUM (SPRABERRY)	21.5	PHILLIPS PETROLEU
-SHAH EXPLORATION CO INC						RECEIVED: 05/28/81 JA: TX			
8133201	34494	4250300000		103		SHAH COOPER #1	WILDCAT - YOUNG COUNTY	2.0	GAS ASSOCIATED SY
8133200	34493	4250333272		103		SHAH HINSON A #1	WILDCAT - YOUNG COUNTY	2.0	GAS ASSOCIATED SY
8133199	34491	4250300000		103		SHAH HINSON C	YOUNG COUNTY REGULAR	2.0	GAS ASSOCIATED SY
-SHELL OIL CO						RECEIVED: 05/28/81 JA: TX			
8133115	34305	4210300000		108		BARNSLEY -B- NO 5	SAND HILLS (MCKNIGHT)	5.8	WARREN PETROLEUM
8133114	34304	4210300000		108		BARNSLEY -B- NO 6	SAND HILLS (MCKNIGHT)	5.7	WARREN PETROLEUM
8133113	34303	4210300000		108		BARNSLEY -B- NO 8	SAND HILLS (MCKNIGHT)	8.6	WARREN PETROLEUM
8133233	34661	4246100000		103		NORTH CROSS (DEV) UNIT NO 66	CROSSETT (DEVONIAN)	124.1	SHELL ETAL
8133234	34662	4246100000		103		NORTH CROSS (DEV) UNIT NO 88	CROSSETT (DEVONIAN)	197.1	SHELL ET AL
-SOUTHLAND ROYALTY CO						RECEIVED: 05/28/81 JA: TX			
8133197	34482	4210300000		108		BEAVERS #1	ROBERDEAU W	0.7	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)						RECEIVED: 05/28/81 JA: TX			
8133112	34288	4242700000		108		BENTSEN BROS -B- NO 7	JUDD CITY	2.0	
-TAHOE OIL & CATTLE CO						RECEIVED: 05/28/81 JA: TX			
8132997	32281	4237133159		103		BIG BOW NO 1	FORT STOCKTON	47.5	NORTHERN NATURAL
-TENROC CORP						RECEIVED: 05/28/81 JA: TX			
8133018	33273	4205130902		102-2		LAUDERDALE NO 1	GIDDINGS (AUSTIN CHALK G	525.0	PHILLIPS PETROLEU
-TEX-STAR PETROLEUM						RECEIVED: 05/28/81 JA: TX			
8133227	34635	4239931556		102-4		ALDRIDGE #2 (91426)	GOLCSBORO (MISS)	5.0	UNION TEXAS PETRO
-TEXACO INC						RECEIVED: 05/28/81 JA: TX			
8133171	34425	4226130437		102-4		YTURRIA L&C NCT-1 #40	CABAZOS (LM-15)	208.0	TENNESSEE GAS PIP
8133011	33014	4232930958		102-4		ZULA B WYLIE B #1	BRADFORD RANCH (ATOKA)	338.0	EL PASO NATURAL G
-TEXLAND-RECTOR & SCHUMACHER						RECEIVED: 05/28/81 JA: TX			
8133033	33882	4244530805		102-4		PAULINE H MORGENSTERN NO 4	TERRYON (CLEARFORK UP)	4.4	AMOCO PRODUCTION
8133031	33880	4244530202		102-4		PAULINE MORGENSTERN NO 1	TERRYON (CLEARFORK UPPER	1.8	AMOCO PRODUCTION
8133032	33881	4244530650		102-4		PAULINE MORGENSTERN NO 2	TERRYON (CLEARFORK UPPER	5.0	AMOCO PRODUCTION
-THOMAS D COFFMAN INC						RECEIVED: 05/28/81 JA: TX			
8133028	33850	4214930444		102-2		LOOMIS UNIT NO 1 097568	GIDDINGS (AUSTIN CHALK)	80.3	SOUTH CEN-TEX GAS
8133027	33849	4214930910		102-2		MARGARET ANN #1 106707	GIDDINGS (AUSTIN CHALK)	91.3	SOUTH CEN-TEX GAS
8133010	32946	4205131180		102-2		MIKESKA UNIT NO 1 100549	GIDDINGS (AUSTIN CHALK)	108.0	FERGUSON CROSSING
-TROJAN OIL PRODUCTION & SERVICES IN						RECEIVED: 05/28/81 JA: TX			
8133162	34414	4239931531		103		E H DEAN #4 (08268)	BIG ED (GARDNER LIME)	31.0	LONE STAR GAS CO
8133221	34597	4239931487		103		JAMES PALMER #2 (08095)	BIG ED (GARDNER LIME)	0.0	LONE STAR GAS CO
8133120	34313	4239931609		103		JAMES PALMER #3 (08099)	BIG ED (GARDNER LIME)	9.0	LONE STAR GAS CO
-UNION EXPLORATION						RECEIVED: 05/28/81 JA: TX			
8133223	34600	4205932922		102-4		DRAKE #1	BOWNE (CADDO)	7.0	LONE STAR GAS CO
-UNION TEXAS PETROLEUM						RECEIVED: 05/28/81 JA: TX			
8133190	34470	4223531181		103		FARMAR 57 #2	ROCK PEN (CANYON) CANYON	63.4	CRA INC
8133192	34473	4223531297		103		FARMAR 57 #8	ROCK PEN (CANYON) CANYON	52.2	CRA INC

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133189	34469	4223531274		103		FARMER 56 #4	ROCK PEN (CANYON) CANYON	25.0	CRA INC
8133191	34472	4223531284		103		FARMER 57 #6	ROCK PEN (CANYON) CANYON	45.0	CRA INC
-WALSH AND WATTS INC				RECEIVED: 05/28/81 JA: TX					
8133253	34757	4229530810		103		GRAY NO 8 (LEASE NO 02359)	BRADFORD (TONKAWA)	18.0	PHILLIPS PETROLEU
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 05/28/81 JA: TX					
8133105	34267	4210332329		103		W N WADDELL NO 1121	UNIVERSITY WADDELL (DEVO	162.0	EL PASO NATURAL G
8133157	34402	4210332358		103		W N WADDELL NO 1144	WADDELL	6.0	EL PASO NATURAL G
-WILSON ENERGY INC				RECEIVED: 05/28/81 JA: TX					
8133158	34405	4210500000		103		UNIVERSITY 12 C #1 08706	FARMER (SAN ANDRES)	9.0	BIG LAKE GASOLINE
8133159	34406	4232900000		103		UNIVERSITY 12 C #2 08706	FARMER (SAN ANDRES)	7.0	BIG LAKE GASOLINE
8133160	34407	4210500000		103		UNIVERSITY 12 C #3 08706	FARMER (SAN ANDRES)	7.0	BIG LAKE GASOLINE
-WOOLF & MAGEE INC				RECEIVED: 05/28/81 JA: TX					
*8133187	34466	4237330478		102-4		R E BIRCH GAS UNIT NO 2	DAMASCUS (WOODBINE 9230)	150.0	UNITED GAS PIPELI
-WORLD PRODUCERS INC				RECEIVED: 05/28/81 JA: TX					
8133134	34362	4236731773		103		TIMMONS #1	CABBAGE PATCH (ATOKA)	36.0	SOUTHWESTERN GAS
-WYNN D MILLER				RECEIVED: 05/28/81 JA: TX					
8133039	34049	4202500000		103		SID I MALONE NO 5	NORMANNA S (2050)	0.0	FERGUSON CROSSING
-ZINN PETROLEUM CO				RECEIVED: 05/28/81 JA: TX					
*8132996	32280	4239831142		103		FIRST NATIONAL BANK STATE #1 091331	REAVES NORTH (3200)	125.0	

OTHER PURCHASERS VOLUME NO 0450

8132996	GAS CONTRACT PRESENTLY BEING NEGOTI
8133015	PHILLIPS PETROLEUM COMPANY
8133020	E I DUPONT DE NEMOURS & CO INC
8133021	E I DUPONT DE NEMOURS & CO INC
8133022	E I DUPONT DE NEMOURS & CO INC
8133024	AMOCO
8133118	WINNIE P L CO
8133128	EL PASO NATURAL GAS COMPANY
8133129	COLUMBIA GAS TRANS
8133132	SOUTHWESTERN GAS P L INC
8133187	UNITED PIPELINE COMPANY
8133195	VALERO TRANSMISSION COMPANY
8133196	VALERO TRANSMISSION COMPANY
8133209	EL PASO NATURAL GAS COMPANY
8133210	NORTHERN NATURAL GAS COMPANY
8133220	EL PASO NATURAL GAS COMPANY
8133236	E I DUPONT DE NEMOURS & CO INC
8133244	PHILLIPS PETROLEUM COMPANY
8133251	LONE STAR GAS COMPANY

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agncies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchases listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Divison of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 15, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-19221 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 25, 1981.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ARAPAHO VENTURES OF NEW YORK INC			RECEIVED: 06/01/81 JA: NY						
8133788	1063	3112113891		102-2		DAVID SHEARING #1	WILDCAT	20.0	COLUMBIA GAS
8133776	1056	3112113664		102-2		GORDON PIERSON #1	WILDCAT	20.0	COLUMBIA GAS
8133781	1057	3112113713		102-2		GORDON PIERSON #2	WILDCAT	20.0	COLUMBIA GAS
8133785	1062	3112113892		102-2		LESTER WILKIE #2	WILDCAT	20.0	COLUMBIA GAS
8133787	1054	3112113915		102-2		LESTER WILKIE #3	WILDCAT	20.0	COLUMBIA GAS
8133806	1055	3112113666		102-2		MICHAEL KELLY #1	WILDCAT	20.0	COLUMBIA GAS
-BOUNTY OIL & GAS INC			RECEIVED: 06/01/81 JA: NY						
8133789	1262	3101315462		102-2		AHLSTROM ETAL #1	BUSTI	0.0	NATIONAL FUEL DIS
8133783	1110	3101315263		102-2		BABYAK #2	WILDCAT	30.0	NATIONAL FUEL GAS
8133791	1257	3101315627		102-2		BARTON #2	BUSTI	0.0	COLUMBIA GAS TRAN
8133772	1108	3101315258		102-2		DAHLGREN #1	BUSTI	50.0	NATIONAL FUEL GAS
8133795	1263	3101315463		102-2		E CEDERQUIST #1	WILDCAT	0.0	NATIONAL FUEL GAS
8133794	1260	3101315559		102-2		E LEVIN UNIT #1	WILDCAT	0.0	NATIONAL FUEL DIS
8133782	1107	3101315260		102-2		GAGE #1	WILDCAT	60.0	NATIONAL FUEL GAS
8133771	1109	3101315261		102-2		GARFIELD UNIT #1	BUSTI	55.0	NATIONAL FUEL GAS
8133793	1259	3101315506		102-2		JONES UNIT #1	BUSTI	0.0	NATIONAL FUEL DIS
8133790	1261	3101314588		102-2		MAPLEHURST COUNTRY CLUB INC #1	BUSTI	0.0	NATIONAL FUEL GAS
8133792	1258	3101315509		102-2		NELSON JOINT OPERATING AREA #2	BUSTI	0.0	NATIONAL FUEL GAS
8133775	1111	3101315259		102-2		R NELSON #1	BUSTI	15.0	NATIONAL FUEL GAS
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 06/01/81 JA: NY						
8133777	1168	3101313603		102-2		NY DEPT ENVIRON CONSERVATION 620606	BOUTWELL HILL	31.5	COLUMBIA GAS TRAN
8133778	1171	3101313605		102-2		TCO-NY DEPT ENVIRON CONSER 620609	GERRY	31.5	COLUMBIA GAS TRAN
-ENVIROGAS INC			RECEIVED: 06/01/81 JA: NY						
8133768	1094	3101315314		102-0		#1 R P HEWES	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8133796	1253	3101315635		102-2		#1 W ESKELI	WILDCAT	18.0	NATIONAL FUEL GAS
8133770	1092	3101315033		102-2		#2 J BRIGHTMAN	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8133767	1095	3101315315		102-2		#2 R P HEWES	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8133769	1093	3101315003		102-2		#3 J BRIGHTMAN	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8133801	976	3101315214		103		#3 J NERATKO	LAKESHORE	18.0	NATIONAL FUEL GAS
8133800	978	3101314369		103		P BARDEN #1	LAKESHORE	18.0	NATIONAL FUEL GAS
-FLINT OIL & GAS INC			RECEIVED: 06/01/81 JA: NY						
8133780	936	3102914436		103		C & M MASCIO UNIT #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-NORD/MONTARA PETROLEUM CO			RECEIVED: 06/01/81 JA: NY						
8133798	1244	3112113083		102-2		KEEM UNIT NO 1	JAVA	25.0	COLUMBIA GAS TRAN
8133799	1245	3112114801		102-2		KEEM UNIT NO 2	JAVA	25.0	COLUMBIA GAS TRAN
8133797	1246	3112114804		102-2		LUDWIG UNIT NO 1	JAVA	25.0	COLUMBIA GAS TRAN
8133786	1242	3112114803		102-2		RAYMOND E HAYES ET UX NO 1	JAVA	25.0	COLUMBIA GAS TRAN
8133784	1243	3112115312		102-2		RING UNIT NO 2	JAVA	25.0	COLUMBIA GAS TRAN
-P & S DRILLING INC			RECEIVED: 06/01/81 JA: NY						
8133774	1066	3102915046		102-2		BUFFALO CREEK #4	BUFFALO CREEK	45.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133803	1002	3102914257		103		RAKOCZY #1	COWLESVILLE	6.0	NATIONAL FUEL GAS
-PARAGON RESOURCES INC				RECEIVED: 06/01/81 JA: NY					
8133802	1034	3101312352		108		UNIT NO 467 - O BAIOCCO	LAKESHORE	12.6	NATIONAL FUEL GAS
-SCG GAS QUEST INC				RECEIVED: 06/01/81 JA: NY					
8133804	#929	3102913953		103		TMV ENTERPRISES CORP #2	EDEN-EVANS MEDINA	36.5	TENNESSEE GAS PIP
8133805	#930	3102913954		103		TMV ENTERPRISES CORP #3	EDEN-EVANS MEDINA	36.5	TENNESSEE GAS PIP
-TRAHAN PETROLEUM INC				RECEIVED: 06/01/81 JA: NY					
8133779	1150	3101314862		102-2		T WELLER #1 - NY 77 31-013-14862	PANAMA	36.0	COLUMBIA GAS TRAN
8133773	1149	3101315053		102-2		T WELLER #2 - NY 78 31-013-15053	PANAMA	36.0	COLUMBIA GAS TRAN
**********									
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED: 05/27/81 JA: PA					
8133730	6904	3712921185		103		BEUTEN (SNADEL) #3	LATROBE	75.0	TITANIUM METALS C
8133746	6987	3706325444		103		GEORGE W ISENBERG 1-C	CLYMER	30.0	COLUMBIA GAS TRAN
8133721	7013	3706325858		103		GLENN M ELLISON #1-E	BRUSH VALLEY	29.0	COLUMBIA GAS TRAN
8133745	6988	3712921186		103		JAMES C POOLE #1	MT PLEASANT	28.0	INDUSTRIAL GAS SA
8133742	6983	3712921188		103		KENNETH M TRICE ET UX	UNITY	34.0	UGI CORP
8133747	6986	3712921187		103		KENNETH M TRICE ET UX	UNITY	37.0	UGI CORP
8133741	6984	3703320724		103		REID C & LULU E REITER #3	DUBOIS	29.0	CONSOLIDATED GAS
-ADOBE OIL & GAS CORPORATION				RECEIVED: 05/29/81 JA: PA					
8133846	7014	3712921772		103		JAMES R CUNNINGHAM 1-C	SALTSBURGH	37.0	T W PHILLIPS GAS
8133842	7131	3712921278		103		W D FOSTER #1	BLAIRSVILLE	24.0	PEOPLES NATURAL G
8133843	7129	3712921160		103		WAYNE H & A HELEN HILLIS #2	MT PLEASANT	25.0	UNITED GAS UTILIT
-ANGERMAN ASSOCIATES INC				RECEIVED: 05/29/81 JA: PA					
8133848	7005	3706325962		103		FORSHA #1 IND-25962	BLACKLICK	0.0	T W PHILLIPS GAS
8133849	7003	3706326002		103		FORSHA #2 IND-26002	BLACKLICK	0.0	T W PHILLIPS GAS
8133847	7006	3706325486		103		LOMBARDI/COLEMAN UNIT #1 IND-25486	TUNNELLTON - UPPER DEVON	25.0	T W PHILLIPS GAS
-BAKER GAS INC				RECEIVED: 05/27/81 JA: PA					
8133733	6942	3700520036		108		VERNER #1	APOLLO	2.9	PEOPLES NATURAL G
-C & N CO				RECEIVED: 05/27/81 JA: PA					
8133715	7019	3712921673		103		KISKIMINETAS SPRINGS SCHOOL #6	LOYALHANNA	200.0	PEOPLES NATURAL G
8133714		3706324141		103		MUSSER FOREST INC #1	ARMSTRONG	200.0	PEOPLES NATURAL G
8133723	7017	3706324142		103		MUSSER FOREST INC #2	ARMSTRONG	200.0	PEOPLES NATURAL G
8133691	7047	3706324741		103		MUSSER FOREST INC #3 (87A)	ARMSTRONG	200.0	PEOPLES NATURAL G
8133695	7040	3706324077		103		RESCHINI INSURANCE AGENCY #1	WHITE	200.0	PEOPLES NATURAL G
-CABOT OIL & GAS CORP				RECEIVED: 05/27/81 JA: PA					
8133752	7109	3703920873		102-2		FRANK NADER #2	GREENWOOD	50.0	TENNESSEE GAS PIP
8133757	7108	3703921095		102-2		RAYMOND DEISS #2	FAIRFIELD	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 05/27/81 JA: PA					
8133744	7000	3706323955		108		C C CARR WN-1658	NORTH MAHONING TOWNSHIP	21.0	GENERAL SYSTEM PU
8133738	6970	3706325913		103		L E STARTZELL 1602	BANKS	1.5	GENERAL SYSTEM PU
8133737	6971	3712921093		103		MARGARET C ERRETT WN-1627	HEMPFIELD WN-1627	0.0	GENERAL SYSTEM PU
-D A DORWARD				RECEIVED: 05/27/81 JA: PA					
8133726	4507	3706521496		108		LARKO 1 (D-S5) O/S 10595	PERRY TOWNSHIP	19.0	CONSOLIDATED GAS
8133727	4508	3706521503		108		LINDSEY 1 (D-S3) O/S 10623	PERRY TOWNSHIP	19.0	CONSOLIDATED GAS
8133724	4505	3706521494		108		SKIBA 1 (D-S2) O/S 10593	PERRY TOWNSHIP	19.0	CONSOLIDATED GAS
8133725	4506	3706521495		108		SKIBA 2 (D-S4) O/S 10594	PERRY TOWNSHIP	19.0	CONSOLIDATED GAS
-DELTA DRILLING CO				RECEIVED: 05/27/81 JA: PA					
8133761	7104	3706325483		103		FELDMEIER #2	CHERRYHILL	0.0	PEOPLES NATURAL G
8133764	7101	3706325449		103		R HAWXHURST #2	CHERRYHILL	0.0	PEOPLES NATURAL G
8133760	7105	3706325475		103		VARGO #1	CHERRYHILL	0.0	PEOPLES NATURAL G
8133758	7107	3706325485		103		W BECK #1	CHERRYHILL	0.0	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133759	7106	3706325687			103	YUCKENBERG #2	CHERRYHILL	0.0	PEOPLES NATURAL G
-FAIRMAN DRILLING CO		RECEIVED: 05/27/81 JA: PA							
8133751	7002	3706324991			103	WILLIAM W LLOYD NO 1 F-2606	MARION CENTER	30.0	T W PHILLIPS GAS
8133743	7001	3706324992			103	WILLIAM W LLOYD NO 2 F-2596	MARION CENTER	30.0	T W PHILLIPS GAS
-FOX OIL & GAS INC		RECEIVED: 05/29/81 JA: PA							
8133854	6957	3700325857			103	FONTZ - PICKARD #1	MONTGOMERY TOWNSHIP	28.5	COLUMBIA GAS TRAN
8133852	6959	3706325119			103	MARY L BROWN #1	GREEN TOWNSHIP	2.6	COLUMBIA GAS TRAN
8133853	6958	3706325784			103	MICHAEL GLOPUN #3	MONTGOMERY TOWNSHIP	29.2	COLUMBIA GAS TRAN
8133851	6960	3706325878			103	WILLIAM R CONNER #1	MONTGOMERY TOWNSHIP	2.6	COLUMBIA GAS TRAN
-GULF OIL CORPORATION		RECEIVED: 05/27/81 JA: PA							
8133722	7016	3703320838			103	H M DIEM #1	REED DEEMER/BIG RUN	0.1	
-J & J ENTERPRISES INC		RECEIVED: 05/27/81 JA: PA							
8133711	7023	3706324558			103	C J VENESKEY #1	WHITE	200.0	PEOPLES NATURAL G
8133713	7026	3700522411			103	C SCHRENCENGOST #3	PLUMCREEK	200.0	PEOPLES NATURAL G
8133699	7044	3706324383			103	CHRISTIAN MISSIONARY ALL CH #1 (4A)	WHITE	200.0	PEOPLES NATURAL G
8133718	7021	3706324589			103	DAVID L JOYCE #1	BURRELL	200.0	PEOPLES NATURAL G
8133710	7022	3706324079			103	ERNEST FOWLER #1	WHITE	200.0	PEOPLES NATURAL G
8133712	7025	3706324587			103	ERNEST GOOD #1	WEST MAHONING	200.0	PEOPLES NATURAL G
8133701	7033	3706324484			103	IVAN L MYERS #1	WASHINGTON	200.0	PEOPLES NATURAL G
8133705	7037	3706323813			103	JAMES E WILSON #1	ARMSTRONG	200.0	PEOPLES NATURAL G
8133708	7031	3700522203			103	JAMES F MCFARLAND #2	COWANSHANNOCK	200.0	PEOPLES NATURAL G
8133704	7028	3706324652			103	JOHN SEMON SR #1 (16A)	CENTER	200.0	PEOPLES NATURAL G
8133690	7046	3706324653			103	KUNKLE-BERRY #1	WHITE	200.0	PEOPLES NATURAL G
8133702	7034	3706324407			103	MARY WAGNER #1 (68A)	WASHINGTON	200.0	PEOPLES NATURAL G
8133706	7038	3706325101			103	MARY WAGNER #2 (62A)	WASHINGTON	200.0	PEOPLES NATURAL G
8133717	7020	3700522432			103	MELVIN PETTIGREW #2	COWANSHANNOCK	200.0	PEOPLES NATURAL G
8133709	7032	3706324209			103	ROGER L CRAIG #3	ARMSTRONG	200.0	PEOPLES NATURAL G
8133707	7030	3700522202			103	RONALD ALTMAN #1	COWANSHANNOCK	200.0	PEOPLES NATURAL G
8133700	7045	3700522410			103	ROY REARICK #3	PLUMCREEK	200.0	PEOPLES NATURAL G
8133696	7041	3700522417			103	ROY WIEGAND #2 (68A)	KITTANNING	200.0	PEOPLES NATURAL G
8133698	7043	3706324322			103	STUDENT COOP ASSOCIATION INC #1	WHITE	200.0	PEOPLES NATURAL G
8133703	7035	3706324323			103	STUDENT COOP ASSOCIATION INC #2	WHITE	200.0	PEOPLES NATURAL G
8133697	7042	3706324871			103	T FRICK #1 (237A)	WHITE	200.0	PEOPLES NATURAL G
-J & J ENTERPRISES INC		RECEIVED: 05/29/81 JA: PA							
8133858	7143	3706324399			103	ANDREW J FLECKENSTEIN #1	CANOE	200.0	T W PHILLIPS GAS
8133814	7188	3706323683			103	ARTHUS L WEISS #1	YOUNG	200.0	T W PHILLIPS GAS
8133840	7148	3706325570			103	BILLY LOUGHRY #1	E MAHONING	200.0	T W PHILLIPS GAS
8133839	7146	3706323943			103	C & Y SPORTMENS CLUB #1	YOUNG	200.0	T W PHILLIPS GAS
8133826	7153	3706324253			103	C&Y SPORTSMENS CLUB #2	YOUNG	200.0	T W PHILLIPS GAS
8133820	7168	3706324085			103	F LEONARD MCCAULEY #1	EAST MAHONING	200.0	T W PHILLIPS GAS
8133833	7150	3706323944			103	FARMERS & MINERS TRUST CO #5	BANKS	200.0	T W PHILLIPS GAS
8133864	7135	3706323949			103	FARMERS & MINERS TRUST CO #7	BANKS	200.0	T W PHILLIPS GAS
8133834	7149	3706323962			103	FARMERS & MINERS TRUST CO #8	BANKS	200.0	T W PHILLIPS GAS
8133865	7134	3706323945			103	FARMERS & MINERS TRUST CO 6	BANKS	0.0	T W PHILLIPS GAS
8133838	7151	3706324919			103	GEORGE KASCHAK #1	ARMSTRONG	200.0	T W PHILLIPS GAS
8133825	7162	3706323592			103	HARVEY WALL #1	W MAHONING	200.0	T W PHILLIPS GAS
8133824	7163	3712920969			103	JAMES B BASH #2	BELL	200.0	T W PHILLIPS GAS
8133828	7160	3706323519			103	JAMES B SHARPE #1	CANOE	200.0	T W PHILLIPS GAS
8133859	7142	3706324588			103	JOHN C BURNS #1	WASHINGTON	200.0	T W PHILLIPS GAS
8133810	7202	3706321585			103	JOHN M EBERHART #1	BELL	200.0	T W PHILLIPS GAS
8133830	7158	3712920967			103	L CLAWSON #2	BELL	200.0	T W PHILLIPS GAS
8133861	7137	3706324898			103	LESTER HANCOCK #1	YOUNG	200.0	T W PHILLIPS GAS
8133863	7144	3706324186			103	LOUIS ZAMBOTTI #c	YOUNG	200.0	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133829	7159	3712920965		103		LOUISE JAMISON #2	BELL	200.0	T W PHILLIPS GAS
8133821	7166	3706324191		103		M J DEFRANK #1	CANOE	200.0	T W PHILLIPS GAS
8133823	7164	3706323815		103		NELSON S WHITE #1	YOUNG	200.0	T W PHILLIPS GAS
8133860	7140	3706325149		103		ORVILLE WATSON #3	CENTER	200.0	T W PHILLIPS GAS
8133835	7156	3706324763		103		R D MCNAUGHTON #1	WHITE	200.0	T W PHILLIPS GAS
8133832	7145	3706324363		103		R PENROSE #1	YOUNG	200.0	T W PHILLIPS GAS
8133808	7209	3703320764		103		RAYMOND BARRETT #1	BURNSIDE	200.0	T W PHILLIPS GAS
8133816	7173	3703320793		103		RAYMOND BARRETT #2	BURNSIDE	200.0	T W PHILLIPS GAS
8133807	7225	3703320794		103		RAYMOND BARRETT #3	BURNSIDE	200.0	T W PHILLIPS GAS
8133809	7208	3703320797		103		RAYMOND BARRETT #6	BURNSIDE	200.0	T W PHILLIPS GAS
8133817	7172	3703320771		103		RAYMOND BARRETT #7	BURNSIDE	200.0	T W PHILLIPS GAS
8133836	7155	3703320798		103		RAYMOND BARRETT #8	BURNSIDE	200.0	T W PHILLIPS GAS
8133811	7201	3703320667		103		ROYAL OIL & GAS CORP #10	BELL	200.0	T W PHILLIPS GAS
8133812	7200	3703320668		103		ROYAL OIL & GAS CORP #11	BELL	200.0	T W PHILLIPS GAS
8133813	7199	3703320669		103		ROYAL OIL & GAS CORP #14	BELL	200.0	T W PHILLIPS GAS
8133862	7136	3703320666		103		ROYAL OIL & GAS CORP #9	BELL	200.0	T W PHILLIPS GAS
8133815	7185	3703320849		103		RUTH MITCHELL #1	BURNSIDE	200.0	T W PHILLIPS GAS
8133819	7170	3706323812		103		S A NASTASE #1	RAYNE	200.0	T W PHILLIPS GAS
8133837	7154	3706324436		103		T L LONG #1	WASHINGTON	200.0	T W PHILLIPS GAS
8133822	7165	3706321323		103		W ZIMMERMAN #1	BELL	200.0	T W PHILLIPS GAS
8133827	7161	3706323818		103		WAYNE BAUN #4	CANOE	200.0	T W PHILLIPS GAS
8133831	7157	3706323616		103		WILLIAM SPICHER #1	CANOE	200.0	T W PHILLIPS GAS
-KEYSTONE ENERGY RESOURCES				RECEIVED: 05/27/81 JA: PA					
8133754	7114	3706325193		103		M GLENN SMITH #1	M GLENN SMITH 63A FARM	49.8	COLUMBIA GAS TRAN
8133753	7112	3706325598		103		M GLENN SMITH #1A	M GLENN SMITH 50 A FARM	100.3	COLUMBIA GAS TRAN
8133755	7113	3706325221		103		M GLENN SMITH #2	M GLENN SMITH 63 A FARM	68.4	COLUMBIA GAS TRAN
8133756	7111	3706325596		103		M GLENN SMITH #2A	M GLENN SMITH 50 A FARM	45.3	COLUMBIA GAS TRAN
-LAUREL ENERGY CORP				RECEIVED: 05/27/81 JA: PA					
8133736	6975	3706325496		102-2		GOSS #1 - IND-25496	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
8133735	6976	3706325497		102-2		GHARRAH #1 IND-25497	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
-MERIDIAN EXPLORATION CORP				RECEIVED: 05/29/81 JA: PA					
8133850	6999	3704921208		102-2		A STAFFORD #1-538	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
-MID-EAST OIL CO				RECEIVED: 05/27/81 JA: PA					
8133748	7009	3706325740		103		FRANK A ZINER #1	BRUSH VALLEY	24.9	COLUMBIA GAS TRAN
8133750	7007	3706322052		103		GEORGE S STANCHICK ET AL #1	REYNOLDSVILLE	23.0	CONSOLIDATED GAS
8133720	7012	3706325679		103		HELEN E MARTIN #1	BRUSH VALLEY	15.0	COLUMBIA GAS TRAN
8133719	7011	3706325677		103		NANCY L POUNDS #1 (15 AC)	BRUSH VALLEY	15.0	COLUMBIA GAS TRAN
8133716	7010	3706325678		103		NANCY L POUNDS #1 (17 AC)	BRUSH VALLEY	16.6	COLUMBIA GAS TRAN
8133749	7008	3706325637		103		PAUL J MCCUNN #1	CLYMER	21.3	COLUMBIA GAS TRAN
-MURDICK ENTERPRISES				RECEIVED: 05/27/81 JA: PA					
8133729	6884	3706322215		103		OSTROWSKI NO 1	PUNXSUTAWNEY	36.0	T W PHILLIPS GAS
-PENN STATE JOINT VENTURE				RECEIVED: 05/27/81 JA: PA					
8133728	6744	3705300000		108		65K	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
-PHILLIPS PRODUCTION CO				RECEIVED: 05/27/81 JA: PA					
8133734	6961	3706324350		108		ALEX ZONA JR ET AL #1	YOUNG	15.0	COLUMBIA GAS TRAN
8133740	6962	3706324858		108		ALEX ZONA JR ET AL #2	YOUNG	15.0	COLUMBIA GAS TRAN
8133739	6963	3706324859		108		ALEX ZONA JR ET AL #3	YOUNG	15.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 05/29/81 JA: PA					
8133857	7133	3704921164		102-2		HOUGHTON-BABO UNIT		30.0	COLUMBIA GAS TRAN
8133855	6637	3704921095		102-2		KOSIENSKI #2	MCKEAN	40.0	COLUMBIA GAS TRAN
8133856	7132	3704921163		102-2		WOZNIAK #1	MCKEAN	30.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED: 05/27/81 JA: PA					
8133692	7096	3706324174		108		EDWARD & CHARLES PEARS #1 0596	RAYNE TOWNSHIP	15.0	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133693	7097	3706324629		108	GLEN W HELMAN #1 0602	RAYNE TOWNSHIP	19.0	COLUMBIA GAS TRAN
8133732	6934	3704921232		102-2	MICHAEL & ROSE POPOVICH #1 0696	LEBOEUF TOWNSHIP	0.0	COLUMBIA GAS TRAN
8133731	6933	3704921231		102-2	RICHARD & MARY SMITH #1 0695	LEBOEUF TOWNSHIP	0.0	COLUMBIA GAS TRAN
8133763	7102	3706324682		108	RUTH L STEFFY #1 0625	RAYNE TOWNSHIP	12.0	COLUMBIA GAS TRAN
8133766	7099	3706324681		108	VICTORIA J WADAS #1 0612	RAYNE TOWNSHIP	9.0	COLUMBIA GAS TRAN
8133762	7103	3706324302		108	WILBUR D HELMAN #1 0601	RAYNE TOWNSHIP	9.0	COLUMBIA GAS TRAN
8133765	7100	3706324702		108	WILLIAM L & EDNA BEACE #1 0617	RAYNE TOWNSHIP	15.0	PEOPLES NATURAL G
8133694	7098	3706324418		108	WILLIAM P DEEDS #2 0613	RAYNE TOWNSHIP	4.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO				RECEIVED: 05/29/81 JA: PA				
8133841	5568	3704921039		102-2	MARSH #1 E-868	MARSH #1 - DRUMLIN	28.8	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO				RECEIVED: 05/29/81 JA: PA				
8133844	7122	3703920582		102-2	HUBERT VANDERHOFF NO 1 (W-25)	ATHENS	50.0	COLUMBIA GAS TRAN
8133818	7171	3703920652		102-2	M PAUL M P POST & M I PAUL NO 1	ATHENS	30.0	COLUMBIA GAS TRAN
8133845	7121	3703920647		102-2	NEAL & DOROTHY HASBROUCK NO 1 W-33	ATHENS	22.0	COLUMBIA GAS TRAN

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchases listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 15, 1981, in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-19222 Filed 6-29-81; 8:45 am]
BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 25, 1981.

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADA OIL EXPLORATION CORP			RECEIVED: 06/01/81 JA: TX						
8133970	F-03-029322	4205130896		102-2		NEWMAN-GERDES #1	GIDDINGS	0.0	PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION			RECEIVED: 06/01/81 JA: TX						
8134124	F-03-034908	4205131047		102-2		LUKSA UNIT #1	GIDDINGS (AUSTIN CHALK)	20.0	FERGUSON CROSSING
8134123	F-7B-034907	4213332787		102-4		SNEED B #2	MANGUM NORTH (3200)	24.0	ODESSA NATURAL CO
-ALAN P HEWITT			RECEIVED: 06/01/81 JA: TX						
8133949	F-7B-027886	4208331916		102-4		W C HENDERSON NO 1 WELL #88525	ECHO NORTH (GRAY) FIELD	82.0	SOUTHWESTERN GAS
-AMERICAN PUBLIC ENERGY CO			RECEIVED: 06/01/81 JA: TX						
8133984	F-04-030015	4221531070		103		LUITJEN #1	MISSION WEST E SAND	0.0	
-AMOCO PRODUCTION CO			RECEIVED: 06/01/81 JA: TX						
8134155	F-05-034999	4234931400		107-TF		DEE GARRETT LIVELY CU /C/ #1	CHENEYBORO/COTTON VALLEY	107.0	LONE STAR GAS CO
8134158	F-05-035003	4234930978		107-TF		DOROTHY CLARK CU /A/ #1	CHENEYBORO/COTTON VALLEY	54.8	LONE STAR GAS CO
8134149	F-05-034993	4234931267		107-TF		DOROTHY CLARK CU /B/ #1	CHENEYBORO/COTTON VALLEY	200.0	LONE STAR GAS CO
8134151	F-05-034995	4234930992		107-TF		DOROTHY CLARK CU /C/ #1	CHENEYBORO/COTTON VALLEY	213.8	LONE STAR GAS CO
8134161	F-05-035006	4234931276		107-TF		DRU MILLIGAN CU /A/ #1	CHENEYBORO/COTTON VALLEY	52.9	LONE STAR GAS CO
8134150	F-05-034994	4234931167		107-TF		H P BONNER CU /A/ #1	CHENYBORO/COTTON VALLEY/	37.0	LONE STAR GAS CO
8134047	F-8A-033080	4250131863		102-4		HEARNE #1	REEVES (WOLFCAMP)	30.0	PHILLIPS PETROLEU
8134154	F-05-034998	4234930917		107-TF		INA K CARROLL CU /C/ #1	CHENEYBORO/COTTON VALLEY	110.0	LONE STAR GAS CO
8134159	F-05-035004	4216130553		107-TF		J E SIMS WELL NO 1	CHENEYBORO/COTTON VALLEY	18.3	LONE STAR GAS CO
8134160	F-05-035005	4234931052		107-TF		JOHN D CUNNINGHAM WELL NO 1	CHENEYBORO/COTTON VALLEY	127.0	LONE STAR GAS CO
8134147	F-05-034980	4234931158		102-4		JOHN D CUNNINGHAM WELL NO 2	CHENEYBORO/COTTON VALLEY	116.0	LONE STAR GAS CO
8134147	F-G5-034980	4234931158		107-TF		JOHN D CUNNINGHAM WELL NO 2	CHENEYBORO/COTTON VALLEY	116.0	LONE STAR GAS CO
8134152	F-05-034996	4234931157		107-TF		JOHN D CUNNINGHAM WELL NO 3	CHENEYBORO/COTTON VALLEY	103.0	LONE STAR GAS CO
8134148	F-05-034992	4234931213		107-TF		JOHN D CUNNINGHAM WELL NO 4	CHENEYBORO/COTTON VALLEY	200.0	LONE STAR GAS CO
8134153	F-05-034997	4234931159		107-TF		KATHRYN LOPER WELL NO 1	CHENEYBORO/COTTON VALLEY	100.0	LONE STAR GAS CO
8134156	F-05-035000	4234930932		107-TF		LILLIAN COOPER CU /B/ #1	CHENEYBORO/COTTON VALLEY	182.5	LONE STAR GAS CO
8134157	F-05-035002	4234930934		107-TF		MILLER-BALCOM OIL UNIT WELL NO 1	CHENEYBORO/COTTON VALLEY	182.5	LONE STAR GAS CO
8133958	F-04-028496	4248930618		103		WILLAMAR W MIOCENE F-14	WILLAMAR WEST/MIOCENE 47	436.0	NATURAL GAS PIPEL
-ANDERSON PETROLEUM INC			RECEIVED: 06/01/81 JA: TX						
8133942	F-7C-027473	4210532260		103		ELMER HOOVER HATTON EST P 4-8	CANYON SAND	48.0	ANDERSON PIPELINE
8133942	F-7C-027473	4210532260		107-TF		ELMER HOOVER HATTON EST P 4-8	CANYON SAND	48.0	ANDERSON PIPELINE
8133944	F-7C-027480	4210532400		103		HOOVER ESTATE A 4-19	CANYON SAND	0.0	ANDERSON PIPELINE
8133944	F-7C-0274R8	4210532400		107-TF		HOOVER ESTATE A 4-19	CANYON SAND	0.0	ANDERSON PIPELINE
8133943	F-7C-027479	4210532250		107-TF		PAULINE FRIESS C 1-111	SAWYER (CANYON)	65.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY			RECEIVED: 06/01/81 JA: TX						
8134192	F-7C-035182	4223531676		103		ELA C SUGG C-51 WELL NO 2	SPRABERRY (TREND AREA)	50.0	J L DAVIS
8134195	F-7C-035185	4223531673		103		J R SCOTT ESTATE A-54 WELL NO 3	SPRABERRY (TREND AREA)	75.0	J L DAVIS
8134194	F-7C-035184	4223531675		103		J R SCOTT ESTATE 54 WELL NO 4	SPRABERRY (TREND AREA)	10.0	J L DAVIS
8134193	F-7C-035183	4223531679		103		J R SCOTT ESTATE 54 WELL NO 5	SPRABERRY (TREND AREA)	15.0	J L DAVIS
8134125	F-10-034910	4223300000		108		MERCHANT-VACUUM #5	PANHANDLE	14.6	PANHANDLE PRODUCI
-ASTIN CORP			RECEIVED: 06/01/81 JA: TX						

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133962	F-7B-28834	4208331604		102-4		HEMPHILL #3 (88232)	HEMPHILL (GRAY)	0.0	ODESSA NATURAL CO
-AUSANKA OIL OPERATIONS				RECEIVED: 06/01/81 JA: TX					
8134070	F-09-034610	4250333269		103		EARL MAHANEY #1	BUNGER (3925-3960)	40.0	LONE STAR GAS CO
-B & M OPERATING CO INC				RECEIVED: 06/01/81 JA: TX					
8133876	F-04-019466	4213133866		103		BARTOSH UNIT NO 1	NEELY (BRUNI 1900)	150.0	VALERO TRANSMISSI
-BAR M PETROLEUM CO INC				RECEIVED: 06/01/81 JA: TX					
8133871	F-04-016611	4240931166		108		#2 KLANIKA 75559	REYNET (1930)	0.0	
-BEAL OPERATING				RECEIVED: 06/01/81 JA: TX					
8134119	F-7B-034880	4208331901		102-4		L S WEST #1 (91323)	CATTHE (MORRIS)	231.0	ODESSA NATURAL CO
-BLANKS ENERGY CORP				RECEIVED: 06/01/81 JA: TX					
8133889	F-08-022091	4243130810		103		TERRY 17-2U 25708	CONGER (PENN)	84.0	INTRATEX GAS CO
-BOB BLACK OPERATING				RECEIVED: 06/01/81 JA: TX					
8134017	F-7C-031266	4239931773		103		S HOLMES #1	ENOCH JOHNSON (MORRIS SA	180.0	UNION TEXAS PETRO
-BRAZOS RESOURCES INC				RECEIVED: 06/01/81 JA: TX					
8133953	F-7B-028100	4205932540		102-4		JOHN D ISENHOWER NO 1 ID NO 89677	ISENHOWER DUFFER	0.0	LONE STAR GAS CO
-BRITTANY DRILLING CO				RECEIVED: 06/01/81 JA: TX					
8133956	F-7B-028466	4204932316		102-2		WOODSON EMFINGER #1 (89378)	MIKLAR (STRAWN)	657.0	ODESSA NATURAL CO
-C L GAGE JR				RECEIVED: 06/01/81 JA: TX					
8133914	F-09-025256	4249700000		103		JERRY MARA NO 1	BOONSVILLE (BEND CONGL)	55.1	NATURAL GAS PIPEL
8133879	F-09-021709	4249700000		103		JIMMIE OON LEATH NO 1	BOONSVILLE (BEND CONGL)	450.4	NATURAL GAS PIPEL
-CAPITAL ENERGY CORP				RECEIVED: 06/01/81 JA: TX					
8134048	F-03-033081	4220100000		102-4		CEC-F & K PROPERTIES 73 LTD #1	CYPRESS	182.5	TENNESSEE GAS PIP
-CASSELL OIL CO				RECEIVED: 06/01/81 JA: TX					
8134065	F-7B-034389	4204931563		102-4		BUSBEE NO 1-S	BROWN COUNTY REGULAR	54.8	ODESSA NATURAL CO
8134065	F-7B-034389	4204931563		103		BUSBEE NO 1-S	BROWN COUNTY REGULAR	54.8	ODESSA NATURAL CO
8134064	F-7B-034388	4204900000		102-4		BUSBEE NO 2-S	BROWN COUNTY REGULAR	67.5	ODESSA NATURAL CO
8134064	F-7B-034388	4204900000		103		BUSBEE NO 2-S	BROWN COUNTY REGULAR	67.5	ODESSA NATURAL CO
8134063	F-7B-034387	4204931764		102-4		BUSBEE NO 3-S	BROWN COUNTY REGULAR	13.1	ODESSA NATURAL CO
8134063	F-7B-034387	4204931764		103		BUSBEE NO 3-S	BROWN COUNTY REGULAR	13.1	ODESSA NATURAL CO
-CENTEX OIL & GAS INC				RECEIVED: 06/01/81 JA: TX					
8134001	F-03-030981	4270830223		103		HIGH ISLAND BLOCK 10-L GULF NO 3	HIGH ISLAND BLOCK 10-L G	0.0	TRANSCONTINENTAL
-CHAMPLIN EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8133935	F-03-026541	4202130275		103		HANNUSCH #1	GIDDINGS (AUSTIN CHALK)	2.2	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 06/01/81 JA: TX					
8134097	F-08-034802	4243130940		103		D L GLASS NO 2	CONGER SW (PENN)	60.0	NORTHERN NATURAL
8134176	F-04-35118	4227300000		108		G P WARDNER NO 134	STRATTON	12.7	TENNESSEE GAS PIP
8134179	F-04-035123	4235500000		108		O A GRUENE NO 1	STRATTON	9.0	TENNESSEE GAS PIP
8134178	F-04-035122	4235500000		108		S A J S L B NO 2	STRATTON	13.0	TENNESSEE GAS PIP
8134177	F-04-35120	4235500000		108		TEXON ROYALTY CO B #3	STRATTON	11.0	TENNESSEE GAS PIP
-CIRCLE SEVEN PRODUCTION CO				RECEIVED: 06/01/81 JA: TX					
8133925	F-7B-025386	4236700000		103		E BROWDER NO 1 WELL ID #81714	RENO (CONGLOMERATE)	0.0	LONE STAR GAS CO
-COASTAL OIL & GAS CORP				RECEIVED: 06/01/81 JA: TX					
8134174	F-10-035115	4237530826		103		BIVINS 4002RO	PANHANDLE (RED CAVE)	7.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED: 06/01/81 JA: TX					
8134107	F-03-034819	4205131253		102-2		R W JEFFERY NO 3	GIDDINGS (AUSTIN CHALK)	111.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED: 06/01/81 JA: TX					
8133978	F-10-029959	4206500000		108		BURNETT 70A	WEST PANHANDLE	16.0	CITIES SERVICE GA
8133979	F-10-029960	4206500000		108		DAUER NO 1A	WEST PANHANDLE	19.0	CITIES SERVICE GA
8134127	F-08-034912	4210900000		103		G E RAMSEY -16- #2 ID #	FORD WEST (4100)	40.2	EL PASO NATURAL G
8134126	F-08-034911	4210931454		103		G E RAMSEY -22- #13 ID #24217	FORD WEST (4100)	11.7	EL PASO NATURAL G
8133980	F-10-029961	4206500000		108		J E HOERNER NO 1	WEST PANHANDLE	18.0	CITIES SERVICE GA
8134037	F-03-032110	4214930715		103		M H DRENNER NO 15	GIDDINGS (AUSTIN CHALK)	4.0	
8134023	F-04-031434	4242731351		108		T B SLICK EST A NO 155 88059	RINCON (VICKSBURG 6580)	15.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED: 06/01/81 JA: TX					
8133946	F-03-027661	4270330047		102-4		NO 6 STATE TRACT 520-L NW/4	EL GORDO (MIOCENE)	0.0	HOUSTON PIPELINE
8134034	F-04-032000	4200730126		102-4		STATE TRACT 829-S WELL #1 LOWER	CLEAR (MIOCENE 6450) FIE	0.0	CHANNEL INDUSTRIE
8134035	F-04-032001	4200730126		102-4		STATE TRACT 829-S WELL #1 UPPER	CLEAR (MIOCENE 6200) FIE	0.0	CHANNEL INDUSTRIE
8134036	F-04-032003	4200730124		102-4		STATE TRACT 830-S WELL #1 LOWER	CLEAR (MIOCENE 6700) FIE	0.0	CHANNEL INDUSTRIE
-CPC EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8134038	F-03-0321148	4205131026		102-4		A G MCNEESE UNIT #2 WELL #1	CALDWELL (AUSTIN CHALK)	100.0	FERGUSON CROSSING
8134040	F-03-032151	4205131037		102-4		BRITT-JARRATT UNIT #2 WELL #1	STONE CITY (AUSTIN CHALK	100.0	FERGUSON CROSSING
8134039	F-03-032150	4205130849		102-4		MCKINNEY #1 WELL RRC #13257	CALDWELL (AUSTIN CHALK)	100.0	FERGUSON CROSSING
-D L BISHOP				RECEIVED: 06/01/81 JA: TX					
8133945	F-7C-027546	4210532642		103		THOMASON-UNIVERSITY #3 (RRC #05070)	AMIGO (SAN ANDRES)	8.0	NORTHERN NATURAL
-DELHI OIL CORP				RECEIVED: 06/01/81 JA: TX					
8134079	F-03-034735	4214900000		102-3		APPELT #3	GIDDINGS (EDWARDS GAS)	1101.2	PHILLIPS PETROLEU
-DIAMEX CO				RECEIVED: 06/01/81 JA: TX					
8133963	F-03-028893	4207130989		102-4		ST 20-D 21-D TRINITY BAY WELL #1	PEXCO DOUBLE BAYOU FIELD	144.0	AMOCO GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 06/01/81 JA: TX					
8133993	F-10-030681	4229530862		103		I A AKERS B NO 2	MAMMOTH CREEK NORTH	524.0	
-DORCHESTER GAS PRODUCING CO				RECEIVED: 06/01/81 JA: TX					
8134106	F-10-034819	4206500000		108		BARNARD NO 2 (24318)	PANHANDLE WEST	14.0	NORTHERN NATURAL
8134104	F-10-034812	4206500000		108		R S MCCONNELL NO 4 (24367)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8134103	F-10-034810	4217900000		108		SHERIDAN NO 3 (24386)	PANHANDLE WEST	19.0	NORTHERN NATURAL
8134114	F-10-034846	4217900000		108		W BENEDICT NO 2 (24331)	PANHANDLE WEST	18.0	NORTHERN NATURAL
-EGAN-WILSON PETROLEUM INC				RECEIVED: 06/01/81 JA: TX					
8134002	F-04-030998	4242700000		103		EGAN-WILSON RODRIGUEZ-PEREZ #2	SIXTO (HOCKLEY 2170)	73.0	INTRASTATE GATHER
-EL PASO NATURAL GAS COMPANY				RECEIVED: 06/01/81 JA: TX					
8134111	F-10-034843	4248333400		108		GOOCH #1-A	PANHANDLE EAST - BROWN D	25.0	EL PASO NATURAL G
8134113	F-10-034845	4248326142		108		LAYCOCK B #2	PANHANDLE EAST	14.0	EL PASO NATURAL G
8134112	F-10-034844	4208726144		108		LEDBETTER #1	PANHANDLE EAST	19.0	EL PASO NATURAL G
8134051	F-7C-033250	4243532341		103		SHURLEY #16	SAWYER CANYON	157.0	EL PASO NATURAL G
8134051	F-7C-033250	4243532341		107-TF		SHURLEY #16	SAWYER CANYON	157.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED: 06/01/81 JA: TX					
8134069	F-7C-034568	4208130825		103		J E CHAPPELL A #6	JAMESON (STRAWN)	53.6	UNION TEXAS PETRO
-ENERGY SOURCES INC				RECEIVED: 06/01/81 JA: TX					
8133904	F-04-023567	4235531499		103		OCIE MAE GIBSON #1 PERMIT #023603	WEST BISHOP (PFLUGER LOW	73.0	SEAGULL PIPELINE
-ENSERCH EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8134169	F-08-035074	4247500000		108		J H EDWARDS C NO 1	JANELLE	19.0	SWADCO CORP
8133878	F-02-020711	4228531388		103		WILLIAM A EILERS NO 1	WORD N	179.7	VALERO TRANSMISSI
-ESENJAY PETROLEUM CORP				RECEIVED: 06/01/81 JA: TX					
8134083	F-02-034765	4212331045		103		HOTZ-RANGNOW GAS UNIT NO 2	HYNES (MASSIVE)	73.0	VALERO TRANSMISSI
-EXXON CORPORATION				RECEIVED: 06/01/81 JA: TX					
8134032	F-03-031900	4201530444		102-4		ADELE SCHROEDER NO 1	BLEIBLERVILLE (WILCOX 98	182.5	SNG INC
8134141	F-03-034955	4205131196		102-2		COOKS POINT UNIT NO 1 WELL 1	GIDDINGS (AUSTIN CHALK)	38.0	FERGUSON CROSSING
8134139	F-03-034953	4205131167		102-2		COOKS POINT UNIT NO 3 WELL 1	GIDDINGS (AUSTIN CHALK)	10.0	FERGUSON CROSSING
8134138	F-03-034952	4205131132		102-2		COOKS POINT UNIT NO 4 WELL 1	GIDDINGS (AUSTIN CHALK)	24.0	FERGUSON CROSSING
8134140	F-03-034954	4205131105		102-2		COOKS POINT UNIT NO 5 WELL 1	GIDDINGS (AUSTIN CHALK)	50.0	FERGUSON CROSSING
8134136	F-03-034949	4205131155		102-2		COOKS POINT UNIT NO 6 WELL 1	GIDDINGS (AUSTIN CHALK)	38.0	FERGUSON CROSSING
8134137	F-03-034950	4205131161		102-2		COOKS POINT UNIT NO 7 WELL 1	GIDDINGS (AUSTIN CHALK)	29.0	FERGUSON CROSSING
8134092	F-8A-034791	4216531899		103		EXXON-SHELL FEE C #2	ROBERTSON N (CLEAR FORK	8.0	
8133982	F-10-029997	4239330755		103		FLOWERS TRUST B #3L	MENDOTA NW (GRANITE WASH	776.0	TRANSWESTERN PIPE
8133983	F-10-029998	4239330755		103		FLOWERS TRUST B #3U	MENDOTA NW (DOUGLAS LO)	552.0	TRANSWESTERN PIPE
8134020	F-03-031396	4207130959		102-4		GALVESTON BAY STATE A 179	RED FISH REEF	164.0	HOUSTON PIPELINE
8134078	F-08-034732	4210331963		103		J B TUBB A/C 1 #175L	SAND HILLS (MCKNIGHT)	3.0	ODESSA NATURAL CO
8134135	F-03-034948	4205131092		102-2		JOSEPH J SKRIVANEK #1	GIDDINGS (AUSTIN CHALK)	15.0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
*8134105	F-04-034813	4227331316		102-4		K R ALAZAN 324-F (92027)	ALAZAN (J-37)	290.0	ARMCO STEEL CORP
*8134199	F-04-035193	4227331504		102-4		K R BORREGOS PB-27 (91581)	STRATTON (H-55)	650.0	ARMCO STEEL CORP
*8134181	F-04-035144	4227331482		102-4		K R TIJERINA A-71 (91377)	I-C-B EAST (9400)	385.0	ARMCO STEEL CORP
*8133885	F-04-022015	4224930899		103		KING RANCH SEELIGSCA C-194-D (7846*	I-C-B (SECOND TIJERINA)	1570.0	ARMCO STEEL CORP
*8134094	F-04-034796	4227331454		102-4		KING RANCH SEELIGSCA C-204-C (9061*	SEELIGSON (20-G-02 U)	900.0	ARMCO STEEL CORP
8134050	F-04-033204	4242731327		102-4		LAZARO M GUERRA 7 (ID PENDING)	KELSEY SOUTH (ZONE 20-M	450.0	TRUNKLINE GAS CO
8134093	F-7C-034792	4241330958		103		PEARL WILLIAMS #10U	DOVE CREEK (CANYON C)	231.0	NORTHERN NATURAL
*8134182	F-04-035145	4204730813		103		R J K JR TR BARROSA PASTURE 21-D (*	PITA NW (G-59 U)	1022.0	ARMCO STEEL CORP
*8133884	F-04-022014	4204730693		103		R J K JR TR VIBORAS PAST 79-F (810*	VIBORAS (G-02)	584.0	ARMCO STEEL CORP
*8134095	F-04-034797	4204730787		102-4		R J K JR TR VP-86- D (88882)	VIBORAS (MASSIVE SECOND	1095.0	ARMCO STEEL CORP
*8134115	F-04-034872	4200473080		102-4		R J K JR TR VP-88-D (88799)	VIBORAS (MASSIVE 2ND VII	365.0	ARMCO STEEL CORP
*8133883	F-04-022013	4204730747		103		VIBORAS FIELD G U #1 D-93-D (84383)	VIBORAS	475.0	ARMCO STEEL CORP
*8133882	F-04-022012	4204730758		103		VIBORAS FIELD GU #1 G-95-D (85081)	VIBORAS (MASSIVE SECOND)	621.0	ARMCO STEEL CORP
*8133888	F-04-022020	4204730654		103		VIBORAS FIELD GU #1 V-78-D (79988)	VIBORAS (MASSIVE SECOND)	876.0	ARMCO STEEL CORP
*8133887	F-04-022019	4204730607		103		VIBORAS FIELD GU #1 D-82-D (76369)	VIBORAS (MASSIVE SECOND)	694.0	ARMCO STEEL CORP
*8133886	F-04-022018	4204730606		103		VIBORAS FIELD GU #1 D-86-D (78095)	VIBORAS (MASSIVE SECOND)	803.0	ARMCO STEEL CORP
*8133890	F-04-022099	4204730758		103		VIBORAS FIELD GU #1 G-95-F (85079)	VIBORAS (MASSIVE FIRST)	767.0	ARMCO STEEL CORP
-F L LIVINGSTON				RECEIVED: 06/01/81 JA: TX					
8134014	F-08-031187	4249500000		108		J B WALTON #11 (03258)	KERMIT FIOLD	12.0	CABOT CORP
8134010	F-08-031182	4249500000		108		J B WALTON #2 (03258	KERMIT FIELD	12.0	CABOT CORP
8134011	F-08-031183	4249500000		108		J B WALTON #3 (03258	KERMIT FIELD	12.0	CABOT CORP
8134012	F-08-031684	4249500000		108		J B WALTON #4 (03258)	KERMIT FIELD	12.0	CABOT CORP
8134013	F-08-031185	4249500000		108		J B WALTON #7 (03258)	KERMIT FIELD	12.0	CABOT CORP
8134007	F-08-031179	4249500000		108		S M HALLEY #1 (21576)	HALLEY FIELD	3.0	CABOT CORP
8134008	F-08-031180	4249500000		108		S M HALLEY #3 (21576)	HALLEY FIELD	1.0	CABOT CORP
8134009	F-08-031181	4249500000		108		S M HALLEY #4 (21576)	HALLEY FIELD	1.0	CABOT CORP
-FRIO PRODUCTION CO				RECEIVED: 06/01/81 JA: TX					
8134054	F-02-033378	4217500000		108		ALTMAN GAS UNIT A 2-C	BOYCE NORTH (PETTUS)	19.0	UNITED GAS PIPELI
-FRONTIER OIL & GAS CO INC				RECEIVED: 06/01/81 JA: TX					
8134180	F-7B-035143	4236731772		103		YOUNGBLOOD #1 (86061)	HEEKER (1900)	694.0	SOUTHWESTERN GAS
-GENERAL PRODUCTION CORP				RECEIVED: 06/01/81 JA: TX					
8134026	F-03-031561	4205131209		103		FRANK C ANDERSON NO 5	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED: 06/01/81 JA: TX					
8133968	F-7C-029123	4241300000		108		J M TREADWELL #5-U	N FORT MCKAVITT (PALO PI	2.5	ARCO OIL & GAS CO
-GOLDEN PETOLEUM				RECEIVED: 06/01/81 JA: TX					
8134143	F-09-034971	4223733329		103		EATHERLY NO 1	STRAHAN (CONGL)	216.0	SOUTHWESTERN GAS
-GOLDKING PRODUCTION COMPANY				RECEIVED: 06/01/81 JA: TX					
8134043	F-02-032573	4212331084		102-4		E R RODE NO 1-C	COTTONWOOD CREEK S	103.5	HOUSTON PIPE LINE
8134022	F-03-031419	4203931557		102-4		ISABEL B MARTIN NO 1-L	CHENANGO (FRIO 9980)	730.0	HOUSTON PIPELINE
8133976	F-03-029912	4203951337		102-4		ISABEL B MARTIN UNIT NO 1	CHENANGO (9520)	0.0	HOUSTON PIPE LINE
-GULF OIL CORPORATION				RECEIVED: 06/01/81 JA: TX					
8134067	F-08-034404	4210332378		103		CRAWAR FIELD UNIT NO 16	CRAWAR	0.0	TRANSWESTERN PIPE
8134000	F-04-030961	4221530880		102-4		DICKERSON ET AL UNIT WELL NO 1	EL STAGGS (7330)	100.0	TENNGASCO GAS GAT
8134122	F-08-034897	4247532218		103		HUTCHINGS STOCK ASSN NO 1110	WAGON WHEEL (PENN)	192.0	CABOT CORP
8134173	F-08-035086	4247532215		103		HUTCHINGS STOCK ASSN NO 1114	WAGON WHEEL (PENN)	33.0	CABOT CORP
8133867	F-04-012150	4250530562		103		J G RATHMELL NO 1 RCC #71814	UREBENO (LOBO)	350.0	TENNESSEE GAS PIP
8133R70	F-08-016460	4246130526		108		J T MCELROY CONS NO 866	MCELROY	1.0	PHILLIPS PETROLEU
-HAMMAN OIL & REFINING CO				RECEIVED: 06/01/81 JA: TX					
8133973	F-03-029372	4207131046		102-4		WILCOX HEIRS #1	TRINITY RIVER DELTA (F-1	300.0	UNITED TEXAS TRAN
-HARKEN OIL & GAS INC				RECEIVED: 06/01/81 JA: TX					
8134053	F-7C-033309	4239931488		102-4		COLLOM #1	HARRIS (FRY) FIELD	1150.0	EL PASO NATURAL G
-HARWOOD EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8134033	F-02-031924	4202531434		102-4		GEORGIE HEARD B-1	GEORGIE HEARD/3700	180.0	TRUNKLINE GAS CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
8133971	F-02-029519	4202500000		102-4		GEORGIE HEARD 1-T RRC #90959	GEORGIE HEARD/3500/3700	180.0	TRUNKLINE GAS CO
-HAYDEN FARMER				RECEIVED: 06/01/81 JA: TX					
8134084	F-09-034767	4207700000		103		SLAUGHTER A #1 (19189)	PEDEN (MISS)	70.0	FAGADAU ENERGY CO
-HEMINGWAY BARTELL & ASSOCIATES				RECEIVED: 06/01/81 JA: TX					
8133894	F-03-022873	4229131218		102-4		ALZINA M OBERWETTER NO 1	CLEVELAND (SE) YEGUA FIE	53.3	UNITED TEXAS TRAN
-HENDERSON CLAY PRODUCTS INC				RECEIVED: 06/01/81 JA: TX					
8133955	F-06-028375	4240130805		102-4		ALFORD GAS UNIT WELL #1 82807	CYRIL (HILL)	250.0	HENDERSON CLAY PR
8133960	F-06-028798	4240130917		107-TF		J ORVILLE TODD GAS UNIT WELL #2 RR*	OAKHILL (COTTON VALLEY)	400.0	HYDROCARBON TRANS
8133959	F-06-028738	4240130917		102-3		J ORVILLE TODD GAS UNIT WELL #2 88*	OAKHILL (COTTON VALLEY)	400.0	HYDROCARBON TRANS
-HIGHLAND RESOURCES INC				RECEIVED: 06/01/81 JA: TX					
8133991	F-05-030340	4216130609		103		WETTERMARK #2	REED (HAYNESVILLE)	1600.0	LONE STAR GAS CO
8133991	F-05-030340	4216130609		107-TF		WETTERMARK #2	REED (HAYNESVILLE)	1600.0	LONE STAR GAS CO
-HILLIARD OIL & GAS INC				RECEIVED: 06/01/81 JA: TX					
8134021	F-02-031418	4217531405		102-4		BUCKNER BAPTIST BENEVOLENCES #2	WEST GOTTSCHALT (SLICK)	108.0	UNITED GAS PIPE L
-HNG OIL COMPANY				RECEIVED: 06/01/81 JA: TX					
8134162	F-04-035009	4235531619		102-4		CHAPMAN HEIRS A 1143	ARNOLD DAVID (9400 CENTR	724.0	HOUSTON PIPELINE
8134162	F-04-035009	4235531619		103		CHAPMAN HEIRS A 1143	ARNOLD DAVID (9400 CENTR	724.0	HOUSTON PIPELINE
8134074	F-7C-034682	4243532436		103		DAVID 109 #5	SAWYER (CANYON)	62.1	INTRATEX GAS CO
8134074	F-7C-034682	4243532436		107-TF		DAVID 109 #5	SAWYER (CANYON)	62.1	INTRATEX GAS CO
8134073	F-7C-034678	4243532377		103		HUNT 71 #1	SONORA SOUTHEAST (PENN L	54.7	INTRATEX GAS CO
8134072	F-7C-034675	4243530459		107-TF		MAYFIELD 46 #1 (90118)	SAWYER (CANYON)	52.6	INTRATEX GAS CO
8133869	F-7C-16628	4241330338		108		MEADOR C #1 67102	SAWYER (CANYON)	2.0	INTRATEX GAS CO
8134096	F-7C-034801	4243532405		103		SHURLEY 166 #3 (91034)	SAWYER (CANYON)	219.6	INTRATEX GAS CO
8134096	F-7C-034801	4243532405		107-TF		SHURLEY 166 #3 (91034)	SAWYER (CANYON)	219.6	INTRATEX GAS CO
8134200	F-04-035205	4250530991		102-2		URIBE AURELIANO HEIRS #1	LAS OVEJAS (WILCOX 9100)	409.0	HOUSTON PIPELINE
8134200	F-04-035205	4250530991		103		URIBE AURELIANO HEIRS #1	LAS OVEJAS (WILCOX 9100)	409.0	HOUSTON PIPELINE
-HORIZON OIL & GAS CO OF TEXAS				RECEIVED: 06/01/81 JA: TX					
8134172	F-10-035083	4235731078		103		BRUHLMAN #2-17---#92241	ELLIS RANCH (CLEVELAND)	175.0	TRANSWESTERN PIPE
8134171	F-10-035082	4235731079		103		DELBERT DAVIS #3-836---#92332	ELLIS RANCH (CLEVELAND)	125.0	NORTHERN NATURAL
-HUMBLE EXPLORATION CO INC				RECEIVED: 06/01/81 JA: TX					
8133900	F-03-023345	4214900000		102-2		KATHRYN LABATT #1-	GIDDINGS	0.0	PHILLIPS PETROLEU
8133900	F-03-023345	4214900000		103		KATHRYN LABATT #1-	GIDDINGS	0.0	PHILLIPS PETROLEU
8133899	F-03-023343	4214930402		102-2		MAE FULKERSON #1 - 13048	GIDDINGS (BUDA)	365.0	PHILLIPS PETROLEU
8133899	F-03-023343	4214930402		103		MAE FULKERSON #1 - 13048	GIDDINGS (BUDA)	365.0	PHILLIPS PETROLEU
8133880	F-03-021869	4228700000		102-2		MARTHA C W #1 - 11961	GIDDINGS	296.0	PHILLIPS PETROLEU
8133880	F-03-021869	4228700000		103		MARTHA C W #1 - 11961	GIDDINGS	296.0	PHILLIPS PETROLEU
8133891	F-03-022372	4214930418		102-2		VERONICA #1 - 12767	GIDDINGS (AUSTIN CHALK)	79.5	PHILLIPS PETROLEU
8133891	F-03-022372	4214930418		103		VERONICA #1 - 12767	GIDDINGS (AUSTIN CHALK)	79.5	PHILLIPS PETROLEU
-HUNT OIL COMPANY				RECEIVED: 06/01/81 JA: TX					
8134142	F-06-034962	4221330251		103		FAIRWAY (JAMES LIME) UNIT #449-3	FAIRWAY (JAMES LIME) UNI	150.0	LONE STAR GAS CO
-HYDROCARBON ENERGIES INC				RECEIVED: 06/01/81 JA: TX					
8134196	F-7C-035188	4232730379		103		NEEL NO 1 WELL #08716	JACOBY (FRY)	15.0	SUN GAS CO
-IFA ENTERPRISES				RECEIVED: 06/01/81 JA: TX					
8134110	F-7C-034833	4223531380		103		ETHEL E AULT ET AL #1	ARDEN S (CANYON SD LO)	108.0	ESPERANZA PIPELIN
-INTERNATIONAL OIL & GAS CORP				RECEIVED: 06/01/81 JA: TX					
8133909	F-7C-024367	4210532398		102-4		INGHAM 46 #1	INGHAM CONNELL	23.0	EL PASO NATURAL G
-J B PRODUCTION CO				RECEIVED: 06/01/81 JA: TX					
8134075	F-7C-034693	4239931667		103		ROSA EGGEMEYER NO 1 WELL	URBAN (MILES)	0.0	ODESSA NATURAL CO
-J R BROWN				RECEIVED: 06/01/81 JA: TX					
8133974	F-7C-029766	4226700000		102-4		AUBREY KOTHMANN #1	KOTHMAN RANCH (STRAWN 16	55.0	PRESSURE TRANSPOR
-JACKSON EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8133995	F-7C-030800	4246131624		103		VENABLE #1	SPRABERRY (TREND AREA)	50.0	EL PASO NATURAL G
-JAH INC				RECEIVED: 06/01/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8134098	F-04-034803	4213135046		102-4		OLIVEIRA #2	NORCSENA CREEK (TEDLEY)	90.0	UNITED GAS PIPELI
-JOHN DEETER				RECEIVED: 06/01/81 JA: TX					
8134045	F-04-032832	4235531653		102-4		PAINTER NO 1-T	COTTON (CAGE)	131.0	FERGUSON CROSSING
-JOHN L COX				RECEIVED: 06/01/81 JA: TX					
8133947	F-08-027688	4231732152		103		STEWART #1 RRC #26841	SPRABERRY (TREND AREA)	10.0	ALPINE OIL CO
8133964	F-7C-028928	4246131607		103		WOODS #1	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEU
-JOHN Q MCCABE				RECEIVED: 06/01/81 JA: TX					
8133872	F-7C-016628	4241700000		108-ER		DELONG #1	VELREX SW (CANYON)	5.5	CRA INC
-KEITH D GRAHAM				RECEIVED: 06/01/81 JA: TX					
8134085	F-03-034769	4205131154		102-2		HUDSON FEE #2 ID-12983	GIDDINGS(AUSTIN CHALK)	206.2	CHAMPLIN PETROLEU
-KEN PETROLEUM CORP				RECEIVED: 06/01/81 JA: TX					
8134060	F-02-034302	4223900000		103		BOEHM WELL NO 1	GANADO EAST (6100)	70.0	LONE STAR GAS CO
-KNOX INDUSTRIES INC				RECEIVED: 06/01/81 JA: TX					
8134100	F-7C-034807	4238331676		103		TALLEY A NO 2	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
8134101	F-7C-034808	4238331712		103		TALLEY A NO 3	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
8134102	F-7C-034809	4238331713		103		TALLEY A NO 4	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
-LEAR PETROLEUM CORPORATION				RECEIVED: 06/01/81 JA: TX					
8133952	F-03-028032	4218500000		102-2		LEAR NO 1 A HOLTH	IOLA (SUBCLARKSVILLE)	700.0	PRODUCERS GAS CO
8133866	F-10-010359	4208700000		108		POLK LEASE WELL NO 2	EAST PANHANDLE	0.4	EL PASO NATURAL G
-LENDIR M JOSEY INC				RECEIVED: 06/01/81 JA: TX					
8133997	F-06-030916	4240100000		102-3		GIBSON ET AL UNIT WELL NO 1	OAK HILL (COTTON VALLEY)	73.0	DELHI GAS PIPELIN
8133997	F-06-030916	4240100000		107-TF		GIBSON ET AL UNIT WELL NO 1	OAK HILL (COTTON VALLEY)	73.0	DELHI GAS PIPELIN
-LOUISIANA LAND & EXPLORATION CO				RECEIVED: 06/01/81 JA: TX					
8133961	F-7B-028801	4214330462		102-4		I W YOUNG NO 2	LIBERTY OAK - BIG SALINE	18.0	NORTHERN GAS PROD
-LULA BELLE ADAMS				RECEIVED: 06/01/81 JA: TX					
8134059	F-10-034266	4223300000		108		WHILLENBURG(00702) NO 2	PANHANDLE HUTCHINSON COU	13.0	PHILLIPS PETROLEU
-MADERA R F				RECEIVED: 06/01/81 JA: TX					
8134068	F-09-034421	4250332449		103		HERNDON #1 ID-74370	GRAHAM NE (CADDO LIME)	75.8	SUN GAS TRANSMISS
-MARDAM EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8134003	F-02-031016	4229732540		102-4		T I MARKINS NO 1 WELL	DINERO WEST (PETTUS)	109.5	VALLEY GAS TRANSM
-MATZINGER EXPLORATION CO				RECEIVED: 06/01/81 JA: TX					
8134120	F-03-034888	4219931372		103		T S HOOKS NO 1	NONA MILLS WEST (COOK MT	365.0	TRUNKLINE GAS CO
-MCCORMICK OPERATING CO				RECEIVED: 06/01/81 JA: TX					
8133933	F-05-026465	4234931233		102-2		OPAL UNIT #1	CHENEYBORO (COTTON VALLE	300.0	LONE STAR GAS CO
8133981	F-05-029974	4234931321		102-2		YOUNG UNIT NO 1	CHENEYBORO (COTTON VALLE	150.0	LONE STAR GAS CO
-MCFARLANE OIL CO INC				RECEIVED: 06/01/81 JA: TX					
8134134	F-02-034937	4246900000		103		J W WHELESS NO 6	PLACEDO FIELD	0.0	TENNECO CHEMICALS
8134088	F-02-034779	4246900000		103		J W WHELESS NO 7	PLACEDO FIELD	0.0	TENNECO CHEMICALS
8134081	F-02-034760	4246900000		103		KEERAN RANCH NO 2	LAKE PLACEDO FIELD	0.0	TENNECO CHEMICALS
8134080	F-02-034754	4246900000		103		MCFARLANE FEE NO 2	PLACEDO FIELD	0.0	TENNECO CHEMICALS
8134082	F-02-034764	4246900000		103		PICKERING & ROOS NO 38	PLACEDO FIELD	0.0	TENNECO CHEMICAL
-MCMORAN EXPLORATION CO				RECEIVED: 06/01/81 JA: TX					
8133967	F-04-029118	4235531393		102-4		STATE TRACT 342 WELL NO 2	RED FISH BAY NORTH (9100	400.0	UNITED GAS PIPE L
8133989	F-04-030258	4235531409		102-4		STATE TRACT 343 WELL NO 3	RED FISH BAY NORTH (D-10	700.0	CHANNEL INDUSTRIE
-MEWBOURNE OIL COMPANY				RECEIVED: 06/01/81 JA: TX					
8133948	F-10-027850	4235730941		103		BUZZARD UNIT #1 WELL	HANSFORD	200.0	
-MITCHELL ENERGY CORPORATION				RECEIVED: 06/01/81 JA: TX					
8134015	F-7B-031199	4214330151		103		HAZEL SHARP #1	TEXCLINE (MARBLE FALLS)	200.0	
8133966	F-7B-029051	4236731932		103		J O BAKER A-2	LAKE MINERAL WELLS (4000	575.0	
8134016	F-7B-031200	4214330143		103		MARGARET BROOKS #2	TEXCLINE (MARBLE FALLS)	100.0	
8133996	F-03-030863	4231330208		103		NELLIE BOOZER #1	NORTH ZULCH (SUB-CLARKSV	0.0	LONE STAR GAS CO
8133954	F-09-028322	4223700000		108		T G MATLOCK #1 16645	BOLING CRUM (CONGL 4950)	4.6	SOUTHWESTERN GAS
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED: 06/01/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8134164	F-78-035067	4215131095		102-4		BRUCE COX NO 1	ALKALI CREEK SW (FLIPPEN	21.9	
8134166	F-78-035069	4215131096		102-4		BRUCE COX NO 2	ALKALI CREEK SW (FLIPPEN	21.5	
8134057	F-04-034109	4235531550		102-4		BUFORD NICHOLSON TRUSTEE UT NO 1	CALLALLEN SE (8420)	17.5	
8134049	F-03-033162	4219931494		102-4		D D FELDMAN A NO 1	SARATOGA (EY)	54.4	
8134133	F-10-034932	4223330782		103		ELIZABETH HERRING NO 2	PANHANDLE HUTCHISON COUN	1.1	
8134168	F-08-035073	4232900000		108		J W DRIVER NO 6	SPRABERRY TREND AREA/DEA	1.7	EL PASO NATURAL G
8134165	F-78-035068	4215130936		102-4		MITCHELL NO 1-33	ALKALI CREEK SW (FLIPPEN	9.5	
8134167	F-78-035071	4215130995		102-4		NEWHOUSE NO 2-34	ALKALI CREEK SW (FLIPPEN	11.3	
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED: 06/01/81 JA: TX					
8133977	F-04-029928	4247900000		102-4		HUBBERD GG #1	LIZ (8700)	104.0	TENNESSEE GAS PIP
-MORMAC OIL & GAS CO				RECEIVED: 06/01/81 JA: TX					
8134046	F-01-032901	4212732094		102-4		CECIL WARD NO 2	STUMBERG (OLMOS 4150)	40.0	VALERO TRANSMISSI
-MURPHY H BAXTER				RECEIVED: 06/01/81 JA: TX					
8134055	F-03-033400	4203931596		102-4		WILLIAMSON NO 2A	ANGLETON SOUTH (F-4)	60.0	UNITED TEXAS TRAN
-MWJ PRODUCING COMPANY				RECEIVED: 06/01/81 JA: TX					
8134118	F-7C-034878	4238300000		103		UNIVERSITY 6 #1	SPRABERRY (TREND AREA)	55.0	PHILLIPS PETROLEU
-NORTH AMERICAN ROYALTIES INC				RECEIVED: 06/01/81 JA: TX					
8134086	F-08-034770	4222732090		103		RIDDLE #1 (25949)	SPRABERRY (TREND AREA)	50.0	GETTY OIL CO
8134087	F-08-034771	4222732154		103		STOKES #1 (26053)	SPRABERRY (TREND AREA)	50.0	GETTY OIL CO
-OCEAN MINERALS INC				RECEIVED: 06/01/81 JA: TX					
8133921	F-7C-025336	4210532604		103		UNIVERSITY #2 25-29	INGHAM/QUEEN	73.0	SOUTHWESTERN GAS
8133920	F-7C-025333	4210532367		103		UNIVERSITY 1A LOWER 24-29	INGHAM/DEVONIAN	547.0	SOUTHWESTERN GAS
8133923	F-7C-025341	4210532535		103		UNIVERSITY 2 24-29	INGHAM/DEVONIAN	146.0	SOUTHWESTERN GAS
8133922	F-7C-025340	4210532566		103		UNIVERSITY 3 24-29	INGHAM/QUEEN	73.0	SOUTHWESTERN GAS
-PALCO INC				RECEIVED: 06/01/81 JA: TX					
8134090	F-10-034783	4223300000		103		REIMER A #4	PANHANDLE HUTCHINSON	90.0	PANHANDLE PRODUCI
-PAUL DE CLEVA				RECEIVED: 06/01/81 JA: TX					
8134198	F-09-035192	4223732390		103		MYERS NO 1	PEAK (CADDO LIME)	15.0	SOUTHWESTERN GAS
-PDC GAS CO				RECEIVED: 06/01/81 JA: TX					
8133874	F-08-018916	4237100000		108		UNIVERSITY 3 WELL #1	CARDINAL (QUEEN W	0.0	NORTHERN NATURAL
8133875	F-08-018917	4237100000		108		UNIVERSITY 3A #2	CARDINAL (QUEEN WEST)	0.0	NORTHERN NATURAL
-PENNZOIL PRODUCING COMPANY				RECEIVED: 06/01/81 JA: TX					
8134042	F-06-032552	4206730312		103		OAKLAND CORPORATION NO 1	KILDARE (COTTON VALLEY)	520.0	TEXAS EASTERN TRA
8134042	F-06-032552	4206730312		107-TF		OAKLAND CORPORATION NO 1	KILDARE (COTTON VALLEY)	520.0	TEXAS EASTERN TRA
-PETROLEUM TECHNICAL SERVICES CO				RECEIVED: 06/01/81 JA: TX					
8134170	F-08-035076	4210332477		103		P J LEA NO 4	LEA (SAN ANDRES)	18.3	WARREN PETROLEUM
-PHILLIPS & SPRADLEY				RECEIVED: 06/01/81 JA: TX					
8133937	F-01-026550	4231131372		102-4		CHARLES C CARON #1	HILL CREEK (8425 WILCOX)	140.0	VALERO TRANSMISSI
8133936	F-01-026549	4231131459		102-4		CHARLES C CARON NO 2	HILL CREEK (GOVT WELLS S	140.0	VALERO TRANSMISSI
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 06/01/81 JA: TX					
8134058	F-08-034250	4213530521		108		BLOCK 11 DEVONIAN UNIT #8-06(20149)	BLOCK 11 (DEVONIAN)	2.0	EL PASO NATURAL G
8134129	F-08-034915	4213533526		103		GS ADOBE #17-11 (18713)	GOLDSMITH (5600)	5.8	EL PASO NATURAL G
8134130	F-08-034918	4213533523		103		GS ADOBE #2308 (18713)	GOLDSMITH (5600)	11.0	EL PASO NATURAL G
8134066	F-08-034403	4213503220		108		GS ANDECTOR #8-4 (21193)	GOLDSMITH (CLEARFORK)	18.7	EL PASO NATURAL G
8133873	F-10-017106	4242100000		108		JASPER A NO 1	STRATFORD	20.0	DIAMOND SHAMROCK
8134163	F-10-035066	4217900000		108		JOHNSON CC #2	PANHANDLE GRAY	0.0	
8133892	F-10-022399	4234100000		103		JULIUS NO 2	PANHANDLE WEST	132.0	EL PASO NATURAL G
8134128	F-7C-034913	4246101120		103		N PEMBROOK SPRABERRY UNIT #5502 (0*	SPRABERRY TREND	8.9	NORTHERN NATURAL
8133907	F-10-023776	4223300000		108		PRITCHARD J E #2	PANHANDLE HUTCHINSON	10.0	EL PASO NATURAL G
8133906	F-10-023775	4223300000		108		RANCH E NO 5	PANHANDLE HUTCHINSON	19.0	EL PASO NATURAL G
8133905	F-10-023774	4217900000		108		SIN-POPE #6	PANHANDLE GRAY	11.0	GETTY OIL CO
8133957	F-10-028491	4242100000		108		STARNES G NO 1	TEXAS HUGOTON	20.4	EL PASO NATURAL G
-PITCOCK INC				RECEIVED: 06/01/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133924	F-09-025373	4223732494			103	GUNTER NO 1	BARTONS CHAPPEL NW (CONG	25.0	LONE STAR GAS CO
-R H ENGELKE						RECEIVED: 06/01/81 JA: TX			
8134006	F-02-031144	4223931172			103	JOHN M BENNETT B NO 1	LASALLE (5770)	174.8	TENNESSEE GAS PIP
-R L KIRKWOOD JR						RECEIVED: 06/01/81 JA: TX			
8133902	F-02-023514	4202531154			103	DAN A HUGHES WELL NO 2	FRIENDSHIP CHURCH (HOCKL	406.2	VALERO TRANSMISSI
8133901	F-02-023513	4202531280			103	DAN A HUGHES WELL NO 3	FRIENDSHIP CHURCH (HOCKL	594.2	
-REALITOS ENERGY CORP						RECEIVED: 06/01/81 JA: TX			
8133987	F-02-030240	4246931658			102-4	BEN WILLIAMS NO 1	WILDCAT-PROPOSED COLOGNE	185.0	TENNESSEE GAS PIP
-RIO PETROLEUM INC						RECEIVED: 06/01/81 JA: TX			
8134031	F-10-031859	4221131248			103	RIO #1 NELLORA	HEMPHILL (GRANITE WASH)	160.0	PIONEER NATURAL G
-ROBERT L MCMILLAN						RECEIVED: 06/01/81 JA: TX			
8134030	F-7B-031785	4209330785			103	BOYD-WRIGHT #1	MITTIE (MARBLE FALLS)	100.0	LONE STAR GAS CO
-ROCKWOOD RESOURCES INC						RECEIVED: 06/01/81 JA: TX			
8133911	F-02-024487	4223931477			103	RATLIFF NO 2 WELL ID NO 87954	MAYO (5800)	0.0	DELHI GAS PIPELIN
-RUTHERFORD OIL CORP						RECEIVED: 06/01/81 JA: TX			
8134061	F-03-034321	4216700000			102-4	STATE TRACT 104-L #9	GALVESTON BLOCK 104-L (S	100.0	DOW CHEMICAL CO
-SAGE ENERGY CO						RECEIVED: 06/01/81 JA: TX			
8134132	F-08-034931	4210332302			103	STATE 18 RRC #26044	DUNE	2.0	PHILLIPS PETROLEU
8134131	F-08-034930	4210332290			103	STATE 19-A RRC #26004	DUNE	1.6	PHILLIPS PETROLEU
-SAMEDAN OIL CORPORATION						RECEIVED: 06/01/81 JA: TX			
8133972	F-03-029532	4222530313			102-4	DELL LAND COMPANY A #1	FT TRINIDAD N E (GEORGET	160.0	LONE STAR GAS CO
-SAMSON RESOURCES COMPANY						RECEIVED: 06/01/81 JA: TX			
8133934	F-09-026499	4223700000			108	HOOTEN GAS UNIT NO 1	RISCH	5.9	SOUTHWESTERN GAS
-SANCHEZ-OBRIEN OIL & GAS CORP						RECEIVED: 06/01/81 JA: TX			
8133986	F-02-030209	4229732517			102-4	PONDER-GADDIS GAS UNIT NO 1U API#4*	SLICK WILCOX (8630) FIEL	500.0	UNITED TEXAS TRAN
-SAXON OIL COMPANY						RECEIVED: 06/01/81 JA: TX			
8133912	F-7C-024944	4246131561			103	AMACKER 86-1	AMACKER-TIPPETT (WOLFCAM	56.5	EL PASO NATURAL G
8133927	F-7C-025518	4238331621			103	DIXON NO 1	SPRABERRY (TREND AREA)	20.4	PHILLIPS PETROLEU
8133915	F-7C-025260	4238331609			103	DIXON NO 2	SPRABERRY (TREND AREA)	20.0	PHILLIPS PETROLEU
8133916	F-7C-025261	4238331586			103	GARDNER NO 2 WELL	SPRABERRY (TREND AREA)	14.2	PHILLIPS PETROLEU
8133950	F-08-027902	4231703216			103	GAY WADE C NO 1	BREEDLOVE EAST SPRABERRY	16.0	PHILLIPS PETROLEU
8133965	F-7C-028931	4238331481			103	LANE A NO 1	CALVIN (DEAN)	58.4	UNION TEXAS PETRO
8133928	F-7C-025519	4238331634			103	PATTERSON B NO 1	SPRABERRY (TREND AREA)	25.1	PHILLIPS PETROLEU
8134019	F-08-031277	4231732209			103	ROLLOW NO 2	BREEDLOVE EAST (SPRABERR	32.9	PHILLIPS PETROLEU
8133951	F-7C-027994	4238303166			103	STATE EIGHT NO 2	SPRABERRY (TREND AREA)	22.3	PHILLIPS PETROLEU
8134062	F-7C-034339	4246131680			103	TIMMINS NO 1	SPRABERRY (TREND AREA)	0.0	MOBIL PRODUCING T
8133917	F-7C-025279	4238331614			103	TURNER C NO 1	SPRABERRY (TREND AREA)	21.2	PHILLIPS PETROLEU
8133929	F-7C-025520	4238331617			103	TURNER C NO 2	SPRABERRY (TREND AREA)	20.4	PHILLIPS PETROLEU
8133992	F-7C-030581	4238331658			103	TURNER D NO 3	SPRABERRY (TREND AREA)	17.5	NORTHERN NATURAL
8133939	F-7C-027286	4238331345			103	UNIVERSITY 13 NO 3	SPRABERRY (TREND AREA)	73.0	NORTHERN NATURAL
8134018	F-7C-031272	4238331601			103	UNIVERSITY 22-10 NO 3	SPRABERRY (TREND AREA)	15.2	PHILLIPS PETROLEU
8133918	F-7C-025288	4238331502			103	UNIVERSITY 34-2 WELL NO 3	SPRABERRY (TREND AREA)	24.8	PHILLIPS PETROLEU
8133930	F-7C-025521	4238331615			103	WATKINS A NO 1	SPRABERRY (TREND AREA)	17.5	PHILLIPS PETROLEU
-SEELY OIL CO						RECEIVED: 06/01/81 JA: TX			
8134052	F-7B-033308	4242900000			102-4	PEARL ROBERTSON #1 80189	WILENA (DUFFER)	130.0	LONE STAR GAS CO
-SHELL OIL CO						RECEIVED: 06/01/81 JA: TX			
8133926	F-10-025489	4221131160			103	HOBART RANCH #267	HEMPHILL (GRANITE WASH)	431.0	CITIES SERVICE GA
8133994	F-08-030750	4210300000			108	UNIVERSITY 30-C #5	DUNE	1.8	PHILLIPS PETROLEU
-SHOW PETROLEUM INC						RECEIVED: 06/01/81 JA: TX			
8134024	F-7B-031545	4213332581			102-4	DILLINDER #1	DESDEMONA N (CONGL) FIEL	87.0	NORTH GORMAN GATH
-SIMPSON-MANN OIL PRODUCERS						RECEIVED: 06/01/81 JA: TX			
8134004	F-7C-031111	4241300000			108	MYRTLE WILLIAMS ET AL #1-27	WILLIAMS RANCH (CANYON)	7.6	NORTHERN NATURAL
-SOUTHLAND ROYALTY CO						RECEIVED: 06/01/81 JA: TX			

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8134116	F-08-034876	4213500000		103		EDWARDS GRAYBURG UNIT #6-7	EDWARDS	7.6	PHILLIPS PETROLEU
8134117	F-08-034877	4213500000		103		EDWARDS GRAYBURG UNIT #7-28	EDWARDS	10.7	PHILLIPS PETROLEU
8133908	F-7C-024368	4210532587		103		TODD 47 #1	WYATT	25.0	PERMIAN CORP
-SOUTHWESTERN GAS EXPLORATION				RECEIVED: 06/01/81 JA: TX					
8133910	F-09-024402	4223731528		103		RICHARDS 237 #2	JACKSBORO SOUTH (ATOKA)	266.6	SOUTHWESTERN GAS
-SPINDLETOP OIL & GAS CO				RECEIVED: 06/01/81 JA: TX					
8133877	F-7B-020472	4236331743		102-4		MCCLISH #1 (80687)	MCCLISH - STONE (CONGL U\	109.0	TEXAS UTILITIES F
-STATEX PETROLEUM INC				RECEIVED: 06/01/81 JA: TX					
8134005	F-10-031127	4221100000		103		STUDER NO 6	HUMPHREYS-DOUGLAS	182.0	NORTHERN NATURAL
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 06/01/81 JA: TX					
8134189	F-01-035157	4212731941		103		BIG WELLS UNIT WELL NO 2806	BIG WELLS	31.8	HOUSTON PIPE LINE
8134190	F-01-035159	4212731944		103		BIG WELLS UNIT WELL NO 3804	BIG WELLS	33.0	HOUSTON PIPE LINE
8134186	F-01-035154	4212731938		103		BIG WELLS UNIT WELL NO 4304	BIG WELLS	45.0	HOUSTON PIPE LINE
8134187	F-01-035155	4212731883		103		BIG WELLS UNIT WELL NO 4615	BIG WELLS	46.0	HOUSTON PIPE LINE
8134188	F-01-035156	4212731890		103		BIG WELLS UNIT WELL NO 5453	BIG WELLS	2.0	HOUSTON PIPE LINE
8134185	F-01-035153	4212731891		103		BIG WELLS UNIT WELL NO 5505	BIG WELLS	15.0	HOUSTON PIPE LINE
8134191	F-7B-035180	4215130892		103		LOUELLA PATTERSON #6	ROYSTON (CANYON)	40.3	CONOCO INC
8133975	F-05-029834	4216130540		102-2		R C DUNLAP NO 1	DUNLAP	157.0	LONE STAR GAS CO
8133975	F-05-029834	4216130540		107-TF		R C DUNLAP NO 1	DUNLAP	157.0	LONE STAR GAS CO
-SUPERIOR OIL CO				RECEIVED: 06/01/81 JA: TX					
8134089	F-08-034782	4247532178		103		UNIVERSITY 28-18 WELL NO 2	WAR-WINK S (WOLFCAMP)	0.0	
8133938	F-03-027187	4201530444		107-DP		VOSKAMP 44 ACRE OIL UNIT NO 1	NEW ULM	0.0	
-TARTAN OIL & GAS				RECEIVED: 06/01/81 JA: TX					
8133881	F-03-021899	4248100000		103		DUFFY NO 1	BLUE BASIN (4300)	180.0	MAGNET GAS GATHER
-TAURUS OIL CORP				RECEIVED: 06/01/81 JA: TX					
8133941	F-7B-027366	4236332060		108		HARALSON #1 - RRC #81591	MORGAN MILLS (MARBLE FAL	1.1	NORTHERN GAS PROD
8133940	F-7B-027364	4236300000		108		HARR #1 -- RRC #84803	MORGAN MILLS (MARBLE FAL	0.1	NORTHERN GAS PROD
-TENNECO OIL COMPANY				RECEIVED: 06/01/81 JA: TX					
8134091	F-10-034790	4217930695		103		COMBS #4-A	PANHANDLE GRAY	27.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED: 06/01/81 JA: TX					
8134041	F-03-032405	4224531421		102-4		K B DOYLE #2	CONSTITUTION (WESTBURY)	500.0	TRANSCONTINENTAL
8134044	F-03-032647	4224531399		102-4		PICA INVESTMENT CO WELL #1	N E NOME	1095.0	PRODUCERS GAS CO
8134184	F-8A-035147	4216500000		103		SOUTHLAND ROYALTY #6	JENKINS (SAN ANDRES)	1095.0	PHILLIPS PETROLEU
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED: 06/01/81 JA: TX					
8134029	F-8A-031778	4221932829		103		L G WILSON #5	SLAUGHTER	1.0	AMOCO PRODUCTION
8134028	F-8A-031777	4241933013		103		L G WILSON A NO 6	SLAUGHTER	1.0	AMOCO PRODUCTION
-THE MAURICE L BROWN COMPANY				RECEIVED: 06/01/81 JA: TX					
8133868	F-06-015540	4220300000		108-ER		BLOCKER - WARE GAS UNIT #2	BETHANY	18.0	UNITED GAS PIPE L
-TIERRA EXPLORATION INC				RECEIVED: 06/01/81 JA: TX					
8133985	F-7B-030043	4208300000		102-4		T C HALL #3	COLEMAN S (BRENEKE)	30.0	LONE STAR GAS CO
-TONK VALLEY PRODUCTION CO				RECEIVED: 06/01/81 JA: TX					
8134146	F-7B-034975	4213332695		103		L DILLINDER # A-1 (16802)	DESDEMONA N (CONGL)	31.0	NORTH GORMAN GATH
-U S OPERATING INC				RECEIVED: 06/01/81 JA: TX					
8133969	F-03-029159	4247730366		102-1		NEVA NO 1	GIDDINGS (AUSTIN CHALK G	100.0	PGP GAS PRODUCTS
-UNION OIL COMPANY OF CALIF				RECEIVED: 06/01/81 JA: TX					
8134099	F-08-034806	4213533554		103		MOSS UNIT #17-18	COWDEN SOUTH	12.0	ODESSA NATURAL CO
-UNION TEXAS PETROLEUM				RECEIVED: 06/01/81 JA: TX					
8134175	F-03-035116	4219931446		102-4		KIRBY LUMBER COMPANY #2	SOUR LAKE E (YEGUA LOWER	3285.0	
8134145	F-08-034974	4247531888		103		UNIVERSITY 18-19 #2	WAR-WINK S (WOLF CAMP) S	23.7	LONE STAR GAS COR
8134144	F-08-034973	4247531972		103		UNIVERSITY 18-20 #2	WAR-WINK S (WOLFCAMP) SE	57.4	LONE STAR GAS COR
-VORTT EXPLORATION CO INC				RECEIVED: 06/01/81 JA: TX					
8133898	F-7B-022958	4236300000		102-2		#1 GILL	MINERAL WELLS S (STRAWN	0.0	
8133897	F-7B-022957	4236300000		102-4		#1 HESS	MINERAL WELLS S (STRAWN	280.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8133896	F-78-022953	4236300000		102-4		#1 LAWSON-STASIO	MINERAL WELLS S (STRAWN	280.0	SOUTHWESTERN GAS
8133903	F-78-023517	4236300000		102-4		#1C RHODES-GREEN	MIN WELLS S (STRAWN A)	280.0	SOUTHWESTERN GAS
8133895	F-78-022952	4236300000		102-4		#1C RHODES-GREEN	MINERAL WELLS S (STRAWN	280.0	SOUTHWESTERN GAS
8133931	F-78-026460	4236300000		102-4		D BAUM UNIT I #1	MINERAL WELLS S (STRAWN	0.0	SOUTHWESTERN GAS
8133932	F-78-026461	4236300000		102-4		D BAUM UNIT II #1	MINERAL WELLS S (GEORGIA	0.0	SOUTHWESTERN GAS
-W R EDWARDS JR				RECEIVED: 06/01/81 JA: TX					
8133913	F-10-024992	4223330726		103		LITTLE RASCALS #4	PANHANDLE HUTCHINSON COU	160.0	PANHANDLE PRODUCI
8134121	F-10-034896	4223300000		103		WILLIAM #5	PANHANDLE HUTCHINSON	88.0	PANHANDLE PRODUCI
-W W BOLDT				RECEIVED: 06/01/81 JA: TX					
8134027	F-78-031666	4208200000		102-4		M D FULTON A #1	WILDCAT	180.0	
-WAINOCO OIL & GAS COMPANY				RECEIVED: 06/01/81 JA: TX					
8133990	F-03-030333	4208931162		102-4		J R THOMAS NO 1	LISSIE W (WILCOX UPPER)	552.0	SEAGULL PIPELINE
-WALSH AND WATTS INC				RECEIVED: 06/01/81 JA: TX					
8134197	F-08-035189	4222732112		103		ABRAMS B NO 1 (LEASE NO 18630)	COAHOMA N (FUSSEL)	24.0	GETTY OIL CO
8134109	F-78-034822	4215131132		103		BOYD D WELL NO 8 (10970)	JUDY GAIL (CANYON SAND)	11.0	LONE STAR GAS CO
8134108	F-78-034821	4215131146		103		YORK WELL NO 3 (15270)	JUDY GAIL (CANYON SAND)	11.0	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 06/01/81 JA: TX					
8134183	F-08-035146	4210332396		103		W N WADDELL NO 1141	WADDELL	5.0	EL PASO NATURAL G
-WAYMAN W BUCHANAN				RECEIVED: 06/01/81 JA: TX					
8134071	F-03-034628	4214930832		103		COLLEEN UNIT NO 1	GIDDINGS (AUSTIN CHALK)	86.7	PHILLIPS PIPELINE
8134077	F-03-034719	4214030704		103		GINNY NO 1	GIDDINGS (AUSTIN CHALK)	145.5	PHILLIPS PIPELINE
-WAYNE MOORE				RECEIVED: 06/01/81 JA: TX					
8134056	F-08-033495	4237132606		102-4		WALKER GLASS MT WELL #1	GLASS MOUNTAIN	0.0	LONE STAR GAS CO
-WHITEHEAD PRODUCTION CO INC				RECEIVED: 06/01/81 JA: TX					
8133919	F-09-025330	4223732987		103		G ELLIS #1	PERRIN EAST (5400 CONGL)	400.0	NATURAL GAS PIPEL
8133988	F-78-030257	4236731781		102-4		LONG #1	CABBAGE PATCH (BIG SALIN	0.0	
-WILLIAMS PETROLEUM CO				RECEIVED: 06/01/81 JA: TX					
8134025	F-78-031553	4236300000		103		NO 3 DOUG DUWE	B R A (CONGLOMERATE)	260.0	TEXAS UTILITIES F
-WILLIAMS-GIEGER RESOURCES INC				RECEIVED: 06/01/81 JA: TX					
8134076	F-06-034718	4236500000		103		W P MCFADDEN #1	CARTHAGE (COTTON VALLEY)	100.0	UNITED GAS PIPELI
8134076	F-06-034718	4236500000		107-TF		W P MCFADDEN #1	CARTHAGE (COTTON VALLEY)	100.0	UNITED GAS PIPELI
-ZAPATA EXPLORATION CO				RECEIVED: 06/01/81 JA: TX					
8133999	F-03-030944	4270430171		102-4		S/L 68099 WELL 2A-L	BRAZOS AREA 446L SE/4 (C	912.0	VALERO TRANSMISSI
8133998	F-03-030941	4270430171		102-4		S/L 68099 WELL 2A-U	BRAZOS AREA 446L SE/4 (6	912.0	VALERO TRANSMISSI
-ZEPHYR OIL CO				RECEIVED: 06/01/81 JA: TX					
8133893	F-06-022408	4240100000		108		ALFORD ENTERPRISES #1-T	HENDERSON SOUTH (PETTIT)	4.3	TEXAS UTILITIES F

OTHER PURCHASERS VOLUME NO 454

8133882 E I DUPONT DE NEMOURS & CO INC
8133883 E I DUPONT DE NEMOURS & CO INC
8133884 E I DUPONT DE NEMOURS & CO INC
8133885 E I DUPONT DE NEMOURS & CO INC
8133886 E I DUPONT DE NEMOURS & CO INC
8133887 E I DUPONT DE NEMOURS & CO INC
8133888 E I DUPONT DE NEMOURS & CO INC
8133890 E I DUPONT DE NEMOURS & CO INC
8134094 E I DUPONT DE NEMOURS & CO INC
8134095 E I DUPONT DE NEMOURS & CO INC
8134105 E I DUPONT DE NEMOURS & CO INC
8134115 E I DUPONT DE NEMOURS & CO INC
8134181 E I DUPONT DE NEMOURS & CO INC
8134182 E I DUPONT DE NEMOURS & CO INC
8134199 E I DUPONT DE NEMOURS & CO INC

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 15, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-19223 Filed 6-29-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-1869-8]

Benefits Analysis of National Ambient Air Quality Standards for Sulfur Oxides and Particular Matter; Meeting

AGENCY: Environment Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA's Office of Air Quality Planning and Standards is conducting a public meeting to solicit input on a contractor's technical report containing a benefits analysis methodology for National Ambient Air Quality Standards for sulfur oxides and particulate matter under Section 109 of the Clean Air Act, 42 U.S.C. 7409. A panel of experts in the field of environmental benefits analysis will critically discuss the analysis of various economic sectors. Questions and comments from the general public will be also be discussed. The meeting will be from 9:00 a.m. to 5:00 p.m. on both Monday, July 27, and Tuesday, July 28, 1981. It will be held in the Governor's Room of the Sheraton-Crabtree Inn, U.S. 70 West, Raleigh, NC 27612.

FOR FURTHER INFORMATION CONTACT: Janet Scheid (919) 541–5611/(FTS 629–5611) of the Ecnomic Analysis Branch, Strategies and Air Standards Division, Office of Air Quality Planning and Standards. The mailing address is: Economic Analysis Branch (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, 27711.

Dated: June 24, 1981.

Edward Tuerk

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-19162 Filed 6-29-81; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL-1871-2]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "FUEL-MAX"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "FUEL-MAX" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

Background Information

Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) the effect of any retrofit device on fuel economy;

(2) the effect of any such device on emissions of air pollutants; and

(3) any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

Origin of Request for Evaluation

On January 18, 1980, the EPA received a request from FIDCO, Fuel Injection Development Corporation, for evaluation of a fuel saving device termed "FUEL-MAX." This device is an air bleed device that replaces the EGR valve. It is claimed to conserve fuel.

Availability of Evaluation Report

An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the FUEL-MAX Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act." This entire report is contained in two volumes. The discussions, conclusions and list of all attachments are listed in EPA–AA–TEB–511–81–10A, which consists of 18 pages. The attachments are contained in EPA–AA–TEB–511–81–10B, which consists of 120 pages. The attachments include correspondence between the Applicant and EPA, all documents submitted in support of the Application and the EPA testing of the device.

As a part of its evaluation EPA has actually tested the FUEL-MAX device. The EPA testing is described completely in the report "Emissions and Fuel Economy of FUEL-MAX, a Retrofit Device," EPA–AA–TEB–81–15, consisting of 8 pages. This report is contained in the preceding FUEL-MAX 511 Evaluation as an attachment and can be obtained separately or as part of the attachment package.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. Phone: Federal Telecommunications System (FTS) 737–4650, Commercial 703–487–4650.

Summary of Evaluation

EPA fully considered all of the information submitted by the Device manufacturer in the Application. The evaluation of the "FUEL-MAX" device

was based on that information and the results of the EPA test program.

The "FUEL-MAX" is an air bleed device that replaces the Exhaust Gas Recirculation (EGR) valve which has been installed on almost all passenger cars since 1973. The purpose of the EGR System is to control oxides of nitrogen (NO_x). Removal of the EGR valve to install the "FUEL-MAX" disables the EGR system and would be expected to result in a large increase in NO_x emissions.

Test data submitted by the Applicant confirmed this prediction as well as indicating that "FUEL-MAX" might improve fuel economy. Although the data did not adequately quantify the amount of this improvement, EPA chose to conduct confirmatory testing.

The EPA Evaluation of the "FUEL-MAX" system included vehicle testing by the Federal Test Procedure (FTP) and the Highway Fuel Economy Test (HFET). These two tests are the basic means for evaluating exhaust emissions and fuel economy. During these tests, measurements were made of the fuel economy (FE) and the regulated emissions of hydrocation (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x).

EPA tested the "FUEL-MAX" device on a sample of three typical 1979 passenger cars. The findings are summarized below:

1. Use of the "FUEL-MAX" resulted in increased NO_x emissions of between 440% to 1070% on the FTP and 280% to 770% on the HFET.

2. Use of the "FUEL-MAX" resulted in changes in fuel economy of between +1.6% to +4.1% on the FTP and −0.6% to +0.9% on the HFET.

3. Use of the "FUEL-MAX" resulted in a decrease in hydrocarbon emissions of between 15% to 24% on the FTP and 6% to 42% on the HFET.

4. Use of the "FUEL-MAX" resulted in a decrease in carbon monoxide emissions of between 7% and 44% on the FTP and 46% to 68% on the HFET.

5. On the road evaluations with "FUEL-MAX" showed that heavy knock exited in one car, that light knock occurred in one car and that knock was rarely noticed on the third car.

The Applicant's testing of the "FUEL-MAX" device showed the same emission and fuel economy trends noted in the EPA testing. The differences observed in the magnitude of these effects were due to the differences in the test fleets and the weaknesses noted in the Applicant's control of the vehicle test program.

Because EPA tests showed that use of the "FUEL-MAX" on the vehicles tested, caused emissions to exceed applicable standards, the installation of this device by a person in the business of servicing, repairing, selling, leasing, or trading motor vehicles, fleet operators, or new car dealers will be considered a violation of Section 203(a)(3) of the Clean Air Act, the Federal prohibition against tampering with emission control systems. That is, there is currently no reasonable basis for believing that the installation or use of this device will not adversely affect emission performance. This determination does not preclude the use of the "FUEL-MAX" device on a different vehicle or vehicles than those tested by EPA if Federal Test Procedure tests performed on such vehicles clearly establish that emission performance on such vehicles is not adversely affected.

Many state laws prohibit the operation or registration for use on public highways of a motor vehicle on which the emission control system has been removed or rendered inoperative. EPA has concluded that this device will render inoperative an element of design of the emission control devices or systems of a motor vehicle on which it is installed. Therefore, the installation or use of this device by individuals may be prohibited under some state laws.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313–668–4299.

Dated: June 24, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-19187 Filed 6-29-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket 80–765; Transmittal No. 13555; Docket 80–54; RM–3453; FCC 81–259]

American Telephone & Telegraph Co., Wide Area Telecommunications Service (WATS); Regulatory Policies Concerning Resale and Shared Use of Common Carrier Domestic Public Switched Network Services

AGENCY: Federal Communications Commission.

ACTION: Denial of motion to stay and petition for reconsideration.

SUMMARY: The Federal Communications Commission denies a petition for expedited relief filed by the Ad Hoc Telecommunications Users Committee and a Motion for Stay filed by Aeronautical Radio, Inc. and the Air Transport Association of America in Docket Nos. 80–54 and 80–765. The Commission finds that the pleadings raise no new matters which warrant reconsideration and do not set forth sufficient grounds for a stay. As a result, implementation of the Commission's earlier decision establishing June 1, 1981, as the effective date for WATS rates, to be filed by AT&T on five days' notice, which incorporate time-of-day sensitive pricing will not be delayed.

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

FOR FURTHER INFORMATION CONTACT: Brad Allenby, Common Carrier Bureau, 632–6917.

SUPPLEMENTARY INFORMATION:

In the matter of American Telephone and Telegraph Company, Revisions to Tariff F.C.C. No. 259, Wide Area Telecommunications Service (WATS), Docket No. 80–765, Transmittal No. 13555; and regulatory policies concerning resale and shared use of Common Carrier Domestic Public Switched Network Services, Docket No. 80–54, RM 3453.

Memorandum Opinion and Order

Adopted: May 28, 1981.

Released: May 29, 1981.

By the Commission: Chairman Fowler not participating; Commissioner Fogarty dissenting.

1. On May 15, 1981 the Commission adopted a decision which authorized the American Telephone and Telegraph Company (AT&T) to file, on five days' notice, proposed revisions to its Wide Area Telecommunications Service (WATS) tariff Tariff F.C.C. No. 259. The Ad Hoc Telecommunications Users Committee (Ad Hoc) filed a petition for expedited reconsideration on May 21, 1981. Aeronautical Radio, Inc. (ARINC) and The Air Transport Association of America (ATA) filed a joint "Motion For Stay" pending judicial review on May 22, 1981. AT&T has filed oppositions to the petitions and the motion.

2. We have examined the petition and the motion and find them unpersuasive. Briefly, neither has presented any new information, and the same arguments were considered at the time we entered our decision. We have compiled a large record in this matter and feel that all parties have had ample opportunity to present their views. Certainly no need for expedited reconsideration of these very complex issues has been shown.

3. The Motion for Stay does not convince us that there is any substantial likelihood that our order will be overturned on judicial review. Further, the possibility of irreparable injury to

movant has not been demonstrated. Moreover, we have required AT&T to keep accurate account of all amounts received by reason of the new WATS rates to facilitate possible refunds in the event the rates are later found unreasonably high. *See* 47 U.S.C. 204; *see also*, 47 U.S.C. 206, 209.

4. Accordingly, it is ordered, that the Petition for Expedited Reconsideration filed by the Ad Hoc Telecommunications Users Committee and the Motion for Stay filed jointly by Aeronautical Radio, Inc. and the Air Transport Association of America, are denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-19155 Filed 6-29-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-398, 81-399; File Nos. BPH-800206AO, BPH-800312AG]

CLW Communications Group of Pennsylvania, Inc. and Morgan Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: June 17, 1981.

Released: June 19, 1981.

By the Chief, Broadcast Bureau.

In re-applications of CLW Communications Group of Pennsylvania, Inc. Pittston, Pennsylvania, Req: 102.3 MHz, Channel 272, 3 kW (H&V), 147 feet, BC Docket No. 81-398, File No. BPH-800206AO; Morgan Communications, Inc., Pittston, Pennsylvania, Req: 102.3 MHz, Channel 272, 3 kW (H&V), 71 feet, BC Docket No. 81-399, File No. BPH-300312AG; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutally exclusive applications filed by CLW Communications Group of Pennsylvania, Inc. (CLW) and Morgan Communications, Inc. (Morgan).

2. *CLW.* Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. CLW proposes to locate its main studio adjacent to Oak Street, near Pittston, Pennsylvania. The applicant has not submitted a showing under the rule. Accordingly, an issue will be specified.

3. Since no determination has been reached that the antenna proposed by CLW would not constitute a menace to air navigation, an issue regarding this matter is required.

4. *Morgan.* Since no determination has been reached that the antenna proposed by Morgan would not constitute a menance to air navigation, an issue regarding this matter is required.

5. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communciations Act, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of CLW Communications Group of Pennsylvania, Inc. to locate the main studio outside its community of license is in compliance with Section 73.1125 of the Communication's Rules with respect to location of the main studio and, if not, whether circumstances warrant a waiver of that Section.

2. To determine with respect to both CLW Communications Group of Pennsylvania, Inc. and Morgan Communications, Inc. whether there is a reasonable possibility that the tower heights and locations proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

8. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is futher ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section75.3594(g) of the Rules.

Federal Communication Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-19158 Filed 6-29-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-395 81-396, 81-397 File Nos. BPH-800731AD, BPH-800818AA, BPH-801003AE]

Hine Broadcasting Co. et al., Designating Applications for Consolidated Hearing on Stated Issues; Hearing Designation Order

Adopted: June 17, 1981.

Released: June 19, 1981.

By the Chief, Broadcast Bureau.

In re application of Hine Broadcasting Co. Whitehouse, Texas, Req: 99.3 MHz, Channel 257A 3kW (H&V), 300 feet BC Docket No. 81-395, File No. BPH-800731AD, Clint Formby, Inc., Marshall Formby, Inc. & Tunnell-Formby, Inc., a joint venture, d.b.a. Smith County Broadcasting, Whitehouse, Texas, Req: 99.3 MHz, Channel 257A 3kW (H&V), 300 feet, BC Docket No. 81-396 File No. BPH-800818AA; North American Broadcasting Co., Inc., Whitehouse, Texas, Req: 99.3 MHz, Channel 257A 3 kW (H&V), 300 feet, BC Docket No. 81-397 File No. BPH-801003AE; for a construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Hine Broadcasting Company (HBC); Smith County Broadcasting (SCB); and North American Broadcasting Company Inc. (NABC) for a new FM station at Whitehouse, Texas.

2. *HBC.* Applicants for new broadcast stations are required by Section 73.3580

to give local notice of the filing of their application. Applicants for commerical FM stations are further required by Section 73.3526 of the Rules to maintain a copy of the application, as submitted to the Commission, on file for public inspection in the proposed community of license. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. Evidence submitted by HBC indicates that HBC failed to maintain a copy of its application on file for public inspection in the proposed community of license; that HBC did not publish its public notice in a newspaper published in the proposed community of license as required by Section 73.3580(c)(1)(ii) of the rules; and that HBC's public notice did not indicate the studio location. To remedy these deficiencies HBC will be required to republish local notice of this application, to maintain a local file for public inspection, and to file a statement of publication with the presiding Administrative Law Judge.

3. *SCB.* SCB is a joint venture of Clint Formby, Inc., Marshall Formby, Inc., and Tunnell-Formby, Inc. The applicant's Joint Venture Agreement states in Section 7, "The relationship between the parties shall be limited to the ownership and operation of Radio Station KTBB and deemed to be a joint venture for the sole purpose of owning and operating Radio Station KTBB." Under the Joint Venture Agreement there is no indication that SCB has the authority to file or prosecute the present application for a FM station. Accordingly, a legal qualification issue will be specified.

4. Since no determination has been reached that the antenna proposed by SCB would not constitute a menace to air navigation, an issue regarding this matter is required.

5. *NABC.* Information submitted by NABC indicates a weekly newspaper is published within Whitehouse, Texas, the proposed community of license. NABC, however gave notice of its application in a newspaper published outside of Whitehouse. Section 73.3580 of the Commission's Rules requires local notice to be published, when possible, within the proposed community of license. NABC will be required to republish local notice of the filing of its application in compliance with Section 73.3580(c)(1)(ii) of the Rules and to file a statement of publication with the presiding Administrative Law Judge.

6. *Other Matters.* Data submitted by the applicant indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues.

1. To determine whether SCB is legally qualified to file and prosecute an application for the proposed FM service.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by SCB would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the forgoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That, the FAA IS MADE A PARTY to the proceeding.

10. It is further ordered, That, HBC maintain a local file for public inspection within the proposed community of license in accordance with Section 73.3526 of the Rules, republish notice of the filing of its application in accordance with Section 73.3580 of the Rules, and file a statement of publication with the presiding Administrative Law Judge.

11. It is further ordered, That, NABC, republish local notice of the filing of its application in accordance with Section 73.3580 of the Rules, and file a statement of publication with the presiding Administrative Law Judge.

12. It is further ordered, That, in the event that the application of SCB is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, SCB will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

13. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-19159 Filed 6-29-81; 8:45 am]

BILLING CODE 6712-01-M

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

June 12, 1981.

Canadian List No. 405

Call letters	Location	Power (kilowatts)	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							No. of radials	Length (feet)	
				540 kHz					
CBGA-1	New Carlisle, Quebec, N. 47°48'50", W. 65°08'50" (Now on air).	10	DA-2	U	II				
				680 kHz					
CFTR	Toronto, Ontario, N. 43°12'52", W. *79°36'20"* (P.O. 25 kW, N. 43°34'48", W. 78°38'30") (Correction of longitude to Change List No. 397) (Q day = 3.79mV/m – Q night = 31.7mV/m).	50	DA-2	U	II				Aug. 26, 1981.
				1000 kHz					
CFLP	Rimouski, Quebec, N. 48°23'07", W. 68°41'12" (Augmentation of night-time directional pattern) (Now on air).	10	DA-2	U	II				
				1250 kHz					
CKOM	Saskatoon, Saskatchewan, N. 52°04'45", W. 106°30'38" (On air with change of directional pattern).	10	DA-N, ND-D220	U	II				
				1380 kHz					
CHLR	Moncton, New Brunswick, N. 46°*08'47"*, W. 64°*48'02"* (Change of proposed site and antenna system) (Assignment of call letters).	10	*DA-N*	U	III				*June 12, 1982.*
				1440 kHz					
CFGO	Ottawa, Ontario, N. 45°16'59", W. 75°44'31" (P.O. DA-1) (Change of directional antenna patterns).	50	*DA-2*	U	III				June 12, 1982.
				1450 kHz					
CHUC	Cobourg, Ontario, N. 43°57'20", W. 78°13'09" (P.O. ikw).	10	DA-2	U	IV				Do.
				1580 kHz					
New	Edmonton, Alberta, N. 53°26'50", W. 113°16'30".	50	DA-N	U	II				Do.
				1600 kHz					
New	Calgary, Alberta, N. 50°56'15", W. 113°51'30".	50	DA-N	U	III				Do.

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 81-19160 Filed 6-29-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Addition of New Routine Use to An Existing System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed addition of a new routine use to three existing FEMA systems of records entitled, "Key Personnel Central Locator List—FEMA/OS-2"; "Emergency Assignment System—FEMA/OS-1"; and "Interagency Directories System—FEMA/PP-3."

SUMMARY: The purpose of this proposal is to give notice that an additional routine use "to provide the names, addresses and telephone numbers of FEMA subscribers having essential emergency functions to the General Services Administration for forwarding to the public telephone companies to designate those subscriber's home numbers as 'essential' for the purpose of providing a minimum of delay in placing calls from their residences during a national disaster or civil emergency . . ." is being proposed to be added to three existing systems of records entitled, "Key Personnel Central Locator List"; "Emergency Assignment System"; and "Interagency Directories System."

This proposed routine use is necessitated because of the overload of telephone lines encountered as a result of an emergency and unavailability to obtain an open line during these periods. The public telephone companies would designate those home telephone numbers of FEMA subscribers having essential emergency functions as "essential" and thereby permitting those individuals to place all outgoing calls from their residences with a minimum of delay while retaining generally good service, with only slight and intermittent delay to the other general public users.

The proposed routine use is compatible with the purposes for which the systems were established, therefore, we are not required to file any reports with Congress or the Office of Management and Budget.

In an effort to economize on the cost of publication in the **Federal Register**, we are publishing only the sections of the systems of records affected by this notice. The remaining portions of the systems can be viewed in the October 14, 1980, **Federal Register**, 45 FR 67845, 67846, and 67849.

DATE: Any interested parties may submit written comments regarding this proposal. To be considered, comments must be received July 30, 1981. Unless comments are received on or before that date, which would result in a contrary determination, the routine use will become effective as proposed without further notice on July 30, 1981.

ADDRESS: Address comments to the Rules Docket Clerk, Federal Emergency Management Agency, (Room 801), 1725 I Street, NW., Washington, D.C. 20472. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m. during normal working days.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, Office of Public Affairs, (202) 634-6772.

SUPPLEMENTARY INFORMATION: Based on the above reasons outlined under the Summary section, the Federal Emergency Management Agency finds it necessary to include the following routine use in the following systems of records:

FEMA/OS-1

SYSTEM NAME:

Key Personnel Central Locator List.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To provide the names, addresses and telephone numbers of FEMA subscribers having essential emergency functions to the General Services Administration for forwarding to the public telephone companies to designate those subscriber's home numbers as "essential" for the purpose of providing a minimum of delay in placing calls from their residences during a national disaster or civil emergency.

To assist officials charged with emergency responsibilities in the assignment and coordination of activities in the Western Virginia Operations Division of FEMA.

Additional routine uses may include Nos. 1, 2, 3, 5, and 8 of Appendix A.

* * * * *

FEMA/OS-2

SYSTEM NAME:

Key Personnel Central Locator List.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To provide the names, addresses and telephone numbers of FEMA subscribers having essential emergency functions to the General Services Administration for forwarding to the public telephone companies to designate those subscriber's home numbers as "essential" for the purpose of providing a minimum of delay in placing calls from their residences during a national disaster or civil emergency.

In the event of a national disaster or civil emergency which requires action by FEMA, the list will be referred to in order to locate selected Key Officials.

Additional routine uses may include Nos. 5 and 8 of Appendix A.

FEMA/PP-3

SYSTEM NAME:

Interagency Directories System.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

To provide the names, addresses and telephone numbers of FEMA subscribers having essential emergency functions to the General Services Administration for forwarding to the public telephone companies to designate those subscriber's home numbers as "essential" for the purpose of providing a minimum of delay in placing calls from their residences during a national disaster or civil emergency.

For the purpose of providing a locator service and a means of distributing publications and communications, interagency directories will be distributed to Federal, regional and state interagency committee members and to the agencies which they represent; e.g., State Emergency Planning Directors, holders of the FEMA Emergency Planning Reference Package for Regional Governments and Central Office Emergency Readiness Instructions and the White House Communications Agency. To the key personnel in Federal agencies and departments involved in emergency preparedness responsibilities.

Additional routine uses may include Nos. 2, 3, 5, and 8 of Appendix A.

Dated: June 23, 1981.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

[FR Doc. 81-19073 Filed 6-29-81; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justification offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 20, 1981. Comments should included facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3193-1.

Filing Party: Charles Friedlander, Esquire, Galland, Kharasch, Calkins & Short, P.C., Canal Square, 1054 Thirty-First Street, NW., Washington, D.C. 20007.

Summary: Agreement No. T-3193-1, between Puerto Rico Maritime Shipping Authority and Sea-Land Service, Inc., modifies the parties' basic agreement which provides for the preferential interchange of container cranes situated in the vicinity of Berths E through H at Puerto Nuevo, San Juan, Puerto Rico. The purpose of the modification is to change the crane usage fee from $300 per hour, or fractional part thereof, to $50 per hour, or fractional part thereof.

Agreements Nos. T-3453 and T-3453-A

Filing Party: Charles Friedlander, Esquire, Galland, Kharasch, Calkins & Short, P.C., 1054 Thirty-first Street, NW., Washington, D.C. 20007.

Summary: Agreement No. T-3453 as refiled June 8, 1981, between the Puerto Rico Ports Authority (Authority) and Puerto Rico Maritime Shipping Authority (PRMSA) provides that the Authority will grant PRMSA preferential rights with respect to the docking and mooring of vessels and the use of certain marine facilities located at the Isla Grande Container Terminal, San Juan. The agreement becomes effective upon securing Commission approval and terminates September 30, 1990, with renewal options. PRMSA will compensate the Authority according to a schedule of rental fees as set forth in the agreement.

Agreement No. T-3453-A, as refiled June 8, 1981 between the Puerto Rico Ports Authority (Authority) and Puerto Rico Maritime Shipping Authority (PRMSA) provides that the Authority will lease to PRMSA for its exclusive use, certain backup and marshalling areas at the Isla Grande Container Terminal, San Juan. The agreement becomes effective upon securing

Commission approval, and terminates September 30, 1990, with renewal options. PRMSA will compensate the Authority according to a schedule of rental fees as set forth in the ageement.

Agreement No. T-3978.

Filing Party: Mr. Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3978, between Sea-Land Service, Inc. (Lessor) and the City of Long Beach (Lessee), provides for the lease by Lessor to Lessee of two Paceco Container Cranes Nos. 452 and 453 located at Pier G at Berths 227-230 in Long Beach. The terms of the lease shall commence on the first day of the calendar month following approval and shall terminate on June 30, 1983. The agreement at City's option may be renewed for three additional terms of three (3) years each and a fourth term of one (1) year. Lessee agrees to pay a monthly rental equal to one-twelfth of the agreed compensation calculated as indicated in the agreement with adjustments to allow for depreciation and operating expenses for each subsequent term of the lease. Lessee will employ the cranes in such business as they undertake or may sublease or make temporary assignment of the cranes. Such utilization shall be in accordance with the provisions of Port of Long Beach Tariff No. 3.

Agreements Nos. T-3979, T-3979-A, T-3980, and T-3980-A.

Filing Party: Charles Friedlander, Esquire, Galland, Kharasch, Calkins & Short, P.C., 1054 Thirty-First Street, N.W., Washington, D.C. 20007.

Summary: Agreements Nos. T-3979 and T-3980, between the Puerto Rico Ports Authority (the Authority) and the Puerto Rico Maritime Shipping Authority (PRMSA), provide for the preferential assignment by the Authority to PRMSA of certain marine terminal facilities located at Piers J, K, and L at Puerto Nuevo, Puerto Rico. As compensation, PRMSA will pay the Authority a combined annual rental of $27,250, as well as a minimum annual dockage and wharfage fee in the amount of $437,500. The term of the agreements is 25 years, with one five-year renewal option.

Agreements Nos. T-3979-A and T-3980-A, between the same parties, provide for the lease to PRMSA for its exclusive use certain backup and marshalling areas adjacent to Piers J, K, and L. As compensation, PRMSA will pay the Authority an annual ground rental of $636,375.04 during the first ten years of the lease, the rental amount to be reestablished by the Authority for each five-year period of the lease thereafter. The term of the agreements is 25 years, with one five-year renewal option.

Agreement No. 5660-33.

Filing Party: Jeffrey F. Lawrence, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 5660-33 amends the Marseilles, North Atlantic U.S.A. Freight Conference's basic agreement by adding a new Article 23 which designates the authority to execute and file amendments to the basic agreement.

By Order of the Federal Maritime Commission.

Dated: June 25, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-19186 Filed 6-29-81; 8:45 am]

BILLING CODE 6730-01-M

Compliance With Regulatory Flexibility Act

AGENCY: Federal Maritime Commission.

ACTION: Notice of Ten-Year Schedule for Review of Rules.

SUMMARY: Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354), the Federal Maritime Commission hereby publishes notice of its schedule for review of Commission rules.

DATE: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Acting Managing Director, Federal Martime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5800.

SUPPLEMENTARY INFORMATION: Section 610 of the Regulatory Flexibility Act (Pub. L. 96-354) requires that each agency subject thereto publish in the **Federal Register** a plan for periodic review of its rules. Incorporated herein is the plan of the Federal Martime Commission extending over the next ten years. Any revision of this plan will likewise be published in the **Federal Register.**

Francis C. Hurney,

Acting Managing Director.

Ten-Year Review Plan

Year 1

General Provision:

C.F.R.—Title 46 Chapter IV Part 507
Name—Actions to Adjust a Meet Conditions Unfavorable to Shipping in the Foreign Trades of the U.S.
General Order—No. 39, December 1977
Reviewing Office—Managing Director

C.F.R.—Title 46 Chapter IV Part 509
Name—Actions to Adjust a Meet Conditions Unfavorable to Shipping in the U.S. Atlantic and Gulf/European trades
General Order—No. 33, 44 FR 8269, February 9, 1979

Regulations:

Reviewing Office—Managing Director

C.F.R.—Title 46 Chapter IV Part 522
Name—Filing of Agreements Between Common Carriers of Freight by Water in the Foreign Commerce of the U.S.
General Order—No. 24, August 1968
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 521
Name—Time for Filing and Commentary on Certain Agreements
General Order—No. 17, December 1965
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 549
Name—Regulations Governing Level of Military Rates
General Order—No. 29, December 1972
Reviewing Office—Bureau of Tariffs

C.F.R.—Title 46 Chapter IV Part 534
Name—Green Hide Weighing Practices
General Order—No. 10, May 1964
Reviewing Office—Bureau of Tariffs

C.F.R.—Title 46 Chapter IV Part 548
Name—Regulations to Implement the Economic Stabilization Act, 1970
General Order—No. 28, April 1972
Reviewing Office—General Counsel

C.F.R.—Title 46 Chapter IV Part 530
Name—Carrier Compliance with Wage and Price Standards
General Order—
Reviewing Office—General Counsel

Year 2

C.F.R.—Title 46 Chapter IV Part 540
Name—Security for the Protection of the Public (Passenger Vessel)
General Order—No. 20, March 1967
Reviewing Office—Certification and Licensing

C.F.R.—Title 46 Chapter IV Part 528
Name—Self-Policing Requirements for Section 15 Agreements
General Order—No. 7, September 21, 1978
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 530.6 Section 14b
Name—Termination of Merchants Contract
General Order—
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 530.1 Section 14b
Name—Termination of the Contract Rate System
General Order—
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 530.2 Section 14b
Name—Spread between Contract and Non-Contract Rates
General Order—
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 530.3 Section 14b
Name—Transition between Contract Systems
General Order—
Reviewing Office—Bureau of Agreements

C.F.R.—Title 46 Chapter IV Part 530.4 Section 14b
Name—Execution of New Contracts

General Order—
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 533
Name—Filing of Tariffs by Terminal Operators
General Order—No. 15, October 1965, as amended
Reviewing Office—Bureau of Tariffs

Year 3

General Provision:

C.F.R.—Title 46 Chapter IV Part 503
Name—Public Information
General Order—No. 22, June 1967, as amended March 1977
Reviewing Office—Secretary
C.F.R.—Title 46 Chapter IV Part 530.5 Section 1, 15
Name—Terminal Lease Agreements
General Order—
Reviewing Office—Bureau of Agreements

Regulations:

C.F.R.—Title 46 Chapter IV Part 526
Name—Free Time and Demurrage Charges on Import Property Applicable to All Common Carrier by Water
General Order—No. 8 October 1963; No. 35, November 1975
Reviewing Office—Bureau of Tariffs
C.F.R.—Title 46 Chapter IV Part 541
Name—Free Time and Demurrage Charges on Export Cargo
General Order—No. 26, April 1970
Reviewing Office—Bureau of Tariffs

Year 4

General Provision:

C.F.R.—Title 46 Chapter IV Part 504 *et seq.*
Name—Collection, Compromise, and Termination of Enforcement Claims
General Order—No. 25, 35 FR 3116, February 18, 1970
Reviewing Office—Bureau of Investigation and Enforcement
C.F.R.—Title 46 Chapter IV Part 505
Name—Compromise, Assessment, Settlement and Collection of Civil Penalties under the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933
General Order—No. 30, June 1973
Reviewing Office—Bureau of Investigation and Enforcement

Regulations:

C.F.R.—Title 46 Chapter IV Part 523
Name—Admission, Withdrawal and Expulsion Provisions of Steamship Conference Agreements
General Order—No. 9, May 1964
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 550
Name—Filing of Tariffs by Terminal Barge Operators in Pacific Slope States
General Order—No. 35, April 1975
Reviewing Office—Bureau of Tariffs

Year 5

C.F.R.—Title 46 Chapter IV Part 543
Name—Financial Responsibility for Oil Pollution—Alaska
General Order—No. 37, July 1977
Reviewing Office—Bureau of Certification and Licensing
C.F.R.—Title 46 Chapter IV Part 542
Name—Financial Responsibility for Water Pollution—
General Order—No. 4, August 1978
Reviewing Office—Bureau of Certification and Licensing
C.F.R.—Title 46 Chapter IV Part 544
Name—Financial Responsibility for Oil Pollution—Outer Continental Shelf
General Order—No. 41, March 1979
Reviewing Office—Bureau of Certification and Licensing

Regulations:

C.F.R.—Title 46 Chapter IV Part 529
Name—Rules Governing the Right of Independent Action in Agreements
General Order—No. 6, July 1963
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 511
Name—Reports by Common Carriers by Water in the Domestic Offshore Trades
General Order—No. 5, 27 FR 695, January 24, 1962
Reviewing Office—Bureau of Tariffs
C.F.R.—Title 46 Chapter IV Part 512
Name—Financial Reports by Common Carriers by Water in the Domestic Offshore Trades
General Order—No. 11, June 1964, revised January 1980
Reviewing Office—Bureau of Tariffs

Year 6

General Provisions:

C.F.R.—Title 46 Chapter IV Part 530.8
Name—P.L. 92-463—Availability of Transcripts
General Order—
Reviewing Office—Secretary
C.F.R.—Title 46 Chapter IV Part 538
Name—Dual Rate Contract Systems in the Foreign Commerce of the U.S.
General Order—No. 19, September 1966
Reviewing Office—Bureau of Agreements

Regulations:

C.F.R.—Title 46 Chapter IV Part 513
Name—Audits and Auditing Procedures
General Order—No. 21, April 1967
Reviewing Office—Bureau of Tariffs

Year 7

General Provisions:

C.F.R.—Title 46 Chapter IV Part 502
Name—Rules of Practice and Procedure
General Order—No. 16, October 1965, as amended
Reviewing Office—Office of Administrative Law Judges

Regulations:

C.F.R.—Title 46 Chapter IV Part 527
Name—Shipper's Requests and Complaints
General Order—No. 14, June 1965
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 531
Name—Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce
General Order—No. 38 (and No. 13), October 1977, as amended
Reviewing Office—Bureau of Tariffs

Year 8

General Provisions:

C.F.R.—Title 46 Chapter IV Part 530.15 Section 18B
Name—Interest on Awards
General Order—
Reviewing Office—General Counsel
C.F.R.—Title 46 Chapter IV Part 537
Name—Conference Agreement Provisions Relating to Concerted Activities (Minutes)
General Order—No. 18 amdt 3, August 1966
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 530.7 Section 18b(2)
Name—New and Initial Rates—Conference Member
General Order—
Reviewing Office—Bureau of Tariffs

Year 9

General Provisions:

C.F.R.—Title 46 Chapter IV Part 506
Name—Regulations to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the U.S.
General Order—No. 33, July 1975
Reviewing Office—Managing Director
C.F.R.—Title 46 Chapter IV Part 530.10 Section 15
Name—Exemption from Self-Policing Requirements
General Order—
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 530.16 Section 15
Name—Exemptions from Self-Policing Requirements
General Order—
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 51
Name—Truck Detention at the Ports of New York
General Order—No. 35, November 1975
Reviewing Office—Bureau of Tariffs

Year 10

General Provisions:

C.F.R.—Title 46 Chapter IV Part 510
Name—Licensing of Independent Ocean Freight Forwarders
General Order—No. 4, revised 1981
Reviewing Office—Bureau of Certification and Licensing

Regulations:

C.F.R.—Title 46 Chapter IV Part 524
Name—Exemption of Non-Exclusive Transshipment Agreements from the Approval Requirements of Section 15, Shipping Act, 1916
General Order—No. 23, May 1968
Reviewing Office—Bureau of Agreements
C.F.R.—Title 46 Chapter IV Part 436
Name—Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the U.S.
General Order—No. 13, November 1977
Reviewing Office—Bureau of Tariffs

[FR Doc. 81-19285 Filed 6-29-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citizens State Bankshares of Bald Knob, Inc.; Formation of Bank Holding Company

Citizens State Bankshares of Bald Knob, Inc., Bald Knob, Arkansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96.5 percent or more of the voting shares of Citizens State Bank, Bald Knob, Arkansas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19178 Filed 6-29-81; 8:45 am]

BILLING CODE 6210-01-M

Fort Gibson Bancshares, Inc.; Formation of Bank Holding Company

Fort Gibson Bancshares, Inc., Fort Gibson, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 percent of the voting shares of Fort Gibson State Bank, Fort Gibson, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 22, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19179 Filed 6-29-81; 8:45 am]

BILLING CODE 6210-01-M

Frost BanCorporation, Inc.; Formation of Bank Holding Company

Frost BanCorporation, Inc., Frost, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.4 percent or more of the voting shares of State Bank of Frost, Frost, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19181 Filed 6-29-81; 8:45 am]

BILLING CODE 6210-01-M

The Moorcroft Corp.; Formation of Bank Holding Company

The Moorcroft Corporation, Moorcroft, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Moorcroft State Bank, Moorcroft, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19177 Filed 6-29-81; 8:45 am]

BILLING CODE 6210-01-M

Newcastle Corp. Formation of Bank Holding Company

Newcastle Corporation, Newcastle, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82 per cent or more of the voting shares of National Bank of Newcastle, Newcastle, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than July 23, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 24, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-19180 Filed 6-29-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-9]

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 Public Service

Commission of Indiana involving an increase in electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Public Service Commission of Indiana involving the application of the Public Service Company of Indiana for an increasse in its electric service 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.

d. The Department of Defense shall forward to the General Services Administration copies of its testimony and briefs within 60 days of formal submission.

Ray Kline,

Acting Administrator of General Services.

June 17, 1981.

[FR Doc. 81-19130 Filed 6-29-81; 8:45 am]

BILLING CODE 6820-AM-M

[D-81-2]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of defense to assist in controlling vehicular and pedestrian traffic on military installations in the United States.

2. *Effective date.* This delegation became effective on March 20, 1981.

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, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Defense to make all needful rules and regulations, and to attach to these rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c, as will ensure their enforcement for governing vehicular and pedestrian traffic on military installations of the Department of Defense, as defined in 40 U.S.C. 612, in the United States and over which the United States has exclusive or concurrent legislative jurisdiction.

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 limitations and requirements of the above-cited acts, and the policies, procedures, and controls prescribed by the General Services Administration.

4. *Effect on other directives.* FPMR Temporary Regulation D-28 is revoked.

Dated: June 24, 1981.

Gerald P. Carmen,

Administrator of General Services.

[FR Doc. 81-19168 Filed 6-29-81; 8:45 am]

BILLING CODE 6820-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Kenneth Hansen, District Director, Seattle District Office, Seattle, WA.

DATE: The meeting will be held from 12 m. to 12:45 p.m., Saturday, July 25, 1981.

ADDRESS: The meeting will be held at the Memorial Coliseum Complex, 1401 N. Wheeler, Portland, OR 97209.

FOR FURTHER INFORMATION CONTACT: Ellen Miller, Consumer Affairs Officer, Food and Drug Administration, 5009 Federal Office Bldg., Seattle, WA 98174, 206-442-5258.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Seattle District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: June 23, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-19029 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0463]

M.A. F. Products, Inc., Ultraviolet-A Tanning Booths and Beds; Approval of Variance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for sunlamp products has been approved by the Bureau of Radiological Health for the Sundance System II, Tan Perfection and Sundancer Model SRCV II tanning booths, and the Sundancer Model SRCH II tanning bed manufactured by M.A.F. Products, Inc. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The variance became effective April 17, 1981, and ends April 17, 1986.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), M.A.F. Products, Inc. (formerly River City Manufacturing Co., Inc.), 305 Westlake Drive, Austin, TX 78746, has been granted a variance from § 1040.20(c)(2)(ii) (21 CFR 1040.20(c)(ii)) of the performance standard for sunlamp products, which requires that the maximum timer interval be 10 minutes or less. All other provisions of § 1040.20 remain applicable to the sunlamp product. The variance permits the manufacturer to introduce into commerce the sunlamp products known as the Sundance System II, Tan Perfection and Sundancer Model SRCV II tanning booths, and the Sundancer Model SRCH II tanningh bed.

These sunlamp products have less than 5 percent of their ultraviolet radionation at wavelengths shorter than 320 nonometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturers does not result in severe acute skin burns or corneal injury. However, even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk of chemically sensitized lens or cornea damage or of long-term

development of lens opacities. Suitable means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the product. The product shall bear the Variance Number 80P-0463.

By letter of April 17, 1981, the Director of the Bureau of Radiological Health approved the requested variance, which is effective on that date and terminates on April 17, 1986.

In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 22, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-19015 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80P-0137]

Sun Industries, Inc., Models SB-1, SB-2, SB-3, SB-4, and SB-5 Sunbeds; Approval of Variance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for sunlamp products has been approved by the Bureau of Radiological Health for the Ultraviolet-A Sunbeds Models SB-1, SB-2, SB-3, SB-4, and SB-5 manufactured by Sun Industries, Inc. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The variance became effective March 17, 1981, and ends March 17, 1986.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Sun Industries, Inc., P.O. Box 2026, 2403 Nettleton Ave., Jonesboro, AR 72401, has been granted a variance from § 1040.20(c)(2)(ii) (21 CFR 1040.20(c)(2)(ii)) of the performance standard for sunlamp products, which requires that the maximum timer interval be 10 minutes or less, and § 1040.20(d)(1)(i) and (f)(1)(ii), which specify the exact wording in a required label warning statement and in the instructions supplied to the user of the sunlamp product. All other provisions § 1040.20 remain applicable to the sunlamp product and ultraviolet lamp. The variance permits the manufacturer to introduce into commerce the sunlamp products known as the SB-1, SB-2, SB-3, SB-4, and SB-5 sunbeds.

These sunlamp products have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturers does not result in severe acute skin burns or corneal injury. However, even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk of chemically sensitized lens or cornea damage or of long-term development of lens opacities. Suitable means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the product. The product shall bear the Variance Number 80P-0137.

By letter of March 17, 1981, the Director of the Bureau of Radiological Health approved the requested variance, which is effective on that date and terminates on March 17, 1986.

In accordance with § 1010.4, the application and all correspondence (including the writen notice of approval) on this application have been placed on public display in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 22, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-19014 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81P-0070]

Wolff System Corp., Sun Sky SHWWL 1.80 ALU and Sun Lounge SLWW 1.80 ALU; Approval of Variance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a variance from the performance standard for sunlamp products has been approved by the Bureau of Radiological Health for the Sun Sky SHWWL 1.80 ALU and the Sun Lounge SLWW 1.80 ALU manufactured by the Wolff System Corp. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The variance became effective April 16, 1981, and ends April 16, 1986.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFK-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), Wolff System Corp., 777 Harris Ave., Hasbrouck Heights, NJ 07604, has been granted a variance from § 1040.20(c)(2)(ii) (21 CFR 1040.20(c)(2)(ii)) of the performance standard for sunlamp products, which requires that the maximum timer interval be 10 minutes or less. All other provisions of § 1040.20 remain applicable to the sunlamp product. The variance permits the manufacturer to introduce into commerce the sunlamp products known as the Sun Sky SHWWL 1.80 ALU and Sun Lounge SLWW 1.80 ALU.

These sunlamp products have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturers does not result in severe acute skin burns or corneal injury. However, even though the skin hazard is reduced there is still a need to wear protective eyewear to eliminate the unnecessary risk of chemically sensitized lens or cornea damage or of long-term development of lens opacities. Suitable means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the product. The product shall bear the Variance Number 81P-0070.

By letter of April 16, 1981, the Director of the Bureau of Radiological Health approved the requested variance, which is effective on that date and terminates on April 16, 1986.

In accordance with § 1010.4, the application and all correspondence

(including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 22, 1981

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-19016 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81C-0177]

Richardson-Merrell, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Richardson-Merrell, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of FD&C Red No. 4 in coloring cosmetics and drugs intended for external use in the area of the eye.

FOR FURTHER INFORMATION CONTACT: Neal D. Singletary, Bureau of Foods (HFF-334), Food and and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CAP 0C0154) has been filed by Richardson-Merrell, Inc., New Rochelle, NY 10801, proposing that § 74.1304 *FD&C Red No. 4* and § 74.2304 *FD&C Red No. 4* (21 CFR 74.1304 and 21 CFR 74.2304) be amended to provide for the safe use of FD&C Red No. 4 to color cosmetics and drugs intended for external use in the area of the eye.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental analysis report and the environmental assessment report may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-19124 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81F-0170]

Schenectady Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Schenectady Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,2'-ethylidene bis(4,6-di-*tert*-butylphenol) as an antioxidant and/or stabilizer in polymers for food-contact use.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B3559) has been filed by Schenectady Chemicals, Inc., P.O. Box 1046, Schenectady, NY 12301, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 2,2'-ethylidene bis(4,6-di-*tert*-butylphenol) as an antioxidant and/or stabilizer for polymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 17, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-19123 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Per Diem Inpatient General Routine Operating Costs for Cost Reporting Periods Beginning on or after July 1, 1981

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice.

SUMMARY: This notice sets forth a schedule of limits on hospital per diem inpatient general routine operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after July 1, 1981. This is an annual update of the schedule, and will replace the current schedule, which was published in the **Federal Register** on June 20, 1980 (45 FR 41868).

This schedule does not apply to the costs of special care units or ancillary services, to capital-related costs or costs of malpractice insurance, or to the costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. The notice explains the methodology we used to compute the revised schedule of limits.

EFFECTIVE DATE: The revised schedule of limits is effective for cost reporting periods beginning on or after July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Slutter, 301-594-9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) as amended by section 223 (Limitation on Coverage of Costs) of Pub. L. 92-603, the Social Security Amendments of 1972, authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we published limits on hospital per diem inpatient general routine service costs annually from 1974 through 1978, and limits on hospital per diem inpatient general routine operating costs in 1979 and 1980.

On June 20, 1980, we published in the **Federal Register** (45 FR 41868) a schedule of limits on hospital per diem inpatient general routine operating costs

applicable to cost reporting periods beginning on or after July 1, 1980. In that notice, we described the scope of the limits, and explained our methodology for deriving and applying those limits. The revised schedule of limits set forth below will replace the June 20, 1980 schedule, and will be effective for cost reporting periods beginning on or after July 1, 1981.

In developing the revised limits, we followed the same methodology we used to develop the current schedule of limits. However, we used more recent hospital cost and wage data, and more current projections of the rate of increase in the costs included in the hospital market basket. In addition, we made minor technical changes in the types of data we used to calculate the wage index and the market basket index values. These changes are described later in this preamble.

For the convenience of the reader, the major provisions of the revised schedule of limits are summarized below.

Major Provisions

The revised schedule of limits provides for:

1. Limits on hospital per diem inpatient general routine operating costs. The limits do not apply to capital-related costs, costs of approved medical or nursing education programs that are properly allocated to the interns and residents (in approved programs) and nursing school cost centers on the hospital's Medicare cost report, costs of special care units or ancillary services, or malpractice insurance costs.

2. A classification system based on each hospital's bed size and whether the hospital is located within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area (NECMA) or in a non-SMSA/non-NECMA area. (For a discussion of the exceptions to these rules for certain New England areas, see the notice published June 18, 1980 (45 FR 41218). For a listing of the counties included in each SMSA or NECMA, see the June 20, 1980 notice.)

3. Use of actual hospital inpatient general routine per diem operating cost data from Medicare cost reports to derive the limits.

4. A market basket index (see Appendix) that we developed to reflect changes in the prices of goods and services purchased by hospitals. We have revised the weights assigned to the market basket categories, for the reason explained under item 1 of the following section of this preamble.

5. A hospital wage index (see Tables III. A and III. B) that we developed from hospital wage and employment data obtained from the Bureau of Labor Statistics (BLS). We use this index to adjust for the differing levels of labor-related costs among the areas in which hospitals are located. The calculation of the wage index is described later in this preamble.

6. A cost-of-living adjustment to the nonlabor component of the limits for hospitals in Alaska and Hawaii.

7. Limits set at 112 percent of the mean labor-related costs and of the mean nonlabor costs of each group.

8. An adjustment to the limits for increased costs due to approved internship and residency programs.

9. A formula that permits the limits to be adjusted upward for areas where the number of covered days of care per 1,000 Medicare beneficiaries is less than the national average.

10. A revised schedule of dollar limits, by geographic area and hospital size, that we calculated under the methodology summarized above.

Major Features of Methodology

1. *Market basket index.* As in developing the 1979 and 1980 cost limit schedules, we used a market basket index (see Appendix) in developing the revised limits. We use this index to reflect changes in the prices of goods and services purchased by hospitals. We developed the market basket by identifying the most common categories of hospital routine operating expenses, and weighting these categories according to the estimated proportion of hospital routine operating costs attributable to each category. The categories we used are based on those currently used by the American Hospital Association (AHA) in its analysis of costs, by the U.S. Department of Commerce in publishing price indexes by industry, and by HCFA in its cost reports. The weights are based on surveys by the AHA, on the Department of Commerce's input-output studies, and on our analysis of Medicare cost reports.

Our next step in developing the market basket index was to obtain historical and projected rates of increase in the resource prices for each market basket category. Based on the rate of increase for each category and the weight assigned to each category, we then developed market basket index factors that we used to project the overall rates of increase in hospital inpatient general routine operating expenses for periods after June 30, 1979.

We wish to note that the costs in the various market basket categories do not increase at the same rate, and that differences between the rates of increase for the various categories can, over time, change the relative proportion of total cost in each category. Categories of costs with relatively higher rates of increase will get relatively higher proportions of total cost and vice versa. In developing the market basket set forth in the Appendix, we have revised the weights for the market basket categories to reflect these shifts in the proportion of cost in each category. We made these revisions solely to reflect price changes through 1979.

We used this index to account for the impact on hospital costs of changes in wages and prices for periods after June 30, 1979. If the final rate of increase in the market basket index for a year is greater than the estimated rate of increase by at least .3 of 1 percentage point, we will publish that rate in the **Federal Register** and the Medicare intermediaries will adjust each hospital's limit retroactively at final settlement of the hospital's cost report.

2. *Hospital wage index.* In developing both the current cost limits schedule and the revised limits, we used a hospital wage index to reflect area-by-area differences in the labor-related component of hospital costs (wages and salaries, employee benefits, professional fees, costs of business services, and other miscellaneous expenses). We developed this index from hospital wage data obtained from the BLS. The data used are those for the "hospital industry," a standard BLS reporting category. The wage index we used for the revised limits is based on data for calendar year 1979, which are the latest available data. Data for 1980 will not be available until late in 1981.

To calculate this index, we first computed the average hospital wage for each SMSA or NECMA and non-SMSA/non-NECMA area. We then calculated the national average hospital wage for all SMSA or NECMA areas, and a separate national average hospital wage for all non-SMSA/non-NECMA areas. We then divided the average wage level for each area by the appropriate national average (SMSA/NECMA or non-SMSA/non-NECMA). These calculations resulted in an index value for each SMSA or NECMA area that reflects the wage level for that area relative to the national average for all SMSA/NECMA areas, and in an index value for each non-SMSA/non-NECMA area that reflects the wage level for that area relative to the national average for all non-SMSA/non-NECMA areas (see Tables III.A and III.B).

In addition to being based on more current data, the wage index we used for the revised limits differs in two ways from the wage index used in developing the 1980 hospital cost limits. First, we

have used approximate, rather than actual, index values for 26 areas. (These approximate values are indentified by asterisks in Table III. A) We made this change because the Bureau of Labor Statistics (BLS), which supplies the data on wages and numbers of employees that we use to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than three reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.)

To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limit significantly, and will assure that no hospital's limit is reduced because actual data for its area are unavailable.

In developing the wage index used for the revised limits, we have also excluded data from Federal government hospitals. Because these hospitals typically use national pay scales, the amounts they pay their employees do not necessarily reflect area wage levels. We believe excluding data from these hospitals will help improve the accuracy of the wage index adjustment.

If we receive additional data from BLS that require further changes in the wage index values for certain areas, we will publish separate **Federal Register** notices that provide corrected index values for the areas affected by the changes.

We wish to note that the data used to develop the wage index were supplied by BLS, and are the most reliable data available. All hospitals are required under State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any error that results in an incorrect wage index for any area, we will publish corrected indexes in the **Federal Register** and will direct the Medicare intermediaries to recalculate the limits. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage data.

3. *Use of cost-of-living adjustment for Alaska and Hawaii.* To avoid disadvantaging hospitals located in Alaska and Hawaii, we have retained the cost-of-living adjustment for these States. This is an adjustment of the nonlabor component of the limits that apply to these two States by the amount of the Office of Personnel Management cost-of-living differential for those States. Since we adjust the labor-related component by the applicable wage index, this cost-of-living adjustment applies only to the nonlabor component.

4. *Limits set at 112 percent of mean costs.* The revised limits, like the current limits, are set at 112 percent of the mean labor-related costs and mean non-labor costs of each comparison group. The 12 percent allowance above the mean is intended to account for variations in costs that are consistent with efficiency but are not explicitly accounted for under our methodology for deriving and adjusting the limits, or by the exceptions or exemptions provided by our regulations at 42 CFR 405.460. (Exceptions are granted to cover specific types of costs, such as costs of atypical services to meet the special needs of patients treated; exemptions are granted in specific circumstances, such as when a hospital is the sole community source of inpatient hospital care.)

5. *Education cost adjustment.* As in the current schedule, we have provided an automatic upward adjustment to the limits for types of graduate medical education program costs that are not excluded from the limits because they normally are not recorded in the interns and residents (in approved programs) cost center on the Medicare hospital cost report. This adjustment permits a hospital's otherwise applicable limit to be increased by 4.7 percent for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents in approved programs to its bed size.

6. *Covered days of care adjustment.* As in the current schedule, we have provided an adjustment that permits the limits to be increased for hospitals in areas where the number of covered days of care per 1000 Medicare beneficiaries is less than the national average. This adjustment is provided as an added safeguard against disadvantage to hospitals in States with below average utilization in recognition of the possibility that shorter lengths of stay may tend to increase routine costs.

This adjustment was first described in the June 1, 1979 final notice of limits on hospital routine operating costs for cost reporting periods beginning on or after July 1, 1979 (44 FR 31806). Since this notice was published, we have received several inquiries regarding the basis for this adjustment. In response to these inquiries, we are providing the following explanation.

On March 1, 1979, we published a notice setting forth a proposed schedule of limits for cost reporting periods beginning on or after July 1, 1979 (44 FR 11612). In that notice, we noted that the proposed limits would have disparate effect in different regions of the country, and stated that we would welcome suggestions on that point. We received several comments indicating the limits should allow some latitude for higher costs per day that are associated with relatively shorter lengths of stay in certain areas. Typically, commenters on this issue stated that shorter lengths of stay result in increased costs per day because the typical patient day includes more actual medical services and less recuperative time. Since more resources are usually devoted to the early portion of a patient's stay than to later portions, it was alleged that hospitals with below-average lengths of stay could have relatively high costs per day, but below-average costs per admission. These commenters also stated that the proposed limits, by not recognizing the higher cost per diem believed to result from greater intensity of care reflected in a shorter length of stay, could unfairly penalize hospitals in some areas of the country. Therefore, these commenters claimed the proposed limits ignored a factor in the cost-effective delivery of inpatient care.

Research on the relationship betwen routine operating cost and utilization has been limited and, at the present time, is inconclusive. However, recognizing that there is a possibility that shorter lengths of stay and lower admission rates may have some effect on routine costs per day, HCFA provided an automatic upward adjustment to the per diem routine operating cost limits for hospitals in States with lower utilization, beginning with the schedule of limits that was effective July 1, 1979. The purpose of this adjustment was to give the affected hospitals the benefit of the doubt concerning whether shorter lengths of stay and lower admission rates actually affect routine costs.

We defined lower utilization as covered days of care per 1000 Medicare beneficiaries below the national average. Covered days of care was selected as the utilization measure because it is a product of both length of stay and admission rate.

The method of calculating the amount of the utilization adjustment is described in the June 1, 1979 notice. This method

was not based on definitive evidence that a shorter length of stay and lower admission rate increase routine operating costs. Rather, it provided for an automatic allowance in the absence of hospital specific data on the relationship between utilization and routine operating costs.

In addition to the adjustment, we have provided an exception to the limits for the cost of providing more intensive routine care over a shorter average length of stay. (See 42 CFR 405.460f(5)). This exception will be granted if the hospital can demonstrate the amount of the automatic adjustment is insufficient in its particular circumstances. We believe that the automatic adjustment, and the exception we have provided for per diem costs not covered by the adjustment, are sufficient to ensure that hospitals in areas with high per diem costs and relatively low utilization are not disadvantaged by the application of per diem limits.

Revisions to Other Cost Limits Schedules

Under the authority in section 1861(v)(1) of the Social Security Act and the regulations at 42 CFR 405.460, we also issued annual schedules of prospective limits on home health agency (HHA) costs per visit, and on skilled nursing facility (SNF) inpatient routine service costs, in 1979 and 1980. The current HHA cost limit schedule was published on June 5, 1980, and is effective for cost reporting periods beginning on or after July 1, 1980 (45 FR 38014). The current SNF cost limit schedule was published on September 4, 1980, and is effective for cost reporting periods beginning on or after October 1, 1980 (45 FR 58699).

We are also publishing a revised schedule of limits on HHA costs that will be effective for cost reporting periods beginning on or after July 1, 1981, and we plan to publish a revised SNF cost limit schedule that will be effective for cost reporting periods beginning on or after October 1, 1981.

In revising the HHA cost limit schedule, we used the same general approach used in revising the hospital cost limits. Thiat is, we retained our current methodology for developing and applying the limits, but updated the limits based on more recent data. We also plan to use this approach in updating the SNF cost limits.

Executive Order 12291

The Secretary has determined that, although this notice will have an annual effect on the economy of $100 million or more, the development of a Regulatory Impact Analysis is not required in view of the fact that this notice merely updates economic factors employed in the existing methodology and does not modify the methodology used to compute the limits in any manner. If, in the future, changes are proposed that would modify the methodology used in computing the limits and would meet the criteria for conducting a Regulatory Impact Analysis, a Regulatory Impact Analysis will be developed and made available for public comments.

Regulatory Flexibility Act

The Secretary certifies, under Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354), that the revised schedule of limits set forth in this notice will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's negative certification is that the revised limits merely update the system of home health agency cost limits that are now in effect, and do not include any changes in our methodology for deriving and applying them.

Waiver of Proposed Notice and 30-Day Delay in Effective Date

As explained previously, we developed the revised limits set forth below by using the same methodology that we used to develop the current hospital cost limits, which were published on June 20, 1980. On April 1, 1980, we published a proposed notice that described in detail our methodology for developing and applying those limits, and provided a 60-day period for public comment (45 FR 21582). In developing the current schedule of limits, we considered all comments received in response to the April 1, 1980 notice. These comments, and our responses to them, are described in the June 20, 1980 notice.

Because the methodology used for the revised schedule has previously been published for public comment, we do not believe it would be either necessary or useful to again request comment on that methodology. Moreover, without publication of this notice, the current limits would remain in effect without adjustment for cost reporting periods beginning after June 30, since there is no provision in the current schedule for adjusting the limits for cost reporting periods that begin after the date. We believe it would be contrary to the public interest to permit this to occur. Therefore, we find good cause to waive publication of a proposed notice, and publish this notice of updated limits in final form.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effect date of the schedule. Since prompt publication of the limits would be in the public interest, and early implementation of this schedule will benefit those hospitals that will be affected by the updated limites, there is good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them to hospitals with cost reporting periods beginning on or after July 1, 1981.

Methodology For Determining Per Diem Routine Operating Cost Limit

Development of Published Limits

1. *Data.* We developed the limits by using actual hospital inpatient general routine operating cost data obtained from the latest Medicare cost reports available as of April 15, 1980. In developing the revised limits, we excluded capital-related costs and costs allocated to the interns and residents (in approved programs) and nursing school cost centers. We then adjusted the remaining data for inflation by projecting them from the midpoints of the cost reporting periods used in the data collection through December 31, 1981, which is the mid-point of the first cost reporting period to which the limits would apply.

The annual percentage increases over the previsous year that we used for this projection are:

	Percent
1978	13.1
1979 (1/1 through 6/30)	10.6
1979 market basket (7/1 through 12/31	9.1
1980 market basket	11.7
1981 market basket	[1] 10.8
1982 market basket	[1] 9.5

[1] Forecasted increase.

If the actual rate of the increase in the market basket is at least .3 of 1 percentage point above the estimated rate, we will publish that rate in the **Federal Register**. The Medicare intermediaries will use the actual rate published in the **Federal Register** to adjust each hospital's cost limit at that time of final settlement.

2. *Adjustment for Education Costs.* After adjusting each hospital's Medicare and Medicaid per diem routine operating costs for inflation, we divided the per diem costs by 1.0 plus the product of the education adjustment factor (.047) and the individual hospital's adjusted intern-and-resident to bed ratio. We determined that adjusted ratio by dividing the number of full-time equivalent (FTE) interns and residents for the cost reporting period to which each per diem cost applies (see

step 4 of the "Calculation of Individual Hospital Limit") by the hospital's bed size determined at the beginning of that period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1.

Example: After adjustment for inflation, the per diem operating cost of 686-bed hospital in Los Angeles, California, is $220. The hospital employed 77 FTE interns and residents in approved teaching programs.

The per diem cost is adjusted for education costs as follows:

77 ÷ 686 = 1122, which is the intern-and-resident to bed ratio for this hospital.
.1122 ÷ .1 = 1.122 – Adjusted Ratio
$200 ÷ [1 + (.047 × 1.122)] =
$200 ÷ 1.527 = $189.99, Education-adjusted per diem cost.

The education-adjusted per diem costs are divided into labor-related and non-labor portions, adjusted by the wage index and used to calculate the group means (see steps 3 and 4 below).

3. *Use of Wage Index to Adjust Cost Data.* We divided each hospital's adjusted per diem routine operating cost into labor-related and nonlabor portions. We determined the labor-related portion of cost by multiplying each hospital's adjusted per diem routine operating cost by 79.26 percent, which is the labor-related portion of cost from the market basket. We then divided the labor-related portion of each hospital's per diem cost by the wage index applicable to the hospital's location (see Tables III.A and III.B) to arrive at an adjusted labor-related portion of routine cost.

4. *Group Means.* We calculasted separate means of routine labor-related and nonlabor operating costs for each group established in accordance with the hospitals' SMSA/NECMA or non-SMSA/non NECMA location and bed size.

5. *Components of Limit.* For each group, we multiplied the mean labor-related and mean nonlabor costs by 112 percent (see Tables I and II).

Calculation of Individual Hospital Limit

1. *Cost-of-Living Adjustment (Alaska and Hawaii Hospitals Only).* If a hospital is located in Alaska or Hawaii, the hospital's intermediary will multiply the nonlabor component for the hospital's group (see Tables I and II) by the appropriate cost-of-living adjustment factor from the list included in these tables. The intermediary will use the adjusted nonlabor component in computing the hospital's limit.

Example—Calculation of Cost-of-Living Adjusted Non-Labor Component for a 400-bed Hospital Located in Alaska.

Non-Labor Component—$30.93 (Published in Table I).

Adjustment Factor for Alaska = 1.25.

$30.93 × 1.25 = $38.66 Cost-of-Living Adjusted Non-Labor Component.

2. **Adjustment of Labor-Related Component by Wage Index.** To arrive at a labor-adjusted limit for each hospital, the hospital's Medicare intermediary will multiply the labor-related component for the hospital's group by the wage index developed from the wage levels for hospital workers in the area in which the hospital is located (see Tables III.A and III.B). The individual limit that applies to any hospital will be the sum of the nonlabor component, plus the adjusted labor-related component, unless the hospital also qualifies for one or more of the adjustments described in steps 3, 4, and 5 below. Example—Calculation of Adjusted Limit for a 686-bed Hospital Located in Los Angeles, California.

Non-Labor Component—$33.42 (published in Table I).

Labor-related Component—$109.92 (published in Table I).

SMSA Wage Index—1.2899 (published in Table III.A).

Computation of Adjusted Limit.

$109.92 × 1.2899 (wage index) = $141.79—Adjusted Labor Component.

$141.79 + $32.42 = $174.21—Adjusted Limit.

The wage indices for each SMSA/NECMA area and for the non-SMSA/non-NECMA areas of each State are published in Tables III.A and III.B.

3. *Adjustment for Covered Days of Care.* If a hospital is located in a State that is entitled to a covered days of care adjustment (see Table IV) the intermediary will determine the adjusted limit for the hospital, and multiply that limit by the applicable factor from Table IV. Example—A 686-bed hospital in Los Angeles, California has an adjusted Medicare limit of $174.21. The adjustment factor from Table IV is 1.06483.

Adjusted limit $174.21 × Adjustment factor 1.06483 = $185.50, which is the hospital's limit after application of the covered days of care adjustment.

4. *Education Cost Adjustment.* If a hospital has a graduate medical education program approved under 42 CFR 405.421, the intermediary will increase the hospital's limit by 4.7 percent for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The hospital will report to its intermediary, 45 days before the start of each cost reporting period, the number of FTE interns and residents it employed on the September 30 immediately preceding the date on which this report is due. The intermediary will calculate the amount of the education cost adjustment based on that report, and will adjust the hospital's limit retroactively at final settlement if, for a cost reporting year, a hospital actually employed more or fewer FTE interns and residents on September 30 of that period than the number it reported.

The number of full-time equivalent interns and residents is the sum of:

a. Interns and residents employed for 35 hours or more per week, and

b. One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this adjustment, a hospital will be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs and those who are on the hospital's payroll but furnish services at another site will not be taken into account in making this adjustment.

Example—A 686-bed hospital in Los Angeles, California has an adjusted limit of $185.50 for the cost reporting period beginning July 1, 1981. The hospital employed 77 FTE interns and residents in approved teaching programs on September 30, 1980.

77 ÷ 686 = .1122 Ratio of FTE Interns and Residents to Beds
Ratio .1122 ÷ .1 = 1.122 Adjusted ratio
The Education Adjustment Factor is .047.

Adjusted Medicare limit
$185.50 × [1 + (Education Adjustment Factor .047 × adjusted ratio 1.122)] = $185.50 × 1.0527 = $195.28 Education-adjusted Medicare limit.

If the number of FTE interns and residents the hospital employs on September 30, 1982, is more or less than 77, the intermediary will adjust the hospital's limit at the time of final settlement of the hospital's cost report.

5. *Adjustment for Cost Reporting Year.* If a hospital has a cost reporting period beginning on or after August 1, 1981, the intermediary will increase the limit that would otherwise apply to the hospital by the factor from Table V that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket index by twelve. This adjustment is needed to account for price increases that occur after the date on which the limits are effective.

Example—A 686-bed hospital in Los Angeles, California has a cost reporting period that begins January 1, 1982.

The otherwise applicable limit for the hospital is $195.28.

Computation of Revised Hospital Limit

Individual Hospital Adjusted Limit—$195.28

Adjustment factor from Table V—1.0475

Adjusted Limit $195.28 × Adjustment factor 1.0475 = Revised Medicare limit $204.56.

If a hospital uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the adjustment factors in Table V are based on an assumed 12 month reporting period. For cost reporting periods other than 12-months, the calculation must be done specifically for the midpoint of the cost reporting period. The hospital's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following per diem limits will apply to hospital inpatient general routine operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after July 1, 1981. Medicare fiscal intermediaries will compute the adjusted limits for hospitals that participate in Medicare using the methodology set forth in this notice, and will notify each hospital of its applicable limit. These limits, as adjusted by the cost reporting year adjustment factors in Table V, will remain in effect until replaced by a revised schedule of limits published in a final notice in the **Federal Register.**

Table I.—*Hospitals Located in SMSA (NECMA)* [1]

Bed size	Labor-related component	Nonlabor component
Less than 100	$113.43	31.43
100 to 404	109.51	30.93
405 to 684	105.45	29.77
685 and above	109.92	32.42

Table II.—*Hospitals Located in Non-SMSA (Non-NECMA) Areas* [1]

Bed size	Labor-related component	Nonlabor component
Less than 100	$107.67	26.90
100 to 169	102.93	26.08

Table II.—*Hospitals Located in Non-SMSA (Non-NECMA) Areas* [1]—Continued

Bed size	Labor-related component	Nonlabor component
170 and above	98.47	25.36

[1] Nonlabor components for hospitals located in the States of Alaska and Hawaii will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska	1.25
Hawaii:	
Oahu	1.15
Kauai	1.15
Molokai	1.125
Maui and Lanai	1.15
Hawaii	1.10

Table IIIA.—*Wage Index for SMSA and NECMA Areas*

SMSA area	Wage index
Abilene, TX	.8485
Akron, OH	1.0417
Albany, GA	.8566
Albany-Schenectady-Troy, NY	.9624
Albuquerque, NM	1.0009
Alexandria, LA	.8954
Allentown-Bethlehem-Easton, PA-NJ	1.0569
Altoona, PA	1.0219
Amarillo, TX	.9233
Anaheim-Santa Ana-Garden Grove, CA	1.2115
Anchorage, AK	1.6461
Anderson, IN	.9812
Ann Arbor MI	1.2175
Anniston, AL	.8400
Appleton-Oshkosh, WI	1.0124
Asheville, NC	.9678
Atlanta, GA	.9162
Atlantic City, NJ	1.0174
Augusta, GA-SC	.9237
Austin, TX	.9859
Bakersfield, CA	1.1223
Baltimore, MD	1.1698
Baton Rouge, LA	.8813
Battle Creek, MI	1.0229
Bay City, MI	1.1238
Beaumont-Port Arthur-Orange, TX	.8530
Billings, MT	[1].9496
Biloxi-Gulfport, MS	.8143
Binghamtom, NY-PA	.9769
Birmingham, AL	.9658
Bismarck, ND	.9032
Bloomington, IN	[1].9481
Bloomington-Normal, IL	.8484

Table IIIA.—*Wage Index for Urban Areas*

SMSA area	Wage index
Boise City, ID	.9834
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1214
Bradenton, FL	[1].8631
Bridgeport-Stamford, Norwalk-Danbury, CT	1.1647
Brownsville-Harlingen-San Benito, TX	.9312
Bryan-College Station, TX	.8377
Buffalo, NY	.9926
Burlington, NC	.8699
Canton, OH	.9447
Cedar Rapids, IA	[1].9193
Champaign-Urbana-Rantoul, IL	1.1197
Charleston-North Charleston, SC	.9751
Charleston, WV	1.0628
Charlotte-Gastonia, NC	.9456
Chattanooga, TN-GA	1.0226
Chicago, IL	1.1780
Cincinnati, OH-KY-IN	1.0814
Clarksville-Hopkinsville, TN-KY	.8397
Cleveland, OH	1.1957

Table IIIA.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Colorado Springs, CO	.9743
Columbia, MO	1.1712
Columbia, SC	.9743
Columbus, GA-AL	.9021
Columbus, OH	1.1184
Corpus Christi, TX	.9337
Dallas-Fort Worth, TX	.9403
Davenport-Rock Island-Moline, IA-IL	.9219
Dayton, OH	1.1064
Daytona Beach, FL	.9423
Decatur, IL	.9096
Denver-Boulder, CO	1.0960
Des Moines, IA	1.0156
Detroit, MI	1.2280
Dubuque, IA	.9426
Duluth-Superior, MN-WI	.9193
Eau Claire, WI	.9806
El Paso, TX	.8714
Elkhart, IN	[1].7997
Elmira, NY	.9642
Enid, OK	.8228
Erie, PA	.9652
Eugene-Springfield, OR	.9639
Evansville, IN-KY	1.0742
Fargo-Moorhead, ND-MN	.9355
Fayetteville, NC	[1].8353
Fayetteville-Springdale, AR	.7997
Flint, MI	1.1919
Florence, AL	.8056
Fort Collins, CO	.8353
Fort Lauderdale-Hollywood, FL	1.0506
Fort Myers, FL	.9391
Fort Smith, AR-OK	.8899
Fort Wayne, IN	.8861
Fresno, CA	1.1265
Gadsen, AL	.9264
Gainesville, FL	.9019
Galveston-Texas City, TX	1.0607
Gary-Hammond-East Chicago, IN	1.1664
Grand Forks, ND-MN	.8779
Grand Rapids, MI	.9463
Great Falls, MT	[1].9162
Greeley, CO	[1].9312
Green Bay, WI	.9740
Greensboro-Winston-Salem-High Point, NC	.9232
Greenville-Spartanburg, SC	.9371
Hamilton-Middleton, OH	1.0620
Harrisburg, PA	.0534
Hartford-New Britain-Bristol, CT	1.1535
Honolulu, HI	1.11645
Houston, TX	1.0630
Huntington-Ashland, WV-KY-OH	.9270
Huntsville, AL	.8593
Indianapolis, IN	1.0507
Iowa City, IA	1.0209
Jackson, MI	[1]1.0173
Jackson, MS	.8699
Jacksonville, FL	.9331
Janesville-Beloit, WI	.8579
Jersey City, NJ	1.1180
Johnson City-Kingsport-Bristol, TN-VA	.8777
Johnstown, PA	1.0445
Kalamazoo-Portage, MI	1.1695
Kankakee, IL	1.0073
Kansas City, MO-KS	.9399
Kenosha, WI	[1]1.0778
Killeen-Temple, TX	.8868
Knoxville, TN	.9100
Kokomo, IN	.9828
La Crossse, WI	[1].9016
Lafayette, LA	.8622
Lafayette-West Lafayette, IN	.9141
Lake Charles, LA	.8706
Lakeland-Winter Haven, FL	.9749
Lancaster, PA	1.0674
Lansing-East Lansing, MI	1.0811
Laredo, TX	[1].8593
Las Cruces, NM	[1].8129
Las Vegas, NV	1.1664
Lawrence, KS	[1].9193
Lawton, OK	[1].8377
Lewiston-Auburn, ME	[1].8899
Lexington-Fayette, KY	.9016
Lima, OH	.9932
Lincoln, NE	.9259
Little Rock-North Little Rock, AR	1.0205
Long Branch-Asbury Park, NJ	1.0648
Longview, TX	.8129
Lorain-Elyria, OH	1.0207
Los Angeles-Long Beach, CA	1.2899

Table IIIA.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Louisville, KY–IN	.9915
Lubbock, TX	.9042
Lynchburg, VA	.8878
Macon, GA	.9637
Madison, WI	1.0257
Manchester-Nashua, NH	.9352
Mansfield, OH	.9196
McAllen-Pharr-Edinburg, TX	.8165
Melbourne-Titusville-Cocoa, FL	.9374
Memphis, TN–AR–MS	1.0371
Miami, FL	1.1050
Midland, TX	[1] .9141
Milwaukee, WI	1.0060
Minneapolis-St. Paul, MN–WI	.9802
Mobile, AL	.9416
Modesto, CA	1.0250
Monroe, LA	.9451
Montgomery, AL	.9626
Muncie, IN	[1] .9852
Muskegon-Norton Shores-Muskegon Heights, MI	.9658
Nashville-Davidson, TN	1.0187
Nassau-Suffolk, NY	1.2758
New Bedford-Fall River, MA	.9687
New Brunswick-Perth Amboy-Sayreville, NJ	1.0409
New Haven-Waterbury-Meriden, CT	1.0990
New London-Norwich, CT	1.0903
New Orleans, LA	.9644
New York, NY–NJ	1.3956
Newark, NJ	1.2099
Newport News-Hampton, VA	.8907
Norfolk-Virginia Beach-Portsmouth, VA–NC	.9496
Northeast Pennsylvania	1.0598
Odessa, TX	[1] .9496
Oklahoma City, OK	.9252
Omaha, NE–IA	.9365
Orlando, FL	.9087
Owensboro, KY	[1] .8364
Oxnard-Simi Valley-Ventura, CA	1.3788
Panama City, FL	[1] .8777
Parkersburg-Marietta, WV–OH	1.0461
Pascagoula-Moss Point, MS	[1] 1.1535
Paterson-Clifton-Passaic, NJ	1.0959
Pensacola, FL	.8841
Peoria, IL	1.0175
Petersburg-Colonial Heights-Hopewell, Va	.9484
Philadelphia, PA–NJ	1.1810
Phoenix, AZ	1.1100
Pine Bluff, AR	[1] .7997
Pittsburgh, PA	1.1275
Pittsfield, MA	1.0275
Portland, ME	.9718
Portland, OR–WA	1.1026
Poughkeepsie, NY	1.0778
Providence-Warwich-Pawtucket, RI	1.0314
Provo-Orem, UT	.9454
Pueblo, CO	1.0969
Racine, WI	.9240
Raleigh-Durham, NC	1.0173
Rapid City, SD	[1] .8680
Reading, PA	1.0101
Reno, NV	[1] 1.2428
Richland-Kennewick, WA	.9763
Richmond, VA	.9252
Riverside-San Bernadino-Ontario, CA	1.1729
Roanoke, VA	.9614
Rochester MN	.9852
Rochestor, NY	1.0653
Rockford, IL	.9696
Sacramento, CA	1.1396
Saginaw, MI	1.1279
St Cloud, MN	.8680
St. Joseph, MO	.9749
St. Louis, MO–IL	.9977
Salem, OR	1.1083
Salinas-Seaside-Monterey, CA	1.2428
Salt Lake City-Ogden, UT	.8550
San Angelo, TX	.8364
San Antonio, TX	.9509
San Diego, CA	1.1113
San Francisco-Oakland, CA	1.3153
San Jose, CA	1.3055
Santa Barbara-Santa Maria-Lompoc, CA	1.0552
Santa Cruz, CA	1.0811
Santa Rosa, CA	1.4037
Sarasota, FL	.8554
Savannah, GA	.9414
Seattle-Everett, WA	1.0500
Sherman-Denison, TX	.8277
Shreveport, LA	.9292
Sioux City, IA–NE	.9306

Table IIIA.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Sioux Falls, SD	.8844
South Bend, IN	.9154
Spokane, WA	1.0921
Springfield, IL	.9873
Springfield, MO	.8933
Springfield, OH	.9821
Springfield-Chicopee-Holyoke, MA	1.0184
Steubenville-Weirton, OH–WV	.9669
Stockton, CA	1.3046
Syracuse, NY	1.3209
Tacoma, WA	1.0514
Tallahassee, FL	[1] .9219
Tampa-St. Petersburg, FL	.9898
Terre Haute, IN	.8644
Texarkana-TX-Texarkana, AR	1.0929
Toledo, OH–MI	1.1157
Topeka, KS	1.0602
Trenton, NJ	1.1708
Tucson, AZ	.9977
Tulsa, OK	.9626
Tuscaloosa, AL	1.0142
Tyler, TX	.9481
Utica-Rome, NY	1.0145
Vallejo-Fairfield-Napa, CA	1.5862
Vienland-Millville-Bridgeton, NJ	1.0083
Waco, TX	.8593
Washington, DC–MD–VA	1.1456
Waterloo-Cedar Falls, IA	.8631
West Palm Beach-Boca Raton, FL	.9632
Wheeling, WV–OH	.9921
Wichita, KS	1.0248
Wichita Falls, TX	.8282
Williamsport, PA	.9749
Wilmington, DE–NJ–MD	1.0898
Wilmington, NC	.8936
Worcester-Fitchburg-Leominster, MA	.9703
Yakima, WA	.9523
York, PA	.9884
Youngstown-Warren, OH	1.1090

[1] Approximate value for area.

Table IIIB.—*Wage Index for Rural Areas*

Non-SMSA area	Wage index
Alabama	.8960
Alaska	1.5579
Arizona	1.0289
Arkansas	.8686
California	1.2415
Colorado	.9990
Connecticut	1.1552
Delaware	1.0370
Florida	.9917
Georgia	.9463
Hawaii	1.3362
Idaho	.9669
Illinois	.9180
Indiana	.9763
Iowa	.9220
Kansas	.8973
Kentucky	.9207
Louisiana	.9216
Maine	.9926
Maryland	1.1028
Massachusetts	1.1722
Michigan	1.1325
Minnesota	.9052
Mississippi	.8751
Missouri	.9156
Montana	.9561
Nebraska	.8130
Nevada	1.0790
New Hampshire	1.0971
New Jersey	1.0820
New Mexico	1.0073
New York	1.0327
North Carolina	.9917
North Dakota	.9045
Ohio	1.0086
Oklahoma	.9111
Oregon	1.0673
Pennsylvania	1.1358
Rhode Island	[1]
South Carolina	.9180
South Dakota	.7990
Tennessee	.8779

Table IIIB.—*Wage Index for Rural Areas*—Continued

Non-SMSA area	Wage index
Texas	.8979
Utah	.8499
Vermont	.9993
Virginia	.9792
Washington	1.0465
West Virginia	1.0111
Wisconsin	.9179
Wyoming	1.0402

[1] Not applicable. All of Rhode Island is classified as urban.

Table IV.—*Adjustment to Limits Based on Areas With Covered Days of Care Per 1,000 HI Enrollees Less Than the National Average (1979 Data)*

State	Adjustment factor
Alaska	1.06577
Arizona	1.04813
California	1.06483
Colorado	1.00420
Connecticut	1.02302
Florida	1.01248
Georgia	1.01559
Hawaii	1.10006
Idaho	1.08364
Montana	1.04632
Nevada	1.02016
New Hampshire	1.02357
New Mexico	1.05796
Oregon	1.10056
Rhode Island	1.00912
South Carolina	1.02003
Utah	1.13128
Washington	1.10009

The published limit will be increased so that hospitals in States with low utilization per 1,000 HI enrollees would receive higher per diem limits.

Sources of data: Medicare inpatient covered days of care for short stay hospitals for 1979, by State: HCFA, Office of Research, Demonstrations and Statistics, Current Utilization Tabulations as of June 27, 1980—Table AA4A—Total—Number of Bills, Days of Care, Amount of Covered Charges and Reimbursement by Period Expense Incurred.

Number of Medicare beneficiaries, by State: HCFA, Office of Research, Demonstrations and Statistics, Medicare: 1979, Table 1.1.1., Enrollment (July 1) and reimbursement for hospital and medical insurance by census region, division, and State of residence: All persons, unpublished.

Table V.—*Cost Reporting Year Adjustment Factors* [1]

If the hospital cost reporting period begins	The adjustment factor is
August 1, 1981	1.0079
September 1, 1981	1.0158
October 1, 1981	1.0238
November 1, 1981	1.0317
December 1, 1981	1.0396
January 1, 1982	1.0475

Table V.—*Cost Reporting Year Adjustment Factors* [1]—Continued

If the hospital cost reporting period begins	The adjustment factor is
February 1, 1982	1.0554
March 1, 1982	1.0633
April 1, 1982	1.0713
May 1, 1982	1.0792
June 1, 1982	1.0871
July 1, 1982	1.0950
August 1, 1982	1.1029
September 1, 1982	1.1108

[1] Based on projected market basket inflation rates of 9.5 percent for 1982, and 9.5 percent for 1983. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on October 1, 1982, or do not announce other changes in the current schedule by that date, the current limits will continue in effect, with the adjustment factor increased by .007917 (corresponding to .7917 percent) per month, until a new schedule of limits or other provision is issued.

Appendix.—*Derivation of "Market Basket" Index for Routine Inpatient Hospital Operating Costs*

Category of costs	Relative importance,[1] 1979	Forecaster,[2] percent changes 1980–83	"Price" variable used
1. Wages and salaries	$59.41	DRI–CFS	For the period calendar year 1980 and thereafter: Percentage change in average hourly earnings of hospital industry workers (SIC 806).[3] Source: U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings*, (monthly) Table C–2.
2. Employee benefits	8.13	DRI–MM	Percentage change in supplements to wages and salaries per worker in nonagricultural establishments. Sources: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business* (monthly) table 7 (1.12). July issue has detailed components. For total employment—U.S. Dept. of Labor, Bureau of Labor Statistics *Employment and Earnings*, (monthly) table B–4.
3. Professional fees, other (legal, auditing, consulting, etc.).[4]	.49	DRI–MM	Percentage change in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, (monthly), table 18.
4. Malpractice insurance premiums.	2.09	HHS, HCFA	Percentage change in hospital malpractice insurance premiums per hospital. Data obtained from the American Hospital Association for the period 1967–1978. HHS, Health Care Financing Administration projected these data for 1979–1981.
5. Food	5.99	DRI–MM	A. Percentage change in food and beverages component of consumer prices index, all urban (relative importance, 3.02). Sources: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
		DRI–MM	B. Percentage change in processed foods and feeds component of producer price index (relative importance, 2.97). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
6. Fuel and other utilities	3.33	DRI–MM	A. Percentage change in implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of consumer price index) (relative importance, 1.43). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, (monthly) table 7.11.
		DRI–MM	B. Percentage change in implicit price deflator—consumption of electricity (derived from electricity component of consumer price index) (relative importance, .83). Source: U.S. Dept of Commerce, Bureau of Economic Analysis Unpublished data provided to Data Resources Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI–MM	C. Percentage change in implicit price deflator for natural gas, derived from utility (piped) gas component of consumer price index (relative importance, .69). Source: Same as electricity above.
		DRI–CFS	D. Percentage change in water and sewerage maintenance component of consumer price index (relative importance, .38). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.

Appendix.—*Derivation of "Market Basket" Index for Routine Inpatient Hospital Operating Costs*—Continued

Category of costs	Relative importance,[1] 1979	Forecaster,[2] percent changes 1980–83	"Price" variable used
7. Drugs	1.32	DRI–CFS	Percentage change in pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes* (monthly), table 6.
8. Chemicals and cleaning products.	2.53	DRI–MM	Percentage change in chemicals and allied products component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
9. Surgical and medical instruments and supplies.	1.25	DRI–CFS	Percentage change in special industry mechinery and equipment component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
10. Rubber and miscellaneous plastics.	1.07	DRI–MM	Percentage change in rubber and plastic products component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
11. Business travel and motor freight.	1.44	DRI–CFS	Percentage change in transportation component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
12. Apparel and textiles	1.72	DRI–MM	Percentage change in textile products and apparel component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 27.
13. Business services	3.93	DRI–MM	Percentage change in services component of consumer price index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
14. All other miscellaneous expenses.[3]	7.30	DRI–MM	Percentage change of consumer price index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, table 23.
Total	100.00		

[1] Routine operating cost weights for 1977 were derived from special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and data from HCFA Medicare cost reports. A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. In calendar 1977 each price variable has an index value of 100.00. The "relative importance" of the routine operating cost weights changes each period in accordance with price changes for each price variable. Cost categories with relatively higher price increases get relatively higher cost weights and vice versa.

[2] DRI–CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, D.C. 20006, (Forecast: CFS 811).

DRI–MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, (Forecast: Control 032381).

HHS–HCFA = Dept. of Health and Human Services, Health Care Financing Administration, 200 Independence Avenue, SW., Washington, D.C. 20201.

[3] For six months in 1979, the annual percentage change in average hourly earnings of service industry workers was used.

[4] Medical professional fees are included as part of nonroutine costs.

[5] This is a residual category of routine operating costs not included in the 13 specific categories above. It consists primarily of miscellaneous and unallocated items.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: June 2, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 24, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-19185 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-35-M

Medicare Program; Schedule of Limits on Home Health Agency Costs per Visit

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice.

SUMMARY: This notice sets forth a schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. Limits are expressed as costs per visit. Although separate limits are established by type of service, we are applying them to each home health agency's total reasonable cost as a single "aggregate" limit, based on the cost limit multiplied by the agency's number of visits for each type of service. This is an annual update of the schedule and replaces the schedule published in the **Federal Register** on June 5, 1980 (45 FR 38014). It applies to cost reporting periods beginning on or after July 1, 1981, and remains in effect until superseded.

EFFECTIVE DATE: The revised schedule of limits is effective for cost reporting periods beginning on or after July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority, we have published limits on home health agency per visit costs annually since 1979. On June 5, 1980 we published in the **Federal Register** (45 FR 38014) the current schedule of limits, applicable to cost reporting periods beginning on or after July 1, 1980. These limits contained provisions related to (1) a classification system based on whether a HHA is provider-based or freestanding, and whether the HHA is located within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area (NECMA), or a non-SMSA area; (2) a "market basket" index developed from the price of goods and services purchased by HHAs; (3) adjustments to the limits by an area wage index developed from hospital wages; (4) a cost-of-living adjustment for HAAs in Alaska and Hawaii; (5) limits set at the 80th percentile; (6) calculation of per visit limits by type of service; and (7) application of the limits to each HHA in the aggregate.

In developing the limits contained in this notice, we have retained essentially the same provisions as in the current limits, as well as the same methodology. We have, however, used more current HHA cost data for calculating the limits, as well as more recent hospital wage data and projections of the rates of increase in the costs included in the HHA market basket, as specified below.

Summary of Provisions

This updated schedule of limits on home health agency costs provides for:

1. *Separate limits for provider-based and freestanding HHAs.* As in the current schedule, we have retained a classification system based on whether

a HHA is provider-based or freestanding. (A "provider-based" HHA is one that participates in Medicare as part of a hospital or skilled nursing facility complex.) In addition, agencies are classified according to whether the HHA is located within a SMSA, a NECMA or a non-SMSA. (See notice published June 18, 1980 (45 FR 41218) for a discussion of the exceptions to rules for certain New England areas. For a listing of the counties included in each SMSA or NECMA, see the notice published August 18, 1980 (45 FR 54864.)

We included separate limits for provider-based and freestanding agencies in the 1980 notice, based on a study of the effect of cost allocation on hospital-based HHAs. From this study, we determined that approximately 26 percent of the total cost reported by hospital-based agencies is attributable to Medicare cost allocation instructions that require costs to be allocated to the agency from the parent provider. Provider-based agencies are still required to use the step-down method of cost finding which allocates a disproportionate share of overhead costs from the parent facility; therefore, we have computed separate limits for provider-based and freestanding agencies. We are continuing to investigate all factors contributing to the differences in costs of freestanding and provider-based HHAs and will consider refinements to future schedules as data become available.

We received several inquiries from rehabilitation agencies requesting that we make a determination concerning their status under the provider-based/freestanding classification system. The basis for establishing separate limits for provider-based agencies is the Medicare apportionment rules. Therefore, no agency may be considered to be provider-based unless it is a part of a health care complex that is required to file a HCFA-2552 cost report (see PRM (HIM-15) § 2326.2).

2. *Use of HHA market basket index.* In the initial schedule of home health agency limits published June 1, 1979 (44 FR 31014), we obtained the inflation factors from actuarial projections of change in HHA interim reimbursement rates. Because we believe that the cost of goods and services purchased to provide home health care is a more accurate measure of inflation in the marketplace, for the July 1, 1980 schedule of limits, we developed a "market basket" price index specifically related to the home health industry. As in the current schedule, these limits are based on reported costs, adjusted from the midpoint of each provider's cost reporting period to June 30, 1980, using increase factors developed from actual historical increases in home health reimbursement. We then apply the HHA market basket index beginning July 1, 1980.

The market basket is comprised of the most common categories of HHA expenses. The categories we are using were identified through an analysis of Medicare cost reports and other available home health industry surveys. The categories of expenses are weighted according to the estimated proportion of HHA cost attributable to each category. The categories used in the market basket have not changed; however, the weights (see footnote to market basket) differ from those listed in the current schedule. The weights may change over time because of differences in the rate of increase in the various price variables. Categories with higher rates of price increases will receive higher weights and vice versa.

In developing the market basket index, we obtained historical and projected rates of increase in the resource prices for each category. The price variables and the source of the forecast for calendar years 1980 through 1982 are identified in the third and fourth columns. For further explanatory purposes, we have included below an updated market basket.

In applying the market basket index, we also provide for adjustments to be made in the limits if our forecast of economic trends proves to be erroneous. We will adjust the projected rate of increase in the market basket index to actual, if the actual rate of increase is more than 3/10 of 1 percentage point above the estimated rate. We will publish the actual rate of increase in the **Federal Register** and use it to adjust a HHA's limits at the time of final settlement.

Home Health Agency Input "Price" Index: Cost Categories, Weights, Forecasters and "Price" Variable Used

Cost categories	Relative[1] importance 1979	Forecaster[2] percent changes (1980–1982)	"Price" variable used
Wages and salaries	64.52		Average hourly earnings of nonsupervisory private hospital workers. (SIC 806).
		DRI-CFS	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly) Table C-2.
Employee benefits	8.44		Supplements to wages and salaries per worker in non-agricultural establishments.
		DRI-MM	Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business* (monthly) Table 7.
Transportation	4.90		Transportation component of the Consumer Price Index, all urban.
		DRI-CFS	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Office costs	2.85		Services component of Consumer Price Index, all urban.
		DRI-MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Rent	1.29		Residential rent component of Consumer Price Index, all urban.
		DRI-MM, HCFA-HHS	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. *Projection.* Historical relationship of rental component of Consumer Price Index, all urban, for 1977 and 1978 to all item Consumer Price Index, all urban, projected to subsequent years.
Nonrental space occupancy costs.	1.33		Composite Fuel and other Utilities Index.
		DRI-MM	Source: HHS-HCFA, Community Hospital Input Price Index.
Medical Nursing supplies and rental equipment.	2.67		After 1977: medical equipment and supplies component of the Consumer Price Index. Prior to 1978: commodities component of Consumer Price Index, all urban.
		DRI-CFS	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. *Projection.* Medical commodities component of the Consumer Price Index, all urban.
Miscellaneous	7.13		Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. Consumer Price Index for all items, all urban.
		DRI-MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Contract services	6.87	HHS-HCFA	Weighted mean of price variables for items 1 through 8 above.
Total	100.00		

[1] Relative cost weights for 1976 were derived from special studies by the Health Care Financing Administration using primarily data from HCFA Medicare cost reports and data from the Council of Home Health Agencies and Community Health Services. A Laspeyres price index was constructed using 1976 weights and "price" variables indicated in this table. In calendar year 1976 each "price" variable has an index value of 100.00. The relative cost weights change overtime in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI-MM refers to Data Resources, Inc., Mercro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, Control 032381, DRI-CFS refers to Data Resources, Inc., Cost Forecaster Service, 1750 K Street, N.W., Washington, D.C. 20006, CFS-811.

3. *Adjustment of HHA cost data by wage index.* As in the current cost limits schedule, we are using a hospital wage index to account for area wage differences. Development of a wage index based specifically on HHA wage data is not feasible, because national employment and wage statistics needed to do so are not available from any adequate source at this time. Because the types of personnel employed by hospitals and HHAs are generally comparable, we adopted the hospital wage index as the best available proxy. We will, in the future, examine the technical feasibility of creating a HHA wage index based on data from the revised HHA cost report (See 45 FR 57126 for a discussion of the revised HHA cost report.)

We developed the wage index from hospital wage data obtained from the BLS. The data used are those for the "hospital industry", a standard BLS reporting category. The wage index we used for the revised limits is based on data for calendar year 1979, which are the latest available data. Data for 1980 will not be available until late in 1981.

To calculate this index, we first computed the average hospital wage for each SMSA or NECMA and non-SMSA/non-NECMA area. We then calculated the national average hospital wage for all SMSA or NECMA areas, and a separate national average hospital wage for all non-SMSA/non-NECMA areas. We then divided the average wage level for each area by the appropriate national average (SMSA/NECMA or non-SMSSA/non-NACMA). These calculations resulted in an index value for each SMSA or NECMA area that reflects the wage level for that area relative to the national average for all SMSA/NECMA areas, and in an index value for each non-SMSA/non-NECMA area that reflects the wage level for that area relatiye to the national average for all non-SMSA/non-NECMA areas (see Tables III. A and III. B).

The wage percentage used to adjust the per visit limit is 69.28 percent. In determining this wage factor for HHAs, we added an estimated wage percentage of contract service costs (4.76 percent) to the wage and salary weight shown in the market basket (64.52 percent). Home health agencies frequently contract for direct patient care services. As a result, the contract service component is expected to contain an element of salary expense. This added factor is based on an assumption, in absence of any evidence to the contrary, that the salary portion of contract services has the same weight as the wage portion in direct employment.

In addition to being based on more current data, the wage index we used for the revised limits differ in two ways from the wage index used in developing the 1980 cost limits. First, we have used approximate, rather than actual, index values for 26 areas. (These approximate values are identified by asterisks in Table III. A.) We made this change because the Bureau of Labor Statistics (BLS), which supplies the data on wages and numbers of employees that we use to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than three reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.)

To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limits significantly, and will assure that no limit is reduced because actual data for its area are unavailable.

In developing the wage index used for the revised limits, we have also excluded data from Federal government hospitals. Because these hospitals typically use national pay scales, the amount they pay their employee do not necessarily reflect area wage levels. We believe excluding data from these hospitals will improve the accuracy of the wage index adjustment.

If we receive additional data from BLS that require further changes in the wage index values for certain areas, we will publish separate **Federal Register** notices that provide corrected index values for the areas affected by the changes.

We wish to note that the data used to develop the wage index were supplied by BLS, and are the most reliable data available. All hospitals are required under State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any error that results in an incorrect wage index for any area, we will publish corrected indexes in the **Federal Register** and will direct the Medicare intermediaries to recalculate the limits. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage data.

Constraints inherent in the use of the BLS data prevented derivation of a wage index applicable to Puerto Rico, Guam and the Virgin Islands and none is included in the list of indices. However, a wage-index value of 1 will be assumed for applying the limits in these areas, effectively making no adjustment relative to the national average.

4. *Use of cost-of-living adjustment for Alaska and Hawaii.* To avoid disadvantaging HHAs located in Alaska and Hawaii, we have retained the cost-of-living adjustment for these States. This is an adjustment of the non-wage component of the limits that apply to these two States by the amount of the Office of Personnel Management cost-of-living differential for those States. Since we adjust the wage component by the applicable wage index, this cost-of-living adjustment applies only to the non-wage component.

5. *Limits set at the 80th percentile.* As in the 1980 notice, we are maintaining the basic service limits at the 80th percentile of each comparison group.

Each HHA's individual limits would be increased or decreased by the application of the wage index as described above.

6. *Application of limits in the aggregate.* In developing cost limits, we have relied on cost data that reflect the cost finding methods currently in use. Approximately 56.5 percent of the HHAs in our data base use a cost finding method that distributes costs to each service furnished by the agency (NLN/I-all separate, NLN II and combined PHS-NLN). However, the remainder do not. Including the latter agencies results in possible overstating or understating the costs of some services.

We are aware of this imperfection in the data base; however, we are unable to determine exactly the correct distribution of costs among the various services. Therefore, we have retained application of the limits in the aggregate. We intend, however, to consider applying limits separately to each type of service in the future as warranted by

our technical confidence in the methodology and data.

Revisions to Other Cost Limit Schedules

Under the authority in section 1861(v)(1) of the Social Security Act and the regulations at 42 CFR 405.460, we also issued annual schedules of prospective limits on hospital per diem inpatient general routine service costs from 1974 through 1978, and annual schedules of prospective limits on hospital per diem inpatient general routine operating costs, and on skilled nursing facility (SNF) inpatient routine service costs, in 1979 and 1980. The current hospital cost limit schedule was published on June 20, 1980, and is effective for cost reporting periods beginning on or after July 1, 1980 (45 FR 41868). The current SNF cost limit schedule was published on September 4, 1980, and is effective for cost reporting periods beginning on or after October 1, 1980 (45 FR 58699).

We are also publishing a revised schedule of limits on hospital costs that will be effective for cost reporting periods beginning on or after July 1, 1981, and we plan to publish a revised SNF cost limit schedule that will be effective for cost reporting periods beginning on or after October 1, 1981.

In revising the hospital cost limit schedule, we used the same general approach used in revising the HHA cost limits. That is, we retained our current methodology for developing and applying the limits, but updated the limits based on more recent data. We also plan to use this approach in updating the SNF cost limits.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this final notice does not constitute a "major rule" because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Secretary certifies, under Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354), that the revised schedule of limits set forth in this notice will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's negative certification is that the revised limits merely update the system of home health agency cost limits that is now in effect, and do not include any changes in our methodology for deriving and applying them.

Waiver of Proposed Notice and 30-Day Delay in Effective Date

As explained previously, we developed the updated limits using the same methodology that we used to develop the current limits, that were published on June 5, 1980. On February 15, 1980, we published a proposed notice that described in detail our methodology for developing and applying the limits and provided a 60-day period for public comment (45 FR 38014). In developing the current schedule, we considered all comments received in response to the February 15, 1980 notice. These comments, and our responses to them, are described in the June 5, 1980 notice. Because the methodology used for this updated schedule has previously been published for public comment, we do not believe it would be either useful or necesssary to again request public comment. Moreover, without publication of this notice, the current limits would remain in effect without adjustment for cost reporting periods beginning after June 30, since there is no provision in the current schedule for adjusting the limits for cost reporting periods that begin after that date. We believe it would be contrary to the public interest to permit this to occur. Therefore, we find good cause to waive publication of a proposed notice, and publish this notice of updated limits in final form.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effective date of the schedule. Since prompt publication of the limits would be in the public interest, and early implementation of this schedule will benefit those HHAs that will be affected by the updated limits, there is good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them to HHAs with cost reporting periods beginning on or after July 1, 1981.

Methodology for Determining Cost per Visit Limits

1. *Data.* The limits are determined by using actual cost per visit data obtained from the latest settled Medicare cost reports for periods ending on or before June 30, 1980. We adjusted the data from the midpoint of each HHA's cost reporting period to June 30, 1980 using factors developed from actual historical increases in home health reimbursement. We used the market basket factors to project costs from July 1, 1980 to the midpoint of the first cost reporting period to which the limits will apply. The annual percentage increases in the market basket for this projection are:

Calendar year	Percent increase
1977	7.1
1978	6.7
1979	7.6
1980 (1/1/80-6/30/80)	8.1
1980 (market basket, 7/1/80-12/31/80)	11.7
1981 (market basket)	10.8
1982 (market basket)	9.5

The forecasted rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase is more than $\frac{5}{10}$ of 1 percentage point above the estimated rate. We will publish the actual rate of increase in the **Federal Register** and use it to adjust a home health agency's cost limit at time of final settlement.

2. *Deflation by Wage Index.* After adjustment by the market basket, each HHA's adjusted per visit cost is divided into wage and non-wage portions. We determine the wage portion of costs by using a 69.28 percent wage factor derived from the market basket weight (64.52 percent) for employee wages and salaries, plus a wage percentage (4.76 percent) of contract services. The wage portion is then divided by the wage index applicable to the HHA's location (see Tables III. A and III. B) to arrive at an adjusted wage cost. We then add this adjusted wage cost to the non-wage cost to obtain the per visit cost used to calculate the basic service limit.

3. *Basic Service Limit.* A basic service limit equal to the 80th percentile of the array was calculated for each type of service, according to the provider-based and freestanding classification and the urban or non-urban location of the group.

4. *Computing the Adjusted Limit.* To determine the wage adjusted limit applied to each service furnished by a HHA, the Medicare fiscal intermediary multiplies the wage portion of the comparison group limit by the appropriate wage index. (See Tables III A and III B.) We develop these indexes from the wage data for hospital workers in the areas in which the HHA is located. The adjusted limit which applies to each service group is the sum of the non-wage component of the basic limit, plus the adjusted wage component.

Example—Calculation of Adjusted Limit

Limit from Schedule—$46.31

Wage portion—$32.08
Nonwage portion—$14.23
Wage Index—1.0226

Computation of Adjusted Limit

$32.08×1.0226 (wage index)=$32.81—Adjusted Wage Portion
$32.81+14.23=$47.04—Adjusted per visit limit for this HHA.

5. *Adjustment for Reporting Year.* If a HHA has a cost reporting period beginning on or after August 1, 1981, the adjusted per visit limit for each service will be revised upward by the factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket index by 12 and is used to account for inflation in costs that will occur after the date on which the limits become effective.

Example—HHA A's cost reporting period begins October 1, 1981. The adjusted physical therapy per visit limit for A's group is $47.04.

Computation of Revised Group Limit

Adjusted per visit limit—$47.04
1.0238 (Adjustment factor from Table IV)×$47.04=$48.16

In this example, the revised adjusted per visit limit for physical therapy applicable to A for the cost reporting period beginning October 1, 1981, is $48.16 per visit.

If a HHA uses a cost report period that is not 12 months in duration, a special calcuation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period assuming a 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done for the midpoint of the specific cost reporting period. the HHA's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

The schedule of limits set forth below applies to cost reporting periods beginning on or after July 1, 1981. The fiscal intermediaries will compute the adjusted limits using the wage index published in Tables III A and III B, and notify each HHA of its applicable limit. These limits, as adjusted using the methodology specified in item 5 above, will remain in effect until replaced by a revised schedule of limits published in a final notice in the **Federal Register.**

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Medical supplies that are not routinely furnished in conjunction with patient care visits and are directly identifiable services to an individual patient (i.e., medical supplies for which a separate charge is made, in addition to the per visit charge) are excluded from the per visit cost if: (1) the common and established practice of comparable HHAs in the area is to charge separately for the items; (2) the HHA follows a consistent charging practice for Mediare and non-Medicare patients receiving the item; (3) generally, the item is not frequently furnished to patients; (4) the item is directly identifiable to an individual patient and its costs can be identified and accumulated in a separate cost center; and (5) the item is furnished at the direction of the patient's physician and is specificaly identified in the plan of treatment. This explanation of non-routine medical supplies is consistent with instructions for reporting the cost of these supplies on the revised HHA cost report, form HCFA-1728 (10/80). The reasonable costs of medical appliances, and of supplies that are not routinely furnished in conjunction with patient care visits, will be reimbursed without regard to the schedule of limits.

The fiscal intermediary determines the limit for each home health agency by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the home health agency's total allowable cost.

Example: Home Health Agency A, a freestanding agency located in Chattanooga, Tennessee made 5,000 skilled nursing, 1,000 physical therapy and 1,000 home health aide covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning July 1, 1981.

The aggregate cost limit would be determined as follows using the wage index for Chattanooga—1.0226:

Type of visit	Visits	Per visit limits	Adjusted limits	Adjusted totals
Skilled nursing	5,000	47.19	47.93	$239,650
Physical therapy	1,000	46.31	47.04	47,040
Home health aide	1,000	35.34	35.89	35,890
Aggregate cost limit				322,580

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (e.g., administrative compensation, contract services) that are found to be excessive under Medicare principles of provider reimbursement. The fiscal intermediaries will review the various reported costs against such screens as the cost guidelines for physical therapy under arrangements (see 42 CFR 405.432) and against the limitation on costs that are substantially out of line with those of comparable agencies (see 42 CFR 405.451). The provider's cost will also be reduced by the amount of reimbursable costs that are not included in the limitation amount (e.g., medical appliances).

A home health agency operating as a branch or subunit (not independently certified for Medicare participation) whose main office, as of the effective date of the schedule of limits, is located in a SMSA (or within a NECMA, if in New England) will be classified as metropolitan. A home health agency whose main office is not located in a SMSA (or NECMA) will be classified non-metropolitan. (See 42 CFR 405.1202 for definition of branch office.)

State health department home health agencies with subunits are permitted to file a single combined cost report under the 7800 series of provider numbers. For these official agencies, location of the parent agency determines the applicable cost limits. A home health agency operating as a branch office of a parent agency, although located in a different area, is still classified according to the geographic location of the parent office. Branch offices are included in the cost report prepared by the parent agency since branch offices by definition are dependent on the parent agency for administrative, supervisory and other services and therefore are not independently certified.

Except as noted above, subunits of private agencies and providers in a chain organization, and other groups of providers, operating informally under a shared service agreement, must file separate cost reports. These agencies are classified according to their actual location.

Table I.—*Visit Limits for Provider-Based Home Health Agencies*

Type of visit	Limit	Wage portion	Nonwage portion
SMSA (NECMA) Location			
Skilled nursing care	62.35	43.20	19.15
Physical therapy	56.03	38.82	17.21
Speech pathology	58.88	40.79	18.09
Occupational therapy	55.71	38.60	17.11
Medical social services	56.91	39.43	17.48
Home health aide	54.13	37.50	16.63
Non-SMSA Location			
Skilled nursing care	58.15	40.29	17.86
Physical therapy	56.43	39.09	17.34
Speech pathology	(1)	(1)	(1)
Occupational therapy	(1)	(1)	(1)
Medical social services	(1)	(1)	(1)
Home health aide	50.57	35.03	15.54

[1] Insufficient data—Use basic service limits for freestanding non-SMSA agencies.

Table II.—*Per Visit Limits for Freestanding Home Health Agencies* [1]

Type of visit	Limit	Wage portion	Non-wage portion
SMSA (NECMA) Location			
Skilled nursing care	47.19	32.69	14.50
Physical therapy	46.31	32.08	14.23
Speech pathology	47.83	33.14	14.69
Occupational therapy	46.95	32.53	14.42
Medical social services	55.24	38.27	16.97
Home health aide	35.34	24.48	10.86
Non-SMSA (NECMA) Location			
Skilled nursing care	48.64	33.70	14.94
Physical therapy	49.40	34.22	15.18
Speech pathology	51.05	35.37	15.68
Occupational therapy	47.43	32.86	14.57
Medical social services	53.37	36.97	16.40
Home health aide	33.46	23.18	10.28

[1] Non-wage portion of limits for HHAs located in States of Alaska and Hawaii will be increased by the following cost-of-living adjustment: Alaska, 25; Hawaii (island), —; Oahu, 15; Kauai, 15; Molokai, 12.5; Maui and Lanai, 15; Hawaii, 10.

Table III A.—*Wage Index for Urban Areas*

SMSA area	Wage index
Abilene, TX	.8485
Akron, OH	1.0417
Albany, GA	.8566
Albany-Schenectady-Troy, NY	.9624
Albuquerque, NM	1.0009
Alexandria, LA	.8954
Allentown-Bethleham-Easton, PA-NJ	1.0569
Altoona, PA	1.0219
Amarillo, TX	.9233
Anaheim-Santa Ana-Garden Grove, CA	1.2115
Anchorage, AK	1.6461
Anderson, IN	.9812
Ann Arbor, MI	1.2175
Anniston, AL	.8400
Appleton-Oshkosh, WI	1.0124
Asheville, NC	.9678
Atlanta, GA	.9162
Atlantic City, NJ	1.0174
Augusta, GA-SC	.9237
Austin, TX	.9659
Bakersfield, CA	1.1223
Baltimore, MD	1.1698
Baton Rouge, LA	.8813
Battle Creek, MI	1.0229
Bay City, MI	1.1238
Beaumont-Port Arthur-Orange, TX	.8530
Billings, MT	[1].9496
Biloxi-Gulfport, MS	.8143
Binghamton, NY-PA	.9769
Birmingham, AL	.9658
Bismarck, ND	.9032
Bloomington, IN	[1].9481
Bloomington-Normal, IL	.8484
Boise City, ID	.9834
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1214
Bradenton, FL	[1].8631
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1647
Brownsville-Harlingen-San Benito, TX	.9312
Bryan-College Station, TX	.8377
Buffalo, NY	.9926
Burlington, NC	.8899
Canton, OH	.9447
Cedar Rapids, IA	[1].9193
Champaign-Urbana-Rantoul, IL	1.1197
Charleston-North Charleston, SC	.9751
Charleston, WV	1.0628
Charlotte-Gastonia, NC	.9456
Chattanooga, TN-GA	1.0226
Chicago, IL	1.1760
Cincinnati, OH-KY-IN	1.0614
Clarksville-Hopkinsville, TN-KY	.8397
Cleveland, OH	1.1957
Colorado Springs, CO	.9743
Columbia, MO	1.1712
Columbia, SC	.9743
Columbus, GA-AL	.9021
Columbus, OH	1.1184
Corpus Christi, TX	.9337
DAllas-Fort Worth, TX	.9403

Table III A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Davenport-Rock Island-Moline, IA-IL	.9219
Dayton, OH	1.1064
Daytona Beach, FL	.9423
Decatur, IL	.9096
Denver-Boulder, CO	1.0960
Des Moines, IA	1.0156
Detroit, MI	1.2280
Dubuque, IA	.9426
Duluth-Superior, MN-WI	.9193
Eau Claire, WI	.9806
El Paso, TX	.8714
Elkhart, IN	[1].7997
Elmira, NY	.9642
Enid, OK	.8228
Erie, PA	.9652
Eugene-Springfield, OR	.9639
Evansville, IN-KY	1.0742
Fargo-Moorhead, ND-MN	.9355
Fayetteville, NC	[1].8353
Fayetteville-Springdale, AR	.7997
Flint, MI	1.1919
Florence, AL	.8056
Fort Collins, CO	.8353
Fort Lauderdale-Hollywood, FL	1.0506
Fort Myers, FL	.9391
Fort Smith, AR-OK	.8899
Fort Wayne, IN	.8881
Fresno, CA	1.1265
Gadsden, AL	.9264
Gainesville, IL	.9019
Galveston-Texas City, TX	1.0607
Gary-Hammond-East Chicago, IN	1.1664
Grand Forks, ND-MN	.8779
Grand Rapids, MI	.9463
Great Falls, MT	[1].9162
Greeley, CO	[1].9312
Green Bay, WI	.9740
Greensboro-Winston-Salem-High Point, NC	.9232
Greenville-Spartanburg, SC	.9371
Hamilton-Middleton, OH	1.0620
Harrisburg, PA	1.0534
Hartford-New Britain-Bristol, CT	1.1535
Honolulu, HI	1.1645
Houston, TX	1.0630
Huntington-Ashland, WV-KY-OH	.9270
Huntsville, AL	.8593
Indianapolis, IN	1.0507
Iowa City, IA	1.0209
Jackson, MI	[1]1.0173
Jackson, MS	.8699
Jacksonville, FL	.9331
Janesville-Beloit, WI	.8579
Jersey City, NJ	1.1180
Johnson City-Kingsport-Bristol, TN-VA	.8777
Johnstown, PA	1.0445
Kalamazoo-Portage, MI	1.1695
Kankakee, IL	1.0073
Kansas City, MO-KS	.9399
Kenosha, WI	[1]1.0778
Killeen-Temple, TX	.8868
Knoxville, TN	.9100
Kokomo, IN	.9828
La Crossee, WI	[1].9016
Lafayette, LA	.8622
Lafayette-West Lafayette, IN	.9141
Lake Charles, LA	.8706
Lakeland-Winter Haven, FL	.9749
Lancaster, PA	1.0674
Lansing-East Lansing, MI	1.0811
Laredo, TX	[1].8593
Las Cruces, NM	[1].8129
Las Vegas, NV	1.1884
Lawrence, KS	[1].9193
Lawton, OK	[1].8377
Lewiston-Auburn, ME	[1].8699
Lexington-Fayette, KY	.9016
Lima, OH	.9932
Lincoln, NE	.9259
Little Rock-North Little Rock, AR	1.0205
Long Branch-Asbury Park, NJ	1.0648
Longview, TX	.8129
Lorain-Elyria, OH	1.0207
Los Angeles-Long Beach, CA	1.2899
Louisville, KY-IN	.9915
Lubbock, TX	.9042
Lynchburg, VA	.8876
Macon, GA	.9637
Madison, WI	1.0257
Manchester-Nashua, NH	.9352
Mansfield, OH	.9196

Table III A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
McAllen-Pharr-Edinburg, TX	.8165
Melbourne-Titusville-Cocoa, FL	.9374
Memphis, TN-AR-MS	1.0371
Miami, FL	1.1050
Midland, TX	[1].9141
Milwaukee, WI	1.0080
Minneapolis-St. Paul, MN-WI	.9802
Mobile, AL	.9416
Modesto, CA	1.0250
Monroe, LA	.9451
Montgomery, AL	.9626
Muncie, IN	[1].9852
Muskegon-Norton Shores-Muskegon Heights, MI	.9658
Nashville-Davidson, TN	1.0187
Nassau-Suffolk, NY	1.2758
New Bedford-Fall River, MA	.9687
New Brunswick-Perth Amboy-Sayreville, NJ	1.0409
New Haven-Waterbury-Meriden, CT	1.0990
New London-Norwich, CT	1.0903
New Orleans, LA	.9644
New York, NY-NJ	1.3956
Newark, NJ	1.2099
Newport News-Hampton, VA	.8907
Norfolk-Virginia Beach-Portsmouth, VA-NC	.9496
Northeast Pennsylvania	1.0598
Odessa, TX	[1].9496
Oklahoma City, OK	.9252
Omaha, NE-IA	.9365
Orlando, FL	.9087
Owensboro, KY	[1].8364
Oxnard-Simi Valley-Ventura, CA	1.3788
Panama City, FL	[1].8777
Parkersburg-Marietta, WV-OH	1.0461
Pascagoula-Moss Point, MS	[1]1.1535
Paterson-Clifton-Passaic, NJ	1.0959
Pensacola, FL	.8841
Peoria, IL	1.0175
Pettersburg-Colonial Heights-Hopwell, VA	.9484
Philadelphia, PA-NJ	1.1810
Phoenix, AZ	1.1100
Pine Bluff, AR	[1].7997
Pittsburgh, PA	1.1275
Pittsfield, MA	1.0275
Portland, ME	.9718
Portland, OR-WA	1.1026
Poughkeepsie, NY	1.0778
Providence-Warwick-Pawtucket, RI	1.0314
Provo-Orem, UT	.9454
Pueblo, CO	1.0969
Racine, WI	.9240
Raleigh-Durham, NC	1.0173
Rapid City, SD	[1].8680
Reading, PA	1.0101
Reno, NV	[1]1.2428
Richland-Kennewick, WA	.9763
Richmond, VA	.9252
Riverside-San Bernadino-Ontario, CA	1.1729
Roanoke, VA	.9614
Rochester, MN	.9852
Rochester, NY	1.0653
Rockford, IL	.9696
Sacramento, CA	1.1396
Saginaw, MI	1.1279
St. Cloud, MN	.8680
St. Joseph, MO	.9749
St. Louis, MO-IL	.9977
Salem, OR	1.1083
Salinas-Seaside-Monterey, CA	1.2428
Salt Lake City-Ogden, UT	.8550
San Angelo, TX	.8364
San Antonio, TX	.9509
San Diego, CA	1.1113
San Francisco-Oakland, CA	1.3153
San Jose, CA	1.3055
Santa Barbara-Santa Maria-Lompoc, CA	1.0552
Santa Cruz, CA	1.0811
Santa Rosa, CA	1.4037
Sarasota, FL	.8554
Savannah, GA	.9414
Seattle-Everett, WA	1.0500
Sherman-Denison, TX	.8277
Shreveport, LA	.9292
Sioux City, IA-NE	.9306
Sioux Falls, SD	.8844
South Bend, IN	.9154
Spokane, WA	1.0921
Springfield, IL	.9873
Springfield, MO	.8933
Springfield, OH	.9821
Springfield-Chicopee-Holyoke, MA	1.0184

Table III A.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Steubenville-Weirton, OH-WV	.9689
Stockton, CA	1.3046
Syracuse, NY	1.3209
Tacoma, WA	1.0514
Tallahasee, FL	[1].9219
Tampa-St. Petersburg, FL	.9898
Terre Haute, IN	.8644
Texarkana-TX-Texarkana, AR	1.0929
Toledo, OH-MI	1.1157
Topeka, KS	1.0602
Trenton, NJ	1.1708
Tucson, AZ	.9977
Tulsa, OK	.9626
Tuscaloosa, AL	1.0142
Tyler, TX	.9481
Utica-Rome, NY	1.0145
Vallejo-Fairfield-Napa, CA	1.5862
Vineland-Millville-Bridgeton, NJ	1.0083
Waco, TX	.8593
Washington, DC-MD-VA	1.1457
Waterloo-Cedar Falls, IA	.8631
West Palm Beach-Boca Raton, FL	.9632
Wheeling, WV-OH	.9921
Wichita, KS	1.0248
Wichita Falls, TX	.8282
Williamsport, PA	.9749
Wilmington, DE-NJ-MD	1.0898
Wilmington, NC	.8936
Worcester-Fitchburg-Leominster, MA	.9703
Yakima, WA	.9323
York, PA	.9864
Youngstown-Warren, OH	1.1090

[1] Approximate value for area.

Table III B.—*Wage Index for Rural Areas*

Non-SMSA area	Wage index
Alabama	.8960
Alaska	1.5579
Arizona	1.0289
Arkansas	.8686
California	1.2415
Colorado	.8990
Connecticut	1.1552
Delaware	1.0370
Florida	.9917
Georgia	.9463
Hawaii	1.3362
Idaho	.9669
Illinois	.9180
Indiana	.9763
Iowa	.9220
Kansas	.8973
Kentucky	.9207
Louisiana	.9216
Maine	.9926
Maryland	1.1028
Massachusetts	1.1722
Michigan	1.1325
Minnesota	.9052
Mississippi	.8751
Missouri	.9156
Montana	.9561
Nebraska	.8130
Nevada	1.0790
New Hampshire	1.0971
New Jersey	1.0820
New Mexico	1.0073
New York	1.0327
North Carolina	.9917
North Dakota	.9045
Ohio	1.0086
Oklahoma	.9111
Oregon	1.0673
Pennsylvania	1.1358
Rhode Island	[1]
South Carolina	.9180
South Dakota	.7990
Tennessee	.8779
Texas	.8979
Utah	.8499
Vermont	.9993
Virginia	.9792
Washington	1.0465
West Virginia	1.0111
Wisconsin	.9179

Table III B.—*Wage Index for Rural Areas*—Continued

Non-SMSA area	Wage index
Wyoming	1.0402

[1] Not applicable. All of Rhode Island is classified as urban.

Table IV.—*Cost Reporting Year Adjustment Factors* [1]

If the HHA cost reporting period begins	The adjustment factor is
Aug. 1, 1981	1.0079
Sept. 1, 1981	1.0158
Oct. 1, 1981	1.0238
Nov. 1, 1981	1.0317
Dec. 1, 1981	1.0396
Jan. 1, 1982	1.0475
Feb. 1, 1982	1.0554
Mar. 1, 1982	1.0633
Apr. 1, 1982	1.0713
May 1, 1982	1.0792
June 1, 1982	1.0871
July 1, 1982	1.0950

[1] Based on a projected market basket inflation rate of 9.5 percent for 1982. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on July 1, 1982, or do not announce other changes in the current schedule by that date, the current limits will continue in effect, with the adjustment factor increased by .008 (corresponding to .8 percent) per month, until a new schedule of limits or other provision is issued. The adjustment factor of .008 is based on a projected market basket inflation rate of 9.6 percent for 1983.

(Sections 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: June 2, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 24, 1981.

Richard S. Schweiker,

Secretary.

[FR Doc. 81-19184 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-35-M

Medicare Program; Economic Index for Physicians' Services for the Period July 1, 1981 Through June 30, 1982

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the economic index used in the calculation of prevailing charges for physicians' services under Part B of Medicare (title XVIII of the Social Security Act). The Medicare statute and regulations require that the calculation of these charges be subject to a limit based on appropriate indicators of economic changes. The economic index used for this purpose is 1.790 for the period July 1, 1981 through June 30, 1982. This is an increase of 7.96 percent over the economic index of 1.658 that was used for the previous 12 months.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION, CONTACT:
Paul Riesel, (301) 597-1843
or
Joseph Romano, (301) 594-1023.

SUPPLEMENTARY INFORMATION:

Background

Payment under Medicare Part B for a physician's service is based on a reasonable charge which may not exceed the lowest of (1) the physician's actual charge for the service, (2) his or her customary charge for that service, or (3) the prevailing charges of physicians for similar services in the locality. The prevailing charge for a service, before adjustment for the economic index, is calculated at the 75th percentile of physician customary charges. Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) and HCFA regulations at 42 CFR 405.504 further require that the prevailing charge for a service in a locality not exceed the level in effect for that service in the locality on June 30, 1973, except to the extent justified on the basis of appropriate indicators of economic change.

42 CFR 405.504 establishes an economic index for this purpose, consisting of two components: one measuring increases in general earnings level (attributable to factors other than increases in productivity) and the other measuring increases in expenses of the kind incurred by physicians.

Calculating the Economic Index

The Senate Finance Committee Report on Pub. L. 92-603 (1972 Amendments to the Social Security Act) explained that the index is intended to reflect inflationary trends accurately. To obtain information on income and expenses, HCFA first contracted for a national survey of 5,000 physicians. From the collected data, a research firm calculated that currently the expenses of medical practice for self-employed physicians account for approximately 40 percent of the gross income of practice, and net income accounts for approximately 60 percent.

This research firm also statistically estimated the relative expenses of

practice and arranged the data in tables. Each element of the expenses was compared to total expenses, and a weight was derived for each element. Each weight represents the ratio of the expense of each element to all the expenses of practice. (For example, currently the hourly earnings of non-supervisory personnel account for 43 percent of all the practice expenses of a self-employed physician.) We reviewed the tables and selected the set of weights that accurately reflects the existing distribution of physicians in the United States and the physicians' responses to the survey. We also verified that the estimated physician practice expenses are approximately 40 percent of the gross income of practice.

Items 1 through 6 in Table 1 below are the elements used in computing the increase in the physicians' expenses component of the economic index. Item 9, the net income component, is derived from information contained in items 7 and 8 and reflects increases in general earnings levels exclusive of productivity increases.

The principal source of the remaining data used is the data on labor statistics for calendar year 1980 as set forth in the Current Labor Statistics section of the April 1981 issue of *The Monthly Labor Review*, published by the U.S. Department of Labor. The increase for each element and component from 1979 to 1980 was calculated on the basis of these data and their weighted values were summed. This yielded an aggregate increase factor of 1.0926 (see Table 1). That factor, multiplied by the economic index for the period ending June 30, 1981, (see 45 FR 43475, June 27, 1980) adjusted as explained below (1.6386), resulted in the new economic index of 1.790. This means that the prevailing charges for physicians' services to be used during the 12-month period beginning July 1, 1981, may not exceed the prevailing charges in effect on June 30, 1973 by more than 79.0 percent.

Because the Bureau of Labor Statistics has periodically retroactively revised some of the statistics and data on which earlier economic indexes were based, it was necessary for us to recompute some of the values and ratios for earlier years in order to obtain an accurate index for the current year. As a result, the economic index for July 1, 1980 through June 30, 1981 was adjusted from 1.658 to 1.6386. Table 2 sets forth the revised values for that year and the preceding years.

It should be noted that, although we have recalculated prior year indexes, this does not change the applicability of the earlier indexes as published. Rather, prior year figures were recalculated only to reflect newly available data in order to prepare an accurate index for the period beginning July 1, 1981. Thus, the effective increase in the economic index is 7.96 percent above the index used for the previous 12-month period.

Table 1.—*Calculation of the Increase Factor for the Period July 1981 Through June 1982 To Be Applied to the Revised Economic Index for the Prior 12-Month Period*

	Ratio of 1980 values to 1979 values	Weight (pct)[1]
1. Hourly earnings of nonsupervisory workers in finance, insurance, and real estate	1.0968	0.43x40
2. Housing component of the consumer price index	1.1569	.25x40
3. Private transportation component of the consumer price index	1.1747	.07x40
4. Drugs and pharmaceutical component of the producer price index	1.0941	.10x40
5. All other miscellaneous expenses (tied to the entire consumer price index)	1.1346	.04x40
6. Premiums for malpractice insurance	[2] 1.0526	.11x40
7. Average weekly earings of production and nonsupervisory workers	1.0720	.....
8. Index of output per man hour of employed nonfarm workers	.9939	.....
9. Change in average weekly earnings net of change in output per man hour	1.0786	60
Increase factor of the economic index over the prior 12-month period	1.0926	.....

[1] The weights, including the malpractice component, were derived from a study done for HCFA by a research firm in 1981. The last previous revision of the weights occurred in 1980. The revised weights from the 1981 study reflect more recent data from a sample of physicians than were available previously.

[2] Derived from a survey of several major insurers.

Table 2.—*Determination of the Economic Index for the Period July 1981 Through June 1982*

12-month period ending June 30—	Economic index for the period adjusted for revision in BLS statistics since the announcement [1]
1976	1.1761
1977	1.2583
1978	1.3294
1979	1.4098
1980	1.5168
1981	1.6386
1982	1.7903

[1] See text for explanation.

Impact Analyses

Executive Order 12291

This notice announces the economic index which recognizes increases in physicians' prevailing charges due to inflation. We estimate that updating the index will increase Medicare payments to physicians by approximately $225 million for the 1982 fee screen year (July 1981 through June 1982).

Under Executive Order 12291, any rule that has an impact on the economy of $100 million or more (a major rule) requires a Regulatory Impact Analysis. That analysis must include a description of the potential benefits of the rule, the potential costs (including any adverse effects that cannot be quantified in monetary terms), a determination of the potential net benefits, a discussion of alternative approaches that could achieve the same goal at lower cost (with an analysis of potential benefits and costs), and an explanation of the legal reasons why such alternatives could not be adopted. This analysis must be submitted to the Director of the Office of Management and Budget (OMB) at least 60 days before publication of a major rule. However, the requirement to prepare an analysis does not apply to cases in which the requirements of the Order would conflict with statutory or judicial deadlines (section 8(a)(2) of the Order).

As indicated in the Supplementary Information, this notice is prepared in response to a statutory provision (section 1842(b)(3) of the Social Security Act) requiring an updating of the June 30, 1973 prevailing charge levels to reflect economic changes. The statute also refers to the 12-month period beginning July 1 of each year as the period for which prevailing charges are applied. The statute is implemented by computing an economic index as described above and applying that figure to determinations of prevailing charges for the 12-month period beginning each July 1. Because the data on which we base our computations for the update of the economic index are not available until April of each year, we could not prepare a regulatory analysis for submittal to OMB 60 days before publication and still publish the index timely.

Medicare beneficiaries, physicians participating in the Medicare program, and our carriers (private contractors who process Medicare claims) depend on timely updating of the economic index. Physicians expect that Medicare reimbursement will increase annually to account for inflation. We believe that if we were to delay the inflation adjustment, fewer physicians would be willing to accept assignment. (A physician who accepts assignment under Medicare agrees that the reasonable charge determined by the Medicare carrier will be the physician's full charge for the service.) If a physician does not accept assignment, an additional financial burden falls on beneficiaries who are then responsible for payment of amounts above Medicare's reasonable charges. Under these circumstances, any increase in a physician's charge to reflect inflation would be the financial responsibility of the beneficiary.

In addition, failure to publish the index timely may also injure Medicaid beneficiaries in some States. Because Medicaid payments may not exceed the reasonable charges under Medicare (section 1902(a)(30) of the Social Security Act), some physicians may be deterred from furnishing services to Medicaid beneficiaries, if increases in Medicaid reimbursement are prevented by a delay in the updating of the economic index.

We conclude that the exemption under section 8(a)(2) of Executive Order 12291 applies to this notice, and that it is impracticable for HCFA to prepare a Regulatory Impact Analysis for this notice.

The Regulatory Flexibility Act

Section 605(b) of Pub. L. 96-354 (The Regulatory Flexibility Act of 1980) requires Federal agencies to prepare and make public a regulatory flexibility analysis when final rules would have a significant economic impact on a substantial number of small entities.

As indicated above, this notice recognizes only inflationary increases in medical practice expenses and income. There is no reason to believe that this notice will cause a significant economic impact on small entities. In addition, it represents only a technical updating as required by the statute. Accordingly, we believe that a regulatory flexibility analysis is not required.

(Section 1102, 1832, 1833, 1842(b)(3), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395k, 1395l, 1395u, and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 10, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 81-19127 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-35-M

Medicaid Management Information Systems Performance Standards

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with Comment Period.

SUMMARY: This notice contains performance standards (review elements and factors). We are required by section 1903(r)(6)(E) of the Social Security Act to notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which the procedures, standards, and other requirements will be used for Medicaid Management Information Systems reapproval reviews. This Notice meets that statutory requirements.

By October 1, 1981, we will use the performance standards and existing systems requirements when conducting the annual review of State system performance.

Comment: under 42 CFR 433.115, we will consider any comments mailed by August 31, 1981, and revise the standards, if necessary. We will respond to the comments and then publish the standards in the Medical Assistance Manual.

ADDRESSES: Please address your comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, MD 21235.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., in the District; or to Room 789, East High Rise Building, 6325 Security Boulevard, in Baltimore.

In commenting, please refer to file code BPO-10-NC.

Comments will be available for public inspection, beginning approximately 2 weeks from today in Room 309-G of the Department's offices at 200 Independence Avenue, S.W., in Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Newton Dikoff, 301-594-8190.

SUPPLEMENTARY INFORMATION:

Background

Section 1903(a)(3) of the Social Security Act authorizes Federal matching funds at 75 percent for the operation of approved Medicaid Management Information Systems (MMIS), which are mechanized claims processing and information retrieval systems designed in accordance with basic Federal guidelines. The purpose of these systems is to provide more efficient, economical, and effective administration of State Medicaid plans.

On March 5, 1980, we published amendments to regulations (42 CFR Part 433, Subpart C) to implement further section 1903(a)(3) of the Act (45 FR 14211). That regulation now requires us to publish for public comment in the **Federal Register** changes we make in the requirements used for approval and periodic reapprovals of systems; i.e., new performance standards. We then must issue the final requirement in the Medical Assistance Manual (MAM), and allow an appropriate period for the State agencies to meet the requirement. The performance standards contained in this notice pertain to the reapproval process. Therefore, we are publishing the performance standards by which we will measure a State agency's continuing performance. In addition, section 1903(r) of the Social Security Act, 42 U.S.C. 1396b(r), as enacted by section 901 of the Mental Health Systems Act, Pub. L. 96-398 (October 7, 1980) requires us to review each system yearly to determine whether it meets performance standards and systems requirements and to reduce Federal financial participation (FFP) under certain circumstances. For example, the requirements of that legislation provide for reduction of FFP in State expenditures for operating an MMIS on an incremental basis from 75 percent to 50 percent if a State agency does not meet the performance standards or does not meet systems requirements. (The law requires us to reduce FFP by no less than 5 percent, and by no more than 25 percent. We may not reduce a State's FFP by more than 10 percent in any one year period.) A notice of proposed rulemaking on this subject (reduction of FFP) will be published soon.

This notice, in accordance with the provisions of section 901 of the Mental Health Systems Act, sets forth the first set of performance standards we will implement. These performance standards are the result of a joint Federal and State effort to identify the significant aspects of system performance and administration. That is, the States have been consulted extensively on the standards, elements and factors and have received drafts of them in the performance review package (which also includes the sampling and scoring procedures and methods by which the system will be evaluated). Moreover, the States have had ample opportunity to comment at each major stage in the development of the standards. The application of these performance standards is intended to improve the overall efficiency and effectiveness of the Medicaid program.

Performance Standards

Once a State MMIS system is approved and thus qualifies for higher Federal matching, there is now no formal system used to evaluate the State's performance in operating the sytem. Currently, Federal review is limited to assuring that MMIS systems continue to retain the basic capabilities documented during the original system approval review process.

During the past few years, it has become evident that MMIS systems need periodic updating, both to meet program needs and to improve the

management of the Medicaid program. It has become obvious that mere technical adherence to a systems design, as distinguished from system performance, is inadequate justification for continuing to make higher Federal payments. We have found it necessary to create a mechanism for objectively evaluating significant aspects of system performance and administration. This mechanism for evaluating system performance and administrative procedures contains standards that are based on expected system results and program goals. These standards will be used by HCFA to determine if additional Federal funds for MMIS operations represent an appropriate expenditure.

Under each performance standard are element statements that cover basic operational requirements for approved State MMIS systems and, as such, represent essential functions that must be performed at an acceptable level if the elements are to be met. In yearly system performance reviews, we will apply the review elements to both system operating procedures and system products (claim payments, reports, listings, etc.). In addition, we have developed certain elements that assess State administration of the MMIS and the provision of system support functions (such as systems integrity and emergency measures) without which effective system utilization is virtually impossible.

It should be noted that the standards themselves tell only what we will measure in assessing systems. After the first set of standards is published, we will issue detailed instructions in the MAM concerning the application of the standards in our yearly system reviews. The instructions will discuss sampling procedures, element scoring, evaluation methodologies, etc. We anticipate that the development of MMIS performance standards will be a continuing process. Thus while new standards and modifications to standards will appear in the **Federal Register**, the supporting material (sampling procedures, element scoring, evaluation methodologies, etc.) necessary for their application will not. These technical materials, which include several charts, worksheets, and supporting information, will be updated with each yearly review cycle, based on performance data and review experience from previous cycles. Copies of these materials also will be issued timely to all States subject to the annual system performance reviews.

Therefore, States will know, in advance of the evaluation period, both the standards against which their MMIS systems will be judged, through notice in the **Federal Register**, and exactly how those standards will be applied, through issuance of the detailed review methods in the MAM. This advance notification will permit States to evaluate themselves on an ongoing basis. The managers of a State's Medicaid program will have a continuing opportunity to identify and correct deficiencies in MMIS operations and so be aware of inadequate of railing performance in time to undertake remedical action.

Moreover, because the application of performance standards to previously approved MMIS systems is a new procedure, HCFA is conducting a nationwide "dry run" of performance reviews, from October 1, 1980 through September 30, 1981, using performance standards and review methods. (Procedures for reducing Federal matching for MMIS operations and subsequent reinstatement of higher level funding will be published as a notice of proposed rulemaking soon.) We have chosen to conduct the dry run because the data required for performance evaluation have little meaning if applied for a period of less than a year, and because we wish to obtain information on the impact of this new evaluation system as soon as possible. We are using the data base from the dry run to refine our review methodology and establish empirically based numerical scores for acceptable performance. These refinements are reflected in the performance standards contained in this notice.

HCFA will use established administrative procedures, such as technical assistance, to help States overcome deficiencies discovered through initial application of the review elements during the dry run.

Set forth below are our initial performance standards for evaluating MMIS operations and the elements by which we will assess adherence to the standards. Also included are examples of specific measurable factors derived from each element which will permit the objective and equitable application of the elements to State MMIS performance. The factors shown below are for illustrative purposes only. While only two examples of possible factors are given for each element, no limitations on the number of factors are given for each element, no limitations on the number of factors per element have as yet been finally established. As indicated above, we will publish the actual review factors to be used in applying review elements in the MAM with the other technical details of our system performance review methodology. In the interim, however, a copy of the system performance review package that we are using during the nationwide dry run is available to all interested parties and may be obtained by telephoning Newton Dikoff, at the number noted in "For Further Information" section, or by sending a request to him at the following address: HCFA, Room 1445, Meadows East Building, 6300 Security Blvd., Baltimore, Maryland 21207. States that currently have or are developing MMIS have already received copies of this material and will be sent any future revisions.

Standard 1

An accurate system of recipient eligibility information must be provided.

Element A—Accurate eligibility determinations must be made and responsiveness to provider requests for recipient eligibility information must be demonstrated. (Illustrative Factors: (1) Eligibility determinations must be made accurately, and (2) Timely responses to provider requests for recipient eligibility data must be provided);

Element B—The State must maintain accurate and adequate files on eligible recipients. (Illustrative Factors: (1) If the State is a buy-in State, the buy-in data must be integrated into the eligibility or third party file on a timely basis, and (2) The State must provide and retain minimum eligibility file data).

Standard 2

An accurate and accessible system of files must be provided to support system operations.

Element C—Accurate and adequate files must be maintained on eligible providers. (Illustrative Factors: (1) The provider file must be updated timely with provider status changes, and (2) A unique identifier must be provided for each enrolled provider to permit all services furnished to be adequately tracked).

Element D—Accurate pricing files must be maintained for ready access in system operations. (Illustrative Factors: (1) Procedures for controlling pricing file transactions must be established and complied with and (2) The approved Medicaid payment for items and services must not exceed the amounts posted on the pricing file).

Standard 3

Claims must be processed in an orderly and timely manner from initial receipt through issuance of claims determinations.

Element E—Claims must be controlled from receipt through final disposition with timely issuance of claim determination notices. (Illustrative

Factors: (1) Claims must be controlled with a unique identifier and aged from the date of receipt, and (2) Timely and complete notification of claims determinations must be furnished to providers);

Element F—Claims must be processed on a timely basis. (Illustrative Factors: (1) 90 percent of clean practitioner claims must be paid or denied as appropriate within 30 days of receipt, and (2) All claims must be paid or denied within 12 months of receipt).

Standard 4

Claims must be accurately processed and reviewed.

Element G—Claims data must be processed accurately. (Illustrative Factors: (1) Recipient eligibility must be verified for the entire period of service on each claim, and (2) Signature or certification by providers, as required by Federal regulations, must be present);

Element H—System operations must appropriately incorporate edits and screens. (Illustrative Factors: (1) Prepayment consistency and utilization edits and screens must be applied to all processed claims, and (2) The use of override edits (force codes) must be controlled).

Standard 5

A Management and Administrative Reporting Subsystem (MARS) must be efficiently and effectively operated in order to provide support to management review, evaluation, and decisionmaking processes.

Element I—Required Federal reports must be accurate, complete and received timely by the regional office. (Illustrative Factors: (1) The monthly HCFA–120, quarterly HCFA–80, and quarterly HCFA–156 must be received by HCFA timely, and (a) HCFA reports must be accurately completed in accordance with HCFA instructions);

Element J—The State must utilize the capabilities of MARS effectively to manage and control the Medicaid program and produce required reports that are accurate, complete and received timely. (Illustrative Factors: (1) The State must provide for on-going use of MARS by State management staff, and (2) State management reports (or their functional equivalents) required by the General Systems Design must be complete and accurate).

Standard 6

The operation of a surveillance and utilization review subsystem (S/URS) must provide comprehensive health care delivery and utilization data for program management, reveal potential defects in the quality of care, and reveal suspected instances of provider or recipient fraud or abuse.

Element K—An appropriate ongoing review of service delivery and utilization patterns must be maintained. (Illustrative Factors: (1) The State must periodically review an established minimum of active recipients indentified through the exception process, and (2) The State must periodically review an established minimum of active providers identified through the exception process;

Element L—The State must produce service delivery and utilization data timely and accurately in support of program administration. (Illustrative Factors: (1) S/URS summary profiles reports must be produced timely, and (2) Summary Profile Reports must contain required data and have internal consistency);

Element M—The capabilites of S/URS must be utilized to aid in program management and system improvement. (Illustrative Factors: (1) S/URS Management Summary Reports must be used in program evaluation and planning, and (2) Exception criteria must be adjusted to meet program needs.

Standard 7

Overall effectiveness in carrying out MMIS administrative responsibilities must be demonstrated.

Element N—Prudent and effective system management must be provided. (Illustrative Factors: (1) Effective oversight of fiscal agents and contractors must be demonstrated, and (2) Emergency backup facilities must be available);

Element O—Adequate internal system integrity and safeguards for information on recipients must be assured. (Illustrative Factors: (1) Appropriate administrative technical and physical system integrity safeguards must be established and utilized, and (2) The State must establish appropriate criteria for safeguarding, disclosing and distributing Medicaid information).

Impact on Small Businesses

Pub. L. 96–354, the Regulatory Flexibility Act, September 19, 1980, requires Federal agencies to prepare a regulatory flexibility analysis if proposed regulations and requirements would impact on small businesses or entities. The law applies if the the regulations or requirements impact on (1) "small businesses" as defined under section 3 of the Small Business Act; (2) not-for-profit enterprises independently owned and operated and not dominant in their fileds; and (3) government jurisdictions serving less than 50,000 persons. This notice does not affect any small entities or businesses, and thus no analysis is required.

The Secretary certifies, pursuant to Section 605(b) of the Regulatory Flexibility Act (P.L. 96–354), that the performance standards in this notice will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this notice does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

(Sections 1102, 1902(a)(4), 1903(a)(3), and 1903(r)(6) of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4), 1396b(a)(3), and 1396b(r)(6))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medical Assistance)

Dated: June 18, 1981.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 81-19126 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-35-M

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, July 30–31, 1981, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on July 30, from 9:00 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 30, from 9:30 a.m. to 5:00 p.m., and July 31, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property

such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

Dated: June 23, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-19152 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-08-M

Clinical Cancer Program Project and Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Cancer Program Project and Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee), National Cancer Institute, July 16-17, 1981, Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public on July 16, from 8:30 a.m. to 10:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 16, from 10:00 a.m. to 6:00 p.m., and on July 17 from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meetings and rosters of committee members, upon request.

Dr. Robert L. Manning, Executive Secretary, National Cancer Institute, Westwood Building, Room 803, National Institutes of Health, Bethesda, Maryland (301/496-7721) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: June 23, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-19149 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-08-M

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given to the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, July 10-11, 1981, Ramada Inn, Skyview Room, Bethesda, Maryland 20014.

This meeting will be open to the public on July 10, 1981 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 10, 1981 from approximately 9:30 AM until adjournment on July 11, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur Merrick, Executive Secretary, NHLBI, Westwood Building, Room 552, Bethesda, Maryland 20205, phone (301) 496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular).

[FR Doc. 81-19151 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-08-M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, July 10, 1981, Ramada Inn, Skyview Room, Bethesda, Maryland 20014.

This meeting will be open to the public on July 10, 1981, from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 10, 1981, from approximately 9:30 AM until adjournment on July 10, 1981 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, Bethesda, Maryland 20205, (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular)

Dated: June 23, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-19150 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service, Health Resources Administration

First-Year Student Enrollment Decreases for Health Professions Schools

The Department of Health and Human Services announces that schools of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, and veterinary medicine are permitted to decrease the first-year student enrollments that they assured as part of the conditions for receiving Health Professions Construction Grants, part B, Title VII, Public Health Service Act (42 U.S.C. 293 *et seq.*), if those enrollment figures are higher than the statutory requirements of the Act. Affected grantees wishing to decrease enrollments may do so with the 1981–82 entering classes.

No health professions schools may decrease enrollments below the statutory requirements of the contruction program. The affected schools will be notified individually of their statutory requirements.

Schools considering first-year enrollment decreases are reminded that eligibility for participation in the Health Education Assistance Loan Program, Section 727 *et seq.* of the Public Health Service Act, 42 U.S.C. 294 *et. seq.*, requires a determination that they have met the requirements for receipt of a Health Professions Capitation Grant. See Section 737(1) of the Public Health Service Act, 42 U.S.C. 294j.

Schools of public health accepting a fiscal year 1981 grant under the Health Professions Capitation Program may not decrease first-year enrollments in 1981–82 as eligibility for a capitation award required assurance of maintenance of entering class size at the 1980–81 level.

Both the Department and the National Advisory Council on Health Professions Education have specific concerns regarding the impact that decreases in first-year student enrollments might have on training opportunities for the disadvantaged. Schools are reminded of the commitments they made on this matter in their appoved applications for grants. This announcement does not alter those prior commitments.

This announcement will serve as an amendment to the approved applications, Notices of Grant Awards, and the Specifics of Grants pertaining to the number of first-year student enrollments.

Questions concerning this announcement should be directed to: Director, Bureau of Health Facilities, Health Resources Administration, PHS, Center Building, Room 5–22, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301–436–7700.

Dated: June 25, 1981.

Robert Graham,

Acting Administrator.

[FR Doc. 81-19016 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-83-M

Privacy Act of 1974

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Addition of a new routine use to a Privacy Act system of records, 09–35–0007, "Public Health Service Scholarship and National Health Service Corps Scholarship Progams," HHS/HRA/BHPr.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to add a new routine use ot the system of records for the Public Health Service Scholarship and National Health Service Corps (NHSC) Scholarship Programs. The new routine use will permit appropriate individuals outside of the Department to identify scholarship recipients for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation in health manpower shortage areas.

The Bureau of Health Professions in the Health Resources Administration, Department of Health and Human Services, originated this system of records. By direction of the Secretary, responsibility for the program was transferred from the Health Resources Administration to the Bureau of Health Personnel Development and Service in the Health Services Administration on November 25, 1980.

PHS invites interested persons to submit comments on the proposed routine use on or before July 30, 1981. The Health Services Administration, Bureau of Health Personnel Development and Service, will adopt the new routine use without further notice 30 days after the date of publication, unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments may be addressed to Daniel F. Whiteside, D.D.S., Director, Bureau of Health Personnel Development and Service, 5600 Fishers Lane, Parklawn Building, Rm. 6–17, Rockville, MD 20857. Comments received will be available for inspection weekdays at the same address, 8:30 A.M.—5:00 P.M..

FOR FURTHER INFORMATION CONTACT: Allan S. Noonan, M.D., Director, Division of Health Services Scholarships, Bureau of Health Personnel Development and Service, Health Services Administration, 3700 East-West Highway, Room G–15, Hyattsville, MD 20782. Telephone number: (301) 436–6788.

SUPPLEMENTARY INFORMATION: The new routine use will permit names, disciplines, current mailing addresses, and dates of graduation of scholarship recipients to be made available to designated coordinators at each school of medicine, osteopathy, and dentistry participating in the Scholarship Program for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation in health manpower shortage areas.

The NHSC has, through the contract mechanism, establish the Public Health Service Advocate Network whose goal is to better inform and prepare NHSC scholarship recipients regarding their futures with the Public Health Service and shortage area practice. The backbone of this Network is student and faculty advocates at each osteopathic, allopathic, and dental school in the country who develop locally relevant acclimation activities for scholarship recipients at their institutions. To date, either student or faculty advocates (or both) have been identified at 100 percent of medical institutions nationwide and at 85 percent of dental institutions. Experience demonstrates that volunteer advocates can be effective in making the NHSC a personal and tangible program to large numbers of scholarship recipients.

Advocates are specifically responsible for:

—Answering questions concerning the NHSC Scholarship Program;

—Disseminating information about practice options for NHSC Scholarship recipients in the Public Health Service;

—Promoting the development of local or regional student-run organizations whose purpose is to sponsor activities which respond to the acclimation needs of NHSC scholars;

—Encouraging students to begin preparing for practice in health underserved areas;

—Providing a forum which facilitates input to the NHSC Scholarship Program and the Public Health Service from students regarding their needs;

—Focusing student attention on community service rather than on the financial benefits of the Scholarship Program;

—Introducing students to the NHSC Preceptorship Program, the Indian Health Service Physician Clerkship Program, the Dental COSTEP (Commissioned Officer Student Training and Extern Program), other experiential learning opportunities, and educational materials which will contribute to students taking responsibility for their own acclimation and learning process.

A problem confronting many advocates is the difficulty in obtaining names of other scholarship recipients at their schools. The provisions of the Privacy Act prevent the Scholarship Program from releasing the names of awardees without prior approval. Since the Scholarship Program is charged with responsibilities to inform, orient, advise, and monitor scholarship recipients throughout the term of their schooling and residency training, the routine use proposed will further implement these responsibilities through the Public Health Service Advocate Network and, is therefore deemed compatible with the published purpose of the system of records as a whole.

The system notice was last published in the **Federal Register** on December 22, 1980, p. 84532, and is republished in its entirety below to incorporate the proposed new routine use. Additional changes to reflect the organizational transfer from the Health Resources Administration to the Health Services Administration and to reflet current policy requirements will be made in the Department's forthcoming 1981 annual publication of Privacy Act system notices.

Dated: June 23, 1981.

Jack N. Markowitz,

Acting Director, Office of Management.

09-35-0007

SYSTEM NAME:

Public Health Service Scholarship and National Health Service Corps Scholarship Program. HHS/HRA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Health Professions Training Support
Center Building
Room G-17
3700 East-West Highway
Hyattsville, Maryland 20782

Division of Computer Research and Technology, NIH Building 12
9000 Rockville Pike
Bethesda, Md 20205

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and recipients of Public Health Service and National Health Service Corps/Scholarships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application and associated forms: recipient records contain progress reports, payroll forms, deferment and placement data, and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 92-385, and 42 U.S.C. 294t (section 751, PHS Act)

PURPOSE(S):

To select and monitor scholarship recipients. After award, the Health Resources Administration, the Health Services Administration and the Department's Central Payroll use the records for payment, tracking, deferment of service obligation, default, placement and claims determination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Names, disciplines, current mailing addresses, and dates of graduation of scholarship recipients are to be made available to designated coordinators at each school of medicine, osteopathy, and dentistry participating in the Scholarship Program for the purpose of guiding and informing these recipients about the nature of their forthcoming professional service obligation in health manpower shortage areas.

Name of scholarship recipient, professional school he or she is attending, and date of graduation are made available to health professions associations and other interested health professions groups which have responsibility for coordinating funds paid to students from Federal and other sources.

A record may be disclosed for a research purpose, when the Department:

(a) has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring.

(c) has required the recipient to—(1) establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy, the information that identifies, the individual at the earliest time at which removal or destination can be accomplished consistent with the purpose of the research project, unless the receipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law;

(d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may diclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or partucular program statute, or by

regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and magnetic tapes.

RETRIEVABILITY:

Name, Award No., University, or Social Security Number.

SAFEGUARDS:

Locked file units, 24 hour guard service, locked computer room and tape valut, password protection of automated records, personnel screening and limited access to only authorized personnel. (Safeguards are in accordance with Part 6, ADP Systems Security, of the Department's ADP Systems Manual, and Chapter 45–13, Safeguarding Records Contained in Systems of Records, of the Department's General Administration Manual.)

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the Records Control Schedule of the Health Resources Administration. Contact the System Manager for the disposal standard.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Health Services Scholarship Branch/Division of Health Professions Training Support
Center Building
Room G–17
3700 East-West Highway
Hyattsville, Maryland 20782

NOTIFICATION PROCEDURE:

To determine if a record exists, contact the System Manager.

RECORD ACCESS PROCEDURES:

Contact the System Manager and give a reasonable description of the record.

CONTESTING RECORD PROCEDURES:

Contact the System Manager giving a reasonable description of the record, specify the information you want to contest, and state the corrective action sought.

RECORD SOURCE CATEGORIES:

Evaluation forms from school faculty at the request of the student applicant
Educational institution attended
Internship and/or residency training site
Health Services Administration Commissioned Personnel Operations Division Office of Personnel Management/OASH

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 81-19157 Filed 6-29-81; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

June 9, 1981.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Potawatomi Indians of Indiana and Michigan, Inc., c/o Mr. Joseph R. Winchester, R.R. 6, Box 526, Dowagiac, Michigan 49047, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on May 5. The petition was forwarded and signed by Mr. Joseph R. Winchester.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined, by appointment, in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20242.

Roy H. Sampsel,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 81-19125 Filed 6-29-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[NM 10827]

New Mexico; Termination of Disposal Classification

June 19, 1981.

1. By Order of the New Mexico Sate Director, Bureau of Land Management, which was published in the **Federal Register** on April 16, 1970 (35 FR Doc. 70–4019), the following described public land was classified for disposal through exchange pursuant to Section 2 of the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1412):

New Mexico Principal Meridian

T. 12 N., R. 9 E.,
Sec. 3, W½ of lot 2 of NW¼ (NW¼NW¼);
Sec. 4, lot 2 of NE¼ (N½NE¼), E½ lot 1 of NE¼ (SE¼NE¼), W½ lot 1 of NW¼ (SW¼NW¼), and SE¼SW¼;
Sec. 10, W½SW¼;
Sec. 13, lots 1, 2, SE¼SE¼;
Sec. 24, NE¼.
T. 12 N., R. 10 E.,
Sec. 18, lots 1 and 2;
Sec. 19, lot 1.

The area described contains 652.54 acres in Santa Fe County, New Mexico.

2. The above described public land has been eliminated from any exchange proposal; accordingly, pursuant to 43 CFR 2461.5(c)(2), the classification is terminated (date of publication).

3. At 10:00 a.m., on August 10, 1981 the above described public land will be relieved of the segregative effect of the above mentioned classification order.

Leroy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81-19131 Filed 6-29-81; 8:45 am]

BILLING CODE 4310-84-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 19, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluations may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by July 15, 1981.

Carol Shull,

Chief, Registration Branch.

MONTANA

One Room Schoolhouses of Gallatin County Thematic Resources. Reference—see individual listings under Gallatin County.

Gallatin County

Belgrade vicinity, *Pass Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade
Belgrade vicinity, *Reese Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade
Belgrade vicinity, *Sedan School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade
Belgrade vicinity, *Springhill School (One Room Schoolhouses of Gallatin County Thematic Resources)* NE of Belgrade
Bozeman vicinity, *Lower Bridger School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Bozeman
Bozeman vicinity, *Malmborg School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Bozeman
Bozeman vicinity, *Pine Butte School (One Room Schoolhouses of Gallatin County Thematic Resources)* W of Bozeman
Bozeman vicinity, *Rea School (One Room Schoolhouses of Gallatin County Thematic Resources)* W of Bozeman
Gallatin Gateway vicinity, *Anderson School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Gallatin Gateway
Gallatin Gateway vicinity, *Cottonwood School (One Room Schoolhouses of Gallatin County Thematic Resources)* SE of Gallatin Gateway
Gallatin Gateway vicinity, *Spanish Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* NW of Gallatin Gateway
Manhattan vicinity, *Dry Creek School (One Room Schoolhouses of Gallatin County Thematic Resources)* E of Manhattan
Trident, *Trident School (One Room Schoolhouses of Gallatin County Thematic Resources)*

Silver Bow County

Butte, *Silver Bow County Poor Farm Hospital,* 3040 Continental Dr.

WISCONSIN

Polk County

St. Croix Falls vicinity, *Dalles Bluff Site (47PK67)* S of St. Croix Falls

[FR Doc 81-18907 Filed 6-29-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 110]

Motor Carrier; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 24, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

FF-397 (Sub-1)X, filed June 16, 1981. Applicant: JAPAN LINE, LTD., 700 South Flower St., Suite 2900, Los Angeles, CA 90017. Representative: David J. Marchant, Graham & James, One Maritime Plaza, San Francisco, CA 94111. Applicant seeks to remove restrictions in permit No. FF-397 which limit service to transportation of containers having an immediately prior movement by water and which are loaded outside the U.S. by applicant in through intact movements to a described portion of IL.

MC 5296 (Sub-1)X, filed June 16, 1981. Applicant: LACY'S EXPRESS, INC., P.O. Box 369, Pendricktown, NJ 08069. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Applicant seeks to remove restrictions from its certificate No. MC-1769 acquired pursuant to No. MC-FC 78766 to (1) broaden the commodity description from (a) felt base carpeting, felt base and linoleum carpets, mats and rugs and linoleum paste to "floor coverings"; (b) lumber and piling, blue slate powder, fire clay and fire, brick, calcite grit, and composition wall covering to "building materials"; and (c) empty oil containers and glass containers to "containers"; and (2) authorize radial service in lieu of existing one-way authority and substitute county-wide authority in place of named cities as follows: between New Castle County (Newport and Wilmington), DE, Cecil and Harford County (Elkton and Whiteford), MD, and Salem, Cumberland, and Gloucester Counties (Salem, Cumberland County, and Gloucester City) NJ, and various eastern States and specified points; and from its lead certificate No. MC-5296 to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives)"; and (2) expand city to county-wide authority from Salem to Salem County, NJ.

MC 40456 (Sub-17)X, filed June 19, 1981. Applicant: JOHN BENKART & SONS CO., 2500 N. Charles St., Pittsburgh, PA 15214. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead certificate and Sub-No. E-1 letter-notice to: (1) broaden its commodity description in its lead (a) from heavy machinery, construction, coal-mine, and oil-and-gas-field equipment to "machinery," and (b) from structural steel, iron and steel pipe and reinforcing steel to "metal products"; (2) rephrase its size and weight commodity descriptions in its lead and Sub-No. E-1 to read "those commodities which because of their size or weight require the use of special handling or equipment"; and (3) broaden the territorial descriptions in its lead and Sub-No. E-1 from Atlantic City, NJ, to "Atlantic County, NJ," and from points in New Jersey within 30 miles of New York, NY, to "points in Ocean, Monmouth, Mercer, Hunterdon, Somerset, Middlesex, Union, Essex, Hudson, Bergen, Passaic, and Morris Counties, NJ."

MC 46054 (Sub-85)X, filed June 8, 1981. Applicant: BROWN EXPRESS, INC., P.O. Box 9244, San Antonio, TX 78204. Representative: Jack Dawson (same as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 53, 55, 56, 57, 59, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 75, and 78 certificates to (A) broaden the commodity descriptions to (1) "general commodities" in the lead (parts 1, 2, 3, 4, 5, and 6) and Sub-Nos. 55, 56, 57, 59, 63, 64, 74, and 75, from general commodities, with exceptions; (2) "general commodities (except classes

A and B explosives)" in the lead (part 7) and Sub-Nos. 53, 62, 68, 69, 70, 71, and 78, from general commodities, with exceptions but including explosives; and (3) "chemicals and related products" in Sub-Nos. 67 and 72, from carbon black; (B) remove restrictions (1) against service at intermediate points in lead certificate routes between (a) Port of Brownsville, TX and Brownsville, TX, (b) Corpus Christi, TX and Flour Bluff Naval Base, TX, (c) Corpus Christi, TX and Chapman Ranch, TX, (d) San Antonio, TX and Camp Bullis, TX, (e) San Antonio, TX and Camp Stanley, TX, (f) Dallas, TX and Fort Worth, TX, (g) Dallas, TX and Hillsboro, TX, (h) Fort Worth, TX and Alvarado, TX, (i) Fort Worth, TX and Consolidated Vultee Aircraft Corp. Plant, TX, (j) Fort Worth, TX and Globe Aircraft Corporation Plant, TX, (k) Sealy, TX and San Antonio, TX, (l) Victoria, TX and Beeville, TX, (m) Refugio, TX and Beeville, TX, (n) Kingsville, TX and Naval Air Station P–4, TX, (o) Waco, TX and North Camp Hood, TX, (p) San Antonio, TX and Randolph Field, TX, (q) Webb, TX and Catarina, TX, (r) Dilley, TX and Carrizo Springs, TX, (s) Dilley, TX and Crystal City, TX, (t) Alice, TX and Freer, TX (two routes), (u) San Marcos, TX and Karnes City, TX, (v) Fort Worth, TX and Houston, TX, (w) Taylor, TX and Bastrop, TX, (x) Austin, TX and Union Potash & Chemical Plant, TX, (y) Belton, TX and Camp Hood, TX, (z) Temple, TX and Waco, TX, (aa) Houston, TX and Robstown, TX, (bb) Houston, TX and Austin, TX, (cc) Smithville, TX and Lockhart, TX, (dd) Bastrop, TX and Lockhart, TX, (ee) Austin, TX and San Marcos, TX, (ff) Corpus Christi, TX and junction TX Hwy. 9 and U.S. Hwy. 281; in Sub-No. 53 route between Belton, TX and junction TX Hwy. 317 and TX Hwy. 36; in Sub-No. 57 route between Freer, TX and Laredo, TX; in Sub-No. 67 route between Kosmos, TX and Gregory, TX; in Sub-No. 68 routes between Cameron, TX and Victoria, TX and between Kenedy, TX and Goliad, TX; (2) in lead (a) that limits service at intermediate points in the route between San Antonio, TX and Pharr, TX to those points between Alice, TX and Pharr, TX and then only on Southbound traffic, and between Georgewest, TX and Pharr, TX, not including Georgewest, TX and then only on Northbound traffic, and (b) against service at Brenham, TX on route between Bellville, TX and Temple, TX; in Sub-No. 53(a) against service at Elgin, TX and at intermediate points on route between Austin, TX and Elgin, TX, (b) at Hungerford, TX and at intermediate points on route between Sealy, TX and Hungerford, TX, and (c) at Benavides, TX and Hebbronville, TX, and at all intermediate points on route between Benavides, TX and Hebbronville TX; in Sub-No. 56 against service at La Porte, TX as a Houston, TX Commercial Zone point; in Sub-No. 59 against service at a plantsite approximately three miles north of Fort Worth, TX as Fort Worth, TX Commercial Zone off-route points; in Sub-No 71 against service at Ennis, TX except for the purpose of joinder and (3) in lead the restriction "that service authorized over this route is subject to the condition that no traffic shall be transported which moves between San Antonio and Beeville" from the route between San Antonio, TX and Beeville, TX; in Sub-No. 72, the restriction "restricted to the transportation of carbon black moving from the said plant to Houston, TX, and points beyond, in connection with carrier's authorized regular route operations between the plant site and Houston", from the route between Kosmos, TX and Ganado, TX, and (C) broaden authority in connection with service at off-route points of Ingleside, Gregory, Abram, Hidalgo, Los Ebanos, La Grulla, Ojo de Aqua, Penitas, Progreso, Santa Maria, Brownsville Airport, Port of Brownsville, Hargill, La Paloma, Sa Sara, Los Indios, Rangerville, Engleman Gardens and San Perlita, TX to Cameron, Hidalgo, Starr and Willacy Counties in lead; Seven Sisters, Christine and Moore Field, TX to Duval, Atascosa and Hidalgo Counties in Sub-No. 53; Carbide and Carbon Chemical Co. at North Seadrift, TX to Calhoun County in Sub-No. 62; Lon Hill, TX to Nueces County in Sub-No. 63; Site of Canyon Dam, TX to Comal County in Sub-No. 74; and the Sites of Nike Launching Bases near Austin, TX to Travis County in Sub-No. 75.

MC 48958 (Sub-220)X, filed June 5, 1981. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189. Applicant seeks to remove restrictions in its Sub-Nos. 219X, 22, 28, 29, 31, 35, 37, 45, 46, 52, 53, 54, 56, 57, 61, 67, 69, 70, 72, 74, 75, 77, 79, 80, 82, 86, 91, 92, 93, 95, 97, 98, 100, 104, 108, 109, 111, 112, 113, 115, 117, 121, 127, 128, 129, 130, 136, 137, 139, 141, 142, 150, 160F, 188F, 193F, 195F, 202F, 209F, 211F, and 216X certificates to (A) remove all exceptions in its general commodity authorities, in all certificates, except the "classes A and B explosives" or "dangerous explosives" restriction in portions of Sub-No. 219X, and Sub-Nos. 22, 28, 29, 31, 35, 56, 57, 61, 67, 69, 70, 72, 74, 75, 77, 79, 80, 82, 86, 91, 92, 93, 95, 98, 100, 104, 108, 109, 111, 113, 115, 117, 127, 128, 129, 130, 136, 137, 139, 141, 142, 150, 160F, 188F, 193F, 195F, 202F, 209F, 211F and 216X; (B) remove all exceptions from general commodities descriptions, which authorize transportation of classes A & B explosives in Sub-No. 219X pages 10, 11, 12 and 13; (C) remove the restriction which authorizes service at specified intermediate points, to authorize service at all intermediate points on its described regular routes (1) in Sub-No. 219X page 9, between Armarillo, TX and Dallas, TX; and (2) in Sub-No. 209F, (a) between Cheyenne, WY and Sacramento, CA, and (b) between Denver, CO and Salt Lake City, UT; (D) remove the "joinder only" restriction, in Sub-No. 219X pages 14, 18 and 20; (E) remove the restriction limiting service to the transportation of traffic via Santa Fe, NM, in Sub-No. 219X page 24; (F) expand described portions of named counties to authorize off-route point service at all points in the named counties, in Sub-No. 219X pages 29, 30 and 31 and Sub-No. 129; (G) remove the "southbound traffic only" restriction, in Sub-No. 136; (H) remove the restriction prohibiting the transportation of traffic or specified commodities moving between from, to or through named points in Sub-No. 219X pages 4, 7, 9, 12, 16, 19, and Sub-Nos. 54, 61, 77 and 82; (I) remove the "commodities in bulk" restriction, in Sub-No. 93; (J) remove the "originating at and/or destined to" restriction in Sub-No. 219X pages 7, 8, 24 and 36 and Sub-Nos. 92 and 108; (K) remove the interlining restriction, in Sub-No. 219X pages 7 and 12; (L) authorize two-way authority to replace existing one-way service between Springerville, AZ and Los Angeles Harbor, CA, in Sub-No. 219X, the regular route portion, page 5; and (M) authorize radial authority to replace existing one-way service between points in NE, IL, IA, CO, KS, IN and OH, in Sub-No. 219X, the irregular route portion, pages 6 and 38.

MC 67361 (Sub-9)X, filed June 8, 1981. Applicant: GENERAL ROAD TRUCKING CORPORATION, 99 Mauran Avenue, East Providence, RI 02914. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove the restrictions in its lead and Sub-Nos. 3, 4, 6, and 8 certificates to (1) broaden the commodity descriptions in the lead, from road building materials to "petroleum, natural gas and their products, ores and minerals, coal and coal products, clay, concrete, glass or stone products, metal products, and machinery"; from solid fuel to "coal and coal products and lumber and wood

products"; from road building machinery to "machinery"; from such bulk commodities as are usually transported in dump trucks to "commodities in bulk"; in Sub-Nos. 3 and 4, from coke to "coal and coal products"; in sub-No. 6, from liquid petroleum products to "petroleum, natural gas, and their products"; and in Sub-No. 8, from salt to "chemicals and related products"; (2) broaden the points of Seekonk, MA to Bristol County, MA; Providence, RI to Providence, Kent, Washington, and Bristol Counties, RI, and Bristol County, MA; Attleboro and Norton, MA, to Bristol County, MA; Oneco, CT, to Windham County, CT; Upton, MA, to Worcester County, MA; and Woonsocket, North Smithfield and East Providence, RI, to Providence, Washington, and Bristol Counties, RI, and Bristol County, MA; (3) remove the bulk, in dump vehicles restrictions where they appear; (4) authorize radial service in lieu of one way authority between specified points located throughout portions of the New England States; and (5) authorize intermediate point service in Sub-No. 6, between Providence, RI, and Worcester, MA.

MC 73165 (Sub-549)X, filed May 27, 1981. Applicant: EAGLE MOTOR LINES, INC., 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: Roger E. Crum (same address as applicant). Applicant seeks to remove restrictions in its Sub-Nos. 343G, 344G, 369, 370, 371, 373, 375, 380, 382, 384, 388, 391, 393, 396, 397, 398, 399, 400, 402, 403, 405, 406, 408, 410, 412, 413, 414, 416, 419, 421, 426, 428F, 431F, 432F, 433F, 436F, 439F, 440F, 442F, 443F, 444F, 447F, 449F, 451F, 453F, 455F, 458F, 459F, 460F, 463F, 465F, 466F, 467F, 468F, 469F, 470F, 471F, 474F, 475F, 476F, 477F, 479F, 480F, 483F, 484F, 485F, 488F, 489F, 490F, 491F, 493F, 496F, 497F, 499F, 500F, 502F, 504F, 505F, 506F, 507F, 508F, 509F, 510F, 512F, 513F, 514F, 515F, 517F, 519F, 520F, 522F, 523F, 525F, 533F, 535F, 540F, 542F, 543F, and 544F certificates to (A) broaden the commodity descriptions from (1) iron and steel articles, iron and steel, iron and steel pipe, pipe fittings, cast iron pipe and fittings, pipe valves, cast iron and brass valves and components and cast iron fire hydrants, iron and steel valves, gaskets, cast iron pressure pipe, cast iron soil pipe and structural steel, pipe and pipe fittings, cast iron meter boxes, manhole frames, manhole covers, tubing, aluminum articles, iron and steel sidewalk and footing grating, zinc, zinc products, and materials and supplies used in the manufacture and distribution of zinc and zinc products, iron and steel fittings, aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate, and aluminum industrial foil, steel tubing, zinc alloy, steel strip and cold rolled steel, steel decking and steel coils, iron or steel wire and steel cable, steel bars and materials, equipment and supplies used in the manufacture and distribution of steel bars, non ferrous metal, metal fencing and wire and wire mesh, and parts accessories and attachments, and metal articles to "metal products" in Sub-Nos. 343G, 344G, 369, 370, 391, 396, 410, 419, 421, 436F, 442F, 444F, 447F, 449F, 451F, 455F, 463F, 466F, 468F, 474F, 479F, 480F, 484F, 490F, 496F, 502F, 505F, 507F, 509F, 510F, 514F, and 523F; (2) iron and steel, and iron and steel articles, structural steel, and iron and steel pipe, which requires special equipment, restricted so, that or provided that, the loading and/or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both to "metal products and commodities, the transportation of which, because of their size or weight, require the use of special equipment or handling" in Sub-No. 343F; (3) asphalt, in containers (except petroleum products in collapsible C&S containers such as sealdtanks and sealddrums) to "petroleum and coal products", and glass containers (except those requiring special equipment, those of unusual value, and household goods as defined by the Commission) to "clay, concrete, glass or stone products" in Sub-No. 344F; (4) incinerators, dust control systems, and blow pipe systems and accessories to "equipment for heating, cooling, humidifying, dehumidifying, or moving air, gas or liquid, pollution control equipment, and metal products" in Sub-No. 371; (5) solid waste collection systems, materials, supplies and parts, used in the manufacture, assembly and servicing to "pollution control equipment" in Sub-No. 373; (6) plastic pipe, plastic pipe fittings, and conduits, connections, valves and materials and supplies used in the installation or manufacture, to "rubber and plastic products" in Sub-Nos. 375, 433F and 477F; (7) crossties, lumber and poles to "lumber and wood products" in Sub-Nos. 380 and 493F; (8) evaporators, filters, dryers, flakers, boilers, extractors, clarifiers, aerators, separators, pumps and furnaces, parts and accessories, overhead material handling equipment, heat exchangers, crystallizers, centrifuges, pulpwashers, and spray and rotary dryers, parts and accesssories to "machinery and related supplies, and equipment for heating, cooling humidifying, dehumidifying, or moving air, gas or liquids" in Sub-Nos. 382 and 398; (9) air pollution control equipment, and fans, fanwheels, and pollution control equipment to "machinery and related supplies, and pollution control equipment" in Sub-Nos. 388 and 399; (10) tractors with or without attachments (except tractors used for pulling highway trailers), lift trucks, excavators, motor graders, scrapers, engines combined, road rollers, pipe layers, dump trucks, with or without bodies designed for off-highway use, parts, attachments, and accessories, self-propelled tractors, materials, equipment and supplies, rock crusher equipment, mining equipment attachments and parts, compressors, rotary drills, and component parts of compressors and rotary drills, drilling and mining machinery and equipment and component parts, materials and supplies, transporting machinery and equipment used in the wood products and forestry industries, aircraft engines, and parts for aircraft engines, machinery, equipment and supplies, materials, accessories and parts for machinery, material handling equipment, parts, attachments and accessories, and materials, equipment and supplies used in the manufacture and distribution to "machinery and related supplies" in Sub-Nos. 393, 400, 403, 412, 428F, 431F, 483F, 499F, 504F, and 525F; (11) cooling towers, and accessories, material and supplies used for cooling towers, heat exchangers and equalizers, heating, cooling, conditioning, humidifying, dehumidifying, and air and liquid moving equipment, parts attachments, and accessories for use in the installation and operating, and condensers to "equipment for heating, cooling, moving, humidifying or dehumidifying of air, gas, or liquids" in Sub-Nos. 397, 453F, and 465F; (12) pressure tanks to "machinery and related supplies, and commodities, the transportation of which, because of their size or weight, require the use of special equipment or handling" in Sub-No. 402; (13) plywood, paneling, gypsumboard, composition board, molding, building board, wallboards, insulating boards, and building woodwork to "lumber and wood products, and building materials" in Sub-Nos. 405 and 475F; (14) aluminum and aluminum articles, materials, equipment, machinery and supplies used in the manufacture, and steel piling, and pile-driving equipment to "metal products and machinery and related supplies" in Sub-Nos. 406 and 432F; (15) roofing and roofing materials to "building materials" in Sub-No. 408; (16) iron, steel, zinc, lead, and articles or products thereof, springs, and construction materials and supplies and equipment, and materials supplies and

equipment used in the manufacture and distribution to "metal products, and building materials and equipment" in Sub-No. 413; (17) iron and steel articles and scrap metals to "metal products and scrap" in Sub-No. 414; (18) trailer converter dollies, packers, refuse compactors, cargo containers, refuse containers, storage containers, material handling equipment and parts, and materials, supplies and parts used in the manufacture, assembly, and servicing to "transportation equipment, machinery and related supplies, and containers" in Sub-No. 416; (19) aluminum, and aluminum articles, copper and copper articles, zinc ingots, slabs, and dust, waste and scrap materials to "metal and metal products, and waste or scrap materials" in Sub-No. 439F; (20) iron and steel articles, and air pollution control equipment, to "metal products, and pollution control equipment" in Sub-No. 443F; (21) material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers, and parts, attachments and accessories to "machinery and related supplies, and transportation equipment in Sub-No. 458F; (22) equipment, attachments, accessories, and supplies for equipment and materials, equipment and supplies used in the manufacture and distribution thereof to "machinery and related supplies" in Sub-No. 459F; (23) prefabricated metal building panels, metal building sections, and metal structural components, and accessories to "metal products, and buildings, knocked down, set-up or in sections" in Sub-No. 467F; (24) tractors to "machinery" in Sub-No. 469F; (25) buildings, complete, knocked-down, or in sections, building sections, and building panels, and parts accessories used in the installation and erection there of to "buildings, knocked-down, set-up or in sections, and parts thereof" in Sub-No. 471F; (26) plywood (except paneling), panelings, particleboard, hardboard, gypsum board, and composition and moulding, to "lumber or wood products and gypsum board" in Sub-No. 476F; (27) activated sodium silicate to "chemicals and related products" in Sub-No. 489F; (28) ventilators, ventilator parts, air louvers, pre-fabricated building parts, and accessories used in the installation to "metal products, and building materials and parts" in Sub-No. 491F; (29) iron and steel articles, nuts, bolts and scrap metals, materials, supplies and equipment used in their manufacture, and aluminum and aluminum products, equipment, materials, and supplies used in their manufacture and distribution to "metal products and equipment, materials and supplies used in their manufacture and distribution", in Sub-Nos. 497F and 517F; (30) buildings, building panels, building, parts and materials, accessories and supplies used in their installation and construction to "buildings (knocked-down, set-up, or in sections), building panels, building parts and materials" in Sub-No. 500F; (31) iron and steel articles, aluminum articles, mining equipment, and parts, attachments and accessories for mining equipment, air pollution and control systems, and materials and supplies used in their manufacture and distribution to "metal products, machinery and related supplies, and air pollution and control systems" in Sub-No. 506F; (32) commodities, the transportation of which, because of their size or weight, requires the use of special equipment or handling, self-propelled articles, material-handling equipment, and materials, parts, accessories, and supplies used in their manufacture and distribution to "commodities the transportation of which, because of their size or weight, require the use of special equipment or handling, self-propelled articles, and machinery and related supplies" in Sub-No. 512F; (33) iron and steel articles, pipe, valves, hydrants, fittings and accessories therefor, and materials, machinery, equipment, and supplies used in the manufacture and distribution thereof to "metal products and pipe, valves, hydrants, fittings and accessories therefor" in Sub-No. 515F; (34) tractors to "machinery and related supplies, and self-propelled articles" in Sub-No. 522F; (35) commodities, the transportation of which, because of their size or weight require the use of special equipment or handling, machinery and machinery parts, metal articles, and materials and supplies used in their manufacture to "commodities, the transportation of which, because of their size or weight, require the use of special equipment or handling, machinery and related supplies, and metal products" in Sub-No. 533F; and (36) paper and paper products to "pulp, paper and related products" in Sub-No. 535F; (B) expand city to county-wide authority from: Louisville to Jefferson County, KY, Harriman to Roan County, TN, Martins Ferry and Coshocton to Belmont and Coshocton Counties, OH, Bensenville to DuPage County, IL, Joplin to Jasper County, MO, Chattanooga to Hamilton County, TN, and Baton Rouge and New Orleans to East Baton Rouge and Orleans Parish, LA, in Sub-No. 343G; Memphis to Shelby County, TN, in Sub-Nos. 343G, 344G, and 510F; Corpus Christi to Nueces County, TX, in Sub-No. 370; Eads to Shelby County, TN, in Sub-Nos. 371 and 375; Fort Payne to DeKalb County, AL, in Sub-No. 373; Birminghamn to Jeffeson County, AL in Sub-Nos. 382 and 384; Mathinson to Webster County, MS, in Sub-No. 388; Houston to Harris County, TX, in Sub-Nos. 391–489F; Avinger to Cass County, TX, in Sub-No. 396; Tulsa to Tulsa County, OK, in Sub-No. 397; Attalla to Etowah County, AL, in Sub-No. 398; Anniston, Leeds, and Gunterville to Calhoun, Jefferson, and Marshall Counties, AL, in Sub-No. 399; Wharton to Wharton County, TX, in Sub-No. 400; Vicksburg to Warren County, MS, in Sub-No. 402; Jacksonville to Duval County, FL, in Sub-Nos. 405, 431F, and 432F; Stephens and East Camden to Quachita County, AR, in Sub-No. 408; Oswego to Oswego County, NY, Warren to Trumbull County, OH, and Fairmont to Marion County, WV, in Sub-No. 410; Orange Park to Clay County, FL, in Sub-No. 412; Kokomo, Ft. Wayne, Cicero, and Elkhart to Howard, Allen, Hamilton, Elkhart Counties, IN, Centerville, to Appanoose County, IA, Joliet and Blue Island to Will and Cook Counties, IL, Jackson to Hinds County, MS, Lansing and Grand Rapids to Ingham and Kent Counties, MI, and Toledo and Columbus to Lucas and Franklin Counties, OH, in Sub-No. 413; Darlington to Darlington County, SC, in Sub-No. 414; Vernon to Lamar County, AL, in Sub-No. 416; La Vergne to Rutherford County, TN, in Sub-No. 419; Savannah to Chatham County, GA, in Sub-No. 421; Beaumont to Jeffeson County, TX, in Sub-No. 426; Franklin to Luzerne County, PA, in Sub-No. 428F; East Point to Fulton County, GA, in Sub-No. 439F; Sparrows Point to Baltimore County, MD, in Sub-No. 442F; Cleveland to Cuyahoga County, OH, in Sub-No. 443F; Neville Island to Allegheny County, PA, in Sub-No. 444F; Scottsboro to Jackson County, AL, in Sub-No. 447F; Canfield, Yorkville, Martins Ferry, Steubenville, and Mingo Junction to Mahoning, Belmont and Jefferson Counties, OH, in Sub-No. 449F; Little Rock to Pulaski County, AR, in Sub-No. 451F; Danville and Kewanee to Vermilion and Henry Counties, IL, Crawfordsville to Montgomery County, IN, and Berea to Madison County, KY, in Sub-No. 458F; Manitowoc and Sturgeon Bay to Manitowoc and Door Counties, WI, in Sub-No. 459F; Plum to Fayette County, TX, in Sub-No. 463F; Paxton to Ford County, IL, in Sub-No. 465F; Jemison to Chilton County, AL, and Stafford to Fort Bend County, TX, in Sub-No. 467F; Quakertown to Bucks County, PA, in Sub-No. 468F; Romeo to

Macomb County, MI, in Sub-No. 469F; Hillsboro to Hill County, TX, in Sub-No. 470F; Perkasie to Bucks County, PA, in Sub-No. 474F;

Corona to Riverside County, CA, in Sub-No. 475F; Jasper to Hamilton County, FL, and Valdosta to Lowndes County, GA, in Sub-No. 476; Valley View to Jefferson County, OH, and Bakersfield, Sun Valley and Santa Ana to Kern, Los Angeles, and Orange Counties, CA, in Sub-No. 477; Jacksonville and Sanderson to Duval and Baker Counties, FL, in Sub-No. 480F; Millville to Cumberland County, NJ, in Sub-No. 483F; Phillipsburg to Warren County, NJ, in Sub-No. 484F; Sarasota to Sarasota County, FL, in Sub-No. 485F; Hartselle to Morgan County, AL, in Sub-No. 488F; Baton Rouge to East Baton Rouge Parish, LA, Hammond to Lake County, IN, and Port Neches to Jefferson County, TX, in Sub-No. 489; New Orleans to Orleans Parish, LA, in Sub-No. 490F; Batavia to Clermont County, OH, in Sub-No. 491F; Florence to Florence County, SC, in Sub-No. 493F; Atlanta and Cartesville to Fulton and Bartow Counties, GA, in Sub-No. 496F; San Marcos to Hays County, TX, in Sub-No. 500f; Atco to Camden County, NJ, Gulfport to Harrison County, MS, Wilton to Muscatine County, IA, and Wichita to Sedgwick County, KS, in Sub-No. 502F; Pennsauken to Camden County, NJ, in Sub-No. 504F; Nashville to Davidson County, TN, in Sub-No. 507F; Tyler to Smith County, TX, in Sub-No. 508F; Brilliant, OH, and Leeds, AL, to Jefferson County, OH, and Jefferson County, AL, in Sub-No. 509F; Charlotte to Mecklenburg County, NC, in Sub-No. 514F; South Fulton to Obion County, TN, in Sub-No. 515F, Walnut Grove and Youngstown to McDonough and Warren Counties, IL, and Picher and Commerce to Ottawa County, OK, in Sub-No. 540F; Foxburg and Parker to Clarion and Armstrong Counties, PA, in Sub-No. 524F; and Herscher to Kankakee County, IL, in Sub-No. 543F; (C) change one-way to radial authority between numerous points throughout the U.S.; (D) eliminate the facilities limitations in Sub-Nos. 343G, 344G, 370, 371, 382, 384, 388, 393, 396, 397, 398, 399, 400, 402, 403, 405, 406, 408, 410, 413, 414, 416, 419, 426, 436F, 439F, 440F, 442F, 443F, 447F, 449F, 451F, 453F, 458F, 459F, 460F, 463F, 465F, 466F, 467F, 468F, 469F, 470F, 471F, 475F, 476F, 477F, 480F, 485F, 488F, 493F, 496F, 500F, 502F, 507F, 508F, 509F, 510F, 514F, 515F, and 517F; (E) remove the restrictions (1) except pipe, pipeline material, machinery, equipment, and supplies incidental to, and used in connection with, the construction, dismantling, and repairing of pipelines, and except buildings prefabricated or in sections; except commodities used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products in Sub-No. 343G; (2) limiting to or excepting size and weight commodities in Sub-Nos. 343G, 344G, 391, and 412; except iron and steel buildings complete, knocked-down, or in sections in Sub-Nos. 343G and 391; (4) except commodities in bulk, and those requiring special equipment in Sub-Nos. 343G,. 344G, and 416; (5) to equipment, materials and supplies used in the manufacture of mobile homes, material handling equipment, and equipment, materials and supplies used in the manufacture of material handling equipment, and part, attachments and accessories used in connection with the commodities described above, and against service to New Orleans, LA, in Sub-No. 344G; (6) against service to (a) AK and HI in Sub-Nos. 344G, 373, 375, 384, 396, 398, 402, 412, 416, 426, 433F, 443F, 451F, 463F, 468F, 470F, 475F, 477F, 480F, 488F, 489F, 490F, 497F, 499F, 500F, 502F, 504F, 505F, 506F, 507F, 508F, 509F, 510F, 514F, 515F, 517F, 523F, 525F, 533F, and 535F; (b) AK, HI, and TX in Sub-Nos. 370, 344G and 400; (c) TN in Sub-No. 371; (d) AK, HI, and MS in Sub-No. 388; (e) AK, HI and OK in Sub-No. 397; (f) AK, HI and SC in Sub-No. 403; (g) Louisville, KY, in Sub-Nos. 343G and 391; (h) points in TN in Sub-No. 436F; (i) points in MD in Sub-No. 442F; (j) AK, HI and FL in Sub-No. 431F and 432F; (k) AK, HI and PA in Sub-No. 444F; and (l) HI in Sub-No. 483F; (7) except in bulk, in tank vehicles in Sub-No. 370; (8) except commodities in bulk in Sub-No. 373, 384, 397, 399, 406, 412, 413, 433F, 436F, 439F, 458F, 459F, 460F, 470F, 477F, 497F, 500F, 502F, 505F, 506F, 507F, 508F, 509F, 510F, 513F and 515F; (8) originating at and destined to in Sub-Nos. 382, 388, 400, 408, 410, 413, 414, 416, 426, 436F, 439F, 440F, 442F, 443F, 447F, 458F, 459F, 460F, 463F, 466F, 468F, 469F, 475F, 480F, 493F, 500F, 510F and 517F; (9) except tractors used for pulling highway trailers in Sub-No. 393; (10) except commodities in bulk, in tank vehicles in Sub-No. 400; (11) against transportation of aluminum scrap in dump vehicles in Sub-No. 410; (12) against traffic moving in foreign commerce in Sub-Nos. 413, 436F and 469F; (13) except iron and steel articles, and commodities in bulk in Sub-No. 440; (14) against the transportation, from Houston, TX, to points in KS and OK, of iron and steel articles, transported as materials and supplies used in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission or distribution of oil and gas, or sulphur, or used in connection with the drilling of water wells in Sub-No. 455F; (15) against transportation of precut log buildings and materials used in their construction in Sub-No. 460F; (16) except truck tractors in Sub-No. 469F; (17) in containers in Sub-No. 489F; (18) except motor vehicles in Sub-No. 513; and (19) remove all exceptions to general commodities except classes A and B explosives, and remove the restrictions in containers or trailers having a prior or subsequent movement by water or rail in Sub-No. 519F and (20) against service at facilities at Rankin County, MS and against service at Memphis, TN in Sub-No. 344G.

MC 106920 (Sub-135)X, filed May 22, 1981. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-Nos. 2, 8, 21, 74, E–4, E–11, E–12, E–13, E–97, E–112, and E–113 to (1) broaden the commodity description from sugar in Sub-No. 2, dairy products as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (with or without exceptions) in Sub-Nos. 8, 21, E–112, and E–113; bakery products and confectionaries (except commodities in bulk) in Sub-No. 74; milk, cream, and buttermilk (with exceptions) in Sub-Nos. E–4, E–11, E–12; sweet cream and milk in Sub-No. E–13; dairy products under B in the appendix to the report in *Modifications of Permits—Packing House Products*, 48 M.C.C. 628 and dairy products as described in section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C 209 and 766 in Sub-No. E–97 to "food and related products"; (2) remove vehicle restrictions in Sub-No. 74; (3) replace Boston, MA, with Suffolk, Norfolk, Plymouth, Middlesex and Essex Counties, MA, in Sub-No. 2, Newark, NJ, with Bergen, Passaic, Essex, Union, and Middlesex Counties, NJ, and Manhattan, Queens, King, and Richmond Counties, NY and Trenton, NJ, with Burlington and Mercer Counties, NJ, and Bucks County, PA, in Sub-No. 21, Livonia, MI, with Wayne and Oakland Counties, MI in Sub-No. 74; and (4) replace one way with radial authority.

MC 107452 (Sub-15)X, filed June 4, 1981. Applicant: R. D. BROWN d.b.a. DAN BROWN TRUCKING, P.O. Box 312, Greybull, WY 82426. Representative: James B. Hovland, 525

Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its lead, and Sub-Nos. 3, 5, 7, and 9 certificates to (A) broaden commodity descriptions: lead certificate, to "farm products" from livestock, feeds and seeds; and to "clay, glass, concrete or stone products" from rock and stone; Sub-No. 3, to "Mercer commodities, and equipment, materials and supplies used in the manufacture thereof" from Mercer and earth drilling commodities; Sub-No. 5, to "Mercer commodities, cement, chemicals and related products, and equipment, materials and supplies used in the manufacture thereof" from drilling mud, lost circulation materials including cement, additives and drilling fluids; Sub-No. 7, to "Mercer commodities, clay products, cement, and equipment, materials and supplies used in the manufacture thereof" from bentonite and cement; and Sub-No. 9, to "Mercer commodities, clay products, and equipment, materials and supplies used in the manufacture thereof" from bentonite clay; (B) remove exceptions excluding "commodities in bulk, in tank vehicles" in Sub-Nos. 5, 7, and 9; (C) change one-way authority to radial authority in Sub-Nos. 7 and 9; and (D) replace named facilities near Dryhead, MT with county-wide authority to serve Carbon County, MT (lead certificate, sheet 2).

MC 111611 (Sub-56)X, filed June 8, 1981. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Avenue, Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Applicant seeks to remove restrictions in its lead (regular route portion) and Sub-Nos. 15, 18 and 21 to (1) change the commodity description from general commodities (with exceptions) to general commodities (except classes A and B explosives) in all certificates, (2) change the off-route points description from points within ten miles of Lewistown, and those within two miles of U.S. Hwy 22 between Lewistown and Harrisburg, PA to points in Mifflin, Huntingdon, Juniata, Perry, Dauphin, York and Cumberland Counties, PA in the lead, (3) remove the restriction (a) to service at Harrisburg, PA for purpose of interchange only and allow service to above points in connection with all carriers regular-routes in Sub-No. 15, (b) to the transportation of traffic received from or delivered to connecting carriers at the 3 named off-route points and allow service to those 3 points in connection with all carriers regular-routes in Sub-No. 21 and (4) remove plantsite limitation in Sub-No. 18 and allow service to Huntingdon County, PA as an off-route point in connection with all carriers regular-routes.

MC 114323 (Sub-27)X, filed June 3, 1981. Applicant: PAUL MARCKESANO & SONS CO., INC., 36 Ferris Street, Brooklyn, NY 11231. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restriction in its lead, and Sub-Nos. 2, 3, 4, 8, 11, 13, 15, 17, 18, 19, 20, 21, 23F, and 24F certificates to (A) broaden commodity descriptions: lead certificate, to "clay, concrete, glass or stone products, chemicals and related products, petroleum, natural gas and their products, building materials, lumber and wood products, metal products, and rubber and plastic products" from face brick, lime, cement, plasterboard, window frames, rock wool, wire lath, rock lath, sheet rock, sewer pipe, glazed title, and glass brick; Sub-Nos. 2, 3, 4, 8, 17, and 23, to "clay, concrete, glass or stone products, chemicals and related products, and petroleum, natural gas and their products" from dry cement, and from cement; Sub-Nos. 11 and 15, to "clay, concrete, glass or stone products" from refractory products, and from waste kiln dust; Sub-Nos. 13 and 21, to "clay, concrete, glass or stone products, and metal products" from fly ash and pozament; Sub-No. 18, to "clay, concrete, glass or stone products, metal products, lumber and wood products, and rubber and plastic products" from brick and tile; Sub-No. 19, to "pulp, paper and related products, and textile mill products" from paper and paper products, and flocking material; Sub-Nos. 20 and 24, to "pulp, paper and related products" from newsprint; (B) eliminate "in bulk" and "in container" restrictions in Sub-Nos. 2, 3, 4, 8, 11, 15 and 21; (C) eliminate restrictions limiting service to shipments having a prior movement by rail in the lead, and Sub-No. 18; or having a prior movement by motor, rail, or water carrier in Sub-No. 19; or having a prior movement in interstate or foreign commerce and destined to points in CT in Sub-No. 20; and (D) substitute city-wide or county-wide authority in place of the plantsites and cities, as follows: Sub-No. 2, New York, NY (storage site in College Point, NY); Sub-Nos. 3, 4, and 17, Jersey City, NJ (facilities in Jersey City, NJ); Sub-No. 8, New York, NY (facilities at Long Island City, NY); Sub-No. 13, New Haven County, CT (Milford, CT); Sub-Nos. 15 and 19, New York, NY (exempt portion of New York, NY commercial zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451 (1951) within which local operations may be conducted pursuant to Sec. 203(b)(8) of the Act (the "exempt" zone)); Sub-No. 19, Essex County, NJ (Port Newark, NJ); (Sub-No. 21, Northampton County, PA (Portland, PA); Sub-No. 23, Berks County, PA (Evansville, PA); and Sub-No. 24, New York, NY (facilities in Brooklyn, NY).

MC 114725 (Sub-117)X, filed June 4, 1981. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Applicant seeks to remove restrictions in its Sub-Nos. 3, 12, 13, 14, 15, 17, 18, 19, 21, 22, 24, 25, 26, 27, 29, 30, 32, 33, 36, 39, 41, 52, 53, 61, 62, 68, 70, 72, 73, 75, 78, 79, 80, 82, 87F, 89F, 91F, 100F, 101F, 104F, 105F, 108F, 109F, 112F, 113F and 114F certificates to (1) change commodity descriptions such as anhydrous ammonia (Sub-Nos. 3, 15, 18, 19, 21, 25, 27, 32, 39, 41, 61, 78, 87F, and 89F); liquid fertilizer (Sub-Nos. 12, 14, 72, 73, 79, 80, 82, and 105F); fertilizer and fertilizer compounds (Sub-Nos. 13 and 53); inedible animal fats and blends (Sub-Nos. 17, 26, 70 and 75); dry fertilizer and urea (Sub-Nos. 22 and 24); acids, chemical fertilizers and fertilizer ingredients (Sub-No. 29); fertilizer, insecticides, fungicides and herbicides (Sub-No. 33); fuel oil (Sub-No. 52); urea liquor (Sub-No. 54); mineral seal oil (Sub-No. 62); caustic soda, sulphuric acid, phosphoric acid, and dinitro phenol solution (Sub-Nos. 68, 100F, 101F and 112F); asphalt (Sub-No. 104F); liquified petroleum gas (Sub-No. 108F); and chemicals (Sub-No. 113F), to "commodities in bulk"; (2) remove restrictions limiting service to the use of particular equipment, i.e., "in tank vehicles" or "in hopper vehicles" (Sub-Nos. 3, 12, 13, 14, 15, 17, 18, 19, 21, 26, 27, 29, 32, 52, 61, 62, 72, 73, 75, 78, 79, 80, 82, 87F, 89F, 91F, 100F, 101F, 105F, 108F, 112F, and 114F); (3) eliminate facilities limitations in (Sub-Nos. 3, 15, 18, 19, 21, 24, 25, 26, 27, 29, 30, 32, 33, 36, 41, 53, 61, 72, 73, 78, 87F, 89F, and 104F; (4) remove "originating at or destined to" restrictions in Sub-Nos. 26, 33, 36, 72, and 104F; (5) authorize radial service where only one-way exists between specified points located throughout the U.S.; (6) eliminate restriction against service at Belleville, KS in (Sub-No. 26); (7) delete restriction against transporttion of dry feed ingredients from points in SD, MO, and MN in Sub-No. 72; (8) remove exception to AK and HI in Sub-No. 113F; and (9) replace city with county-wide authority wherever the following appear in each certificate: Hastings with Adams County, NE; Nebraska City with Oteo County, NE;

Fremont with Dodge County, NE; Hoag and Beatrice with Gage County, NE; Lincoln with Lancaster County, NE; Fargo with Cass County, ND; Watertown with Codington County, SD; Murphy with Hamilton County, NE; Fort Dodge with Webster County, IA; Council Bluffs with Pottawattamie County, IA; Creston with Union County, IA; Phelps City with Atchison County, MO; Garner with Hancock County, IA; Niota with Hancock County, IL; LaPlatte with Sarpy County, NE; Blair with Washington County, NE; Omaha with Douglas County, NE; Borger with Hutchinson County, TX; Conway with McPherson County, KS; Greenwood with Cass County, NE; Whiting with Monona County, IA; Early with Sac County, IA; Garner with Hancock County, IA; Marshall with Saline County, MO; Hastings with Adams County, NE; Clay Center with Clay County, KS; West Branch with Ogemaw County, MI; Sycamore with DeKalb County, IL; Tulsa with Tulsa County, OK; Wyandotte with Wayne County, MI; Blair with Washington County, NE; Red Oak with Montgomery County, IA; Falls City with Richardson County, NE; Spencer with Clay County, IA; Holstein with Ida County, IA; David City with Butler County, NE; Optic with Buffalo County, NE; Friend with Finney County, KS; Casper with Natrona County, WY; Weeping Water with Cass County, NE; Dakota City with Dakota County, NE; West Point with Cuming County, NE; Denison with Crawford County, IA; Fort Dodge with Webster County, IA; Emporia with Lyon County, KS; Luverne with Rock County, MN; Audubon with Audubon County, IA; Geneva with Fillmore County, NE; Greenwood with Cass County, NE; Norfolk with Madison County, NE; McPherson with McPherson County, KS and Kearney with Clay County, MO.

MC 114737 (Sub-8)X, filed June 16, 1981. Applicant: O & A TEX-PACK EXPRESS, INC., 1313 Avenue E, Lubbock, TX 79401. Representative: Timothy J. Herman, 522 First Federal Plaza, Austin, TX 78701. Applicant seeks to remove a restriction from its Sub-No. 2 certificate against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at any one location to one consignee at any one location on any one day.

MC 118130 (Sub-122)X, filed June 2, 1981. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Applicant seeks to remove restrictions in its lead certificate MC-118130, and Sub-Nos. 67, 69, 71, 72, 73, 79, 82F, 83F, 84F, 85F, 88F, 90F, 91F, 93F, 94F, 96F, 99F, 100F, 103F, 104F, 105F, 109F, 110F, 113F, 114F, 117F, 118F, 119F, 120F, 121F, and Gateway letter notices Sub-Nos. E1, E2, E3, E4, E5, E7, and E8 and No. MC-115092 Sub-Nos. 25 and 108, issued pursuant to MC-F-14440F, to (A) broaden commodities descriptions to (1) "food and related products", from meats, meat products, meat-byproducts and articles distributed by meat packinghouses, bananas, cocoanuts, pineapples, frozen potatoes, frozen potato products, frozen onion rings, canned goods, canned and bottled foodstuffs, and foodstuffs, in lead certificate, from foodstuffs in Sub-Nos. 67, and 91F, from bananas and agricultural commodities in Sub-Nos. 69, 73, 113F, and 117F, from meats and packinghouse products in Sub-No. 71, from malt beverages in Sub-Nos. 79, 82F, 90F, and 118F, from fruits and fruit products in Sub-No. 83F, from bakery goods in Sub-Nos. 88F and 104F, from margarines, salad oils, bacon bits and butter in Sub-Nos. 96F, and 103F from frozen foodstuffs in Sub-No. 100F, from frozen potatoes and potato products in Sub-No. 119F, from bananas in Sub-Nos. E1, E2, E3, E5, E6, and E7, from meats, meat products, meat byproducts in Sub-No. E4, and from canned and bottled foodstuffs (except bananas) in Sub-No. E8, and from meats meat products, meat byproducts and articles distributed by meat packing houses in MC-F-14440F; (2) "general commodities, (except classes A and B explosives)", from general commodities (with certain exceptions) in Sub-No. 121F; (3) "pulp paper and related products" from paper and paper products in Sub-No. 99F; (4) "metal products, rubber and plastic products and clay, concrete, glass and stone products", from plumbing or bathroom fixtures, and materials, equipment and supplies used in the manufacture of plumbing or bathroom fixtures in Sub-No. 105F; (5) "rubber and plastic products", from rubber articles, plastic articles, rubber and plastic articles in Sub-No. 110F; (6) "textile mill products, lumber and wood products, leather and leather products, chemicals and related products, metal products, and petroleum products", from carpeting, rugs, carpet tiles, floor covering, carpet padding, cushions, carpeting cement, and adhesives, and articles used in the installation of carpeting, rugs, and floor covering, in Sub-No. 72, and from carpeting and materials, equipment and supplies used in the manufacture and distribution of carpeting in Sub-No. 109F; (7) "building materials", from insulating materials in Sub-No. 84F; (8) "machinery, metal products, lumber and wood products, and rubber and plastic articles", from mowers, trimmers, edgers and materials, equipment and supplies used in the manufacture and distribution of mowers, trimmers and edgers in Sub-No. 85F; (9) "forest products, metal products, machinery, petroleum products and coal and coal products", from manufactured fireplace logs, charcoal briquets, hickory chips, and accessories for barbeque grills in Sub-No. 93F; and (10) "lumber and wood products, petroleum products and coal and coal products", from charcoal briquets and lump wood charcoal in lead certificate; (B) remove restrictions on commodities such as, "except commodities in bulk", "except commodities in tank vehicles", "except hides", "in mixed shipments with", etc., wherever they appear in the above-named certificates; (C) delete facilities limitations in the lead and Sub-Nos. 67, 71, 99F, 105F, 110F, and 114F; (D) remove "originating at or destined to" restrictions in the lead and Sub-Nos. 67, 71, 85F, 96F, 105F, and 110F; (E) delete ex-water restrictions in Sub-Nos. 69 and 73; (F) remove "except Memphis" from TN territorial description in the lead; (G) eliminate exception to AK and HI in Sub-Nos. 94F, 110F, 117F, and 119F; (H) change its one-way authorities (wherever they appear in the above named certificates) to radial authorities between named points throughout the U.S., or combinations of such states (i) replace citywide authority with county-wide authority wherever it appears in each of the above certificates as follows: Garden City, KS with Finney County, KS, Freeport, TX with Brazoria County, TX, New Orleans, LA with Jefferson and Orleans Parishes, LA, Galveston, TX with Galveston County, TX, Fort Worth, TX with Tarrant County, TX, Galveston, TX with Galveston County, TX, Houston, TX with Harris County, TX, New Orleans, LA with Jefferson and Orleans Parishes, LA, Gulfport, MS with Harrison County, MS, Crookston, Duluth, Minneapolis, Albert Lea and Mankota, MN with Polk, St. Louis, Hennepin, Freeborn and Blue Earth Counties, MN, Fargo, ND with Cass County, ND, Sioux City, IA with Woodbury County, IA, Lindale, TX with Smith County, TX, Muncie and Plumtree, IN with Delaware County, IN, Macon and Atlanta, GA with Fulton and Bibb Counties, GA, Clarksville and Nashville, TN with Montgomery and Davidson Counties, TN, Jennings, LA with Jefferson Davis Parish, LA, Monroe, LA with Quachita Parish, LA, New Orleans, LA, with Orleans Parish, LA, Shreveport, LA with Caddo Parish, LA,

Cade, LA with St. Martin and Iberia Parishes, LA, Lozes, LA with St. Martin Parish, LA, Grand Forks, ND with Grand Forks County, ND, Le High, ND with Stark County, ND, Collins, MS with Covington County, MS, New Albany, MS with Union County, MS, Canton, MS with Madison County, MS, Crystal Springs, MS with Copiah County, MS, Jackson, MS with Hinds County, MS, Guymon, OK with Texas County, OK, and Lubbock, TX with Lubbock County, TX in lead certificate and Sub-Nos. E1, E2, E3, E4, E5, E6, E7, and E8; Grand Forks, ND with Grand Forks County, ND in Sub-No. 67; Mobile, AL with Baldwin and Mobile Counties, AL in Sub-No. 69; Cactus, TX with Moore County, TX in Sub-No. 71; Long Beach, CA with Los Angeles County, CA, and Orange County, CA in Sub-No. 73; Fort Worth, TX with Tarrant County, TX in Sub-Nos. 79 and 85; Galveston, TX with Galveston County, TX, Albuquerque, NM with Bernalillo County, NM, Las Cruces, NM with Dona Ana County, NM, Roswell, NM with Chaves County, NM, and Santa Fe, NM with Santa Fe County, NM in Sub-No. 82; Delta, CO with Delta County, CO in Sub-No. 83; Valdosta, GA with Lowndes County, GA in Sub-No. 88; Jacksonville, FL with Duval County, FL, Madison, FL with Madison County, FL; and Orlando, FL with Orange County, FL in Sub-No. 91; Fort Worth, TX with Tarrant County, TX in Sub-No. 96; Laramie, WY with Albany County, WY in Sub-No. 100; Fort Worth, TX with Tarrant County, TX in Sub-No. 103; Valdosta, GA with Lowndes County, GA in Sub-No. 104; Port Hueneme, CA with Ventura County, CA in Sub-No. 113; Charleston, SC with Charleston, Dorchester and Berkeley Counties, SC in Sub-No. 117; Plover, WI with Portage County, WI in Sub-No. 119; Laveen, AZ with Maricopa County, AZ, and Boise, ID with Ada County, ID to MC-F-14449F; Tifton, GA with Tift County, GA and Savannah, GA with Chatham County, GA in Sub-No. 99; Monroe, GA with Walton County, GA, Union Point, GA with Greene County, GA, Corsicana, TX with Navarro County, TX, Hondo, TX with Medina County, TX, Ottumawa, IA with Wapello County, IA, Phoenix, AZ with Maricopa County, AZ, Redlands, CA with San Bernardino County, CA in Sub-No. 105; Irving, TX with Dallas and Tarrant Counties, TX in Sub-No. 110; Brundidge, Al with Pike County, AL and Troy, AL to Pike County, AL in Sub-No. 94; Oklahoma City, OK with Oklahoma amd McLain Counties, OK, and Denver, CO with Denver, Arapahoe, Jefferson and Adams Counties, CO in Sub-No. 114; Compton, CA with Los Angeles, CA and Commerce, CA with Orange County, CA in Sub-No. 72; Marlin, TX with Falls County, TX in Sub-No. 109; Fruita, CO with Mesa County, CO and Gramblin, LA with Lincoln Parish, LA in Sub-No. 84; and Cotter, AR with Baxter County, AR, Elk Grove, CA with Sacramento County, CA, Springfield, OR with Lane County, OR and Jacksonville, TX with Cherokee County, TX in Sub-No. 93F.

MC 121683 (Sub-11)X, filed June 18, 1981. Applicant: JACKSON EXPRESS, INC., P.O. Box 3310, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Applicant seeks to remove restrictions in Sub-No. 8 certificate to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities (except classes A and B explosives); (2) authorize service at all intermediate points along described regular routes between TN and MS; and (3) remove the restrictions prohibiting the handling of traffic originating at, destined to, or interlined at named points in TN.

MC 121787 (Sub-3)X, filed June 19, 1981. Applicant: DRILLING MUD HAULERS, INC., Star Route A, Box 1349, Anchorage, AK 99502. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Applicant seeks to remove restrictions in Sub-No. 2 certificate to (1) broaden the commodity description to "Mercer commodities" from drilling mud products, drilling compounds, and well logging units, and (2) broaden the territorial descriptions to (a) "King, Kitsap, Pierce, and Snohomish Counties, WA," for Seattle, WA, and (b) "the Second and Fourth Alaska Judicial Districts" for Barrow, Tanana, and Fort Greeley, AK.

MC 123778 (Sub-50)X, filed June 9, 1981. Applicant: JALT CORP., d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, 802 Raritan Center, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its Sub-Nos. 1, 19, 21, 23, 26, 28, 33, 37F, 39F, 41F, 42F, 44F, 46F, 47F, and 49F permits to (1) broaden the commodity description in all permits to "printed matter, and materials, supplies, and equipment used in the manufacture or distribution thereof" from magazines, magazine parts, sections and inserts, books, magazine racks, advertising matter, printing plates, shells, molds, film, mats, vinylites, and newspapers; and in Sub-No. 42 from paper and paper products to "pulp, paper and related products"; (2) in Sub-No. 1 eliminate restrictions requiring an immediately prior movement from specified points; a prior movement by air; a maximum weight restriction of 600 pounds; and a mixed load restrictions; and (3) authorize service between points in the U.S. under contract(s) with named shippers.

MC 126091 (Sub-10)X, filed June 16, 1981. Applicant: FRALEY & SCHILLING, INC., Rushville, IN. Representative: Donald Smith, P.O. Box 40248, Indianapolis, IN 46240. Applicant seeks to remove restrictions in its Sub-Nos. 5F, 6F, and 8F permits to (1) broaden its commodity descriptions to "metal products, and materials, equipment and supplies used in the manufacture and distribution of metal products", from aluminum extrusions and ingots, and materials, equipment and supplies used in the manufacture and distribution thereof, and aluminum ingots, scrap aluminum, and aluminum extrusions, in all of the above sub-numbers; and (2) broaden its territorial authority to between points in the U.S., under continuing contracts(s) with a named shipper, in all of the above sub-numbers.

MC 126537 (Sub-38)X, filed June 8, 1981. Applicant: KENT I. TURNER, KENNETH E. TURNER AND ERVIN L. TURNER, d.b.a. TURNER EXPEDITING SERVICE, P.O. Box 21333, Standiford Field, Louisville, Kentucky 40221. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, Kentucky 40601. Applicants seek to remove restrictions from their Sub-Nos. 1, 4, 5, 6, 9, 10, 14, 15, 17, 18, 19, 22, 26, 32, 36F certificates and Sub-No. E2 letter notice to (1) remove all exceptions to general commodities, except classes A and B explosives; (2) delete ex-air restrictions wherever they appear in each certificate; (3) delete facilities limitation in Sub-No. 18; (4) replace airports with cities or counties wherever they appear in each certificate as follows: Greater Cincinnati Airport near Erlanger, KY, with Cincinnati, OH; Standiford Field, Louisville, KY, with Louisville, KY; Blue Grass Field near Lexington, KY with Fayette County, KY; Tri-Cities Airport, Sullivan County, TN with Sullivan County, TN; Douglas Municipal Airport, Charlotte, NC, with Mecklenburg County, NC; O'Hare Field, Chicago, IL, with Chicago, IL; Weir-Cook Airport near Indianapolis, IN, with Marion County, IN; James Cox Municipal Airport, Vandalia, OH, with Dayton, OH; Berry Field, Nashville, TN, with Nashville, TN; McGhee-Tyson Airport, Knoxville, TN, with Knoxville, TN; Newark Airport, Newark, NJ, with Newark, NJ; John F. Kennedy Airport, Jamaica, NY, with New York, NY; Tri-Cities Airport, Blountville, TN, with

Sullivan County, TN; and (5) delete restriction in Sub-No. E2 to service at Standiford Field for joinder only.

MC 133219 (Sub-31)X, filed March 11, 1981, previously noticed in the **Federal Register** of March 30, 1981, republished as follows: Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 4, 7, 9, 11, 12, 13, 16, 19, 23F, 24F, 26F, 27F, 29F, and 30 certificates. This Board previously broadened these certificates by (1) changing the commodity descriptions to the appropriate STCC levels, (2) removing "in bulk" and equipment exceptions, (3) expanding territories from points to counties (4) removing plantsite limitations and "origianting at, destined to" restrictions and (5) replacing one-way operations with two-way authority. Applicant also sought to remove a tacking restriction in its Sub-No. 7 certificate, which was granted pursuant to an application filed before November 23, 1973. Subequent to the grant of this restriction removal application, the Board has determined that such a tacking restriction is removable as being unduly restrictive. Notice is hereby given that applicant seeks to remove the tacking restriction in its Sub-No. 7 certificate, authority now appearing at part 4 of applicant's Sub-No. 31X certificate.

MC 133590 (Sub-36)X, filed June 2, 1981. Applicant: WESTERN CARRIERS, INC. P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Applicant seeks to remove restrictions in its Sub-Nos. 2, 9, 10, 11, 12, 13, 15, 16F, 17F, 19F, 20F, 21F, 22F, 23F, 24F, 25F, and 26F permits, and Sub-Nos. 27F, 29F, 31F, and 34F certificates to (1) broaden the commodity descriptions (a) in Sub-Nos. 2, 10, 17 and 22F permits from plastic, plastic articles, paper and paper products, and materials and supplies used in the manufacture and distribution of such commodities to "such commodities as are dealt in by a manufacturer or distributor of paper, plastic, rubber, or paper products, plastic products, or rubber products;" (b) from sporting goods, sporting goods apparel, skis, skiing apparel, skiing equipment, leisure and recreational goods, and materials and supplies used in the manufacture, distribution and sale of such commodities to "such commodities as are dealt in by a manufacturer or distributor of sporting goods, sports wear, and recreational and leisure products" in Sub-Nos. 9, 11, 12, 13, 16F, 19F and 24F permits; (c) from beverages, alcoholic beverages, malt beverages, wines, cocktail mixes, and drink mixes, to "such commodities as are dealt in by a manufacturer or distributor of beverages, food, or related products" in Sub-Nos. 21F and 26F permits; (d) from new furniture and materials, supplies and equipment used in the manufacture, distribution and sale of new furniture to "such commodities as are dealt in by a manufacturer or distributor of furniture and household furnishings" in Sub-No. 15 permit, and (e) from automotive accessories and materials, equipment and supplies used in the manufacture and distribution of automotive accessories to "such commodities as are dealt in by a manufacturer or distributor of automotive products" in Sub-No. 23F permit; (2) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper, in each permit; (3) broaden the commodity descriptions from (a) alcoholic beverages, malt beverages, wines, drink mixes, and cocktail mixes to "food and related products" in Sub-Nos. 27F and 34F certificates; and (b) general commodities with exceptions to "general commodities (except classes A and B explosives)" in Sub-No. 29F certificate; (4) eliminate the facilities limitation in Sub-No. 29F certificate; (5) authorize radial authority for one-way authority between points in the U.S. in Sub-No. 34F certificate; and (6) remove the restrictions (a) againt commodities in bulk or in bulk in tank vehicles in Sub-Nos. 2, 9, 10, 11, 12, 13, 15, 16F, 17F, 19F, 20F, 21F, 22F, 23F, 24F and 25F permits, and Sub-Nos. 26F and 27F certificates; and (b) against service to AK and HI in Sub-No. 31F certificate.

MC 133932 (Sub-4)X, filed June 16, 1981. Applicant: CATAWBA VALLEY MOTOR LINES, INC., P.O. Box 370, Claremont, NC 28610. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from uncrated upholstered furniture to "furniture and fixtures" and (2) authorize radial authority for existing one-way authority between Catawba, Alexander, and Burie Counties, NC, and, points in SC, GA, FL, MS, and AL.

MC 133975 (Sub-13)X, filed June 3, 1981. Applicant: FLAMINGO TRANSPORTATION, INC., 11405 N.W. 36th Avenue, Miami, FL 33167. Representative: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. Applicant seeks to remove restrictions in its Sub-No. 11F certificate to (A) remove all restrictions in its general commodities authority "except classes A and B explosives"; and (B) eliminate service restriction limiting traffic to that moving on bills of lading of freight forwarder as defined in 49 U.S.C. 10102(8), on service between named facilities in seven States, and points in FL.

MC 139482 (Sub-187)X, filed April 22, 1981, previously noticed in the **Federal Register** of May 20, 1981, republished as corrected this issue. Applicant: NEW ULM FRIEGHT LINES INC., P.O. Box 877, New Ulm, MN 56073. Representative: Barry M. Bloedel, P.O. Box 877, New Ulm, MN 56073. Applicant seeks to remove restrictions in its Sub-Nos. 2, 5, 7, 9, 11, 16, 19, 20, 22, 26, 27, 28, 30, 31, 35F, 37F, 42F, 44F, 47F, 51F, 57F, 58F, 59F, 60F, 61, 62F, 63F, 64F, 66F, 68F, 70F, 73F, 75F, 76F, 77F, 78F, 79F, 80F, 81F, 82F, 84F, 85F, 86F, 87F, 88, 94F, 95F, 97F, 98F, 99F, 100F, 101F, 102, 103F, 104F, 115F, 117F, 121F, 123F, 124F, 125F, 126F, 128, 130F, 133F, 135F, 136F, 138F, 139F, 140F, 144F, 146F, 147F, 148F, 149F, 150F, 151F, 152F, 153F, 157F, 158F, 168F, 170F, 171, 172F, 174F, 176F, 177F, 178F, 179, 180, 181F, 182, 183, 185 and 186 to (1) broaden the community descriptions (a) in Sub-Nos. 16, 19, 26, 28, 31, 35F, 37F, 42F, 44F, 47F, 51F, 57F, 59F, 61, 62F, 64F, 70F, 73F, 75F, 76F, 80F, 81F, 84F, 87F, 88, 94F, 95F, 99F, 100F, 101F, 103F, 104F, 117F, 123F, 125F, 126F, 128, 135F, 140F, 150F, 168F, 170F, 171, 174F, 179, 180, and 186 to "food and related products" from foodstuffs, frozen foods, cheese, meat, candy, dairy products, butter, salt; (b) in Sub-Nos. 7, 32, 79F, 144F, and 181F to "building materials and related products" from building board, wallboard, insulating board, ceiling titles, composition board, glazed clay tile, mechanical construction forms and cellulose insulation, vermiculite and polyethylene; (c) in Sub-No. 20 to "furniture and fixtures" from redwood furniture; (d) in Sub-Nos. 11, 60F, 68F, 147F, 149F, 152F, 172F, and 185 to "electrical appliances, supplies and related products" from electric ranges and micowave ovens, and such commodities as are used in the manufacture of electric ranges and micowave ovens, television sets, radios, and audio equipment, electric light bulbs, copper wire and household appliances and equipment; (e) in Sub-Nos. 22, 27, 77F, 78F, 85F 102, 130F, and 153F to "pulp, paper and related products" from cardboard boxes and sheets, paper and paper products and printed matter; (f) in Sub-Nos. 58F, 124F, 133F, 157F, 158F, and 178F to "chemicals and related products" from deodorants, disinfectants, breath fresheners,

cleaning compounds, swimming pool treatment compounds and insecticides, drugs, agricultural chemicals, maintenance and industrial chemicals, and dry fertilizer compound; (g) in Sub-No. 66F to "rubber and plastic products" from scrap rubber; (h) in Sub-No. 98F to "agricultural equipment" from turkey, poultry and hog feeding equipment; (i) in Sub-No. 115F to "rubber and plastic products" from plastic pellets; (j) in Sub-No. 177F to "coal and coal products, and lumber and wood products" from charcoal and charcoal briquets; (k) in Sub-No. 182 and 183 to "automotive supplies and related products" from automotive supplies and accessories and automotive fluids and cleaning compounds; (l) in Sub-Nos. 2 and 121F from "general commodities (with exceptions) to "general commodities (except classes A and B explosives)" and (m) in Sub-No. 138F to "Ordnance or accessories, machinery, metal products, clay, concrete, glass or stone products, printed matter and materials, equipment, and supplies used in manufacture of the forgoing commodities" from small arms ammunition and related components, electrical switch boxes, conduit outlet boxes, junction boxes and covers, electrical apparatus for the forgoing commodities (with exceptions) and advertising materials, and materials, equipment and supplies used in the manufacture of the foregoing commodities; (2) remove "except AK and HI; in the territorial description in Sub-Nos. 5, 16, 20, 42F, 70F, 81F, 85F, 94F, 99F, 103F, 126F, 128, 133F, 138F, 140F, 151F, 170F, 174F, 178F, 179, and 180; (3) remove the restriction "in vehicles equipped with mechanical refrigeration" from Sub-Nos. 31, 35F, 84F,

117F, and 135F; (4) remove the restriction limiting service to the transportation of shipments originating at or destined to the facilities of a named shipper in Sub-Nos. 2, 5, 9, 11, 16, 19, 22, 26, 27, 28, 30, 31, 32, 35F, 42F, 44F, 47F, 57F, 61, 62F, 63F, 66F, 68F, 70F, 75F, 76F, 78F, 79F, 80F, 81F, 82F, 84F, 85F, 86F, 87F, 88 (parts 1 and 3), 94F, 95F, 97F, (part 2), 100F, 102, 117F, 124F, 126F, 128, 130F, 135F, 136F, 140F, 148F, 151F, 170F, 174F, and 178F; (5) to expand one-way authority to radial authority in Sub-Nos. 2, 7, 9, 16, 19, 20, 22, 26, 27, 28, 31, 32, 35F, 37F, 42F, 44F, 47F, 51F, 57F, 59F, 60F, 61, 62F, 63F, 64F, 66F, 68F, 70F, 73F, 75F, 76F, 79F, 80F, 82F, 84F, 85F, 86F, 87F, 88, 94F, 95F, 97F, 98F, 99F, 100F, 101F, 102, 103F, 104F, 115F, 117F, 123F, 124F, 125F, 126F, 128, 130F, 135F, 136F, 147F, 148F, 149F, 150F, 153F, 158F, 168F, 170F, 171, 172F, 174F, 177F, 178F, 181F, and 182 between various combinations of points and States; (6) remove a restriction requiring a prior or subsequent movement by water in Sub-Nos. 37F, 64F, and 73F; (7) remove the restriction "except commodities in bulk," "in tank vehicles" and "requiring special equipment" where applicable in Sub-Nos. 2, 5, 7, 9, 16, 20, 26, 31, 35F, 37F, 42F, 44F, 47F, 58F, 62F, 63F, 75F, 76F, 77F, 78F, 80F, 81F, 82F, 86F, 87F, 88, 95F, 97F, 99F, 100F, 115F, 123F, 125F, 128, 133F, 138F, 144F, 151F, 152F, 170F, 174F, 176F, 179, 180, 181F, 182, and 183; and (8) in applicant's regular-route authority in Sub-No. 121F remove the intermediate point exception in part 19 and remove the off-route point exceptions in part 20. The purpose of this republication is to correct several typographical errors or omissions, to notice the broadened commodity description for Sub-No. 138F, and to add item 8 to provide notice of proposed changes in applicant's regular-route authority.

MC 141033 (Sub-93)X, filed June 16, 1981. Applicant: CONTINENTAL CONTRACT CARRIER CORP., P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-No. 88X certificate to expand city to countywide authority from: Atlanta, GA, to Cobb, DeKalb, Fulton, Clayton, Douglas, Coweta, Fayette, Henry, Rockdale, and Gwinett Counties, GA; Charlotte, NC to Mecklenburg, Gaston, and Union Counties, NC, and York and Lancaster Counties, SC, Greensboro, NC to Guilford County, NC; Greenville, SC to Greenville, Pickens and Anderson Counties, SC; Nashville, TN to Davidson, Williamson, and Wilson Counties, TN, and Memphis, TN to Shelby County, TN, Crittenden County, AR, and DeSoto County, MS, to authorize authority (a) between Cobb, DeKalb, Fulton, Clayton, Douglas, Coweta, Fayette, Henry, Rockdale, and Gwinett Counties, GA, Mecklenburg, Gaston and Union Counties, NC, York and Lancaster Counties, SC, Guilford County, NC, Greenville, Pickens, and Anderson Counties, SC, Lynchburg and Norfolk, VA, Davidson, Williamson and Wilson Counties, TN, and, Shelby County, TN, Crittenden County, AR, and DeSoto County, MS, and, points in AZ, CA, OR, and WA; and (b) between Shelby County, TN, Crittenden County, AR, and DeSoto County, MS, and, points in AZ, CA, OR, and WA.

MC 141264 (Sub-5)X, filed June 18, 1981. Applicant: GATEWAY TRUCKING CO., INC., P.O. Box 16331, Jacksonville, FL 32216. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Applicant seeks to remove restrictions in its Sub-No. 4 certificate to (1) broaden the commodity description from general commodities, with exceptions to "general commodities (except classes A and B explosives)"; (2) remove the "having a prior or subsequent movement by water" restriction; and (3) expand Jacksonville to Duval County, FL.

MC 142305 (Sub-5)X, filed June 18, 1981. Applicant: WISCONSIN EXPRESS LINE, INC., Route 2, Green Bay, WI 54301. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Applicant seeks to remove restrictions in its Sub-No. 4F permit to broaden the territorial description to authorize service between points in the U.S. under continuing contract(s) with named shippers.

MC 145384 (Sub-57)X, filed June 12, 1981. Applicant: ROSE-WAY, INC. 1914 East Euclid, Des Moines, IA 50317. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-Nos. 25F, 27F, 28F, 29F, 32F, 36F, 39F, 40F, 43F, certificates to (1) broaden the commodity descriptions from (a) plastic pipe and pipe fittings, plastic granules to "rubber and plastic products" in Sub-No. 25; (b) titanium, nickel base alloys, stainless steel alloys, nickel base ingots and billets, and titanium ingots and billets to "metal products" in Sub-No. 27; (c) steel castings and steel forgings to "metal products" in Sub-No. 28, part 1; (d) resir compound, cloth and woven roving, wood resin, fiberglass matting and reinforced fiberglass plastic panels to "rubber and plastic products" in Sub-No. 28, parts 2, 3, 5 and 7; (e) facing and paving brick to "clay, concrete, glass, or stone products" in Sub-No 28 part 4; (f) adhesives to "chemicals and related products" in Sub-No. 28; (g) metal articles, and iron and steel articles to "metal products" in Sub-No. 29; (h) lumber, lumber products, wood products, and millwork to "lumber and wood products" in Sub-No. 32; (i) iron and steel articles to "metal products" in Sub-No. 36; (j) self-propelled street sweepers, self-propelled industrial plant sweepers, brush chippers, jet runway cleaners, sewer cleaners, catch basin cleaners, flushers, and brushes and parts to "machinery" in Sub-No. 39; (k) construction forms, parts and accessories for construction forms, and materials, equipment, and supplies to "building materials, and related equipment, materials, and supplies" in Sub-No. 43; (2) delete plantsite restrictions in Sub-Nos. 25, 28, 36, 39, 40,

and 43; (3) remove originating at or destined to restriction in Sub-No. 36; (4) eliminate the exception of service to AK and HI in Sub-Nos. 39 and 43; (4) broaden cities to counties: Bakersfield, Santa Ana, and Sun Valley, CA, with Kern, Orange, and Los Angeles, Counties, CA; Avon Lake, OH, with Lorain County, OH; Louisville, KY, with Jefferson County, KY, in Sub-No. 25; New Kensington, PA, with Westmoreland County, PA; Stead and Verdi, NV, with Washoe County, NV, in Sub-No. 27; Santa Barbara, CA, with Santa Barbara County, CA; Los Angeles, La Mirada, and Santa Monica, CA, with Los Angeles County, CA, in Sub-No. 28; Santa Barbara, CA, with Santa Barbara County, CA, and Shelby, OH, with Richland County, OH, in Sub-No. 29;. East Chicago, IN, with Lake County, IN and Cook County, IL in Sub-No. 36; Pomona, CA, with Los Angeles County, CA, in Sub-No. 39; Des Moines, IA, with Polk County, IA, in Sub-Nos. 40 and 43; Columbus, OH, with Franklin County, OH; Metuchen, NJ, with Middlesex County, NJ; Dallas, TX, with Dallas County, TX; Kent, WA, with King County, WA and Fresno, CA, with Fresno County, CA, in Sub-No. 43; (5) delete commodity restrictions such as "in bags, in dump vehicles, in containers" in Sub-Nos. 25, 27, and 28; (6 authorize radial service in lieu of existing one-way authority between the above named counties and points throughout the U.S. in Sub-Nos. 25, 28, 29, 32, 36, and 40; and (7) delete the exception of transporting metal products except from named facilities in Chicago, IL, in Sub-No. 29.

MC 145785 (Sub-3)X, filed June 16, 1981. Applicant: McADAMS TRUCKING CO., 3 South Des Plaines, Joliet, IL 60435. Representative: Patrick H. Smyth, 19 South LaSalle Street, Suite 401, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 2F permit to (1) broaden the commodity description from steel parts for trusses and materials, equipment and supplies used in the manufacture and distribution thereof to "metal products"; (2) broaden its territorial description to between points in the U.S., under continuing contract(s) with a named shipper; and (3) remove the except commodities in bulk restriction.

MC 148676 (Sub-3)X, filed June 18, 1981. Applicant: R. F. PETERSON, INC, 2535 Walnut, Denver, CO 80205. Representative: James P. Beck, 717 17th Street, Ste. 2600, Denver, CO 80202. Applicant seeks to remove restrictions in its Sub-No. 2F certificate to (1) broaden the commodity description from sugar, beet or cane, in containers, and materials and supplies used in the production or distribution of sugar to "food and related products and materials and supplies used in the production or distribution of food and related products"; (2) eliminate the facilities limitation; and (3) expand city to county-wide authority from: Brighton to Adams County, CO; Longmont to Boulder County, CO; Loveland to Larimer County, CO; Ovid to Sedgewick County, CO; Fort Morgan to Morgan County, CO; Eaton and Greeley to Weld County, CO; Sterling to Logan County, CO; Bayard to Morrill County, NE; and Gering, Mitchell and Scottsbluff to Scotts Bluff County, NE, authorizing authority between Denver, CO, Adams, Boulder, Larimer, Sedgewick, Morgan, Weld, and Logan Counties, CO, and Morrill and Scotts Bluff County, NE, and points in several States.

MC 148954 (Sub-2)X, filed June 16, 1981. Applicant: PAL TRANSPORTATION, INC., 556 Forest Road, Orange, CT 06477. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Applicant seeks to remove restrictions in its lead and Sub-No. 1 permits to (1) broaden the commodity description, (a) from plastic articles and materials, equipment and supplies used in their manufacture to "rubber and plastic products, materials, equipment and supplies used in their manufacture" in the lead, and (b) from malt beverages to "food and related products" in Sub-No. 1; and (2) expand the territorial authorization in the lead and Sub-No. 1 to between points in the United States under continuing contract(s) with named shippers.

MC 149100 (Sub-11)X, filed June 8, 1981. Applicant: JIM PALMER TRUCKING, INC., Missoula, MT 59801. Representative: William E. Seliski, 2 Commerce POB 8255, Missoula, MT 59807. Applicant seeks to remove restriction in its lead and Sub-Nos. 1F, 2F, 3F, 4F, 5F and 6F certificates to (1) broaden its commodity descriptions in the lead from plastic pipe and fittings to "building materials"; in Sub-No. 1F from wrought iron pipe to "building materials"; in Sub-No. 2F from expanded plastic products to "rubber and plastic products"; in Sub-No. 3F from wood fiberboard, materials and supplies used in the installation of wood fiberboard (except commodities in bulk) to "building materials"; in Sub-No. 4F from paper drying and processing equipment, parts for the commodities in the above, materials, equipment and supplies used in the manufacture, installation and maintenance of the commodities above (except commodities in bulk) to "machinery"; in Sub-No. 5F from agricultural implements, farm equipment (except those in agricultural implements), parts and attachments for the commodities in agricultural implements to "machinery"; in Sub-No. 6F from iron and steel articles to "metal products"; (2) remove facilities limitations (a) in the lead and replace Fairfield, IA, with Jefferson County, IA, (b) in Sub-No. 1 and replace Blue Island, with Cook County, IL; (3) change city to county-wide authority from Hamilton, OH, to Butler County, OH, in Sub-No. 2F and from Newark, OH, to Licking County, OH, in Sub-No. 3; (4) remove the "originating at and destined to" restriction in Sub-No. 1; and (5) change one-way to radial authority between (a) Jefferson County, IA, and, 10 States in the lead, (b) Chicago, and Evanston, IL, Cook County, IL, and Hammond, IN, and 6 States in Sub-No. 1, (c) Butler County, OH, and a described portion of the U.S. in Sub-No. 2, (d) Licking County, OH, and 4 States in Sub-No. 3, and (e) 13 States, and, 4 States in Sub-No. 5.

[FR Doc. 81-19207 Filed 6-29-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each

applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract". (For status, please contact 202–275–7326.)

Volume No. OP1–184

Decided: June 23, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 38921 (Sub-21), filed June 16, 1981. Applicant: KMA LEASING, INC. d.b.a. WM. H. P., INC., 1342 North Howard St., Philadelphia, PA 19122. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006, (201) 575–7700. Transporting *food and related products, containers and container closures*, between points in MA, RI, CT, NY, NJ, PA, MD, DE, OH, VA, NC, IL, MI, WI, IN, NH, KY, WV, GA, FL, AL, SC, and DC.

MC 106170 (Sub-14), filed June 9, 1981. Applicant: GRAY LINE SCENIC TOURS, d.b.a. CALIFORNIA-NEVADA GOLDEN TOURS, 3185 Mill Street, Reno, NV 89510. Representative: Irwin J. Borof, 2133 San Pablo Avenue, Oakland, CA 94612, (415) 763–2800. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between Carson City, NV, and San Francisco, CA, and points in San Francisco, Alameda, San Mateo, Santa Clara, Monterey, San Benito, Santa Cruz, Contra Costa, San Joaquin, Marin, Napa, Sonoma, Sutter, Merced, Lake, Stanislaus, Nevada, Amador, Mendocino, Solano, Yolo, Sacramento, El Dorado, and Placer Counties, CA, and Washoe, Douglas, and Storey Counties, NV, on the one hand, and, on the other, points in the U.S., including Alaska but excluding Hawaii.

MC 115391 (Sub-4), filed June 16, 1981. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, PA 16823. Representative: Barry L. Gensimore (same address as applicant), (814) 355–5461. Transporting *ores and minerals*, between points in Columbiana County, OH, and Hardin County, IL, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 127351 (Sub-4), filed June 16, 1981. Applicant: CHANCE FREIGHT LINES, INC., 202 West Main, Gardner, IL 60420. Representative: Douglas G. Brown, 913 South Sixth Street, Springfield, IL 62703, (217) 753–3925. Transporting *petroleum, natural gas and their products*, between points in Grundy County, IL, on the one hand, and, on the other, points in IN, MI, and WI.

Note.—To the extent that any certificate issued in this proceeding authorizes the transportation of liquefied petroleum gas, it shall expire 5 years from its date of issuances.

MC 133470 (Sub-5), filed June 16, 1981. Applicant: S. J. DURRANCE COMPANY, INC., 207 Administration Bldg., State Farmers Market, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Drytex, Inc., Atlanta Felt Company, and Atlanta Wire Works, Inc., all of Jonesboro, GA.

MC 133590 (Sub-37), filed May 28, 1981. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contracts(s) with Amory Chemical & Plastics Co., Inc., of Clinton, MA, Rossignol Ski Co., Inc., of Williston, VT, Plastic Packaging Corporation, of West Springfield, MA, Salomon North American, Inc., of Peabody, MA, Questor Corporation, of Chicopee, MA, Furniture Industries, Inc., of Randolph, MA, Fischer of America, Inc., of Worburn, MA, Shipley Company, Inc., of Newton, MA, All Brand Importers, Inc., of Roslyn Heights, NY, American Pad & Paper Company, of Holyoke, MA, Mark Fore-Vatco Industries, of Chelsea, MA, Borden Chemical Company, of North Andover, MA, Garmont USA Inc., of Winooski, VT, M. S. Walker Incorporated, of Boston, MA, Southern Wine & Spirits, Inc., of Miami, FL, Western Electric Company, Inc., of Greensboro, NC, Pellon Corporation, of Chelmsford, MA, and National Patent Development Corp., of Dayville, CT.

MC 138000 (Sub-92), filed June 10, 1981. Applicant: ARTHUR H. FULTON, INC., P.O. Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *general commodities* (except classes A and B explosives), between the facilities used by ITOFCA, Inc., and its members, at those points in the U.S. in and east of MN, IA, KS, OK, and TX, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 142901 (Sub-8), filed June 10, 1981. Applicant: TMI TRANSPORT CORP., 050 Third Ave. West, Dickinson, ND 58601. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting (1) *furniture and fixtures*, (2) *lamps*, (3) *clocks*, and (4) *textile mill products*, between points in MT, ND, SD, NE, IL, IN, MN, OH, IA, WY, WI, MI, Arapahoe and El Paso Counties, CO, on the one hand, and, on the other, points in the U.S.

MC 143061 (Sub-18), filed June 16, 1981. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 528, Eden, NC 27288. Representative: Archie W. Andrews (same address as applicant), (919) 623–9106. Transporting *general commodities* (except classes A and B

explosives), between points in the U.S., under continuing contract(s) with Acme Fast Freight, Inc., of Los Angeles, CA.

MC 147031 (Sub-2), filed June 4, 1981. Applicant: CLARENCE D. BISHOP, 1501 Branch, St. Louis, MO 63107. Representative: Warren H. Sapp, P.O. Box 30010, Kansas City, MO 64112 (816) 931-8711. Transporting *building materials*, between St. Louis, MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, NE, OK, TN, and WI.

MC 150301 (Sub-10), filed June 16, 1981. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg, Grand Rapids, MI 49503, (616) 459-6121. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Distribution Services of American, Inc., of Boston, MA.

MC 150301 (Sub-11), filed June 17, 1981. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503 (616) 459-6121. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with United Freight, Inc., of Morrow, GA.

MC 151840, filed June 16, 1981. Applicant: DITATA TRANSPORTATION CO., Box 156, Livermore Falls, ME 04254. Representative: Michael N. Ditata, 102 Main St., Jay, ME 04239, 1-207-897-3915. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with International Paper Company of New York, NY.

MC 156471, filed June 11, 1981. Applicant: LAWRENCE JAMES ATWOOD, d.b.a. BUTCH ATWOOD TRUCKING, P.O. Box 518, Coos Bay, OR 97420. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd St., Portland, OR 97210, (503) 226-3755. Transporting *farm supplies and equipment*, between Tacoma, WA, on the one hand, and, on the other, points in OR.

MC 156480, filed June 11, 1981. Applicant: INDEPENDENT DISPATCH, INC., 9460 S.W. Davies Rd., Beaverton, OR 97005. Representative: Michael D. Gilbert (same address as applicant), (503) 641-6160. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Western States Shippers Association, Inc., Transportation Cost Control, doing business as Portland Shippers Agents, Worjaws Shippers Coop, and Tri-Venture Corp., all of Portland, OR, and Arthur J. Fritz & Co., of Seattle, WA.

MC 156481, filed June 11, 1981. Applicant: B.F.S. CARTAGE, INC., P.O. Box 263, McKees Rocks, PA 15136. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 771-3195. Transporting *general commodities* (except classes A and B explosives), (1) between points in Erie, Crawford, Warren, Mercer, Venango, Forest, Elk, Lawrence, Butler, Clarion, Jefferson, Clearfield, Armstrong, Indiana, Cambria, Blair, Beaver, Allegheny, Westmoreland, Somerset, Bedford, Fayette, Washington and Greene Counties, PA, Ashtabula, Lake, Cuyahoga, Geauga, Trumbull, Portage, Summit, Medina, Mahoning, Columbiana, Stark, Wayne, Holmes, Tuscarawas, Carroll, Jefferson, Coshocton, Harris, Muskingum, Guernsey, Bellmont, Morgan, Noble, Monroe and Washington Counties, OH, Garrett and Allegany Counties, MD, and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Ritchie, Doddridge, Harrison, Lewis, Marion, Barbour, Tucker, Taylor, Preston, Monongalia and Mineral Counties, WV, and (2) between points in Erie, Crawford, Warren, Mercer, Venango, Forest, Elk, Lawrence, Butler, Clarion, Jefferson, Clearfield, Armstrong, Indiana, Cambria, Blair, Beaver, Allegheny, Westmoreland, Somerset, Bedford, Fayette, Washington and Greene Counties, PA, Ashtabula, Lake, Cuyahoga, Geauga, Trumbull, Portage, Summit, Medina, Mahoning, Columbiana, Stark, Wayne, Holmes, Tuscarawas, Carroll, Jefferson, Coshocton, Harris, Muskingum, Guernsey, Bellmont, Morgan, Noble, Monroe and Washington Counties, OH, Garrett and Allegany Counties, MD, and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Wood, Ritchie, Doddridge, Harrison, Lewis, Marion, Barbour, Tucker, Taylor, Preston, Monongalia and Mineral Counties, WV, on the one hand, and, on the other, Chicago, IL.

MC 156491, filed June 16, 1981. Applicant: TRANSPORTES DEL VALLE, S.A. DE C.V., Prol. Madero, 4217 Ote., Monterrey, N.L., Mexico. Representative: James W. Hightower, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237, (214) 339-4108. Transporting *chemicals and related products*, between Houston, TX, on the one hand, and, on the other, ports of entry on the international boundary line betwen the U.S. and the Republic of Mexico in TX.

MC 156590, filed June 16, 1981. Applicant: ROBERT WHITEHOUSE, d.b.a. BOB WHITEHOUSE TRUCKING, 214 8th St., Estherville, IA 51334. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and related products*, between points in Emmet and Woodbury Counties, IA, Minnehaha County, SD, and Martin and Nobles Counites, MN, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, LA, MI, MN, NE, MS, MO, OK, OH, SD, TN, TX, and WI.

Vol. No. OPY-5-87

Decided: June 22, 1981.
By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 107638 (Sub-7), filed June 5, 1981. Applicant: EVERGREEN TRAILS, INC., d.b.a. EVERGREEN TRAILWAYS, 666 Stewart Street, Seattle, WA 98101. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., NW., Washington, DC 20004, 202-628-4600. Transporting *passengers and their baggage, and express and newspapers in the same vehicle with passengers*, (1) between Seattle, WA, and Anacortes, WA, (a) from Seattle over Interstate Hwy 5 to junction Washington Hwy 525, then over Washington Hwy 525 to junction Washington Hwy 20 on Whidbey Island, then over Washington Hwy 20 to Anacortes; and (b) from Seattle over Interstate Hwy 5 to junction Washington Hwy 536, then over Washington Hwy 536 to junction Washington Hwy 20, then over Washington Hwy 20 to Anacortes; (2) between Anacortes, WA, and the International Boundry Line between the U.S. and Canada near San Juan Island via the Washington State Ferry; and (3) between Seattle, WA, and the Seattle-Tacoma International Airport, King County, WA, (a) from Seattle over Interstate Hwy 5 to junction Washington Hwy 518, then over Washington Hwy 518 to the Seattle-Tacoma International Airport, and (b) from Seattle over Interstate Hwy 5 to junction Washington Hwy 518, then over Washington Hwy 518 to Washington Hwy 99, then over Washington Hwy 99 to the Seattle-Tacoma International Airport, serving all intermediate points in Routes 1(a) and 1(b).

MC 109449 (Sub-63), filed June 9, 1981. Applicant: KUJAK TRANSPORT, INC., 6366 West 6th St., Winona, MN 55987. Representative: Francis Cisewski (same address as applicant), 507-452-1032.

Transporting *food and related products* between points in MN, on the one hand, and, on the other, points in AR, CA, FL, IL, KS, KY, LA, MD, MO, NJ, NY, OK, TN, TX, and WY.

MC 110328 (Sub-23), filed June 8, 1981. Applicant: ROY A LEIPHART TRUCKING, INC., 1298 Toronita St., York, PA 17402. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21740, 301–797–6060. Transporting *general commodities* (except classes A and B explosives), between points in MD, PA, VA, IL, DE, IN, NY, NJ, MA, CT, RI, MI, OH, KY, TN, WV, and DC.

MC 114829 (Sub-27), filed June 9, 1981. Applicant: GENERAL CARTAGE COMPANY, INC., P.O. Box 417, Sterling, IL 61081. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, 312–263–1600. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company of St. Louis, MO

MC 143208 (Sub-2), filed May 14, 1981. Applicant: SHENANDOAH RECYCLING, INC., Route 3, Box 452, Staunton, VA 24401. Representative: Harry J. Jordan, Suite 502, Solar Bldg., 1000 16th St., NW, Washington, DC 20036, (202) 783–8131, Transporting *hazardous materials* and *waste or scrap materials not identified by industry producing*, between Waynesboro and Lynchburg, VA, and points in Albermarle and Rockingham Counties, VA, Dougherty County, GA, and Cambria, Dauphin, Northumberland, Lackawanna, and Lehigh Counties, PA, on the one hand, and, on the other, Baltimore, MD, and points in Sumter County, AL, Gloucester and Salem Counties, NJ, Augusta, County, VA, Queens County, NY, Montgomery County, PA, and Spartanburg and Sumter Counties, SC.

MC 145359 (Sub-38), filed May 14, 1981, previously noticed in **Federal Register** issue of June 1, 1981. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *metal products*, between Houston, TX, and points in Dallas, Bowie, and Morris Counties, TX, and Miller County, AR, on the one hand, and, on the other, point is the U.S.

Note.—This republication corrects the territorial description of the previous publication.

MC 147258 (Sub-2), filed June 10, 1981. Applicant: F. T. SILFIES, 751 Pt. Phillips Rd., Bath, PA 18014. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, 215–357–7220. Transporting (1) *coal and coal products*, between points in Luzerne and Schuylkill Counties, PA, on the one hand, and, on the other, CT, MA, NJ, NY, and RI, and (2) *ores and minerals*, between points in Burlington and Camden Counties, NJ, and Rockland County, NY, on the one hand, and, on the other, points in Lehigh and Northampton Counties, PA.

MC 149338 (Sub-2), filed June 5, 1981. Applicant: FLEMING TRANSPORT, INC., 222 Airport Rd., Butler, PA 16601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with (a) E. Stewart Mitchell, Inc., of Baltimore, MD, (b) Warden Asphalt Company, of Harrisburg, PA, and (c) Tri-State Emulsion, Inc., of Rayland, OH.

MC 150189 (Sub-4), filed June 8, 1981. Applicant: R. G. BERRY, d.b.a. R. G. BERRY TRUCKING, P. O. Box 8, Shawneetown, IL 62984. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75248, (214) 358–3341. Transporting *food and related products*, between the facilities of Anderson-Clayton Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 150339 (Sub-31), filed June 9, 1981. Applicant: PIONEER TRANPORTATION SYSTEMS, INC., 302 Blomingdale Ave., Federalsburg, MD 21632. Representative: Stephen J. Hammer (same address as applicant), (301) 673–7151. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with William H. Masson, Inc., of Baltimore, MD.

MC 150988 (Sub-3), filed June 10, 1981. Applicant: A&B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer, 1029 Vermont Ave., NW., Washington, D.C. 20005, (202) 347–9332. Transporting *pulp, paper, and related products*, between points in NC and VA, on the one hand, and, on the other, points in FL, GA, NC, SC, TN, VA, NY, NJ, WI, PA, OH, MI, IN, MD, DE, NH, and CT.

MC 153559, filed June 8, 1981. Applicant: PLAZA EXPRESS, INC., 6467 Van Nuys Blvd., Suite 460, Van Nuys, CA 91401. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with G. J. Industries, Inc., of Panorama City, CA.

MC 154158 (Sub-1), filed June 10, 1981. Applicant: KINNEY TRUCK LINE, INC., 124 West Willis Ave., Perry, IA 50220. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309, (515) 283–2076. Transporting *machinery*, between points in Dallas County, IA on the one hand, and, on the other, points in Stanislaus County, CA.

MC 155389 filed April 20, 1981. Applicant: WITS TRANSPORT, INC., 333 Vine St., Seattle, WA 98121. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, 206–624–2832. Transporting *general commodities* (except classes A and B explosives), between points in Boston, MA, San Franciso, CA, Salt Lake City, UT, Atlanta, GA and points in Los Angeles and Orange Counties, CA, Spartansburg and Greenville Counties, SC, Maricopa County, AZ, and Montgomery County, OH, on the one hand, and, on the other, points in the U.S.

MC 155958, filed June 5, 1981. Applicant: AMBASSADOR TRANSPORTATION, INC., 303 S. Jefferson St., Green Bay, WI 54301. Representative: William J. Vande Castle (same address as applicant), 414–822–8232. Transporting *pasengers and their baggage* in special operations, between points in Menominee County, MI, on the one hand, and, on the other, Austin Straubel Field, in Brown County, WI, and points in Marinette and Oconto Counties, WI.

Mc 156418, filed June 9, 1981. Applicant: MID-SOUTH AUTOMOBILE CLUB, INC., d.b.a. AAA WORLD WIDE TRAVEL AGENCY, 1121 Church St., Nashville, TN 37203. Representative: William Prentice Cooper, P.O. Box 2808, Nashville, TN 37219, (615) 244–1440. To operate as a *broker* at Chattanooga, Clarksville, Jackson, Memphis, Murfreesboro, and Nashville, TN, in arranging for the transportation of *passengers and their baggage*, in charter or special operations, beginning and ending at points in Davidson, Hamilton, Knox, Madison, Montgomery, Rutherford and Shelby Counties, TN, and extending to points in the U.S.

Vol. No. OPY–5–88

Decided: June 23, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–478 (Sub-2), filed June 5, 1981. Applicant: BRINKE TRANSPORTATION CORPORATION, 11858 N.W. 26th Ave., Miami, FL 33168. Representative: Ronald N. Cobert, 1730 M St., Suite 501, Washington, DC 20036, 202–296–2900. *As a freight forwarder*, in

connection with the transportation of *general commodities* (except classes A and B explosives), between points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MS, MD, NJ, NY, NC, OH, PA, SC, TN, TX, VA, and WV.

MC 41098 (Sub-60), filed May 28, 1981. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833-8884. Transporting (1) *Furniture and fixtures*, and (2) *hotel equipment and supplies* (except furniture and fixtures), between points in the U.S.

MC 41098 (Sub-61), filed June 5, 1981. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, DC 20006, (202) 833-8884. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Xerox Corporation of Rochester, NY.

MC 57239 (Sub-59), filed June 5, 1981. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46225. Representative: James R. Smith (same address as applicant), 317-635-9312. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) between Cleveland, OH, and Louisville, KY, over U.S. Hwy 42; (2) between Columbus, OH, and Louisville, KY, over Interstate Hwy 71; (3) between Toledo, OH, and Columbus, OH, over U.S. Hwy 23; (4) between Toledo, OH, and Cincinnati, OH, over Interstate Hwy 75; (5) between Mansfield, OH, and Fort Wayne, IN, over U.S. Hwy 30; (6) between Columbus, OH, and Fort Wayne, IN, over U.S. Hwy 33; (7) between Indianapolis, IN, and junctions U.S. Hwy 36 and Interstate Hwy 71, over U.S. Hwy 36; (8) between Lexington, KY, and Fort Wayne, IN, over U.S. Hwy 27; (9) between Indianapolis, IN, and Cincinnati, OH, over U.S. Hwy 52; (10) between Dayton, OH, and Muncie, IN, over U.S. Hwy 35; (11) between Richmond, IN, and Pendleton, IN, over IN Hwy 38; (12) between Columbus, IN, and junction In Hwy 46 and U.S. Hwy 52, over IN Hwy 46; (13) between Seymour, IN, and Cincinnati, OH, over U.S. Hwy 50; (14) between Indianapolis, IN, and Lexington, KY, over U.S. Hwy 421; (15) between Muncie, IN, and Jeffersonville, IN, from Muncie over IN Hwy 3 to junction IN Hwy 62, then over IN Hwy 62 to Jeffersonville; (16) between Lawrenceburg, IN, and Fiat, IN, over IN Hwy 1; (17) between Frankfort, KY, and junction U.S. Hwy 127 and U.S. Hwy 24, over U.S. Hwy 127; (18) between Lexington, KY, and Louisville, KY, over U.S. Hwy 60; (19) between Cincinnati, OH, and Lexington, KY, over U.S. Hwy 25; (20) between Cynthiana, KY, and Elizabethtown, KY, over U.S. Hwy 62; (21) between Lousiville, KY, and Hodgenville, KY, over Hwy 31E; (22) between Paris, KY, and Lexington, KY, from Paris over KY Hwy 627 to junction U.S. Hwy 60, then over U.S. Hwy 60 to Lexington; (23) between Milton, KY, and junction KY Hwy 36 and U.S. Hwy 42, over KY Hwy 36; (24) between Charlestown, IN, and junction IN Hwy 62 and U.S. Hwy 421, over IN Hwy 62; (25) between Colubmus, IN, and Madison, IN, over In Hwy 7; (26) between Columbus, IN, and Pendleton, IN, over IN Hwy 9; (27) between Cincinnati, OH, and junction OH Hwy 4 and U.S. Hwy 30, over OH Hwy 4; (28) between Van Wert, OH, and Akron, OH, over U.S. Hwy 224; (29) between Fort Wayne, IN, and Toledo, OH, over U.S. Hwy 24; (30) between Cincinnati, OH, and Columbus, OH, from Cincinnati over U.S. Hwy 22 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Columbus, serving all intermediate points in (1) thru (30), and serving Tiffin, Bellefontaine, Lima, and Newark, OH, as off-route points in connection with applicant's existing regular-route operations.

MC 78039 (Sub-11), filed June 5, 1981. Applicant: B & R MOTOR EXPRESS, INC., P.O. Box 4085, Utica, NY 13504. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY, (315) 797-1970. Transporting *pulp, paper and related products*, and *rubber and plastic products*, between points in the U.S., under contining contract(s) with Georgia Pacific Corp., of Darien, CT.

MC 105629 (Sub-103), filed June 9, 1981. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., P.O. box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616-459-6121. Transporting *pulp, paper and related products*, between the facilities used by Roosevelt Paper Company at points in IL, IN, IA, KY, MI MN, MO, OH, PA, WV, and WI.

MC 110288 (Sub-24), filed June 5, 1981. Applicant: HARRY HENERY, INC., 3517 W. Washington St., Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317-846-6655. Transporting (1) *Mercer commodities*, (2) *machinery*, and (3) *metal products*, between points in the U.S., and (4) *rubber and plastic products*, between Denver, CO, on the one hand, and, on the other, points in the U.S.

MC 111299 (Sub-14), filed June 4, 1981. Applicant: KIRVAN TRUCK LINES, INC., Box 829, International Falls, MN 56649. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424, 612-927-8855. Transporting (1) *pulp, paper and related products*, between points in MN, and WI; (2) *food and related products*, between St. Louis, MO, on the one hand, and, on the other, points in MN; (3) *food and related products*, between points in MN and WI; (4) *general commodities* (except classes A and B explosives), between Minneapolis, MN, on the one hand, and, on the other, points in Koochiching, Beltrami, Itasca, St. Louis and Carlton Counties MN; (5) *metal products*, and (6) *machinery* between points in St. Louis, Itasca, Koochiching, and Lake Counties, MN, on the one hand, and, on the other, points in IL, IN, IA, and WI.

MC 118318 (Sub-63), filed June 8, 1981. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651 Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 202-343-3071. Transporting *general commodities* (except classes A and B explosives) between point in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA.

MC 126528 (Sub-4), filed June 8, 1981. Applicant: BULK HAULERS, INC., Airport Rd., Nashua, NH 03061. Representative: T. J. O'Loughlin Jr., 18 Baker St., Hudson, NH 03051, 603-883-5531 Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Lawpool, Inc., and Law Warehouses, Inc., both of Nashua, NH.

MC 136828 (Sub-42), filed June 1, 1981. Applicant: COOK TRANSPORTS, INC., P.O. Box 6362-A Birmingham, Al 35217. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209 (205) 942-9116. Transporting *general commodities* (except classes A and B explosives) between points in AL, TN, KY, GA, FL, MS, and LA, on the one hand, and, on the other, points in the U.S.

MC 143209 (Sub-20), filed June 5, 1981. Applicant: HOUSTON FREIGHTWAYS, INC., P.O. Box 607, Galena Park, TX 77547. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *metal products*, between points in Cass and Morris Counties, TX, on the one hand, and, on the other, points in the U.S.

MC 145079 (Sub-3), filed June 5, 1981. Applicant: ALBERT J. AMATUZIO AND RICHARD A. AMATUZIO, d.b.a. AMO EXPRESS, 2206 Winter St., Superior, WI 54880. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN

55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with AMS/OIL, Inc., of Superior, WI.

MC 146078 (Sub-46), filed June 5, 1981. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753, (501) 846–2185. Transporting *general commodities* (except classes A and B explosives) between points in the U.S.

MC 146689 (Sub-9), filed June 8, 1981. Applicant: RONALD DINNOCENTI, ANGELINE DINNOCENTI, ROBERT L. LIST AND CHARLES W. YETTER III, d.b.a. LARK LEASING 261 Maplewood Dr., Pottstown, PA 19464. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *chemicals and related products* between points in the U.S., under continuing contract(s) with Reichard Coulston, Inc., of Bethlehem, PA.

MC 147009 (Sub-3), filed June 8, 1981. Applicant: DEAN HUGHS, INC., R.R. #2, New Berlin, IL 62670. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *printed matter* and (2) *pulp, paper and related products*, between points in Sangamon, Morgan, Cook, and Effingham Counties, IL, Allen and Vigo Counties, IN, and Winnebago County, WI, on the one hand, and, on the other, points in the U.S.

MC 147299 (Sub-5), filed June 8, 1981. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: Paul J. Maton, 10 S. LaSalle St., Suite 1620, Chicago, IL 60603, (312) 332–0905. Transporting *such commodities* as are dealt in or used by a manufacturer of expanded plastic articles, between points in the U.S., under continuing contract(s) with Free-Flow Packaging Corporation, of Redwood City, CA.

MC 149568 (Sub-7), filed June 5, 1981. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Sterling Drug Inc., of New York, NY.

MC 152509 (Sub-2), filed June 5, 1981. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: Robert R. Harris, 1730 M Street NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Northeastern Pennsylvania Shippers Cooperative Association, Inc., of Dunmore, PA, or its members.

MC 153648, filed June 8, 1981. Applicant: PATRICK C. SENG, d.b.a. S & S Transport, P.O. Box 579, Grand Forks, ND 58201. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting (1) *food and related products*, and (2) *chemicals and related products*, between points in Grand Forks, Ramsey, and Ward Counties, ND, and Polk and Pennington Counties, MN, on the one hand, and, on the other, points in the U.S.

MC 155539, filed June 5, 1981. Applicant: JOHN W. FJOSEIDE, Route 1, P.O. Box 206A, Dawson, MN 56232. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *food and related products*, between points in MN, WI, IL, IA, and OH, on the one hand, and, on the other, points in CA, WA, OR, and UT.

MC 156178, filed June 5, 1981. Applicant: DONALD E. PECK, d.b.a. DON PECK'S MOVING & STORAGE, 1101 Chester-Hack Drive, Paducah, KY 42001. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *such commodities* as are dealt or used by distributors of lumber and building materials, between points in the U.S., under continuing contract(s) with Cole Lumber & Supply Co., Inc., of Paducah, KY.

MC 156338, filed June 4, 1981. Applicant: MAROADI TRANSFER & STORAGE, INC., 1801 Lincoln Hwy., North Versailles, PA 15137. Representative: Authur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *household goods* between those points in the U.S. east of MT, WY, CO, and NM.

MC 156399, filed June 8, 1981. Applicant: CASTLE CONTRACT CARRIER, INC., 2337 Summer St., Lauderdale, MN 55113. Representative: Jerry E. Hess (same address as applicant), (612) 633–7911. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Davis Water & Waste Industries, Inc., of Albany, GA.

MC 156439, filed June 9, 1981. Applicant: CHASE PRODUCTS, INC., P.O.B. 117, Hagerman, ID 83332. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701, (208) 343–3071. Transporting *General commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chase Products, Inc., of Hagerman, ID, and Lewis Foods, a division of CHB Foods, Inc. of Long Beach, CA.

[FR Doc. 81-19200 Filed 6-29-81; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 403]

Cargo Liability Study; Report to Congress

AGENCY: Interstate Commerce Commission.

ACTION: Extension of Time for Replies

SUMMARY: By notice in the **Federal Register** of March 20, 1981, (46 FR 17893), the Commission requested comments on whether 49 U.S.C. 11107 should be modified or eliminated with respect to rail carriers. By **Federal Register** notice of May 18, 1981 (46 FR 27182), we extended the comment and reply dates to May 29, 1981 and June 26, 1981, respectively. The Association of American Railroads (AAR) filed a request for a three week extension to July 17, 1981, for filing the replies. It claims that the June 26 deadline makes its task onerous because of the large volume of statements filed by shippers. The AAR's request shall be granted in part, and an extension shall be granted to July 6, 1981. This should enable the AAR to file a comprehensive reply. On the other hand, a further extension is not justified, particularly in light of the requirement under Section 211 (d) of the Staggers Rail Act of 1980, that this study be completed by October 1, 1981.

DATES: Replies are now due July 6, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7693.

Decided: June 19, 1981.

By the Commission, Marcus Alexis, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-19204 Filed 6-29-81; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance

procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

(For status calls, please contact 202–275–7326)

Volume No. OP1–185

Decided: June 23, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 133820 (Sub-3), filed June 8, 1981. Applicant: CLYDE W. PLUNKARD, Route #2, Box 163, Boonsboro, MD 21713. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, and (3) *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY–2–108

Decided: June 18, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 58923 (Sub-73), filed June 1, 1981. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, S.E., Atlanta, GA 30315. Representative: William W. West (Same address as applicant) (404) 627–7331. Transporting *general commodities* between Platt, Port Charlotte, Southland, Placida, Boca Grande, and Port Boca Grande, FL, on the one hand, and, on the other, points in the U.S.

Note.—(1) Applicant intends to tack this authority with its otherwise authorized regular route authority.

(2) The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 94992 (Sub-3), filed June 10, 1981. Applicant: AUSTIN VERITY & SON, INC., 3685 Merrick Road, Seaford, NY 11783. Representative: Arthur J. Piken, Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374 (212) 275–1000. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 148552 (Sub-1), filed June 10, 1981. Applicant: MOTOR HOME TRANSPORT, INC., 3401 Etiwanda, Space No. 941, Mira Loma, CA 91752. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteen St., NW., Washington, DC 20005 (202) 296–3555. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156373, filed June 8, 1981. Applicant: ELITE TRUCK DISPATCH, P.O. Box 2489, Sacramento, CA 95811. Representative: Bill J. Smith, 1283 Ponderosa Dr., Petaluma, CA 94952 (707) 762–6131. As a broker of general commodities (except household goods), between points in the U.S.

MC 156402, filed June 8, 1981. Applicant: EFFICIENT TRANSPORTATION CONSULTANTS, INC., 190 Godwin Ave., P.O. Box 131, Midland Park, NJ 07432. Representative: Thomas D. Thompson, (same as applicant) (201) 445–6875. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 156412, filed June 9, 1981. Applicant: KOHLER ENTERPRISES, INC., 228 Vanderbilt Ave., Norwood, MA 02062. Representative: Robert M. Cohen, 99 High St., Boston, MA 02110, (617) 542–4010. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPY–5–89

Decided: June 23, 1981.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 9268 (Sub-19), filed June 11, 1981. Applicant: PACE MOTOR LINES, INC., P.O. Box 87, Bridgeport, CT 06601. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 107678 (Sub-82), filed June 5, 1981. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown (same address as applicant.) 713–452–1531. Transporting, for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous materials or secret materials, and sensitive weapons and munitions), between points in the U.S. Condition: The person or persons who appear to be in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 113658 (Sub-51), filed April 22, 1981. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, 202–223–5900. Transporting *general commodities* (except classes A and B explosives), between Stillman Valley, Esmond, Clare, Lindenwood, and Five Points, IL, on the one hand, and, on the other, points in the U.S. Condition: Prior to institution of operations at any particular point for which authority has been granted, the applicant must have on file with the Commission a certification that rail service actually has terminated at that point. See No. MC–119988 (Sub-No. 269F), *Great Western Trucking Co., Inc., Extension—Substitution for Rail at Richmond, IL*, —— M.C.C. —— (decided June 8, 1981).

Note.—The purpose of this application is to substitute motor carrier service for completely abandoned rail service.

MC 125708 (Sub-215), filed June 5, 1981. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 210 E. State, Kokomo, IN 46901. Representative: A. C. Goebel, 109 Velma, South Roxana, IL 62087, 618–254–7624. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 128648 (Sub-32), filed June 10, 1981. Applicant: TRANS–UNITED, INC., 425 West 152nd St., P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 145078 (Sub-2), filed June 9, 1981. Applicant: RAYMOND SEMRAU, 904 Miller Street, Marinette, WI 54143. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203 (414) 273–7410. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 149199 (Sub-8), filed June 11, 1981. Applicant: FRONTIER EXPRESS, INCORPORTED d.b.a. D & M TRANSPORTATION, 905 S.W. Second St., Oklahoma City, OK 73109. Representative: C. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036, 405–262–1322. Transporting, for and on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 151168 (Sub-2), filed June 9, 1981. Applicant: STEPHEN W. KETCHUM, d.b.a. KETCHUM TRUCKING COMPANY, P.O. Box 464, Pontiac, MI 48056. Representative: William B. Elmer, 624 Third St. Traverse City, MI 49684 (616) 941–5313. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazarouds or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 153938 (Sub-3), filed June 4, 1981. Applicant: ENERGY EXPRESS, INC., 2125 North Redwood Rd., Salt Lake City, UT 84116. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110, 801–531–1777. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154628 (Sub-1), filed June 8, 1981. Applicant: R & R, INC, 2882 W. Lake Sammamish Pkwy. NE, Redmond, WA 98052. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, 206–453–0312. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155639 (Sub-1), filed June 5, 1981. Applicant: G. & H. ENTERPRISES, Route 224, Marbury, MD 20658. Representative: Charles Gray (Same address as applicant.) 301–753–6991. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155828, filed May 1, 1981. Applicant: PAC–TRANS, INC, 1900 Powell St., Emeryville, CA 94608. Representative: Donald E. Cross, 918 16th St., Suite 700, Washington, DC 20006, 202–785–3700. Transporting, for and on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons), between points in the U.S.

MC 156348, filed May 27, 1981. Applicant: GREEN AERO, P.O. Box 1646, Tacoma, WA 98401. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055 (206) 235–1111. Transporting for or on behalf of the United States Government, *general commodities*, (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-19205 Filed 6-29-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2–068]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: June 19, 1981

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common

control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 151762, filed September 22, 1981. (Correction), previously published in the **Federal Register** issues of October 7, 1980 and April 9, 1981, and republished this issue. Applicant: COMMERCIAL TOWING CO., 4080 West 21st South, Salt Lake City, UT 84120. Representative: Mark K. Boyle, 10 Broadway Bldg., Suite 400, Salt Lake City, UT 84101. Transporting (1) *motor vehicles*, tranported by wrecker or towing equipment, and (2) *cargo* of the commodities in (1) above, between points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY.

Note.—This republication is to correct the commodity description in (1) above.

[FR Doc. 81-19203 Filed 6-29-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-43 (Preliminary)]

Fresh Cut Roses From Colombia; Termination of Investigation

AGENCY: United States International Trade Commission.

ACTION: Termination of preliminary countervailing duty investigation and cancellation of public conference.

EFFECTIVE DATE: June 24, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John MacHatton, Supervisory Investigator (202-523-0439), Office of Investigations.

SUPPLEMENTARY INFORMATION: On June 8, 1981, following receipt of a petition filed by counsel for Roses Incorporated, the Commission instituted preliminary antidumping investigation No. 731-TA-43 (Preliminary), Fresh cut roses from Colombia. The purpose of the investigation was to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of fresh cut roses from Colombia, provided for in item 192.18 of the Tariff Schedules of the United States, allegedly sold at less than fair value.

On June 25, 1981, the Commission received advice from the Department of Commerce that the petition in the subject investigation had been dismissed because it does not contain sufficient information to support the allegation of sales at less than fair value. Pursuant to its authority under section § 207.13 of the Commission's Rules of Practice and Procedure, the Commission's investigation concerning this product from Colombia is hereby terminated, and the conference scheduled for June 30, 1981 is hereby canceled.

Issued June 25, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-19247 Filed 6-29-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to resul' in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secreary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in

other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 25th day of June 1981.

Lusi Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending June 27, 1981

Name of applicant and location of enterprise	Principal Product or activity
Lakeside Community Hospital, Incline Village, Nev.	Short term acute care hospital.
R. A. Pulley and Sons Rare Mineral, Inc., Parowan, Utah.	Iron ore mining and smelting plant for production of pig iron.
J & J Drive, Dalton, Ga.	Manufacture of commercial institutional carpet.

[FR Doc. 81-19154 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-30-M

[Employment and Training Order No. 2-81]

Worker Adjustment Assistance; Designation of Certifying Officers

1. *Purpose.* To designate five officials within the Employment and Training Administration as certifying officers to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (19 USC 2271, *et seq.*) and the regulations published at 29 CFR Part 90.

2. *Directives Affected.* International Labor Affairs Orders No. 79-1 and No. 77-1 are superseded effective July 1, 1981, by operation of Secretary's Order No. 3-81 (46 FR 31117).

3. *Background.* Persons designated as certifying officers are assigned a number of responsibilities under 29 CFR Part 90, including the authority to make determinations of eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974 (19 USC 2273). Since the inception of the current program in 1975, certifying officers have been designated from the Bureau of International Labor Affairs. Pursuant to Secretary's Order No. 3-81, all of the worker adjustment assistance functions of the Secretary of Labor have been transferred to the Assistant Secretary of Labor for Employment and Training, including the authority to determine eligibility of groups of workers to apply for adjustment assistance. The purpose of this order is to designate certifying officers within the Employment and Training Administration who will perform this function, on and after July 1, 1981.

4. *Designation of Officials.* The following officials of the Employment and Training Administration are hereby designated as certifying officers:

(1) The Assistant Secretary of Labor for Employment and Training;

(2) The Administrator, Unemployment Insurance Service (UIS);

(3) The Deputy Administrator, UIS;

(4) The Director, Office of Program Management, UIS; and

(5) The Deputy Director, Office of Program Management, UIS.

5. *Effective Date.* This Order is effective July 1, 1981.

Dated: June 26, 1981.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 81-19317 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-25-M]

CF&I Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

CF&I Steel Corporation, P.O. Box 316, Pueblo, Colorado 81002 has filed a petition to modify the application of 30 CFR 56.19-124 (hoist ropes; requirements) to its Sunrise Mine located in Platte County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that hoist ropes be cut off at least six feet above the highest connection to the conveyance at time intervals not to exceed one year unless a shorter time is required by 30 CFR 57.19-126 or by conditions of use.

2. The mine was shut down indefinitely on July 13, 1980 and only a small maintenance force of 8-10 people was kept to maintain the underground facilities. The use of the hoisting facility was reduced to a one-shift per day operation and its actual usage is estimated to be only 5 percent of its previous normal operation. The hoist rope was replaced on June 20, 1980.

3. Monthly inspections as required by 30 CFR 57.19-126 show negligible wear; the rope that was replaced on June 20, 1980 had been installed on May 19, 1972 and was subsequently cut above the last connecting device on August 28, 1976, and reconnected.

4. Because the mine is presently not under full operation, petitioner requests a modification to be allowed to not cut the rope on a yearly basis but as needed. Petitioner further states that the process of cutting the rope as well as also cutting the counterweight rope which is on an unclutched drum appears to have more a risk of any injury than riding the cage using an essentially new rope less than one year old.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These 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. All comments must be postmarked or received in that office on or before July 30, 1981. Copies of the petition are available for inspection at that address.

Dated: June 23, 1981.

Frank A. White,

Director Office of Standards, Regulations and Variances.

[FR Doc. 81-19191 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-122-C]

M.S.W. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

M.S.W. Coal Company, P.O. Box 507, Valley View, Pennsylvania 17983 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Skidmore Slope located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply

pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These 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. All comments must be postmarked or received in that office on or before July 30, 1981. Copies of the petition are available for inspection at that address.

Dated: June 23, 1981

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-19192 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[V-81-3]

Oxford Development Co.; Notice of Application for Variance.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Oxford Development Company for variance from the standard prescribed in 29 CFR 1910.66(b)(3) concerning the design requirements for powered platforms for exterior building maintenance.

DATES: The last date for interested persons to submit comments is July 30, 1981. The last date for affected employers and employees to request a hearing on the application is July 30, 1981.

ADDRESS: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. and Constitition Avenue, NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:
Mr. James J. Concannon,
Director, Office of Variance Determination, at the above address, telephone: 202-523-7144 or the following Regional and Area Offices:
U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, PA 19104
U.S. Department of Labor, Occupational Safety and Health Administration, 400 Penn Center Boulevard, Suite 600, Pittsburgh, PA 15235

Notice of Application

Notice is hereby given that Oxford Development Company, 300 Monroeville Mall, Monroeville, PA 15146, has made application pursuant to section 6(d) of the Occupational Safety and Health act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: One Oxford Center, 301 Grant Street, Pittsburgh, PA 15219.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Parts II and III of ANSI A120.1-1970. The ANSI Standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform. The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1980, since the building height is approximately 600 feet.

The applicant proposes to use a system of intermittent stabilization of his powered platform to prevent horizontal translation of the platform with respect to the face of the building. The system will consist of protruding anchors secured to the face of the building in vertical rows at every third floor (approximately 40 feet) and spaced horizontally to allow a stabilization attachment for each of the two platform suspension wire ropes. The stabilization attachment, a quick connect-quick disconnect tie containing an adjustable lanyard to allow positioning of each suspension wire rope vertically parallel to the face of the building, will be attached to each anchor as each elevation of tie-in anchorage is reached during the descent of the working platform. The process will be reversed as the platform ascends. The removal will be assured in that the platform will be provided with electrical interlocks to interrupt power to its hoist(s) in the event either interlock contacts a stabilizer during the ascent of the platform. The platform will also be equipped with building face rollers.

The applicant further states that this Type "T" powered platform will be less than thirty-two (32) feet in length, also less than three (3) feet in width. The gross suspended weight will be approximately 2,000 pounds, with a net weight of 1,500 pounds. The platform will be provided with a taut 5/16 inch diameter horizontal galvanized wire rope, secured to a structural member at both ends of the platform and at the mid-point of the rear guard rail.

The platform's two occupants will each be provided a safety body harness. The lanyard from each, not exceeding three (3) feet in length, will be secured to the previously mentioned horizontal wire rope by means of an automatic locking rope grab.

This powered platform will not be used during any period of predicted wind velocities above twenty-five (25) miles per hour.

The applicant also contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than July 30, 1981. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 30, 1981, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C., this 22d day of June 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-19193 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-26-M

[V-81-4]

Tishman Speyer 520 Venture; Notice of Application for Variance

AGENCY: Occuptional Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Tishman Speyer 520 Venture for variance from the standard prescribed in 29 CFR 1910.66(b)(3) concerning the design requirements for powered platforms for exterior building maintenance.

DATES: The last date for interested persons to submit comments is July 30, 1981. The last date for affected employers and employees to request a hearing on the application is July 30, 1981.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. and Constitution Avenue NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination at the above address, telephone: 202-523-7144 or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10007.

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

Notice of Application

Notice is hereby given that Tishman Speyer 520 Venture, 666 Fifth Avenue, New York, New York 10019, has made application pursuant to section 6 (d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: 520 Madison Avenue, New York, New York.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Parts II and III of ANSI A120.1-1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform. The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1980, since the building height is approximately 578 feet.

The applicant proposes to use a system of intermittent stabilization of his powered platform to prevent horizontal translation of the platform with respect to the face of the building. The system will consist of protruding anchors secured to the face of the building in vertical rows at every third floor (approximately 25 feet) and spaced horizontally to allow a stabilization attachment for each of the two platform suspension wire ropes. The stabilization attachment, a quick connect-quick disconnect tie containing an adjustable lanyard to allow positioning of each suspension wire rope vertically parallel to the face of the building, will be attached to each anchor as each elevation of tie-in anchorage is reached during the descent of the working platform. The process will be reversed as the platform ascends. The removal will be assured in that the platform will be provided with electrical interlocks to interrupt power to its hoist(s) in the event either interlock contacts a stabilizer during the ascent of the platform. The platform will also be equipped with building face rollers.

In addition, the applicant states that due to the design of the building, which includes splayed facades for the lower 170 feet of the building, it will be necessary that the platform be traversed horizontally to service the lower portions of the building.

The horizontal translation has been designed to be accomplished by means of a manual winch secured to the inboard guardrail of the platform. The haul line to be attached to permanent anchors located on the face of the splayed portions of the building.

The platform is intended to be held in its displaced position by stabilizing its suspension wire ropes with rigid stand-off anchors that too will be secured to the permanent anchors located on the face of the splayed facades.

The building anchors have been designed to be located at every other floor vertically and horizontally to be compatible with the platforms suspension wire ropes.

The platform will be moved horizontally at 3 foot 9 inch ◊ intervals, at every other floor elevation, and its suspension ropes secured to the stand-off anchors, to allow the splayed areas of the lower facades to be serviced, as the platform descends. This procedure will be reversed as the platform ascends.

The stand-off anchors, will be secured to the platform by means of lanyards until after they are secured to the building anchors, to prevent their being dropped. Also, they will only be secured to the building anchors when the platform is directly below a set of anchors.

The platform will be moved laterally across the precast sprandal members on caster type facade rollers, located at the upper guardrail and deck levels, to minimize the effort required and to eliminate marking the face of the building.

The calculated horizontal force required to move the platform across the facade, neglecting friction, is 304 pounds, distributed to two building anchors.

This type "T" powered platform will be less than thirty-two (32) feet in length, also less than three (3) feet in width. The gross suspended weight will be approximately 2,000 pounds, with a net weight of 1,500 pounds. The platform will be provided with a taut 5/16 inch diameter horizontal galvanized wire rope, secured to a structural member at both ends of the platform and at the mid-point of the rear guardrail.

The platform's two occupants will each be provided a safety body harness. The lanyard from each, not exceeding three (3) feet in length, will be secured to the previously mentioned horizontal wire rope by means of an automatic locking rope grab.

This powered platform will not be used during any period of predicted wind velocities above twenty-five (25) miles per hour.

The applicant also contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested person, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than July 30, 1981. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 30, 1981, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C., this 22d day of June 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-19194 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-54; Exemption Application Nos. D-2317 and D-2318]

Exemption From the Prohibitions for Certain Transactions Involving the Teamsters Local 639—Employers Pension Trust and the Teamsters Local 639—Employers Health Trust, Located in Washington, D.C.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the proposed lease of office space by the Teamsters Local 639—Employers Pension Trust (the Pension Trust) to the Teamsters Local 639—Employers Health Trust (the Health Trust).

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of 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, (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 24, 1981, notice was published in the **Federal Register** (46 FR 23346) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for transactions described in an application filed on behalf of the Pension Trust and the Health Trust. The notice set forth a summary of 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 a copy of the notice was furnished to interested persons in compliance with the requirements to notify interested persons as set forth in the notice of pendency of the proposed exemption. No public comments and no requests for a hearing 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(a) and 406(b)(1) and (b)(3) 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. 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 the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of both Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of both Plans.

Accordingly the restrictions of section 406(b)(2) of the Act shall not apply to the lease of office space by the Pension Trust to the Health Trust according to the lease terms and conditions specified in the notice of proposed exemption, provided the rental payments equal fair market rental value.

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 and terms of the transaction to be

consummated pursuant to this exemption.

Signed at Washington, D.C., this 24th day of June 1981.

Morton Klevan,

Deputy Administrator, Pension and Welfare, Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-19196 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2150]

Proposed Exemption for Certain Transactions Involving the Carpenters Pension Trust for Southern California, Located in Los Angeles, Calif.

AGENCY: Department of Labor

ACTION: Notice of Proposed Exemption

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of a piece of improved real property (the Rose Hills property) from the Carpenters Pension Trust for Southern California (the Trust) to the Los Angeles County District Council of Carpenters (the District Council), an employee organization some of whose members are participants in the Trust. The proposed exemption, if granted, would effect the trustees, participants and beneficiaries of the Trust, and the District Council.

DATE: Written comments must be received by the Department on or before Aug. 14, 1981.

ADDRESSES: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2150. 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: Mrs. Miriam Freund, of the Department, telephone (202) 523-8671. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Trust is a multiemployer, jointly-trusteed employee pension benefit plan with approximately 47,000 participants. In addition to having members which participate in the Trust, the District Council also employs persons on whose behalf contributions are made to the Turst. Thus, the District Council is a party in interest and disqualified person with respect to the Trust. The Trust has ten trustees: J. W. Bernard, Warren Driver, C. V. Holder, John Kuhl, Roy Silver, John Evert, Sam Heil, Paul Miller, G. T. Stedman and James Wood (collectively, the Trustees). Messrs. Silver, Kuhl, Holder, Driver and Bernard are management trustees and are not affiliated with the District Council. Messrs. Evert, Heil, Stedman and Wood are labor trustees; however, they are from geographic areas not associated with the District Council. Mr. Miller, the fifth labor trustee, is the only trustee associated with the District Council. Because Mr. Miller is an officer of the District Council, it is represented that he would exclude himself from the Trust's consideration of the proposed sale and that he has not and will not influence the Trust's conduct with respect to the transaction. Messrs. Miller, Heil, Stedman, Wood and Silver are also trustees of the Carpenters' Joint Apprenticeship and Training Committee Fund for Southern California (the Apprenticeship Fund). However it is represented that responsibility for Apprenticeship Fund transactions involving Trust properties had been delegated to a committee of the Apprenticeship Fund known as the Pension Trust Liaison Committee, composed of Apprenticeship Fund trustees Peter Johnson and Elmer Kirkwood.

2. In 1973 the Trust purchased the Rose Hills property, a parcel of unimproved real property of approximately 131,551 squae feet in Los Angeles County, from an unrelated party for $200,000. The Rose Hills property is located at 10015 Rose Hills Road, Whittier, California. The Trust then constructed improvements on the property for $523,000, and in 1977 modified those improvements at a cost of $104,000. The improvements consisted of a 59,400 square foot industrial building, divided into office, classroom and warehouse space, and the paving of the remaining land for parking.

3. The Rose Hills property is currently leased to two tenents. Ashflash Corporation, which is represented to be unrelated to the Trust, leases 19,800 square feet of the building pursuant to a lease expiring in 1982 with a five-year renewal option (the Ashflash Lease). The balance of the facility is leased to the Apprenticeship Fund under two leases (the Apprenticeship Fund Leases). The first lease covers 6,000 square feet of space in the facility, was entered into in 1972 and expires in 1997. The second lease which was entered into in 1980 and expires in 1985, covers 33,500 square feet of the facility.

4. The Trustees propose to sell the Rose Hills property to the District Council for the greater of $1,428,000 or fair market value on the date of sale. Fair market value will be established by an independent appraisal. The sale will be made for cash only and no real estate commissions will be incurred by the Trust in the transaction.

5. The Trustees have obtained an appraisal of the property as of February 12, 1980 by Mr. John J. Archer, ASA, who is represented to be independent of the Trust. Mr. Archer set the fair market value of the property at that time at $1,428,000. His opinion was based upon an income analysis approach to determining value. Mr. Archer also indicated that the rent being paid under the first Apprenticeship Fund Lease and under the Ashflash Lease is currently below fair market rental, and that the value of the property was concomitantly lowered. If the Apprenticeship Fund were to prematurely terminate its 25-year lease shortly after the proposed purchase of the property by the District Council, an entity related to the Apprenticeship Fund, leaving the space available for rental at a current market rate, Mr. Archer estimates that an

additional $27,000 of annual income would be generated which would add approximately $285,000 to the value of the property. The shorter the remaining term of the lease at the time of any such abrogation, the smaller would be the additional value which would accrue to the property. Mr. Archer states that, in his opinion, any such "Windfall" profit would accrue to the District Council on a decreasing scale in the first through the tenth years of the remaining term of such lease. Thus the District Council will reimburse the Trust for additions in current fair market value on the following scale if the Apprenticeship Fund terminates its 25-year lease in any of the following remaining years of the lease term: Year 1—$285,000; Year 2—$267,325; Year 3—$248,060; Year 4—$227,061; Year 5—$204,172; Year 6—$179,223; Year 7—$152,029; Year 8—$122,388; Year 9—$90,079; Year 10—$35,217.

6. The applicants represent that the proposed sale of the Rose Hills property to the District Council satisfies the statutory criteria set forth in section 408(a) of the Act because: (1) the sale would be a one-time cash transaction; (2) the sale would take place on terms established by an independent appraiser after an objective evaluation; (3) the transaction will result in the Trust realizing a substantial profit on the Rose Hills property; and (4) the Trustees have determined that the proposed sale is in the best interests of the Trust and its participants and beneficiaries.

Notice to Interested Persons

The Trust will notify all employees or job applicants of employers who are obliged by collective bargaining agreements to make contributions to the Trust, each employer association whose members make contributions to the Trust, and each employee organization whose members are participants in the Trust.

Notice will be given by providing a copy of the notice of pendency of this exemption published in the Federal Register together with a statement informing interested persons of their right to comment within the time period indicated in the notice of pendency. Within 10 days of publication of the notice of pendency in the Federal Register, the notices and statements will be publicly posted in each employee organization hall and hiring hall where Trust participants and potential employees of employers who are obligated to make contributions to the Trust normally congregate, and will be mailed, postage prepaid, to each employer association whose members make contributions to the Trust and to each employee organization whose members are participants of the Trust.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation, of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writier's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the proposed sale of the Rose Hills property by the Trust to the District Council for $1,428,000, provided that that amount is not less than fair market value at the time of the sale.

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 22nd day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-19195 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period June 15–19, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (30 has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9604; Precision-Kidd Steel Co., West Aliquippa, PA

TA-W-9787; Rockwell International Corp., Collins Transmission Systems Div., Dallas, TX

TA-W-9953; Linden Products Co., Linden, TN

TA-W-9971; General Electric Co., Niles/Mahoning Glass Facility, Niles, OH

TA-W-9925; Elegante Blouse Co., Inc., Brooklyn, NY

TA-W-9765; Kelly-Springfield Tire Co., Cumberland, MD

TA-W-9436; Applied Arts Division, American General Mfg. Industries, Inc., Grand Rapids, MI

TA-W-9983; N&M Handbag Co., Inc., Walnut Ridge, AR

TA-W-10-591; Ren Plastics, A Ciba-Geigy Co., Lansing, MI

TA-W-11-912; Clear Shake, Inc., Clear Lake, WA

TA-W-10,407; Levinson Steel Co., Fabrication Div., Ambridge & Pittsburgh, PA

TA-W-10,992; Bay State Abrasives, Westborough, MA

TA-W-11,575; Republic Steel Corp., Mahoning Valley District, Niles, OH

TA-W-10,720; Nagle Industries, Assembly Div., Rascommon, MI

TA-W-10,503; Allegheny Ludlum Steel Corp., Wallingford, CT

TA-W-10,446; Greer Steel Co., Steel Div., Dover, OH

TA-W-10,396; Arjay Mfg. Co., Bad Axe, MI

TA-W-10,322; Spiral Industries, Inc., Milford, MI

TA-W-9028, 9231, 9232, 9232A, 12,125, and 12,126; McQuay-Norris, Inc., Washington, MO, St. Louis, MO, #1 St. Louis, Missouri Plant, Bradford, TN, Indianapolis Division, IN, and Casey, IL

TA-W-8911; Algy Shoe Co., Chelsea, MA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of women's and misses nonrubber footwear did not increase.

TA-W-9228; Cuyahoga Valley Railway Co., Cleveland, OH

Investigation revealed that criterion (3) has not been met. The Cuyahoga transports for the Cleveland works of Jones and Laughlin whose workers were denied eligibility to apply for adjustment assistance.

(TA-W-6845 and 9503).

TA-W-9240; Elkton Fashion Industries, Inc., Elkton, MD

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tailored dress coats and tailored suits did not increase as required for certification.

TA-W-9498; The River Terminal Railway Co., Cleveland, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of hot and cold rolled carbon steel sheet and metallic coated sheets did not increase as required for certification. U.S. imports or alloy steel sheet are negligible. Shipments of carbon steel plate increased from 1978 to 1979 and in the first eight months of 1980 compared to the first eight months of 1979. With respect to carbon and and alloy steel bars and alloy steel plate, a survey of customers revealed that increased imports did not contribute importantly to declines in employment or production at the subject firm.

TA-W-10,606; Chase Brass & Copper Co., Inc., Sheet Div., Cleveland, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of copper and copper base alloy sheet and strip did not increase as required for certification.

TA-W-11,071; Drummond Dolomite, Inc., Drummon Island, MI

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. Furthermore, none of the workers at the affiliated Bethlehem plants have been certified eligible to apply for adjustment assistance.

TA-W-11,105 and 11,106; King Powellton Mining, Inc., Xcello Corp., Kingston, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports imports of bituminous coal are negligible. U.S. imports of coke did not increase as required for certification.

TA-W-11,166; Darco Corp., River Rouge, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of refractory products were negligible during the period under investigation.

TA-W-11,224; Eaton Corporation, Truck Component Group, Transmission Division Shelbyville, TN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of transmissions for heavy duty trucks are negligible.

TA-W-11,330; Interlake, Inc., Chicago, IL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of pig iron did not increase as required for certification. Trade and industry sources state that molten iron is not imported. Furthermore, workers at the affiliated Riverdale plant of Interlake were denied eligibility to apply for adjustment assistance in TA-W-11,331.

TA-W-11,434; Paragon Woven Label Co., Inc., Haskell, NJ

Investigation revealed that criterion (3) has not been met. The Haskell plant was permanently closed in January 1981 and all production activities were transferred to the Fuquay-Varina facility.

TA-W-11,651; Product Services, Inc., St. Clair Shores, MI

Investigation revealed that criterion (3) has not been met. The separations of workers of Product Services, Inc., can not be related to a facility whose workers independently meet the statutory criteria for certification at this time.

TA-W-12,160; Ohio Ferro Alloys Corporation, Powhatan Point, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of silicon metal did not increase.

TA-W-12,267; H&H Atlas, Inc., New York, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of women's, girls, and infants swimsuits did not increase as required for certification.

TA-W-12,421; Topline Fashion Co., Inc., Hoboken, NJ

Investigation revealed that criterion (3) has not been met. Company sales increased during the period under investigation, except for normal

seasonal declines common to the industry.

TA-W-9360; L&R Mfg., Co., Kearny, NJ

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of ultrasonic machines are negligible.

TA-W-10,573; Arctic Enterprises, Inc., Lund American Div., Shell Lake, WI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of fiberglass outboard powered pleasure boats did not increase as required for certification.

TA-W-12,516; Mack Trucks, Inc., Mack Western Div., Hayward, CA

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-10,518; Kelly-Springfield Tire Co., Freeport, IL

Investigation revealed that criterion (3) has not been met. With respect to passenger car and truck tires, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to tractor tires, U.S. imports are negligible.

TA-W-10,557, 10,558, and 10,559; Bethlehem Mines Corp., Mine #51, Ellsworth, PA, Mine #58, Marianne, PA, and Mine #60, Cokeburg, PA

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. Furthermore, none of the workers engaged in basic steel production at any of the Bethlehem facilities to which the coal is shipped have been certified eligible to apply for adjustment assistance.

TA-W-10,611; Beth-Elkhorn Corporation, Mine #29, Virgie, KY

Investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. Furthermore, none of the workers in the basic steel making operations at any of the Bethlehem facilities which the subject firm supplies are currently certified eligible to apply for adjustment assistance.

TA-W-11,342; Frank Saltz and Sons, Inc., New York, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of men's and boys suits and men's and boys dresscoats and sportscoats did not increase as required for certification.

TA-W-11,427; Bethlehem Steel Corp., Portland Sales Office, Portland, OR

Investigation revealed that criterion (3) has not been met. None of the workers at the Bethlehem plants which the Portland Office services are currently certified eligible to apply for adjustment assistance.

TA-W-11,474; Penn State Textile Mfg. Co., Inc. (formerly known as Penn State Coat and Apron, Inc.), Clifton Heights, PA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of washable service apparel are negligible.

TA-W-11,843; Joseph Asch Co., Inc., New York, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of leotards and bodysuits did not increase as required for certification.

Affirmative Determination

TA-W-9220; C. J. Bachner & Sons, Inc., Gloversville, NY

A certification was issued covering all workers separated on or after June 20, 1979.

TA-W-10,029 and 10,030; Precision Spring Corporation, Canton Township, MI and Detroit, MI

A certification was issued covering all workers of the firm engaged in employment related to the production of valve springs separated on or after December 15, 1979.

With respect to workers producing rings, shims, and clips the investigation revealed that criterion (3) has not been met. A survey of the firm's customers revealed that increased imports did not contribute importantly to worker separations at the firm.

I hereby certify that the aforementioned determinations were issued during the period June 15–19, 1981. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: June 23, 1981.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-19201 Filed 6-29-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8175]

Ex-Cell-O Corp., Manistee Operation; Revised Determination on Reconsideration

On April 24, 1981, after being granted a filing extension, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at Ex-Cell-O Corporation's Manistee Operation, Manistee, Michigan. This determination was published in the **Federal Register** on May 1, 1981 (46 FR 24756).

A company official in his application for reconsideration claims that the conditions which qualified Ex-Cell-O Corporation's Oakman plant in Detroit, Michigan directly affected Ex-Cell-O's Manistee operations.

The Department's review revealed that the worker petition for the Manistee Operations did not meet the "contributed importantly" test of the Trade Act of 1974. Most customers did not purchase imported gear cutting or broaching machines during the period under investigation.

In its reconsideration investigation, the Department found that Ex-Cell-O's Manistee complex consists of a foundry, a machine shop and an assembly department. Ex-Cell-O's sales at Manistee declined slightly in 1980 compared to 1979.

The Department found that the foundry and machine shop were substantially integrated into the production of Ex-Cell-O's Oakman plant in Detroit, Michigan whose workers were certified for trade adjustment assistance on June 17, 1980, TA-W-7154. This certification was published in the **Federal Register** on June 27, 1980 (45 FR 43485). The reduced production and increased worker separations in the foundry and machine shop were importantly caused by the adverse impact of imports on the Oakman plant of the Ex-Cell-O Corporation. Production at the foundry and machine shop decreased by 36 and 29 percent, respectively, in 1980 compared to 1979.

The Department also found that the assembly department's production at Manistee was only minimally integrated during the period under investigation with that of the Oakman plant. Sales and production in the assembly department increased in quantity and

value in FY 1980 compared to FY 1979 and increased in value in the first six months of FY 1981 compared to the same period in FY 1980. U.S. imports of gear cutting machines declined absolutely and relative to domestic shipments in 1979 compared to 1978 and in 1980 compared to 1979.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with the machines made at Ex-Cell-O's Oakman plant in Detroit, Michigan contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers at Ex-Cell-O's foundry and machine shop at Manistee, Michigan. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of Ex-Cell-O Corporation's foundry and machine shop at Manistee, Michigan who became totally or partially separated from employment on or after January 1, 1980 and July 9, 1979, respectively, and before May 1, 1981, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Further, I reaffirm after reconsideration, the original denial of eligibility to apply for adjustment assistance for all workers of Ex-Cell-O Corporation's assembly department at Manistee, Michigan.

Signed at Washington, D.C. this 22nd day of June 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-19199 Filed 6-29-81; 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 211(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 July 10, 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 July 10, 1981.

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 22nd day of June 1981.

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
Aberdeen Sportswear, Inc. (workers)	Trenton, N.J	6/15/81	6/13/81	TA-W-12,772	Men's outerwear
Ben Shiffrin, Inc.	New York, New York	6/15/81	6/11/81	TA-W-12,773	Contractor of ladies' skirts and slacks.
Brother Sportswear, Inc. (ILGWU)	New York, New York	6/15/81	6/10/81	TA-W-12,774	Polyester dresses.
Elco Coat Co., Inc. (workers)	New York, New York	6/17/81	6/10/81	TA-W-12,775	Women's outerwear.
Gibson, Inc. (USWA)	Kalamazoo, Michigan	6/15/81	6/10/81	TA-W-12,776	Guitars, banjos, mandolins and parts thereto.
Knudsen Pole Co. (workers)	Shelton, Washington	6/15/81	6/8/81	TA-W-12,777	Power poles.
Mercer Coat Company, Inc. (workers)	Trenton, N.J	6/15/81	6/13/81	TA-W-12,778	Men's outerwear.
Salvatore & Catherine Bonfiglio, Inc., d.b.a. S & C Sportswear (ILGWU).	Brooklyn, New York	6/15/81	6/11/81	TA-W-12,779	Contractor of ladies' dresses and sportswear.
Vera Industries (workers)	New York, New York	5/21/81	5/17/81	TA-W-12,780	Ladies' sportswear.
Westmoreland Coal Co., East Gulf Mine (UMWA)	McAlpin, West Va	6/15/81	6/11/81	TA-W-12,781	Metallurgical coal.
Aileen, Inc. (workers)	Brookneal, Va	6/15/81	6/10/81	TA-W-12,782	Women's and children's sportswear.
Arrowhead Sportswear (ACTWU)	Philadelphia, Pa	6/17/81	6/5/81	TA-W-12,783	Blazers for ladies' and outerwear for men.
Broderick & Bascom Rope Company (USWA)	Houston, Texas	6/15/81	6/8/81	TA-W-12,784	Wire rope and rope products.
Hyster Company (Lift Truck Builders Union)	Danville, Ill	6/15/81	6/9/81	TA-W-12,785	Lifting and hoisting equipment.
McGrew Brothers Sawmill, Inc. (workers)	Ashland, Oregon	6/15/81	6/10/81	TA-W-12,786	Dimension construction lumber and boards.
Rittenberry Cake Artcraft (company)	Knox, Tenn	6/18/81	6/11/81	TA-W-12,787	Cake baking and decorating.
Roselaine Dress, Inc. (workers)	Hazelton, Pa	6/18/81	6/11/81	TA-W-12,788	One and two piece dresses.
Royal Dorchester, Inc. (company)	Millville, N.J	6/18/81	6/15/81	TA-W-12,789	Dinnerware and artware items.
South Bend Lathe, Inc.	South Bend, Indiana	6/15/81	6/11/81	TA-W-12,790	Machine tools, lathe, etc.
Ashland Oil, Inc. (OCAWU)	Findlay, Ohio	6/18/81	6/12/81	TA-W-12,791	Asphalt products, diesel fuels, jet fuels, heavy fuel oil, lube oils, industrial chemicals and processing oils.
Advanced Technology & Testing (workers)	Livonia, Michigan	6/16/81	6/5/81	TA-W-12,792	Diagnostic test stands for automotive engines and transmissions.
Eastern Blouse Manufacturing Co. (ILGWU)	New York, New York	6/17/81	6/10/81	TA-W-12,793	Blouses.
Fiat-Allis Construction Machinery, Inc. (workers)	Deerfield, Ill	6/17/81	6/12/81	TA-W-12,794	Moving graders and wheel loaders.

Appendix—Continued

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Kaiser Steel Corp., Light Steel Products (USWA)	Fontana, Calif	6/19/81	6/17/81	TA-W-12,795	Light steel products.
Kaiser Steel Corp., Structural Fabricating Plant (USWA).	Fontana, Calif	6/19/81	6/17/81	TA-W-12,796	Structural Steel products.
Kork Ease, Inc. (National Organization of Industrial Trade Union).	New York, New York	6/17/81	6/12/81	TA-W-12,797	Leather shoes and sandals.

[FR Doc. 81-19198 Filed 6-29-81; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-8648]

Morton Industries, Inc., Bloomfield, 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. It is determined in this case that all of the requirements have been met.

The investigation was initiated on June 9, 1980, in response to a petition which was filed on behalf of workers at Morton Industries, Incorporated, Bloomfield, New Jersey. Workers at the firm produced men's and women's sportwear.

U.S. aggregate imports of men's and boy's woven sport shirts increased absolutely and relative to domestic production in 1978 compared with 1977 and in 1979 compared with 1978. Average U.S. aggregate imports of women's, misses', and children's blouses and shirts increased during the period 1978–1979 compared with the average for the period 1976–1977. Since 1976, the ratio of imports to domestic production of blouses and shirts have been greater than 50 percent.

The Department surveyed the principal manufacturer with which Morton Industries, Incorporated contracted during 1977 and 1978. This manufacturer reported that it had decreased contract work with Morton Industries, Incorporated and increased work with foreign contractors during the period under investigation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and women's sportwear produced at Morton Industries, Incorporated, Bloomfield, 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 Morton Industries, Incorporated, Bloomfield, New Jersey who became totally or partially separated from employment on or after February 28, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of June 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-19200 Filed 6-29-81; 8:45 am]
BILLING CODE 4510-28-M

NATIONAL ENDOWMENT ON THE ARTS AND THE HUMANITIES

Presidential Task Force on The Arts and Humanities; Meetings

June 25, 1981

Notice is hereby given of the following meetings of the Presidential Task Force on the Arts and Humanties. The purpose of these meetings is to consider ways that private sector support for the arts and humanities can help offset budget cuts at the National Endowment for the Humanities and the National Endowment for the Arts. The agenda for the Task Force will also be considered.

The Midwest Regional meeting will convene at 10:00 a.m. on Thursday July 9, 1981 at Standard Oil Company, Room 3 on the 3rd Floor, 200 East Randolph Street, Chicago, Illinois.

The Western Regional meeting will convene at 2:00 p.m. in the Founders Room; Dorothy Chandler Pavilion, Los Angeles Music Center, 120 North Hope Street, Los Angeles, California.

These meetings will be open to the public, however, because of limited seating, members of the public who wish to attend should call Jeanne Rhinelander of the Presidential Task Force on the Arts and Humanties at (202) 395–6830 to reserve a seat no sooner than June 30, and no later than July 6, 1981.

Because the Presidential Task Force on the Arts and Humanities was established by Executive Order 12308 of June 5, 1981 with a mandate to terminate on September 30, 1981, it was not possible to schedule these meetings in time to give 15 days notice in the **Federal Register.**

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 81-19210 Filed 6-29-81; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on July 9, 1981, from 7:00 p.m. to 10:00 p.m. in the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania. The meeting will be open for public observation.

At this meeting the Panel will discuss the current status of cleanup activities at TMI.

Further information on the meeting may be obtained from Dr. William Travers, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492–7466.

Dated: June 24, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-19140 Filed 6-29-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility operating License No. NPF-6, issued to the Arkansas Power and Light

Company, which revised the license and the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 2 (the facility) at steady state reactor core power levels not in excess of 2815 megawatts thermal, in accordance with the provisions of the license and the Technical Specifications. However, the facility is temporarily restricted from operating at full rated power pending completion of the staff's detailed review of the core protection calculator system (CPCS) changes for Cycle 2 operation. The facility is located at the licensee's site in Pope County, Arkansas. The license amendment is effective as of its date of issuance.

The amendment authorizes Cycle 2 operation at seventy (70) percent of the licensed power level of 2815 MWt with:

- Changes in the Core Protection Calculator System (CPCS) to reflect utilization of the CE–1 critical heat flux correlation and associated thermal hydraulic methodology.
- Changes in the CPCS to reflect utilization of the Statistical Combination of Uncertainties (SCU) thermal hydraulic methodology for the combination of system parameter uncertainties.
- Changes in the RPS and ESFAS trip setpoints to reflect a change in signal transmitter design and to reflect staff approval of the licensee's equipment trip setpoints.
- Changes in the minimum required shutdown margin to lengthen the time available for operator action during a boron dilution event.
- Changes required to maintain acceptable results for the steamline break analysis.
- Some demonstration fuel assemblies to test new fuel designs.
- Numerous other miscellaneous change of a clarifying, editorial and administrative nature.
- Other changes in the Technical Specification to incorporate requirements resulting from the detailed physics and thermal hydraulic analysis of the Cycle 2 reload core.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 20 and March 5, 1981, as supplemented by references identified in the related Safety Evaluation, (2) Amendment No. 24 to License No. NPF–6 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 19th day of June 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81–19174 Filed 6–29–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–286–OLA]

Power Authority of the State of New York, (Indian Point Station, Unit No. 3); Reconstitution of Board

Pursuant to the authority contained in 10 CFR § 2.721, the Atomic Safety and Licensing Board for *Power Authority of the State of New York* (Indian Point Station, Unit No. 3), Docket No. 50–286–OLA, is hereby reconstituted by appointing the following Administrative Judges to the Board: Elizabeth S. Bowers, Peter A. Morris, and Oscar H. Paris. The former Board members were Samuel W. Jensch, Chairman, R. Beecher Briggs, and Dr. Franklin C. Daiber.

As reconstituted, the Board is comprised of the following Administrative Judges:

Elizabeth S. Bowers, Chairman
Peter A. Morris
Oscar H. Paris

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The addresses of the new Board members are:

Administrative Judge Elizabeth S. Bowers, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Administrative Judge Peter A. Morris, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Administrative Judge Oscar H. Paris, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Dated at Bethesda, Maryland, this 22nd day of June 1981.

Robert M. Lazo,

Vice Chairman—Executive, Atomic Safety and Licensing Board Panel.

[FR Doc. 81–19175 Filed 6–29–81; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on July 14 and 15, 1981, Rodeway Inn, Board Room—215, 5615 North Cumberland Avenue, Chicago, IL to discuss matters relating to the development of liquid metal fast breeder reactor safety design criteria. Notice of this meeting was published June 17.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday and Wednesday—July 14 and 15, 1981

8:30 a.m. Until the Conclusion of Business Each Day

- Safety design bases for the Department of Energy (DOE) conceptual design of an advanced liquid metal fast breeder reactor.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: June 25, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81–19173 Filed 6–29–81; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Letter to the Commissioner of Customs Adjusting Restraint Levels on Color Television Receivers From Republic of Korea

June 25, 1981.

Pursuant to the authority delegated to the United States Trade Representative under Presidential Proclamation 4769 of June 30, 1980, the following letter was sent to the Commissioner of Customs adjusting the third and fourth period restraint levels for color television receivers from the Republic of Korea.

William E. Brock,

United States Trade Representative.

June 25, 1981.

Honorable William T. Archey,

Acting Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: The Government of the Republic of Korea has requested that the restraint level for TSUS item 923.71 be adjusted under the carryover and carryforward provisions of the Orderly Marketing Agreement on color television receivers. This would increase the restraint level for that category by 37,124 sets, reflecting maximum permissible carryover of the shortfall in the previous restraint period and carryforward of 20,000 sets from the succeeding restraint period. Only that portion of the carryforward actually shipped in the current period will be deducted from the total for the succeeding period.

Accordingly, pursuant to operative paragraph (6) of Proclamation 4769 of June 30, 1980, you are hereby requested to make the appropriate adjustments in TSUS item numbers 923.71 and 923.73.

The revised restraint levels for the applicable periods will be:

Category	Revised levels (units)
TSUS 923.71	237,124
TSUS 923.73	255,000

This letter will be published in the **Federal Register** and the action will become effective on the first working day after publication.

Very truly yours,

William E. Brock,

[FR Doc. 81–19141 Filed 6–29–81; 8:45 am]

BILLING CODE 3190–01–M

PRESIDENT'S COMMISSION ON HOSTAGE COMPENSATION

[Public Notice CM–8/419]

Open Meetings

The President's Commission on Hostage Compensation will hold its first meeting on July 6 and 7, 1981 from 6:00 to 8:00 p.m. on July 6 and from 9:00 a.m. to 1:00 p.m. or later on July 7. The meeting will be held in Room 1107 of the Department of State, 22nd and C Streets, N.W.

The Commission will operate under the authority of Executive Order 12285 of January 19, 1981, as amended. The Chairman of the Commission is Mr. James S. Dwight, Jr. and it is composed of nine private citizen members, a number of whom have formerly served in the legislative or executive branches of the U.S. Government.

The Commission is directed to advise the President whether the United States should provide financial compensation to United States nationals who have been held in captivity outside the United States, either (1) by or with the approval of a foreign government, or (2) by reason of their status as employees of the United States Government or as dependents of such employees.

At its initial session on the evening of July 6, the Commission will limit itself to personal orientation and discussion of administrative matters. On July 7, the Commission will plan its work schedule and receive briefings from State Department officials concerning the facts of the Iranian hostage situation and relevant legal and administrative precedents. It will consider what additional written or oral presentations should be requested from other sources.

The second meeting of the Commission is scheduled for July 16, 1981, from 6:00 p.m. to 8:00 p.m., continuing on July 17 from 9:00 a.m. to 1:00 p.m. or later. It will also be held in Room 1107 of the Department of State, 22nd and C Streets, N.W., Washington, D.C.

The meetings will be open to public observation. Written comments or statements may be submitted at any time before or after the meeting and should be limited to the substantive matters described above. Approximately 60 seats will be available to the public on a first come, first served basis. The Commission proceedings will be recorded and extensive minutes prepared which may be examined subsequently at the Commission's office, Room 1004, Department of State.

Because the Commission has only recently been appointed and because of the requirement to complete the Commission's work by August 20, 1981, less than fifteen days notice of the initial meeting is being given.

For further information, contact John R. Davis, Jr., at (202) 632–3116 who can arrange admission to the building.

James S. Dwight, Jr.,

Chairman.

June 25, 1981.

[FR Doc. 81–19292 Filed 6–29–81; 8:45 am]

BILLING CODE 4710–15–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11628; 812–4872]

Precious Metals Holdings, Inc.; Filing of Application

June 24, 1981.

Notice is Hereby Given that Precious Metals Holdings, Inc. (the "Applicant") 60 State Street Boston, Massachusetts 02109, a closed-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 8, 1981, pursuant to Section 6(c) of the Act, requesting an Order exempting the Applicant from the provisions of Section 2(a)(19) of the Act to the extent necessary to permit compliance with Section 15(f)(1)(A) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the

representations contained therein, which are summarized below.

Applicant states that it is a Delaware corporation and has its principal place of business at 60 State Street; Boston, Massachusetts. Applicant states that its principal investment objective is to seek long-term capital appreciation and protection of the purchasing power of the shareholders' capital. The generation of current income is only a secondary objective.

Applicant states that pursuant to such objective its policy is to invest not less than 80% of its net assets in securities of companies engaged in (or receiving at least 50% of their revenues from other companies engaged in) mining, processing or dealing in gold or other precious metals and minerals. Applicant states that it also has a subsidiary which is authorized to invest directly in gold bullion and other precious metals. Applicant's By-Laws provide for the indemnification of its directors under certain circumstances. Applicant states that its shares are traded on the over-the-counter market and are listed on the American and Pacific Stock Exchanges.

Applicant states that, prior to November 9, 1979, its investment adviser was Phoenix Investment Counsel of Boston, Inc. ("Phoenix"). In 1979 Phoenix sold certain of its assets and business relating to the provision of investment advice and certain management services on behalf of the Applicant and private accounts to Harbor Capital Management Company, Inc. ("Harbor"). The purchase and sale to Harbor was effected only after approval by the shareholders of the Applicant of an investment advisory contract with Harbor.

Applicant states that Harbor was incorporated in Massachusetts on August 9, 1979, with offices at 60 State Street, Boston, Massachusetts 02109; and is registered as an investment adviser under Federal and certain state laws. Applicant states that the directors of Harbor are Alan S. Fields, Lawrence J. Marks, Malcolm Pirnie, III, Richard A. Spindler, E. William Hansen and Frederick G. P. Thorne, President and principal executive officer.

Applicant states that the prospectus, dated February 19, 1974, for its initial offering of stock stated that Applicant intended to submit to its shareholders within six months a proposal that it become an open-end investment company. Said prospectus also stated that if that proposal was not approved by Applicant's shareholders at said meeting, the proposal would be resubmitted at each subsequent annual meeting of the shareholders until approved. The proposal that Applicant become an open-end investment company has been submitted to the shareholders each year but has never been approved.

Applicant states that on April 25, 1980, certain shareholders formed The Precious Metals Holdings, Inc. Shareholders Group and designated representatives to act on the Group's behalf to take whatever course of action was deemed necessary to achieve a change in the subclassification of Applicant to an open-end investment company, including nominating a slate of candidates for election as directors of Applicant and soliciting proxies with respect to such slate and with respect to the open-end proposal. On July 8, 1980, the Board of Directors of Applicant announced that it would recommend to its shareholders that they vote against the open-end proposal. On September 8, 1980, three shareholders, individually and on behalf of the Shareholders Group, filed a shareholder derivative action in United States District Court for the district of Columbia against the officers and certain directors of Applicant entitled *Stephen Hartwell, et al.* v. *Frederick G. P. Thorne, et al.* This action (hereinafter referred to as the "Litigation") was subsequently transferred to the United States District Court for the District of Massachusetts. The Plaintiffs Filed an Amended Verified Complaint for Injunction and Damages wherein they seek to enjoin the effect of the vote of Applicant's shareholders at the annual meeting held on October 10, 1980, and further seek, among other relief, (1) an order declaring that the 1980 proxy statement and letters to shareholders disseminated by the defendants to Applicant's shareholders violates Section 20(a) of this Act, Section 14(a) of the Securities Exchange Act of 1934, and the rules and regulations of the Commission thereunder, and (2) reimbursement from each non-Applicant defendant for alleged waste of corporate assets.

Applicant states that the parties to the Litigation have entered into a settlement agreement. As part of that settlement agreement, Applicant states that its present directors have agreed to vote to increase the number of directors from nine to eleven, to elect Messrs. Stephen Hartwell and James R. Kleeblatt, members of the Shareholders Group, as directors of Applicant, and to exercise their best efforts to cause the election of each of Messrs. Hartwell and Kleeblatt, as a director at the 1981 annual meeting, and thereafter as long as each shall desire to serve in such capacity and satisfactorily carry out his duties as a director. Among other provisons of the settlement agreement, Applicant will provide its shareholders in connection with Applicant's 1981 meeting of shareholders material prepared by the Shareholders Group concerning whether the subclassification of the Fund should be changed to that of an open-end investment company.

Applicant states that its October 5, 1979, and September 2, 1980, proxy statements informed the shareholders that Harbor, in effecting the purchase of the assets of Phoenix, had undertaken to use its best efforts to assure that for a period of at least three years after it became the investment adviser to Applicant at least 75% of the directors of Applicant (or any investment company that may succeed Applicant by reorganization or otherwise) would not be "interested persons" of Phoenix or Harbor as such term is defined in Section 2(a)(19) of the Act. The purchase by Harbor of the assets of Phoenix was structured to qualify for the protections afforded by section 15(f) of the Act, which provides that the owner of an investment advisory firm advising an investment company can receive any amount or benefit in connection with the sale of an investment adviser's advisory business, such as the sale by Phoenix to Harbor, provided: (a) the composition of the investment company's Board of Directors for a period of three years following the assignment is such that at least 75% of such directors are not "interested persons" of the investment adviser or any successor, and (b) no "unfair burden", as defined in the Act, is imposed upon the investment company as a result of the transaction or any expressed or implied terms, conditions or undersandings applicable thereto.

Applicant states that Phoenix has agreed to waive the contractual limitations placed on Applicant by the terms of its purchase and sale agreement with Harbor with respect to the number of directors of Applicant who may be "interested persons" to the extent necessary to effect the settlement of the Litigation. Applicant states that the United States District Court for the District of Massachusetts has ordered, at the request of the parties to the Litigation, that a Notice be mailed to each shareholder of record at his or her address of record of the terms of the proposed settlement, and of a court hearing to be held to determine whether the Court shall approve dismissal of the derivative action. Opportunity to object to the terms of the proposed settlement will be afforded to each shareholder of Applicant.

Sections 2(a)(19)(A)(v) and (B)(v) of the Act define an "interested person" of an investment company, an investment

adviser, and of a principal underwriter for any investment company to include "any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer".

Applicant states that at the present time its Board of Directors consists of seven directors, Frans J. C. Conje, James R. Dempsey, Theodore C. Haffenreffer, Jr., John E. Lawrence, Georges J. Muller, Joseph W. Powell, Jr., and A. R. O. Williams, who are not "interested persons" within the meaning of Section 2(a)(19) of the Act, and two directors, Messrs. Frederick G. P. Thorne and Jack M. Barbour, who are "interested persons" by reason of their relationships to Applicant and its investment adviser. As an officer or Applicant and an officer, director and security holder of Harbor, Applicant's investment adviser, Mr. Thorne is an "interested person" within the meaning of the Act. Mr. Barbour is a director and vice chairman of Applicant and a consultant to Harbor. As an officer of Applicant and a consultant to Harbor, Mr. Barbour is an "interested person" within the meaning of the Act.

Applicant states that Messrs. Hartwell and Kleeblatt, whom its directors have agreed to elect as directors pursuant to the proposed settlement agreement in the Litigation, are persons whose relationship with a broker-dealer might cause them to be deemed "affiliated persons" of such broker-dealer and hence "interested persons" of Applicant and its investment adviser. Mr. Hartwell is a registered representative of Johnston, Lemon & Co., Inc. ("Johnston"), a broker-dealer registered under the Securities Exchange Act of 1934. Mr. Kleeblatt is a vice-president of Johnston.

Section 15(f)(1)(A) of the Act provides, in pertinent part, that "An investment adviser * * * of a registered investment company * * * may receive any amount or benefit in connection with a sale of securities of, or sale of any other interest in, such investment adviser * * * which results in an assignment of an investment advisory contract with such company * * *, if (A) for a period of three years after the time of such action, at least 75 per centum of the members of the board or directors of such registered company * * * (or succesor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company * * *, or (ii) interested persons of the predecessor investment adviser * * *". For purposes of this Section whether a director is an interested person of an outgoing or incoming investment adviser is determined in accordance with the definition of "interested person" in Section 2(a)(19)(B) of the Act.

Applicant states that, if Messrs. Hartwell and Keeblatt become members of its Board of Directors, four of its eleven directors will be deemed "interested persons" within the meaning of the Act, and the 75 per centum requirement of Section 15(f)(1)(A) will not be satisfied. In order to assure compliance with Section 15(f)(1)(A) of the Act and to continue the policy of Applicant of having a high proportion of directors who are not interested persons, the Applicant requests an exemption from the provisions of Section 2(a)(19) of the Act to the extent necessary to permit it to comply with the provisions of Section 15(f)(1)(A) of the Act.

Applicant represents that it has never engaged in any portfolio transactions with Johnston, and further represents that, if the Commission pursuant to Section 6(c) of the Act exempts Messrs. Hartwell and Kleeblatt from the provisions of Section 2(a)(19) of the Act to the extent requested, Applicant will not transact any portfolio business with Johnston for so long as Messrs. Hartwell and Kleeblatt serve on its Board of Directors. In view of the large number of other suitable broker-dealers available to Applicant, such an undertaking would in no way adversely affect Applicant's ability to effect its portfolio transactions according to Applicant.

Applicant argues that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that the independence of Messrs. Hartwell and Kleenblatt in acting on behalf of Applicant will in no way be impaired because of their affiliations with Johnston. Applicant contends that the principal purpose of Section 15(f)(1)(A) of the Act is to insure that any decision made by the members of a Board of Directors of an investment company with respect to the sale of an interest in an investment adviser which results in an assignment of an investment advisory contract is made without influence from interested persons of the investment adviser or persons who may become interested persons of the investment adviser within a period of three years.

Under the circumstances of this application, Applicant contends that the above statutory goal would be achieved even if Messrs. Hartwell and Kleeblatt were elected to its Board of Directors. Applicant notes that Messrs. Hartwell and Kleenblatt were not involved, except as shareholders holding a minuscule percentage of its shares, in the decision making process with respect to the sale of assets from Phoenix to Harbor, and have no interest in either Phoenix or Harbor. Applicant states that at the time of such sale of assets and increasingly thereafter Messrs. Hartwell and Kleeblatt have been vigorous in their opposition to the positions taken by the Board of Directors of Applicant and by Harbor, particularly with respect to the question of whether Applicant should be subclassified as an open-end or closed-end fund. Applicant further states that such opposition continues today and appears likely to continue at least for the next year and one-half to the point in time where Section 15(f)(1)(A) no longer will apply to the composition of its Board of Directors. Applicant has agreed that any Commission order entered on this application may be conditioned upon the District Court's approval of the proposed settlement agreement.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested person may, not later than July 20, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course

following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-19137 Filed 6-29-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Notice No. 81-5]

Regulatory Flexibility Act: Review of Regulations of the Federal Railroad Administration

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of Regulatory Flexibility Act Review Plans.

SUMMARY: An important provision of the recently enacted Regulatory Flexibility Act (Pub. L. 96-354) requires each agency to publish in the **Federal Register**, by June 30, 1981, a 10-year plan for the review of the agency's rules that have or will have a significant economic impact on a substantial number of small entities (small businesses, organizations and governments). In yesterday's edition of the **Federal Register**, the Department published Notice 81-3 containing the Regulatory Flexibility Act (RFA) Review Plans for each of the Department's operating administrations except the Federal Railroad Administration. This notice publishes the required review plans for the Federal Railroad Administration. Notice 81-3 should also be reviewed for further information on this subject.

FOR FURTHER INFORMATION CONTACT:

Samuel Podberesky, Office of Regulation and Enforcement C-50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Telephone (202) 426-4723.

(49 U.S.C. 1651 *et seq.*, 5 U.S.C. § 610)

Issued in Washington, D.C. on June 26, 1981.

Rosalind A. Knapp,

Deputy General Counsel.

Federal Railroad Administration

The Federal Railroad Administration (FRA) regulations are codified in Parts 200 through 268 of Title 49 of the Code of Federal Regulations. The following is a plan for the RFA Review of those regulations:

1981 As the first step in this review process, a Notice of Proposed Rulemaking (NPRM) will be published in the **Federal Register** to establish the criteria for review as authorized in the Regulatory Flexibility Act. The NPRM will be published during 1981 and will contain the following proposed criteria:

—"Significant economic impact" means a cost to a single entity of in excess of $10,000 in any one year or $20,000 in any two years,

—"Substantial number" means that in excess of 15 entities would be affected, and

—"Small entity" means:

(1) A local governmental organization with a jurisdictional population of less than 50,000 people, and

(2) A small business that is independently owned and operated; is not dominant in its field of operation; and has gross revenues that do not exceed $1,500,000 annually.

The NPRM would provide for a 60-day comment period. Following review of any public comments, FRA would issue a final rule in October. The adopted criteria would then be used as benchmarks in a subsequent general public inquiry and for assisting in analyzing the small business impact of future FRA rules. That inquiry would be initiated in November 1981 to obtain data on identifiable impacts on small entities of the existing FRA regulations.

1982 Once the data is available, FRA would either initiate a single proceeding or several proceedings to make the necessary regulatory revisions. FRA anticipates being able to complete the review and revision process in 1982. If necessary, this schedule would be extended without infringing on the 10 year statutory deadline established by the Act.

Address Inquiries or Comments To: Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

[FR Doc. 81-19297 Filed 6-29-81; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular, Public Debt Series No. 18-81]

Notes of Series H-1985; Interest Rate

June 24, 1981.

The Secretary announced on June 23, 1981, that the interest rate on the notes designated Series H-1985, described in Department Circular—Public Debt Series—No. 18-81 dated June 11, 1981, will be 14 percent. Interest on the notes will be payable at the rate of 14 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-19138 Filed 6-29-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 125
Tuesday, June 30, 1981

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).

CONTENTS

	Items
Federal Reserve System	1
Foreign Claims Settlement Commission	2
International Trade Commission	3
National Transportation Safety Board	4
Nuclear Regulatory Commission	5
Postal Service	6

1

FEDERAL RESERVE SYSTEM.

Board of Governors

TIME AND DATE: 10 a.m., Monday, July 6, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 26, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1012-81 Filed 6-26-81; 3:41 p.m.]

BILLING CODE 6210-01

2

FOREIGN CLAIMS SETTLEMENT COMMISSION.

[FCSC Meeting Notice No. 6-81]

Meetings Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b) hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time

Wednesday, July 1, 1981 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the People's Republic of China and Claims for Vietnam Prisoners of War Compensation.

Friday, July 31, 1981 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the People's Republic of China and Claims for Vietnam Prisoners of War Compensation.

Subject matter listed above not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Request for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579

Dated at Washington, D.C. on June 19, 1981.

Judith H. Lock,

Administrative Officer.

[S-1007-81 Filed 6-25-81; 4:56 pm]

BILLING CODE 4410-01-M

3

INTERNATIONAL TRADE COMMISSION.

[USITC SE-81-18A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 21985, June 18, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Thursday, July 2, 1981.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Alberger, Calhoun, Bedell, and Stern voted by action jacket INV-E-075 to hold a portion of the discussion with respect to item No. 5 [Investigation 104-TAA-2 (Optic Liquid-Level Sensing Systems from Canada)—briefing and vote] in closed session.

Commissioners Alberger, Calhoun, Bedell, and Stern determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kennety R. Mason, Secretary (202) 523-0161.

[S-1011-81 Filed 6-26-81; 3:30 pm]

BILLING CODE 7020-02-M

4

NATIONAL TRANSPORTATION SAFETY BOARD.

[NM-81-23]

TIME AND DATE: 9 a.m., Tuesday, July 7, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first three items are open to the public; the fourth is closed under Exemption 9B of the Government in the Sunshine Act and items five and six are closed under Exemption 10.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Direct Transfer Lines, Inc., Tractor-Semitrailer/Multiple-Vehicle Collisions and Fire, U.S. Route 40, Frostburg, Maryland, February 18, 1981, and *Recommendations* to the Bureau of Motor Carrier Safety.
2. *Aircraft Incident Report:* Northwest Airlines Flight 79, McDonnell-Douglas DC-10-40, N143US, Leesburg, Virginia, January 31, 1981.
3. *Marine Accident Report:* Collision and Sinking of the Tug *Lauren Castle* while Towing the Tanker SS *Amoco Wisconsin* on Traverse Bay, Michigan, November 5, 1980, and *Recommendations* to the U.S. Coast Guard and the U.S. Department of Transportation.
4. Joint Coast Guard and NTSB Marine Investigation Regulations.
5. *Opinion and Order:* Petition of Hamilton, Docket SE-2434; disposition of the Administrator's appeal.
6. *Opinion and Order:* Administrator v. Deville, Docket 4848; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-382-6525.

June 26, 1981.

[S-1010-81 Filed 6-26-81; 3:23 p.m.]

BILLING CODE 4910-58-M

5

NUCLEAR REGULATORY COMMISSION.

DATE: Week of June 29, 1980.

PLACE: Commissioners Conference Room 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Monday, June 29 (2 p.m.):

1. Affirmation/Discussion Session (approximately 15 minutes, public meeting).

Items to be affirmed and/or discussed:

a. 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" (delayed from June 25).

b. Proposed Rulemaking to Eliminate Need for Power and Alternative Energy Sources Issued in OL Proceedings in the Absence of Special Circumstances.

c. Appointment of ACRS Member.

d. Proposed Addition to the Secretary's Authority to Rule on Misfiled Pleadings Under 10 CFR 2.772 (tentative).

e. Amendments to 10 CFR Pts. 2 and 50 with Respect to Criteria Involving No "Significant Hazards Consideration" (tentative).

f. Proposed Rulemaking to Reduce or, Alternatively, to Eliminate Requirements with Respect to Financial Qual. for Power Reactor Applicants, and to Require Power Reactor Licensees to Maintain Property Damage Insurance.

2. General Administrative Meeting (approximately 30 minutes, public meeting).

3. Continuation of Discussion and Possible Vote on Operating License for McGuire (closed meeting).

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

June 26, 1981.

Walter Magee,

Office of the Secretary.

[S-1009-81 Filed 6-26-81; 3:22 pm]

BILLING CODE 7590-01-M

6

POSTAL SERVICE.

Board of Governors

Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:00 A.M. on Tuesday, July 7, 1981, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW, Washington, D.C. 20260. Except as indicated in the following paragraph, the meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On June 22, 1981, the Board of Governors of the United States Postal Service voted to close to public observation a portion of its July 7 meeting which is expected to be attended by the following persons: Governors Babcock, Camp, Ching, Hardesty, Hughes, Hyde, Jenkins, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary to the Board Cox; and Counsel to the Governors Califano.

The portion of the meeting to be closed will involve a continuation of the discussion of the Postal Service's possible strategies and positions in connection with anticipated collective bargaining negotiations.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
   (Mr. Duka, Assistant Postmaster General, Public and Employee Communications Department, will report on developments in the communications area.)
3. Report on Operations Group Programs.
   (Mr. Jellison, Senior Assistant Postmaster General, Operations Group, will brief the Board on Programs in the Operations Group.)
4. Capital Investment Projects:

a. Procurement of 17,839 Light Delivery Vehicles.
   (The Board will consider the purchase of light delivery vehicle.)

b. General Mail Facility in San Rafael/Santa Rosa, California.
   (The Board will consider a new General Mail Facility for San Rafael/Santa Rosa, California.)

5. Report of the Committee on Electronic Communications.
   (Mr. Sullivan will report on the Committee's review of E-COM INTELPOST, etc.)
6. E-COM Management Briefing.
   (Ms. Uemoto, Director, E-COM Operations, will brief the Board on management preparations for the Electronic Computer Originated Mail service.)
7. Action by the Governors on Remand of E-COM Case from Court of Appeals.
   (On May 29, 1981, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in *Governors of the United States Postal Service* v. *United States Postal Rate Commission*, No. 80-1971. In its decision, the Court held that the Postal Rate Commission had no authority to recommend to the Governors that Electronic Computer Mail (E-COM) service be offered only under an experimental classification provision with a fixed terminal date. The Board will consider appropriate formal action to take to comply with the Court's Decision.)
8. Report of the Committee on Worker Health and Safety.
   (Mr. Jenkins will advise the Board of the Committee's review of the Postal Service employee safety programs.)
9. Report of the Committee on Corporate Responsibility (EEO Policy and Affirmative Action Program).
   (The Board will continue its discussion, commenced at the June 2 meeting, of the Committee's report in regard to Postal Service policy on equal employment opportunity and affirmative action.)
10. Discussion of Labor Relations.
    (The Board will continue its discussion of the Postal Service's possible strategies and positions in connection with collective bargaining negotiations involving parties to the 1978 National Agreements between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire in July of 1981. As stated above in the Notice of Meeting, this portion of the meeting will be closed to the public.)

Louis A. Cox,

Secretary.

[S-1008-81 Filed 6-26-81; 1:56 pm]

BILLING CODE 7710-12-M

federal register

Tuesday
June 30, 1981

Part II

Department of the Treasury

Fiscal Service, Bureau of Government Financial Operations

Circular 570; 1981 Revision; Surety Companies Acceptable on Federal Bonds

4810-35-190

DEPARTMENT OF THE TREASURY

FISCAL SERVICE, BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

(Dept. Circular 570; 1981 Rev.)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective: July 1, 1981

This circular is published annually, as of July 1, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of this circular may be obtained from: Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone: (202) 634-5010. Interim changes in the circular are published in the FEDERAL REGISTER as they occur.

The following companies have complied with the law and the regulations of the Treasury Department and are acceptable as sureties and reinsurers on Federal bonds, to the extent and with respect to the localities indicated.

W. E. Douglas
Commissioner
Bureau of Government
Financial Operations

COMPANIES HOLDING CERTIFICATES OF AUTHORITY UNDER SECTIONS 6 TO 13 OF TITLE 6 OF THE UNITED STATES CODE AS ACCEPTABLE SURETIES ON FEDERAL BONDS, INCLUDING REINSURANCE (See Note a/)

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS TABLE. PLEASE READ THE NOTES CAREFULLY WHEN USING THE CIRCULAR. NOTE D WAS CHANGED EXTENSIVELY TO REFLECT A REVISED TREASURY PROCEDURE.

AID Insurance Company (Mutual). BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $8,077,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Okla., Oreg., S. Dak., Tex., Utah, Wash., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

AIU Insurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $2,307,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Accredited Surety and Casualty Company, Inc. BUSINESS ADDRESS: 918 South Orange Avenue, Orlando, Fla. 32806. UNDERWRITING LIMITATION b/: $181,000. SURETY LICENSES c/: Ala., Fla., Ga., Ind., La., Miss., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

The Aetna Casualty and Surety Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $118,835,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Casualty & Surety Company of Illinois. BUSINESS ADDRESS: 230 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $14,112,000. SURETY LICENSES c/: Ala., Ariz., Ark., Del., Ga., Idaho, Ill., Ind., Iowa, Ky., Md., Mich., Miss., Mo., Mont., Nev., N.J., Okla., Oreg., S.C., S. Dak., Tex., Utah, Va., Wash., W. Va., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Aetna Fire Underwriters Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $1,024,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Insurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $31,838,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Life and Casualty Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $239,935,000. SURETY LICENSES c/: Conn., D.C. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Aetna Reinsurance Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $1,890,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Ill., Ind., La., Ohio, Puerto Rico, Tex., Virgin Islands, W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Alaska Pacific Assurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $1,736,000. SURETY LICENSES c/: Alaska, Cal., Idaho, Oreg., S. Dak. INCORPORATED IN: Alaska. FEDERAL PROCESS AGENTS d/.

Allegheny Mutual Casualty Company. BUSINESS ADDRESS: 485 Chestnut Street, Meadville, Pa. 16335. UNDERWRITING LIMITATION b/: $161,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., La., Md., Mich., N.J., Ohio, Okla., Pa., Tenn., Tex., Wis. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Allianz Insurance Company. BUSINESS ADDRESS: Post Office Box 54897, Terminal Annex, Los Angeles, Cal. 90054. UNDERWRITING LIMITATION b/: $2,706,000. SURETY LICENSES c/: All except C.Z., Guam, Okla., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Allied Fidelity Insurance Co. BUSINESS ADDRESS: Post Office Box 20112, Indianapolis, Ind. 46220. UNDERWRITING LIMITATION b/: $236,000. SURETY LICENSES c/: All except C.Z., D.C., Guam, Hawaii, Me., Md., Mich., N.J., N.Y., N.C., Pa., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Allstate Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $236,612,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Agricultural Insurance Co. BUSINESS ADDRESS: 225 Touhy Avenue, Park Ridge, Ill. 60068. UNDERWRITING LIMITATION b/: $2,855,000. SURETY LICENSES c/: Ariz., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Mo., N. Mex., N.C., N. Dak., Oreg., Pa., S.C., Tex., Utah, Va., Wash., Wis. (Reinsurance only in Kans., Mass., N.Y.) INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Automobile Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $8,515,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

American Bonding Company. BUSINESS ADDRESS: 8601 Beverly Boulevard, Los Angeles, Cal. 90048. UNDERWRITING LIMITATION b/: $229,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Idaho, Iowa, Kans., Miss., Mo., Mont., Nebr., Nev., N. Mex., Okla., Oreg., Tex., Utah, Wash. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

American Casualty Company of Reading, Pennsylvania. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $6,827,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

American Credit Indemnity Company of New York. BUSINESS ADDRESS: 300 St. Paul Place, Baltimore, Md. 21202. UNDERWRITING LIMITATION b/: $4,604,000. SURETY LICENSES c/: All except Alaska, C.Z., Del., Guam, Hawaii, N. Dak., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The American Druggists' Insurance Company. BUSINESS ADDRESS: 800 American Building, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $1,374,000. SURETY LICENSES c/: Ala., Ark., Cal., Colo., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., La., Me., Md., Mass., Mich., Minn., Miss., Mo., N.Y., N.C., Ohio, Okla., Oreg., Pa., R.I., S.C., Tenn., Tex., Va., Wash., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

American Economy Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $10,756,000. SURETY LICENSES c/: All except C.Z., Conn., N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

American Employers' Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $7,883,000. SURETY LICENSES c/: All except Guam, Kans., Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

AMERICAN-EUROPEAN REINSURANCE CORPORATION. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $1,322,000. SURETY LICENSES c/: Del., N.Y. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Fidelity Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03105. UNDERWRITING LIMITATION b/: $645,000. SURETY LICENSES c/: Alaska, Conn., D.C., Iowa, Me., Md., Mass., Miss., Nebr., N.H., N. Dak., Okla., R.I., S. Dak., Utah, Vt., W. Va. INCORPORATED IN: Vt. FEDERAL PROCESS AGENTS d/.

American Fidelity Fire Insurance Company. BUSINESS ADDRESS: 100 Crossways Park West, Woodbury, N.Y. 11797. UNDERWRITING LIMITATION b/: $653,000. SURETY LICENSES c/: All except C.Z., Colo., Guam, Hawaii, Mo., Nebr., N.H., Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Fire and Casualty Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45012. UNDERWRITING LIMITATION b/: $1,466,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Fla., Ga., Kans., Ky., La., Md., Miss., Mo., N.C., Okla., S.C., Tenn., Tex., Va. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

American General Fire and Casualty Company. BUSINESS ADDRESS: Post Office Box 1502, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $1,983,000. SURETY LICENSES c/: Ark., La., N. Mex., Okla., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

American Guarantee and Liability Insurance Company. BUSINESS ADDRESS: 231 North Martingale Road, Schaumburg, Ill. 60196. UNDERWRITING LIMITATION b/: $1,908,000. SURETY LICENSES c/: All except Ala., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Home Assurance Company. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $21,826,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Indemnity Company. BUSINESS ADDRESS: Post Office Box 1259, Galveston, Tex. 77553. UNDERWRITING LIMITATION b/: $3,095,000. SURETY LICENSES c/: Ala., Cal., Colo., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Ky., La., Miss., Mo., Mont., Nebr., N. Mex., N.C., Ohio, Okla., S.C., Tenn., Tex., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

The American Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $24,086,000. SURETY LICENSES c/: All except C.Z., Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

American Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $7,719,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

American Motorists Insurance Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $13,363,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

American Mutual Liability Insurance Company. BUSINESS ADDRESS: Wakefield, Mass. 01880. UNDERWRITING LIMITATION b/: $6,997,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

American National Fire Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $1,141,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

American Re-Insurance Company. BUSINESS ADDRESS: One Liberty Plaza, 91 Liberty Street, New York, N.Y. 10006. UNDERWRITING LIMITATION b/: $22,334,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

American Southern Insurance Company. BUSINESS ADDRESS: Post Office Box 7369, Station C, Atlanta, Ga. 30357. UNDERWRITING LIMITATION b/: $504,000. SURETY LICENSES c/: Ala., Fla., Ga., S.C. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

American States Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, Ind. 46207. UNDERWRITING LIMITATION b/: $25,273,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Amwest Surety Insurance Company. BUSINESS ADDRESS: 6301 Owensmouth Ave., #304, Woodland Hills, Cal. 91367. UNDERWRITING LIMITATION b/: $74,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Antilles Insurance Company. BUSINESS ADDRESS: Post Office Box 3507, Old San Juan, Puerto Rico 00904. UNDERWRITING LIMITATION b/: $438,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Argonaut Insurance Company. BUSINESS ADDRESS: 250 Middlefield Road, Menlo Park, Cal. 94025. UNDERWRITING LIMITATION b/: $34,524,000. SURETY LICENSES c/: All except C.Z., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Arkwright-Boston Manufacturers Mutual Insurance Company. BUSINESS ADDRESS: 225 Wyman Street, Waltham, Mass. 02154. UNDERWRITING LIMITATION b/: $34,842,000. SURETY LICENSES c/: Cal., Colo., Conn., D.C., Ill., Ind., Iowa, Md., Mass., Mich., Minn., Mo., Nebr., Nev., N.H., N.J., N.Y., N.C., Ohio, R.I., Utah, Vt., Wash., Wyo. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Associated Indemnity Corporation. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $2,055,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Atlanta International Insurance Company. BUSINESS ADDRESS: 1700 Commerce Drive N.W., Suite 100, Atlanta, Ga. 30318. UNDERWRITING LIMITATION b/: $1,264,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., Fla., Guam, Hawaii, Ind., Ky., Me., Nebr., N.H., N.J., Oreg., Pa., Puerto Rico, Vt., Virgin Islands, Wis., Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Atlantic Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75219. UNDERWRITING LIMITATION b/: $939,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Iowa, La., Me., Mass., Nebr., N.H., N.J., N.Y., N. Dak., Oreg., Puerto Rico, R.I., Vt., Va., Virgin Islands, Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Atlantic Mutual Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $10,965,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Hawaii, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Auto-Owners Insurance Company. BUSINESS ADDRESS: Post Office Box 30660, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $25,060,000. SURETY LICENSES c/: Ala., Fla., Ga., Ill., Ind., Iowa, Mich., Minn., Mo., N.C., N. Dak., Ohio, S.C., S. Dak., Tenn., Wis. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

The Automobile Insurance Company of Hartford, Connecticut. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $4,169,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Balboa Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92663. UNDERWRITING LIMITATION b/: $5,240,000. SURETY LICENSES c/: All except C.Z., La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Bankers Multiple Line Insurance Company. BUSINESS ADDRESS: 4610 North Kenneth Avenue, Chicago, Ill. 60630. UNDERWRITING LIMITATION b/: $2,828,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Idaho, La., Mo., Puerto Rico, S.C., Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Binford Insurance Company. BUSINESS ADDRESS: 700 Nicholas Blvd., Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $63,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

Boston Old Colony Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $527,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

The Buckeye Union Insurance Company. BUSINESS ADDRESS: Post Office Box 1499, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $20,075,000. SURETY LICENSES c/: D.C., Fla., Ill., Ind., Ky., Mich., Mo., N.Y., Ohio, Pa., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Builders Mutual Surety Company. BUSINESS ADDRESS: 1545 Wilshire Boulevard, Suite 516, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $112,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

The Camden Fire Insurance Association. BUSINESS ADDRESS: General Building, 414 Walnut Street, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $12,132,000. SURETY LICENSES c/: All except Ala., Ark., C.Z., Del., Ga., Guam, Hawaii, Idaho, La., Me., Miss., Mont., Nebr., N.H., Oreg., Puerto Rico, S.C., S. Dak., Tenn., Tex., Virgin Islands, Wash. (Fidelity only in Ala., S.C.) INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Capitol Indemnity Corporation. BUSINESS ADDRESS: Post Office Box 8, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $180,000. SURETY LICENSES c/: Ariz., Fla., Idaho, Ill., Ind., Iowa, La., Mich., Minn., Mo., Mont., N. Mex., N. Dak., Okla., S. Dak., Tex., Wis., Wyo. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Centennial Insurance Company. BUSINESS ADDRESS: Atlantic Building, 45 Wall Street, New York, N.Y. 10005. UNDERWRITING LIMITATION b/: $3,609,000. SURETY LICENSES c/: All except Ala., C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Central Mutual Insurance Company. BUSINESS ADDRESS: 800 South Washington Street, Van Wert, Ohio 45891. UNDERWRITING LIMITATION b/: $4,917,000. SURETY LICENSES c/: All except Ark., C.Z., Guam, N. Dak., Oreg., Puerto Rico, S. Dak., Virgin Islands, Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Century Indemnity Company. BUSINESS ADDRESS: 55 Elm Street, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $850,000. SURETY LICENSES c/: All except C.Z., Guam, Oreg., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Century Surety Company. BUSINESS ADDRESS: 1889 Fountain Square Court, Columbus, Ohio 43224. UNDERWRITING LIMITATION b/: $270,000. SURETY LICENSES c/: Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Charter Oak Fire Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $4,665,000. SURETY LICENSES c/: All except Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Cincinnati Insurance Company. BUSINESS ADDRESS: Post Office Box 14567, Cincinnati, Ohio 45214. UNDERWRITING LIMITATION b/: $8,418,000. SURETY LICENSES c/: Ala., Ariz., Colo., Fla., Ga., Ill., Ind., Iowa, Ky., Mich., Miss., N.C., Ohio, Pa., S.C., Tenn., Tex., Va., W. Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Colonial Surety Company. BUSINESS ADDRESS: 9 Parkway Center, Pittsburgh, Pa. 15220. UNDERWRITING LIMITATION b/: $301,000. SURETY LICENSES c/: Del., N.J., Pa. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Commercial Insurance Company of Newark, N.J. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $5,828,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Commercial Union Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $30,070,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Compass Insurance Company. BUSINESS ADDRESS: 1221 River Bend Drive, Dallas, Texas 75247. UNDERWRITING LIMITATION b/: $1,802,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Ind., Kans., Me., Md., N.J., N.C., Pa., P.R. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Connecticut Indemnity Company. BUSINESS ADDRESS: Post Office Box 420, Hartford, Conn. 06141. UNDERWRITING LIMITATION b/: $1,015,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Puerto Rico, S.C., Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Consolidated Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $1,016,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Iowa, Ky., Mich., Ohio, Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Continental Casualty Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $84,639,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Continental Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $15,702,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Continental Reinsurance Corporation. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,066,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Cal., Colo., D.C., Fla., Hawaii, Idaho, Ill., Ind., Iowa, Mich., Mont., Nev., N.J., N. Mex., N.Y., N.C., Okla., Oreg., Tex., Utah, Va., Wash., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Continental Surety and Fidelity Insurance Company. BUSINESS ADDRESS: Post Office Box 730, Littleton, Colo. 80160. UNDERWRITING LIMITATION b/: $67,000. SURETY LICENSES c/: Colo. INCORPORATED IN: Colo. FEDERAL PROCESS AGENTS d/.

Continental Western Insurance Company. BUSINESS ADDRESS: Post Office Box 1594, Des Moines, Iowa 50306. UNDERWRITING LIMITATION b/: $2,269,000. SURETY LICENSES c/: Ariz., Ark., Colo., Idaho, Ill., Ind., Iowa, Kans., Ky., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Okla., S. Dak., Utah, Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Contractors Bonding and Insurance Company. BUSINESS ADDRESS: 1213 Valley Street, Seattle, Wash. 98109. UNDERWRITING LIMITATION b/: $124,000. SURETY LICENSES c/: Wash. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Cooperativa de Seguros Multiples de Puerto Rico. BUSINESS ADDRESS: G.P.O. Box 3846, San Juan, Puerto Rico 00936. UNDERWRITING LIMITATION b/: $1,477,000. SURETY LICENSES c/: Puerto Rico. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

CORONET INSURANCE COMPANY. BUSINESS ADDRESS: 3500 West Peterson Avenue, Chicago, Ill. 60659. UNDERWRITING LIMITATION b/: $548,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Cotton Belt Insurance Company, Inc. BUSINESS ADDRESS: Post Office Box 29405, New Orleans, La. 70189. UNDERWRITING LIMITATION b/: $203,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Del., Fla., Ga., Idaho, Ind., Ky., La., Miss., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Okla., Oreg., Pa., Tenn., Tex., Utah, Wash. INCORPORATED IN: Tenn. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Cotton States Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 2214, Atlanta, Ga. 30301. UNDERWRITING LIMITATION b/: $2,680,000. SURETY LICENSES c/: Ala., Fla., Ga., Miss., N.C., S.C., Tenn. INCORPORATED IN: Ga. FEDERAL PROCESS AGENTS d/.

Covenant Mutual Insurance Company. BUSINESS ADDRESS: 95 Woodland Street, Hartford, Conn. 06105. UNDERWRITING LIMITATION b/: $1,180,000. SURETY LICENSES c/: Ariz., Cal., Conn., N.H., Oreg., Wash. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Cumis Insurance Society, Inc. BUSINESS ADDRESS: Post Office Box 1084, Madison, Wis. 53701. UNDERWRITING LIMITATION b/: $2,775,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

DELTA CASUALTY COMPANY. BUSINESS ADDRESS: 4711 North Clark Street, Chicago, Ill. 60640. UNDERWRITING LIMITATION b/: $349,000. SURETY LICENSES c/: Ill., Iowa. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Dependable Insurance Company, Inc. BUSINESS ADDRESS: Post Office Box 10169, Jacksonville, Fla. 32207. UNDERWRITING LIMITATION b/: $981,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Me., Mass., Minn., Mont., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Vt., Virgin Islands, Wis., Wyo. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

DEVELOPERS' INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 884, Los Alamitos, Cal. 90720. UNDERWRITING LIMITATION b/: $167,000. SURETY LICENSES c/: Cal., Nev. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Eastern Indemnity Company of Maryland. BUSINESS ADDRESS: 4340 East West Highway, Bethesda, Md. 20014. UNDERWRITING LIMITATION b/: $277,000. SURETY LICENSES c/: D.C., La., Md., Va. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Empire Fire and Marine Insurance Company. BUSINESS ADDRESS: 1624 Douglas Street, Omaha, Nebr. 68102. UNDERWRITING LIMITATION b/: $1,970,000. SURETY LICENSES c/: All except Cal., C.Z., Conn., Del., D.C., Guam, La., Md., Mass., N.J., N.Y., Oreg., Puerto Rico, R.I., Tenn., Virgin Islands, W. Va. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

The Employers' Fire Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $3,422,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company. BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, Wis. 54401. UNDERWRITING LIMITATION b/: $46,476,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Employers Mutual Casualty Company. BUSINESS ADDRESS: Post Office Box 712, Des Moines, Iowa 50303. UNDERWRITING LIMITATION b/: $9,740,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Employers Reinsurance Corporation. BUSINESS ADDRESS: 5200 Metcalf, Post Office Box 2991, Overland Park, Kansas 66201. UNDERWRITING LIMITATION b/: $22,360,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

ENNIA REINSURANCE COMPANY OF AMERICA. BUSINESS ADDRESS: 127 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $970,000. SURETY LICENSES c/: Colo., Idaho, La., Md., N. Mex., N.Y., Okla., Pa., S.C., Tex., Vt. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Equitable General Insurance Company. BUSINESS ADDRESS: One Equitable General Place, Fort Worth, Tex. 76151. UNDERWRITING LIMITATION b/: $5,983,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Farmers Alliance Mutual Insurance Company. BUSINESS ADDRESS: 1122 North Main Street, McPherson, Kansas 67460. UNDERWRITING LIMITATION b/: $1,965,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Idaho, Ill., Ind., Iowa, Kans., Md., Mass., Mich., Minn., Mo., Mont., Nebr., N.H., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Oreg., S.C., S. Dak., Tex., Vt., Wash. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Farmland Mutual Insurance Company. BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, Iowa 50315. UNDERWRITING LIMITATION b/: $1,997,000. SURETY LICENSES c/: Ark., Colo., Ill., Iowa, Kans., Ky., Minn., Mo., Nebr., N. Dak., Okla., S. Dak., Tex., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Federal Insurance Company. BUSINESS ADDRESS: 51 John F. Kennedy Parkway, Short Hills, N.J. 07078. UNDERWRITING LIMITATION b/: $33,483,000. SURETY LICENSES c/: All. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Federated Mutual Insurance Company. BUSINESS ADDRESS: 129 East Broadway, Owatonna, Minn. 55060. UNDERWRITING LIMITATION b/: $14,133,000. SURETY LICENSES c/: All except Alaska, C.Z., Del., Guam, Hawaii, Me., N.H., Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

The Fidelity and Casualty Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $6,713,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $238,000. SURETY LICENSES c/: Md., Tex. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Fidelity and Deposit Company of Maryland. BUSINESS ADDRESS: Charles and Lexington Streets, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $10,784,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Financial Indemnity Company. BUSINESS ADDRESS: Post Office Box 7754, Burbank, Cal. 91510. UNDERWRITING LIMITATION b/: $1,772,000. SURETY LICENSES c/: Ala., Ariz., Cal., Colo., Fla., Idaho, Ind., Mo., Mont., Nev., N. Mex., Oreg., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Fireman's Fund Insurance Company. BUSINESS ADDRESS: 3333 California Street, San Francisco, Cal. 94119. UNDERWRITING LIMITATION b/: $87,889,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Firemen's Insurance Company of Newark, New Jersey. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $39,701,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

First Financial Insurance Company. BUSINESS ADDRESS: 222 West Adams Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $403,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Colo., Del., Ga., Idaho, Ill., Ind., Iowa, Ky., Md., Miss., Mo., Mont., N. Mex., N. Dak., Okla., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

First Insurance Company of Hawaii, Ltd. BUSINESS ADDRESS: Post Office Box 2866, Honolulu, Hawaii 96803. UNDERWRITING LIMITATION b/: $1,842,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., Guam, Hawaii, Ill., Ind., La., Minn., Mo., N.Y., Oreg., Utah, Wash. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

First National Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $3,337,000. SURETY LICENSES c/: All except Alaska, C.Z., Guam, Hawaii, Me., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

FLORIDA FARM BUREAU MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: Post Office Box 730, Gainesville, Fla. 32602. UNDERWRITING LIMITATION b/: $443,000. SURETY LICENSES c/: Fla. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Fremont Indemnity Company. BUSINESS ADDRESS: 1709 West Eighth Street, Los Angeles, Cal. 90017. UNDERWRITING LIMITATION b/: $9,991,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Idaho, Ill., Iowa, Nev., N. Mex., Ohio, Oreg., Pa., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Fritz Insurance Company. BUSINESS ADDRESS: 700 Nicholas Boulevard, Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION b/: $60,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

General Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $14,544,000. SURETY LICENSES c/: All. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

General Reinsurance Corporation. BUSINESS ADDRESS: 600 Steamboat Road, Greenwich, Conn. 06830. UNDERWRITING LIMITATION b/: $68,057,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

The Glens Falls Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,986,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Global Surety & Insurance Co. BUSINESS ADDRESS: 160 Kiewit Plaza, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,203,000. SURETY LICENSES c/: Ariz., Cal., Mont., Nebr., S. Dak. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Globe Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $14,012,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Grain Dealers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 1747, Indianapolis, Ind. 46206. UNDERWRITING LIMITATION b/: $1,515,000. SURETY LICENSES c/: All except Ala., Alaska, C.Z., Conn., Del., D.C., Fla., Guam, Idaho, Me., Md., Mass., Mont., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Utah, Vt., Virgin Islands, W. Va. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Granite State Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $562,000. SURETY LICENSES c/: All except C.Z., Conn., Del., Guam, Hawaii, Idaho, Puerto Rico. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Great American Insurance Company. BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, Ohio 45202. UNDERWRITING LIMITATION b/: $41,648,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Great Northern Insurance Company. BUSINESS ADDRESS: 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $1,915,000. SURETY LICENSES c/: All except Ala., Ark., Cal., C.Z., Conn., Guam, Idaho, N.C., Puerto Rico, Tenn., Virgin Islands, W. Va. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Greater New York Mutual Insurance Company. BUSINESS ADDRESS: 215 Lexington Avenue, New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $5,650,000. SURETY LICENSES c/: All except Alaska, Ark., C.Z., Guam, Hawaii, La., Oreg., S.C., Tenn., Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Gulf Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $7,324,000. SURETY LICENSES c/: All except C.Z., Guam, Idaho, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

The Hamilton Mutual Insurance Company of Cincinnati, Ohio. BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, Ohio 45206. UNDERWRITING LIMITATION b/: $370,000. SURETY LICENSES c/: Ind., Ky., Mich., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Hanover Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $17,653,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Harleysville Mutual Insurance Company. BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, Pa. 19438. UNDERWRITING LIMITATION b/: $9,173,000. SURETY LICENSES c/: Cal., Colo., Del., D.C., Ga., Ill., Ind., Iowa, Kans., Md., Mich., Minn., Miss., Mo., N.J., N. Mex., N.C., Ohio, Okla., Pa., S.C., Tenn., Tex., Utah, Va., W. Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Hartford Accident and Indemnity Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $67,128,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hartford Casualty Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $7,561,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Hartford Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $134,520,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of Alabama. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $673,000. SURETY LICENSES c/: Ala. INCORPORATED IN: Ala. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of Illinois. BUSINESS ADDRESS: Hartford Plaza, Hartford Conn. 06115. UNDERWRITING LIMITATION b/: $2,435,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of the Midwest. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $328,000. SURETY LICENSES c/: Ind. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Hartford Insurance Company of the Southeast. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $446,000. SURETY LICENSES c/: Fla., Ga., La. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

Hawkeye-Security Insurance Company. BUSINESS ADDRESS: 1017 Walnut Street, Des Moines, Iowa 50307. UNDERWRITING LIMITATION b/: $2,357,000. SURETY LICENSES c/: Ariz., Colo., D.C., Idaho, Ill., Ind., Iowa, Kans., Md., Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N.C., Ohio, Pa., S. Dak., Tex., Utah, Va., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Heritage Insurance Company of America. BUSINESS ADDRESS: 7366 North Lincoln Avenue, Lincolnwood, Ill. 60646. UNDERWRITING LIMITATION b/: $428,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Colo., Fla., Ga., Ill., Mo., Nev., Okla., Oreg., Va., Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Highlands Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $12,244,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Highlands Underwriters Insurance Company. BUSINESS ADDRESS: 600 Jefferson Street, Houston, Tex. 77002. UNDERWRITING LIMITATION b/: $1,001,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Fla., Ga., La., Miss., N. Mex., Okla., S.C., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

The Home Indemnity Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $5,770,000. SURETY LICENSES c/: All except C.Z., Guam, S.C. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Home Insurance Company. BUSINESS ADDRESS: 59 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $55,188,000. SURETY LICENSES c/: All except C.Z., Guam, S.C. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Houston General Insurance Company. BUSINESS ADDRESS: Post Office Box 2932, Fort Worth, Tex. 76113. UNDERWRITING LIMITATION b/: $974,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Cal., Colo., Del., Fla., Ga., Ill., Iowa, Kans., Ky., La., Mich., Miss., Mo., N. Mex., N.Y., N. Dak., Okla., Oreg., S.C., S. Dak., Tenn., Tex., Utah, Wash. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Hudson Insurance Company. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $1,954,000. SURETY LICENSES c/: Cal., Del., Iowa, N.H., N.Y. (Reinsurance only in Colo., Md.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

IGF Insurance Company. BUSINESS ADDRESS: 315 Shops Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $316,000 SURETY LICENSES c/: Ariz., Colo., Iowa, Kans., Mich., Minn., Mo., Mont., Nebr., N. Dak., S. Dak., Wis. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

INA Reinsurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $10,918,000. SURETY LICENSES c/: All except C.Z., Guam, Me., Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

INA Underwriters Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $9,801,000. SURETY LICENSES c/: All except Hawaii, La., Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Illinois National Insurance Co. BUSINESS ADDRESS: 133 South 4th Street, Springfield, Ill. 62700. UNDERWRITING LIMITATION b/: $965,000. SURETY LICENSES c/: Alaska, Ill., Ind., Iowa, Ky., Md., Mo., Mont., Nebr., N. Mex., N.Y., N. Dak., Ohio, S. Dak., Tex., Utah, Vt., W. Va. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Indemnity Company of California. BUSINESS ADDRESS: 820 North Parton Street, Santa Ana, Cal. 92701. UNDERWRITING LIMITATION b/: $159,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Indemnity Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $2,967,000. SURETY LICENSES c/: All. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Indiana Insurance Company. BUSINESS ADDRESS: 115 North Pennsylvania Street, Indianapolis, Ind. 46204. UNDERWRITING LIMITATION b/: $5,800,000. SURETY LICENSES c/: Fla., Idaho, Ill., Ind., Iowa, Ky., Mich., Ohio, Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

Indiana Lumbermens Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 68600, Indianapolis, Ind. 46268. UNDERWRITING LIMITATION b/: $1,102,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Mich., Minn., Miss., Mo., Nebr., N. Mex., N.C., Ohio, Okla., Oreg., Pa., S.C., Tenn., Tex., Va., Wash., Wis. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Industrial Indemnity Company. BUSINESS ADDRESS: Post Office Box 3660, San Francisco, Cal. 94120. UNDERWRITING LIMITATION b/: $12,290,000. SURETY LICENSES c/: All except C.Z., Conn., Puerto Rico, Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Inland Insurance Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $1,229,000. SURETY LICENSES c/: Colo., Iowa, Kans., Minn., Nebr., N. Dak., Okla., S. Dak., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $83,340,000. SURETY LICENSES c/: All. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Insurance Company of the Pacific Coast. BUSINESS ADDRESS: Post Office Box 7220, Newport Beach, Cal. 92660. UNDERWRITING LIMITATION b/: $573,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

The Insurance Company of the State of Pennsylvania. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10370. UNDERWRITING LIMITATION b/: $4,535,000. SURETY LICENSES c/: All except C.Z., Guam, Kans., Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Insurance Company of the West. BUSINESS ADDRESS: Post Office Box 81063, San Diego, Cal. 92138. UNDERWRITING LIMITATION b/: $1,331,000. SURETY LICENSES c/: Ariz., Cal., Nev., Oreg. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Integon Indemnity Corporation. BUSINESS ADDRESS: Post Office Box 3199, Winston-Salem, N.C. 27102. UNDERWRITING LIMITATION b/: $346,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Fla., Ga., Idaho, Ind., Iowa, Ky., La., Miss., Nebr., Nev., N. Mex., N.C., Okla., Oreg., S.C., Tenn., Tex., Utah, Va., Wash. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

Integrity Insurance Company. BUSINESS ADDRESS: Mack Centre Drive - 5th Floor, Paramus, N.J. 07652. UNDERWRITING LIMITATION b/: $2,236,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Nebr., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Integrity Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 539, Appleton, Wis. 54912. UNDERWRITING LIMITATION b/: $349,000. SURETY LICENSES c/: Minn., Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

International Cargo and Surety Insurance Company. BUSINESS ADDRESS: 700 Nicholas Boulevard, Elk Grove Village, Ill. 60007. UNDERWRITING LIMITATION: $49,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

International Fidelity Insurance Company. BUSINESS ADDRESS: 24 Commerce Street, Newark, N.J. 07102. UNDERWRITING LIMITATION b/: $175,000. SURETY LICENSES c/: Alaska, Ariz., Ark., Colo., Del., Fla., Idaho, Ill., Ind., La., Md., Mass., Mich., Miss., Mo., Mont., Nev., N.J., N. Mex., N.Y., N. Dak., Okla., Oreg., Pa., Puerto Rico, S.C., S. Dak., Tex., Utah, Wash., Wyo. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

International Insurance Company. BUSINESS ADDRESS: 233 South Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $2,902,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Kans., La., S.C., Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

International Service Insurance Company. BUSINESS ADDRESS: Post Office Box 1040, Fort Worth, Tex. 76101. UNDERWRITING LIMITATION b/: $2,615,000. SURETY LICENSES c/: Alaska, Cal., Nebr., N. Mex., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Investors Insurance Company of America. BUSINESS ADDRESS: 145 No. Franklin Turnpike, Ramsey, N.J. 07446. UNDERWRITING LIMITATION b/: $1,023,000. SURETY LICENSES c/: Fla., Ga., N.J., N.Y. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Iowa National Mutual Insurance Company. BUSINESS ADDRESS: 518 Second Avenue, S.E., Post Office Box 111, Cedar Rapids, Iowa 52406. UNDERWRITING LIMITATION b/: $4,695,000. SURETY LICENSES c/: All except Alaska, Ariz., Cal., C.Z., Conn., Del., D.C., Guam, Hawaii, La., Me., Md., Mass., Miss., Nev., N.H., N.J., N. Mex., Oreg., Puerto Rico, R.I., Tex., Vt., Virgin Islands, W. Va. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

John Deere Insurance Company. BUSINESS ADDRESS: 400 19th. Street, Moline, Ill. 61265. UNDERWRITING LIMITATION b/: $3,485,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Kansas Bankers Surety Company. BUSINESS ADDRESS: Post Office Box 1654, Topeka, Kans. 66601. UNDERWRITING LIMITATION b/: $163,000. SURETY LICENSES c/: D.C., Kans., Mo., Wis. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Kansas City Fire and Marine Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $785,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Lawyers Surety Corporation. BUSINESS ADDRESS: 1820 Regal Row, Dallas, Tex. 75235. UNDERWRITING LIMITATION b/: $301,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ky., Miss., N.C., Okla., S.C., Tenn., Tex. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Liberty Mutual Insurance Company. BUSINESS ADDRESS: 175 Berkeley Street, Boston, Mass. 02117. UNDERWRITING LIMITATION b/: $103,426,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Lumbermens Mutual Casualty Company. BUSINESS ADDRESS: Long Grove, Ill. 60049. UNDERWRITING LIMITATION b/: $73,763,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Maine Bonding and Casualty Company. BUSINESS ADDRESS: Post Office Box 448, Portland, Me. 04112. UNDERWRITING LIMITATION b/: $801,000. SURETY LICENSES c/: Me., Mass., N.H., R.I., Vt. INCORPORATED IN: Me. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Maryland Casualty Company. BUSINESS ADDRESS: Post Office Box 1228, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $36,831,000. SURETY LICENSES c/: All except C.Z., Guam, Mass. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

Massachusetts Bay Insurance Company. BUSINESS ADDRESS: 440 Lincoln Street, Worcester, Mass. 01605. UNDERWRITING LIMITATION b/: $625,000. SURETY LICENSES c/: Ark., Cal., Colo., Conn., D.C., Fla., Ga., Ill., Ind., Iowa, Kans., Me., Md., Mass., Mich., Minn., Miss., Mo., Nebr., N.H., N.J., N.Y., N.C., Ohio, Okla., Pa., R.I., S.C., Tenn., Tex., Vt., Va., Wash., Wis. INCORPORATED IN: Mass. FEDERAL PROCESS AGENTS d/.

Mead Reinsurance Corporation. BUSINESS ADDRESS: Courthouse Plaza, N.E., Dayton, Ohio 45463. UNDERWRITING LIMITATION b/: $1,101,000. SURETY LICENSES c/: All except Ark., C.Z., Conn., D.C., Guam, Hawaii, Ill., Kans., Me., Md., Mass., Mo., Nebr., N.H., N.J., Puerto Rico, R.I., S. Dak., Vt., Virgin Islands, W. Va., Wis., Wyo. (Reinsurance only in Kans.) INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Mercantile and General Reinsurance Company of America. BUSINESS ADDRESS: 130 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,390,000. SURETY LICENSES c/: Cal., D.C., Idaho, Iowa, Nebr., N.Y., Ohio, Pa., Utah, Wis. (Reinsurance only in Colo., Conn., Fla., Ind., Kans., Md., Mich., N.J., Okla., S.C., Tenn., Tex., Vt., W. Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Merchants Mutual Bonding Company. BUSINESS ADDRESS: 2100 Grand Avenue, Des Moines, Iowa 50312. UNDERWRITING LIMITATION b/: $244,000. SURETY LICENSES c/: Ariz., Iowa, Kans., Nebr., Okla., Tex. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Meritplan Insurance Company. BUSINESS ADDRESS: Post Office Box 1770, Newport Beach, Cal. 92663. UNDERWRITING LIMITATION b/: $799,000. SURETY LICENSES c/: Ala., Ariz., Cal., Colo., Del., Fla., Ga., Hawaii, Ind., Iowa, Ky., Md., Mich., Minn., Miss., Mont., Nebr., Nev., N. Mex., N.Y., Ohio, S.C., Utah, Wash., Wis. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Michigan Millers Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 30060, Lansing, Mich. 48909. UNDERWRITING LIMITATION b/: $3,892,000. SURETY LICENSES c/: Ark., Cal., Colo., Fla., Ind., Kans., Ky., Mich., Mo., Nebr., N.J., N.Y., N.C., Ohio, Okla., Pa., Tenn., Tex., Va., Wash. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Michigan Mutual Insurance Company. BUSINESS ADDRESS: 28 West Adams Avenue, Detroit, Mich. 48226. UNDERWRITING LIMITATION b/: $10,320,000. SURETY LICENSES c/: All except C.Z., Del., Guam, Hawaii, Oreg., Puerto Rico, Virgin Islands. (Fidelity only in D.C.) INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Mid-Century Insurance Company. BUSINESS ADDRESS: Post Office Box 2478, Terminal Annex, Los Angeles, Cal. 90051. UNDERWRITING LIMITATION b/: $2,105,000. SURETY LICENSES c/: Ariz., Ark., Cal., Colo., Del., Idaho, Ill., Ind., Iowa, Mich., Minn., Mo., Mont., Nebr., Nev., N. Mex., N. Dak., Ohio, Okla., Oreg., Tex., Utah, Vt., Wash., Wis., Wyo. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Midland Insurance Company. BUSINESS ADDRESS: 160 Water Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,486,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Midwestern Casualty & Surety Company. BUSINESS ADDRESS: 7628 Hickman Road, Des Moines, Iowa 50322. UNDERWRITING LIMITATION b/: $74,000. SURETY LICENSES c/: Iowa. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

The Millers Mutual Fire Insurance Company of Texas. BUSINESS ADDRESS: Post Office Box 2269, Fort Worth, Tex. 76113. UNDERWRITING LIMITATION b/: $2,723,000. SURETY LICENSES c/: Ark., Cal., Colo., D.C., Idaho, Ill., Ind., Iowa, La., Minn., Miss., Mo., Mont., Nebr., Okla., Oreg., Pa., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Millers' Mutual Insurance Association of Illinois. BUSINESS ADDRESS: Post Office Box 339, Alton, Ill. 62002. UNDERWRITING LIMITATION b/: $4,173,000. SURETY LICENSES c/: Ala., Ark., Colo., D.C., Ga., Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., N.C., Okla., S. Dak., Tenn., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Millers National Insurance Company. BUSINESS ADDRESS: 29 North Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $926,000. SURETY LICENSES c/: All except Alaska, C.Z., Colo., Conn., Del., Guam, Hawaii, La., Me., Miss., Nev., N.H., Pa., Puerto Rico, R.I., Vt., Virgin Islands, Wash. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Minnesota Trust Company of Austin. BUSINESS ADDRESS: 107 West Oakland, Post Office Box 463, Austin, Minn. 55912. UNDERWRITING LIMITATION b/: $76,000. SURETY LICENSES c/: Minn. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Mission Insurance Company. BUSINESS ADDRESS: 2600 Wilshire Boulevard, Los Angeles, Cal. 90057. UNDERWRITING LIMITATION b/: $16,243,000. SURETY LICENSES c/: All except C.Z., Guam, Me., N.H., Puerto Rico, Virgin Islands INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Morrison Assurance Company, Inc. BUSINESS ADDRESS: 5109 South Lois Avenue, Tampa, Fla. 33681. UNDERWRITING LIMITATION b/: $382,000. SURETY LICENSES c/: Ala., Ariz., Ark., Fla., Ga., Ky., La., Miss., Mont., N. Mex., Okla., S.C., Tenn., Tex., Utah. INCORPORATED IN: Fla. FEDERAL PROCESS AGENTS d/.

MOTORS INSURANCE CORPORATION. BUSINESS ADDRESS: 767 Fifth Avenue, New York, N.Y. 10153. UNDERWRITING LIMITATION b/: $25,125,000. SURETY LICENSES c/: All except Ark., Cal., C.Z., Colo., Conn., Guam, Hawaii, Kans., La., Mass., Mo., Mont., Nebr., N.H., Ohio, Oreg., Pa., Puerto Rico, Tenn., Utah, Va., Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Munich American Reinsurance Company. BUSINESS ADDRESS: 560 Lexington Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $4,590,000. SURETY LICENSES c/: Ark., Cal., Colo., Del., D.C., Ga., Hawaii, Ill., Ind., Iowa, La., N.J., N.Y., Ohio, Pa., S.C., Tex. (Reinsurance only in Conn., Kans., N.H., Okla.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National American Insurance Company of New York. BUSINESS ADDRESS: 1105 Hamilton Street, Allentown, Pa. 18101. UNDERWRITING LIMITATION b/: $1,707,000. SURETY LICENSES c/: All except Ariz., C.Z., Del., Guam, Hawaii, Mo., N. Mex., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National Automobile and Casualty Insurance Company. BUSINESS ADDRESS: Post Office Box 7040, Pasadena, Cal. 91109. UNDERWRITING LIMITATION b/: $909,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Nev., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

National-Ben Franklin Insurance Company of Illinois. BUSINESS ADDRESS: 200 South Wacker Drive, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $10,606,000. SURETY LICENSES c/: D.C., Ill., Ind., Iowa, Ky., Minn., N.Y., N.C., N. Dak., Wis. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National-Ben Franklin Insurance Company of Michigan. BUSINESS ADDRESS: 26500 Northwestern Highway, Southfield, Mich. 48076. UNDERWRITING LIMITATION b/: $2,177,000. SURETY LICENSES c/: Mich. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

National Bonding and Accident Insurance Company. BUSINESS ADDRESS: 4242 Lindell Boulevard, St. Louis, Mo. 63108. UNDERWRITING LIMITATION b/: $252,000. SURETY LICENSES c/: All except C.Z., Guam, Mass., N.C., Puerto Rico, Virgin Islands, Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

National Fire Insurance Company of Hartford. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $11,365,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

National Grange Mutual Insurance Company. BUSINESS ADDRESS: 55 West Street, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $1,399,000. SURETY LICENSES c/: Conn., Del., D.C., Ill., Ind., Iowa, Me., Md., Mass., Mich., N.H., N.J., N.Y., N.C., Ohio, Pa., R.I., S.C., Tenn., Vt., Va., W. Va., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

National Indemnity Company. BUSINESS ADDRESS: 3024 Harney Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $26,526,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Mass., N.J., N.Y., Puerto Rico. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

The National Reinsurance Corporation. BUSINESS ADDRESS: 777 Long Ridge Road, Stamford, Conn. 06905. UNDERWRITING LIMITATION b/: $7,451,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Fla., Ga., Guam, La., Me., Miss., Mo., N.C., Oreg., S.C., S. Dak., Tenn., Wash., W. Va. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

National Surety Corporation. BUSINESS ADDRESS: 200 West Monroe Street, Chicago, Ill. 60606. UNDERWRITING LIMITATION b/: $10,026,000. SURETY LICENSES c/: All except Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

National Union Fire Insurance Company of Pittsburgh, Pa. BUSINESS ADDRESS: 70 Pine Street, New York, N.Y. 10270. UNDERWRITING LIMITATION b/: $17,118,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Nationwide Mutual Insurance Company. BUSINESS ADDRESS: One Nationwide Plaza, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $94,175,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Netherlands Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $722,000. SURETY LICENSES c/: Ariz., Cal., Idaho, Me., Md., Mass., Mich., Nev., N.H., N.J., N.Y., N.C., Ohio, Oreg., Puerto Rico, R.I., Utah, Vt., Va., Virgin Islands, Wash., Wis. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New Hampshire Insurance Company. BUSINESS ADDRESS: Post Office Box 960, Manchester, N.H. 03107. UNDERWRITING LIMITATION b/: $22,050,000. SURETY LICENSES c/: All. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

New South Insurance Company. BUSINESS ADDRESS: Post Office Box 3199, Winston-Salem, N.C. 27102. UNDERWRITING LIMITATION b/: $426,000. SURETY LICENSES c/: N.C., Tex., Va. INCORPORATED IN: N.C. FEDERAL PROCESS AGENTS d/.

New York Underwriters Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $6,077,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Newark Insurance Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $3,054,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Niagara Fire Insurance Company. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $1,922,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

North American Reinsurance Corporation. BUSINESS ADDRESS: 245 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $14,412,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands, Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The North River Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $11,947,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

Northbrook Property and Casualty Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, Ill. 60062. UNDERWRITING LIMITATION b/: $4,641,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Northern Assurance Company of America. BUSINESS ADDRESS: One Beacon Street, Boston, Mass. 02108. UNDERWRITING LIMITATION b/: $4,610,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico. INCORPORATED IN: Vt. FEDERAL PROCESS AGENTS d/.

Northern Insurance Company of New York. BUSINESS ADDRESS: Post Office Box 91, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $2,401,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Northwestern National Casualty Company. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $483,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Nev., N.H., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Northwestern National Insurance Company of Milwaukee, Wisconsin. BUSINESS ADDRESS: Post Office Box 2070, Milwaukee, Wis. 53201. UNDERWRITING LIMITATION b/: $6,713,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Oceanic Insurance and Surety Company. BUSINESS ADDRESS: 5105 Tollview Drive, Rolling Meadows, Ill. 60008. UNDERWRITING LIMITATION b/: $55,000. SURETY LICENSES c/: N. Mex. INCORPORATED IN: N. Mex. FEDERAL PROCESS AGENTS d/.

The Ohio Casualty Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45025. UNDERWRITING LIMITATION b/: $33,310,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Ohio Farmers Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $10,439,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Kans., Puertp Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Oklahoma Surety Company. BUSINESS ADDRESS: Post Office Box 1409, Tulsa, Okla. 74101. UNDERWRITING LIMITATION b/: $242,000. SURETY LICENSES c/: Okla., Tex. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Old Republic Insurance Company. BUSINESS ADDRESS: Post Office Box 789, Greensburg, Pa. 15601. UNDERWRITING LIMITATION b/: $2,059,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

The Omaha Indemnity Company. BUSINESS ADDRESS: 3201 Farnam Street, Omaha, Nebr. 68131. UNDERWRITING LIMITATION b/: $1,724,000. SURETY LICENSES c/: All except La., N.H., N.J. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Oregon Automobile Insurance Company. BUSINESS ADDRESS: Post Office Box 74, Portland, Oreg. 97207. UNDERWRITING LIMITATION b/: $2,601,000. SURETY LICENSES c/: Idaho, Nev., Oreg., Utah, Wash. INCORPORATED IN: Oreg. FEDERAL PROCESS AGENTS d/.

Pacific Employers Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, Pa. 19101. UNDERWRITING LIMITATION b/: $5,907,000. SURETY LICENSES c/: All except Puerto Rico. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Indemnity Company. BUSINESS ADDRESS: Post Office Box 3099, Los Angeles, Cal. 90051. UNDERWRITING LIMITATION b/: $7,882,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Pacific Insurance Company, Limited. BUSINESS ADDRESS: Post Office Box 1140, Honolulu, Hawaii 96807. UNDERWRITING LIMITATION b/: $3,023,000. SURETY LICENSES c/: Hawaii. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

Peerless Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, N.H. 03431. UNDERWRITING LIMITATION b/: $3,356,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

Pekin Insurance Company. BUSINESS ADDRESS: 2505 Court Street, Pekin, Ill. 61558. UNDERWRITING LIMITATION b/: $699,000. SURETY LICENSES c/: Ill., Ind., Iowa. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Pennsylvania Manufacturers' Association Insurance Company. BUSINESS ADDRESS: 925 Chestnut Street, Philadelphia, Pa. 19107. UNDERWRITING LIMITATION b/: $8,135,000. SURETY LICENSES c/: All except Ala., Ark., C.Z., Conn., Guam, Hawaii, Kans., Me., Minn., N. Dak., Oreg., Puerto Rico, R.I., S. Dak., Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania Millers Mutual Insurance Company. BUSINESS ADDRESS: 15 Public Square, Wilkes-Barre, Pa. 18773. UNDERWRITING LIMITATION b/: $2,071,000. SURETY LICENSES c/: Ark., Conn., D.C., Fla., Ga., Ind., Kans., Ky., Me., Md., Mass., Miss., Mo., N.H., N.J., N.Y., N.C., N. Dak., Pa., R.I., S.C., Tenn., Vt., Va. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Pennsylvania National Mutual Casualty Insurance Company. BUSINESS ADDRESS: 1900 Derry Street, Harrisburg, Pa. 17105. UNDERWRITING LIMITATION b/: $5,702,000. SURETY LICENSES c/: All except Cal., C.Z., Conn., Guam, Hawaii, Nev., N.H., N. Dak., Puerto Rico, Virgin Islands, Wyo. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

The Personal Service Insurance Co. BUSINESS ADDRESS: 100 East Gay Street, Columbus, Ohio 43215. UNDERWRITING LIMITATION b/: $547,000. SURETY LICENSES c/: Ind., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Phoenix Assurance Company of New York. BUSINESS ADDRESS: 80 Maiden Lane, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $7,305,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.H. FEDERAL PROCESS AGENTS d/.

The Phoenix Insurance Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $23,074,000. SURETY LICENSES c/: All. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Potomac Insurance Company. BUSINESS ADDRESS: 414 Walnut Street, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $27,931,000. SURETY LICENSES c/: All except Ala., Alaska, Ark., C.Z., Del., Guam, Hawaii, Idaho, Me., Mont., Nev., N.H., N. Dak., Puerto Rico, S.C., S. Dak., Vt., Virgin Islands. (Fidelity only in Ala., S.C.) INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

PRESTIGE CASUALTY COMPANY. BUSINESS ADDRESS: 5454 West Fargo Avenue, Skokie, Ill. 60077. UNDERWRITING LIMITATION b/: $724,000. SURETY LICENSES c/: Ill., Ind. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

Progressive Casualty Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $7,621,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., D.C., Guam, Hawaii, Ill., Kans., La., Md., Nebr., N.H., N.Y., Pa., Puerto Rico, S.C., Tex., Utah, Va., Virgin Islands, W. Va., Wis. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

The Progressive Mutual Insurance Company. BUSINESS ADDRESS: 6300 Wilson Mills Road, Mayfield Village, Ohio 44143. UNDERWRITING LIMITATION b/: $569,000. SURETY LICENSES c/: N.J., Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Protective Insurance Company. BUSINESS ADDRESS: 3100 North Meridian Street, Indianapolis, Ind. 46208. UNDERWRITING LIMITATION b/: $2,750,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. INCORPORATED IN: Ind. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Prudential Reinsurance Company. BUSINESS ADDRESS: 213 Washington Street, Post Office Box 908, Newark, N.J. 07101. UNDERWRITING LIMITATION b/: $16,803,000. SURETY LICENSES c/: All except C.Z., Guam, La., Nev., N.C., Okla., Puerto Rico, S.C., Va., Virgin Islands, W. Va., Wyo. (Reinsurance only in N.C., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Public Service Mutual Insurance Company. BUSINESS ADDRESS: 393 Seventh Avenue, New York, N.Y. 10001. UNDERWRITING LIMITATION b/: $5,528,000. SURETY LICENSES c/: Ariz., Colo., Conn., Del., D.C., Fla., Ga., Idaho, Ill., Ind., Iowa, Me., Md., Mass., Mich., Minn., Miss., N.H., N.J., N.Y., N.C., Ohio, Oreg., Pa., R.I., S.C., Vt., Va., W. Va., Wis. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Puerto Rican-American Insurance Company. BUSINESS ADDRESS: Post Office Box S-112, San Juan, Puerto Rico 00902. UNDERWRITING LIMITATION b/: $2,398,000. SURETY LICENSES c/: Puerto Rico, Virgin Islands. INCORPORATED IN: Puerto Rico. FEDERAL PROCESS AGENTS d/.

Puritan Insurance Company. BUSINESS ADDRESS: Post Office Box 8900, Stamford, Conn. 06904. UNDERWRITING LIMITATION b/: $4,371,000. SURETY LICENSES c/: All except Ala., C.Z., Del., Guam, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Ranger Insurance Company. BUSINESS ADDRESS: Post Office Box 2807, Houston, Tex. 77001. UNDERWRITING LIMITATION b/: $4,991,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Guam, Hawaii, Miss., N.J., Oreg., Puerto Rico, Virgin Islands, Wash. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

The Reinsurance Corporation of New York. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $2,444,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, Puerto Rico, Virgin Islands. (Co-surety only in Fla., Mass., Va.) INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $37,358,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Reliance Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $660,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Republic-Franklin Insurance Company. BUSINESS ADDRESS: Post Office Box 1438, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $218,000. SURETY LICENSES c/: Ohio. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

Royal Indemnity Company. BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $9,861,000. SURETY LICENSES c/: All except Puerto Rico, Virgin Islands. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

Royal Insurance Company of America. 1* BUSINESS ADDRESS: 150 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $18,061,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

S & H Insurance Company. BUSINESS ADDRESS: 3550 Camino Del Rio North, San Diego, Cal. 92108. UNDERWRITING LIMITATION b/: $1,205,000. SURETY LICENSES c/: Ariz., Cal., Fla., Md., Miss., Nev., N. Mex., Okla., Oreg., S.D., Tex., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

SAFECO Insurance Company of America. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $18,138,000. SURETY LICENSES c/: All except C.Z., N.J., N.Y., Puerto Rico, Vt., Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

SAFECO Insurance Company of Illinois. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $1,025,000. SURETY LICENSES c/: Ill. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

SAFECO National Insurance Company. BUSINESS ADDRESS: SAFECO Plaza, Seattle, Wash. 98185. UNDERWRITING LIMITATION b/: $1,441,000. SURETY LICENSES c/: Mo., N.Y. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

St. Paul Fire and Marine Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, Minn. 55102. UNDERWRITING LIMITATION b/: $69,632,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

Seaboard Surety Company. BUSINESS ADDRESS: 90 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,301,000. SURETY LICENSES c/: All except C.Z. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Security Insurance Company of Hartford. BUSINESS ADDRESS: Post Office Box 420, Hartford, Conn. 06141. UNDERWRITING LIMITATION b/: $2,880,000. SURETY LICENSES c/: All except C.Z., Guam, Mass., Puerto Rico, Virgin Islands. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

Security National Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $609,000. SURETY LICENSES c/: Ark., Cal., Ill., Ind., Kans., Ky., N. Mex., Ohio, Okla., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Select Insurance Company. BUSINESS ADDRESS: Post Office Box 1771, Dallas, Tex. 75221. UNDERWRITING LIMITATION b/: $1,155,000. SURETY LICENSES c/: All except Ariz., C.Z., Conn., Del., Guam, Hawaii, La., Me., Md., Mass., N.H., N.J., N.Y., N. Dak., Pa., Puerto Rico, R.I., Tenn., Utah, Va., Virgin Islands. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Selected Risks Insurance Company. BUSINESS ADDRESS: Wantage Avenue, Branchville, N.J. 07826. UNDERWRITING LIMITATION b/: $5,956,000. SURETY LICENSES c/: Del., D.C., Md., N.J., Pa., Va. INCORPORATED IN: N.J. FEDERAL PROCESS AGENTS d/.

SENTINEL INSURANCE COMPANY, LTD. BUSINESS ADDRESS: Post Office Box 1140, Honolulu, Hawaii 96807. UNDERWRITING LIMITATION b/: $504,000. SURETY LICENSES c/: Hawaii. INCORPORATED IN: Hawaii. FEDERAL PROCESS AGENTS d/.

Sentry Indemnity Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $826,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Del., D.C., Guam, Hawaii, Me., Mass., Mich., Nebr., N.H., N.J., N.Y., Pa., Puerto Rico, R.I., Vt., Va., Virgin Islands, W. Va. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Sentry Insurance a Mutual Company. BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, Wis. 54481. UNDERWRITING LIMITATION b/: $8,024,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

Skandia America Reinsurance Corporation. BUSINESS ADDRESS: 280 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $9,451,000. SURETY LICENSES c/: Ariz., Cal., Del., D.C., Ill., Ind., Iowa, Mich., Miss., Nebr., N.J., N.Y., Ohio, Okla., Pa., Utah, Wash., Wis. (Reinsurance only in Alaska, Colo., Fla., Ga., Kans., Md., Mass., N.H., S.C., Tex., Vt., W. Va.) INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

South Carolina Insurance Company. BUSINESS ADDRESS: Post Office Box #1, Columbia, S.C. 29202. UNDERWRITING LIMITATION b/: $4,723,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Cal., Colo., D.C., Fla., Ga., Ill., Ind., Iowa, Ky., Md., Mich., Minn., Miss., Mo., Mont., Nebr., Nev., N.J., N. Mex., N.Y., N.C., N. Dak., Ohio, Okla., Pa., S.C., S. Dak., Tenn., Tex., Utah, Va., W. Va., Wis., Wyo. (Reinsurance only in Conn.) INCORPORATED IN: S.C. FEDERAL PROCESS AGENTS d/.

The Standard Fire Insurance Company. BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, Conn. 06156. UNDERWRITING LIMITATION b/: $10,081,000. SURETY LICENSES c/: All except C.Z., Guam, N.J. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

State Automobile Mutual Insurance Company. BUSINESS ADDRESS: 518 East Broad Street, Columbus, Ohio 43216. UNDERWRITING LIMITATION b/: $11,865,000. SURETY LICENSES c/: Ala., Ark., Fla., Ga., Ill., Ind., Ky., Md., Mich., Miss., Mo., N.J., N.C., Ohio, Pa., S.C., Tenn., Va., W. Va. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

State Farm Fire and Casualty Company. BUSINESS ADDRESS: 112 East Washington Street, Bloomington, Ill. 61701. UNDERWRITING LIMITATION b/: $93,056,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

State Surety Company. BUSINESS ADDRESS: 645 Insurance Exchange Building, Des Moines, Iowa 50309. UNDERWRITING LIMITATION b/: $296,000. SURETY LICENSES c/: Ariz., Colo., D.C., Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Dak., Okla., S. Dak., Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

Surety Company of the Pacific. BUSINESS ADDRESS: Post Office Box 2105, Santa Monica, Cal. 90406. UNDERWRITING LIMITATION b/: $171,000. SURETY LICENSES c/: Cal. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Surety Insurance Company of California. BUSINESS ADDRESS: Post Office Box 2430, La Habra, Cal. 90631. UNDERWRITING LIMITATION b/: $125,000. SURETY LICENSES c/: Ala., Alaska, Ariz., Ark., Cal., Colo., Ga., Kans., Miss., Mo., Nev., N. Mex., Okla., Oreg., Tex., Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transamerica Insurance Company. BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $20,064,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transamerica Insurance Company of Michigan. 2* BUSINESS ADDRESS: 1150 South Olive Street, Los Angeles, Cal. 90015. UNDERWRITING LIMITATION b/: $7,574,000. SURETY LICENSES c/: Ark., Ill., Ind., Iowa, Kans., Mich., Minn., Ohio, S. Dak. INCORPORATED IN: Mich. FEDERAL PROCESS AGENTS d/.

Transcontinental Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $1,182,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Transport Indemnity Company. BUSINESS ADDRESS: 3670 Wilshire Boulevard, Los Angeles, Cal. 90010. UNDERWRITING LIMITATION b/: $2,636,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Transportation Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $1,655,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Ill. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $95,672,000. SURETY LICENSES c/: All. INCORPORATED IN: Conn. FEDERAL PROCESS AGENTS d/.

The Travelers Indemnity Company of Rhode Island. BUSINESS ADDRESS: One Tower Square, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $8,113,000. SURETY LICENSES c/: All except Guam. INCORPORATED IN: R.I. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $45,602,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Mich., Miss., Mo., Nebr., N. Mex., (Reinsurance only in N.Y.), Ohio, Okla., Oreg., Tex., Wash., Wis., Wyo. INCORPORATED IN: Tex. FEDERAL PROCESS AGENTS d/.

Trinity Universal Insurance Company of Kansas, Inc. BUSINESS ADDRESS: Post Office Box 225028, Dallas, Tex. 75265. UNDERWRITING LIMITATION b/: $338,000. SURETY LICENSES c/: Ala., Ariz., Colo., Ga., Kans., La., Ohio, Okla., Tex. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Tri-State Insurance Company. BUSINESS ADDRESS: Post Office Box 3269, Tulsa, Okla. 74102. UNDERWRITING LIMITATION b/: $1,146,000. SURETY LICENSES c/: Ala., Ariz., Ark., Colo., Fla., Ga., Idaho, Ill., Ind., Iowa, Kans., Ky., La., Minn., Miss., Mo., Mont., Nebr., N. Mex., N. Dak., Okla., S. Dak., Tenn., Tex., Utah, Wash., Wyo. INCORPORATED IN: Okla. FEDERAL PROCESS AGENTS d/.

Twin City Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, Conn. 06115. UNDERWRITING LIMITATION b/: $2,708,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Minn. FEDERAL PROCESS AGENTS d/.

ULICO CASUALTY COMPANY. BUSINESS ADDRESS: 850 Third Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $503,000. SURETY LICENSES c/: Colo., Del., D.C., Mich., N. Mex., Oreg., Pa. INCORPORATED IN: Del. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Unigard Mutual Insurance Company. BUSINESS ADDRESS: 1215 Fourth Avenue, Seattle, Wash. 98161. UNDERWRITING LIMITATION b/: $5,665,000. SURETY LICENSES c/: All except C.Z., Ga., Guam, N.J., Puerto Rico, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Union Indemnity Insurance Company of New York. BUSINESS ADDRESS: 260 Madison Ave., New York, N.Y. 10016. UNDERWRITING LIMITATION b/: $750,000. SURETY LICENSES c/: All except Ala., Cal., C.Z., Guam, Kans., Ky., Me., Md., Minn., N.C., Puerto Rico, Virgin Islands, W. Va., Wyo. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

United Fire & Casualty Company. BUSINESS ADDRESS: Post Office Box 4909, Cedar Rapids, Iowa 52407. UNDERWRITING LIMITATION b/: $2,187,000. SURETY LICENSES c/: Ariz., Ark., Colo., Idaho, Ill., Ind., Iowa, Kans., La., Minn., Miss., Mo., Mont., Nebr., N.J., N.Y., N. Dak., Ohio, S.C., S. Dak., Utah, Wis., Wyo. INCORPORATED IN: Iowa. FEDERAL PROCESS AGENTS d/.

UNITED NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: 1737 Chestnut Street, Philadelphia, Pennsylvania 19103. UNDERWRITING LIMITATION b/: $651,000. SURETY LICENSES c/: Pa. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $4,871,000. SURETY LICENSES c/: All except C.Z., Puerto Rico, Virgin Islands. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

United Pacific Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, Pa. 19103. UNDERWRITING LIMITATION b/: $661,000. SURETY LICENSES c/: N.Y. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

United States Fidelity and Guaranty Company. BUSINESS ADDRESS: 100 Light Street, Post Office Box 1138, Baltimore, Md. 21203. UNDERWRITING LIMITATION b/: $102,795,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: Md. FEDERAL PROCESS AGENTS d/.

United States Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $26,536,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Universal Surety Company. BUSINESS ADDRESS: Post Office Box 80468, Lincoln, Nebr. 68501. UNDERWRITING LIMITATION b/: $539,000. SURETY LICENSES c/: Ariz., Colo., Ill., Iowa, Kans., Minn., Mo., Mont., Nebr., N. Mex., N. Dak., Ohio, Okla., S. Dak., Utah, Wash., Wis., Wyo. INCORPORATED IN: Nebr. FEDERAL PROCESS AGENTS d/.

Universal Underwriters Insurance Company. BUSINESS ADDRESS: 5115 Oak Street, Kansas City, Mo. 64112. UNDERWRITING LIMITATION b/: $12,329,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Mo. FEDERAL PROCESS AGENTS d/.

Utica Mutual Insurance Company. BUSINESS ADDRESS: Post Office Box 530, Utica, N.Y. 13503. UNDERWRITING LIMITATION b/: $7,828,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Valley Forge Insurance Company. BUSINESS ADDRESS: CNA Plaza, Chicago, Ill. 60685. UNDERWRITING LIMITATION b/: $2,446,000. SURETY LICENSES c/: All except C.Z., Guam, Puerto Rico, Virgin Islands. INCORPORATED IN: Pa. FEDERAL PROCESS AGENTS d/.

Van Tol Surety Company, Incorporated. BUSINESS ADDRESS: 424 Fifth Street, Brookings, S. Dak. 57006. UNDERWRITING LIMITATION b/: $122,000. SURETY LICENSES c/: S. Dak. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Vigilant Insurance Company. BUSINESS ADDRESS: 100 William Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $4,800,000. SURETY LICENSES c/: All except C.Z., Guam. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

Washington International Insurance Company. BUSINESS ADDRESS: 650 N. Second Avenue, Phoenix, Ariz. 85003. UNDERWRITING LIMITATION b/: $237,000. SURETY LICENSES c/: Ariz., Cal., Fla., Ill., Md., Mass., N.Y., Oreg., Tex., Wash. INCORPORATED IN: Ariz. FEDERAL PROCESS AGENTS d/.

West American Insurance Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, Ohio 45026. UNDERWRITING LIMITATION b/: $20,944,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Guam, Hawaii, Me., Mass., Mont., N.H., Puerto Rico, R.I., Vt., Virgin Islands, W. Va. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Westchester Fire Insurance Company. BUSINESS ADDRESS: Post Office Box 2387, Morristown, N.J. 07960. UNDERWRITING LIMITATION b/: $11,868,000. SURETY LICENSES c/: All except C.Z., Guam, Virgin Islands. INCORPORATED IN: N.Y. FEDERAL PROCESS AGENTS d/.

The Western Casualty and Surety Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $17,919,000. SURETY LICENSES c/: All except C.Z., Conn., Guam, Hawaii, Me., Mass., N.H., N.Y., Puerto Rico, Vt., Va., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

The Western Fire Insurance Company. BUSINESS ADDRESS: 14 East First Street, Fort Scott, Kans. 66701. UNDERWRITING LIMITATION b/: $11,259,000. SURETY LICENSES c/: All except Ala., C.Z., Conn., Del., D.C., Ga., Guam, Hawaii, Idaho, La., Me., Md., Mass., Mont., N.H., N.J., Oreg., Puerto Rico, S.C., Vt., Virgin Islands. INCORPORATED IN: Kans. FEDERAL PROCESS AGENTS d/.

Western National Assurance Company. BUSINESS ADDRESS: 5350 West 78th Street, Minneapolis, Minn. 55435. UNDERWRITING LIMITATION b/: $279,000. SURETY LICENSES c/: Alaska, Ariz., Cal., Colo., D.C., Hawaii, Idaho, Ind., Minn., Mont., Nev., Oreg., Utah, Wash. INCORPORATED IN: Wash. FEDERAL PROCESS AGENTS d/.

Western Surety Company. BUSINESS ADDRESS: 908 West Avenue, North, Sioux Falls, S. Dak. 57192. UNDERWRITING LIMITATION b/: $1,979,000. SURETY LICENSES c/: All except C.Z., Guam, Hawaii, N.Y., Puerto Rico, Virgin Islands. INCORPORATED IN: S. Dak. FEDERAL PROCESS AGENTS d/.

Westfield Insurance Company. BUSINESS ADDRESS: Westfield Center, Ohio 44251. UNDERWRITING LIMITATION b/: $4,297,000. SURETY LICENSES c/: All except Alaska, C.Z., Conn., Fla., Guam, Hawaii, Me., Puerto Rico, Virgin Islands. INCORPORATED IN: Ohio. FEDERAL PROCESS AGENTS d/.

*See footnotes at end of table.

Wilshire Insurance Company. BUSINESS ADDRESS: 5670 S. Syracuse Circle, Suite 500, Englewood, Colo. 80111. UNDERWRITING LIMITATION b/: $1,077,000. SURETY LICENSES c/: Ariz., Cal., Colo., Hawaii, Idaho, Iowa, Kans., Mont., Nebr., Nev., N. Mex., Oreg., S. Dak., Utah, Wash. INCORPORATED IN: Cal. FEDERAL PROCESS AGENTS d/.

Worldwide Underwriters Insurance Company. BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, Wis. 54401. UNDERWRITING LIMITATION b/: $656,000. SURETY LICENSES c/: Ala., Ariz., Ark., Cal., Colo., Del., Fla., Idaho, Iowa, La., Mich., Miss., Mo., Nebr., N. Mex., N.Y., N. Dak., Okla., Oreg., Pa., S.C., Utah, Va., Wis. INCORPORATED IN: Wis. FEDERAL PROCESS AGENTS d/.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES
UNDER SECTION 223.3(b) of TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 (See Note (e))

Alliance Assurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,620,000. FEDERAL PROCESS AGENTS: D.C.

The Canadian Indemnity Company, Winnipeg, Manitoba, Canada. BUSINESS ADDRESS (U.S. Office): 675 South Park View Street, Los Angeles, Cal. 90057. UNDERWRITING LIMITATION b/: $1,787,000. FEDERAL PROCESS AGENTS: D.C.

General Accident Fire and Life Assurance Corporation, Limited, Perth, Scotland. BUSINESS ADDRESS (U.S. Office): Fourth and Walnut Streets, Philadelphia, Pa. 19106. UNDERWRITING LIMITATION b/: $56,052,000. FEDERAL PROCESS AGENTS: D.C.

The London Assurance, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $3,239,000. FEDERAL PROCESS AGENTS: D.C.

Munich Reinsurance Company, Munich, Germany. BUSINESS ADDRESS (U.S. Office): 560 Lexington Avenue, New York, N.Y. 10022. UNDERWRITING LIMITATION b/: $3,879,000. FEDERAL PROCESS AGENTS: D.C.

Rochdale Insurance Company. BUSINESS ADDRESS: 99 John Street, New York, N.Y. 10038. UNDERWRITING LIMITATION b/: $443,000. FEDERAL PROCESS AGENTS: D.C.

The Sea Insurance Company, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $2,273,000. FEDERAL PROCESS AGENTS: D.C.

Sun Insurance Office, Limited, London, England. BUSINESS ADDRESS (U.S. Office): 190 River Road, Summit, N.J. 07901. UNDERWRITING LIMITATION b/: $3,349,000. FEDERAL PROCESS AGENTS: D.C.

Swiss Reinsurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 245 Park Avenue, New York, N.Y. 10017. UNDERWRITING LIMITATION b/: $17,160,000. FEDERAL PROCESS AGENTS: D.C.

The Tokio Marine and Fire Insurance Company, Limited, Tokyo, Japan. BUSINESS ADDRESS (U.S. OFFICE): 55 Water Street, New York, N.Y. 10041. UNDERWRITING LIMITATION b/: $3,785,000. FEDERAL PROCESS AGENTS: D.C.

"Winterthur" Swiss Insurance Company, Winterthur, Switzerland. BUSINESS ADDRESS (U.S. Office): One World Trade Center, Suite 8419, New York, N.Y. 10048. UNDERWRITING LIMITATION b/: $6,446,000. FEDERAL PROCESS AGENTS: D.C.

Zurich Insurance Company, Zurich, Switzerland. BUSINESS ADDRESS (U.S. Office): 231 North Martingale Road, Schaumburg, Ill. 60196. UNDERWRITING LIMITATION b/: $16,189,000. FEDERAL PROCESS AGENTS: D.C.

FOOTNOTES

1* Royal Globe Insurance Company, New York, N.Y. -- changed its name to Royal Insurance Company of America (See Federal Register of October 16, 1980, pgs. 68822 - 68823)

2* Wolverine Insurance Company, Battle Creek, Mich. -- changed its name to Transamerica Insurance Company of Michigan (See Federal Register of February 5, 1981, pg. 11089)

PLEASE READ THE SUPPORTING NOTES
ON THE NEXT PAGE

NOTES

(a) All certificates of authority expire June 30, and are renewable July 1, annually. Companies holding certificates of authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) Treasury requirements do not limit the penal sum of bonds which surety companies may execute. The net retention, however, cannot exceed the underwriting limitation, and excess risks must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). When excess risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Treasury reinsurance form to be filed with the bond or within 45 days thereafter. Risks in excess of the limit fixed herein must be reported for the quarter in which they are executed. In protecting such excess, the rating in force on the date of the execution of the risk will govern absolutely. This limit applies until a new rating is established by the Treasury Department.

(c) A surety company must be licensed in the State or other area in which it executes (signs) a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed (28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5(b)). The term "other area" includes the Canal Zone, District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 6 U.S.C. 7 and 31 C.F.R. 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the state or other area wherein the company is incorporated (31 CFR Section 224.2). Beginning with the 1980 publication of the Treasury Circular 570, surety companies' individual listings of Federal process agent appointments will no longer be printed in the Circular 570. However, the name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 6 U.S.C. 7.

Title 6, Section 7 of the U.S. Code provides that in the absence of any agent of a company, service of process may be made upon the Clerk of the court within the district where suit is brought, with like effect as upon an agent appointed by the company. The officer serving process upon the Clerk should immediately transmit a copy of the summons by mail to the corporate secretary of the company (at the business address shown in Treasury Circular 570), and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process will be as valid and binding on the company as if served with process in said district.

Currently, legislation is being considered to permit nationwide service of process by mail, thereby eliminating the need to appoint process agents. If the legislation is enacted, appropriate notice will be issued by the Treasury.

(e) Companies holding certificates of authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

[FR Doc. 81-18423 Filed 6-29-81; 8:45 am]
BILLING CODE 4810-35-C

federal register

Tuesday
June 30, 1981

Part III

Office of the Federal Register

Incorporations by Reference; Approval and Corrections in Titles 24, and 28 through 41

Title 24	Chapter XX—Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development
Title 28	Chapter I—Justice Department
Title 29	Chapter IV—Office of Labor-Management Standards Enforcement, Department of Labor
	Chapter V—Wage and Hour Division, Department of Labor
	Chapter XVII—Occupational Safety and Health Administration, Department of Labor
Title 30	Chapter I—Mine Safety and Health Administration, Department of Labor
	Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior
Title 31	Chapter I—Monetary Offices, Department of the Treasury
Title 33	Chapter I—Coast Guard, Department of Transportation
	Chapter II—Corps of Engineers, Department of the Army
Title 34	Chapter II—Office of Civil Rights, Department of Education
Title 38	Chapter I—Veterans Administration
Title 39	Chapter I—Postal Service
Title 40	Chapter I—Environmental Protection Agency
Title 41	Chapter 50—Public Contracts, Department of Labor
	Chapter 60—Office of Federal Contract Compliance Programs, Department of Labor
	Chapter 101—General Services Administration

OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51

Approval of Incorporations by Reference

AGENCY: Office of the Federal Register.

ACTION: Approval of incorporations by reference.

SUMMARY: The Office of the Federal Register publishes a document listing materials that have been approved by the Director for incorporation by reference into Titles 24, and 28 through 41 of the *Code of Federal Regulations*. This document is published to inform the public of materials that have the Director's approval and have the same legal status as if they were published in full in the **Federal Register**.

EFFECTIVE DATE: The Director approves the following incorporations by reference for one year effective July 1, 1981, unless otherwise noted.

FOR FURTHER INFORMATION CONTACT: Susan Schruth, (202) 523–4534.

ADDRESSES: For specific addresses where materials are available, see table. Materials are also on file at the Office of the Federal Register, 1100 L Street NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

Authority. Each agency that wishes material incorporated by reference in the CFR to remain effective must annually submit to the Director a list of that material and the date of its last revision (1 CFR 51.13). The materials included on the table below are incorporated by reference in the CFR under 5 U.S.C. 552(a) and 1 CFR Part 51. These procedures provide that material approved for incorporation by reference by the Director of the Federal Register has the same legal status as if it were published in full text in the **Federal Register**.

Availablity. Before an agency may incorporate by reference any material into the *Code of Federal Regulations*, it must make the material reasonably available to the class of persons affected by it. Agencies have listed addresses where you can obtain each item included in the table. The materials approved for incorporation by reference are also available for inspection and copying at the Office of the Federal Register, 1100 L St., NW., Washington, DC, phone (202) 523–5240.

Amendments. If the agency wishes to amend material before the annual approval expires, the agency shall publish notice of the amendment in the **Federal Register**, and make the amendment available as indicated on the table or as modified in the notice of amendment. Amendments are not properly incorporated until notice is given in the **Federal Register**, the amendments are filed at the Office of the Federal Register and available to the public.

Quarterly Publication. Every quarter, beginning June 30, 1981, the Office of the Federal Register will publish a document on incorporation by reference. This quarterly document will contain the following information on incorporation by reference. First, the document will contain a table of items in the applicable titles that have been reapproved for incorporation by reference under 1 CFR 51.13. Second, the document will contain a listing of any items which were granted extensions under 1 CFR 51.13 review in the last quarter and have since received final approval by the Director of the Federal Register. Third, the document will contain any material approved for incorporation by reference for the first time under Office of the Federal Register general procedures contained in 1 CFR Part 51. And fourth, the document may contain corrections to previously published incorporation by reference approval documents.

Material which is approved in a timely fashion during the quarterly review process is also listed in the *Code of Federal Regulations* volume(s).

Problems. If you have any problems getting the material, notify the agency. If you find the material is not available, notify the Director of the Federal Register (NARS), Washington, DC 20408 or call (202) 523–4534.

Dated: June 19, 1981.

Martha B. Girard,

Acting Director of the Federal Register.

24 CFR SUBTITLE B, CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS, AND CONSUMER PROTECTION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. Make the following corrections to the issue of May 29, 1981:

a. On page 29232, under American National Standards Institute, correct "ANSI A95.1–1974" to read "ANSI Z95.1–1974."

b. On page 29234, under American Society of Testing and Materials, correct "D2261–1973" to read "D2661–1973."

2. The following publications, given an extension of approval on March 31, 1981 (46 FR 19660), are given final approval for incorporation by reference for one year effective April 1, 1981:

	CFR Citation
American National Standards Institute 1430 Broadway, New York, NY 10018	
ANSI Z21.19a–1972 Addendum to Refrigerators Using Gas Fuel	3280.703
ANSI Z21.22a–1972 and Z21.22b–1973 Addenda to Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems.	3280.703
ANSI Z21.44a–1974 and Z21.44b–1975 Addenda to Gas-Fired Gravity and Fan-Type Direct Vent Wall Furnaces.	3280.703
ANSI Z21.47a–1974 Addendum to Gas-Fired Gravity and Forced Air Central Furnace.	3280.703

28 CFR CHAPTER I (PART 42)—DEPARTMENT OF JUSTICE

	CFR Citation
American National Standards Institute (ANSI) 1430 Broadway, New York, New York 10018	
ANSI A117.1–1961 (R1971) American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.	42.522

29 CFR CHAPTER IV (PARTS 402, 403, 404, 405, 406, 408, 409)—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

	CFR Citation
U.S. Department of Labor/Labor-Management Services Administration Frances Perkins Building, 200 Constitution Avenue N.W., Washington, D.C. 20216	
LM–1, Labor Organization Information Report	402.2
LM–1A, Report of Current Status, Labor Organization Information Supplement.	402.4
LM–2, Labor Organization Annual Report	403.3
LM–3, Labor Organization Annual Report	403.4
LM–10, Employer Report	405.3
LM–15, Trusteeship Report	408.3
LM–15A, Schedule on Selection of Delegates and Officers	408.4
LM–16, Terminal Trusteeship Report	408.8

29 CFR CHAPTER IV (PARTS 402, 403, 404, 405, 406, 408, 409)—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR—Continued

	CFR Citation
LM-20, Agreement and Activities Report	406.2
LM-21, Receipt and Disbursements Report	406.3
LM-30, Labor Organization Officer and Employee Report	404.3
LMSA-1, Surety Company Annual Report	409.2

29 CFR CHAPTER V (PART 526)—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

	CFR Citation
U.S. Department of Agriculture, Agricultural Marketing Service (for the Bureau of Agricultural Economics of the U.S. Department of Agriculture)	
U.S. Government Printing Office, (GPO) Bookstores located throughout the United States.	
Tobacco in the United States—U.S. Department of Agriculture—Agricultural Marketing Service, Miscellaneous Publication No. 867—See page 2, Revised February, 1979.	526.10

29 CFR CHAPTER V (PART 570)—WAGE AND HOUR DIVISION—U.S. DEPARTMENT OF LABOR

	CFR Citation
Instiute of Makers of Explosives	
420 Lexington Ave., New York, N.Y. 10017	
The American Table of Distances, June 5, 1964	570.51
Michigan State University	
Department of Secondary Education, East Lansing, Michigan	
Vocational Agriculture Training Programs: Safe Tractor Operation, Safe Farm Machinery Operation (Rural Manpower Center, Special Paper No. 8, April, 1969).	570.72; 570.72; 570.72
National Education Association	
1201 16th St., N.W., Washington, D.C. 20036	
Standards for School Buses, 1964 Rev. ed	570.52
National 4-H Council	
7100 Connecticut Ave., Washington, D.C. 20015	
Petroleum Power Program: Specified Units from four Training Manuals on operation and use of tractors.	570.72; 570.72
The Interstate Printers & Publishers	
Danville, Illinois	
Agricultural Engineering, 1965 ed	570.71
U.S. Department of Commerce	
National Bureau of Standards, Gaithersburg, Md. 20234	
Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure (National Bureau of Standards, Handbook 69, 1959).	570.57

29 CFR CHAPTER XVII (PARTS 1910, 1915, 1916, 1917, 1918, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

(Copies of the documents listed in this table are available through the Technical Data Center, U.S. Department of Labor, Washington, D.C., and through Regional Offices of the Occupational Safety and Health Administration. For a complete listing of these addresses, see the end of this table.)

PART 1910

	CFR Citation
American Conference of Governmental Industrial Hygienists (ACGIH)	
ACGIH Manual "Industrial Ventilation" (1970)	1910.94
American Society of Agricultural Engineers (ASAE)	
ASAE Emblem for Identifying Slow Moving Vehicles, ASAE S276.2 (1968).	1910.145
Agriculture Ammonia Institute—Rubber Manufacturers Association (AAI—RMA)	
AAI—RMA Specifications for Anhydrous Ammonia Hose	1910.111
American National Standards Institute (ANSI)	
ANSI A10.2 (1944) Safety Code for Building Construction	1910.144
ANSI A10.3 (1970) Safety Requirements for Explosive-Actuated Fastening Tools.	1910.243

29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

PART 1910—Continued	*CFR Citation*
ANSI A11.1 (1965, R1970) Practice for Industrial Lighting	1910.178; 219; 261; 265
ANSI A11.1 (1965) Practice for Industrial Lighting	1910.262; 265
ANSI A12.1 (1967) Safety Requirements for Floor and Wall Openings, Railings, and Toe Boards.	1910.66; 68; 261; 264
ANSI A13.1 (1956) Scheme for the Identification of Piping Systems	1910.252; 261; 262; 264
ANSI A14.1 (1968) Safety Code for Portable Wood Ladders, Supplemented by ANSI A14.1a—1977.	1910.261
ANSI A14.2 (1956) Safety Code for Portable Metal Ladders, Supplemented by ANSI A14.2a—1977.	1910.261
ANSI A14.3 (1956) Safety Code for Fixed Ladders	1910.68; 179; 261
ANSI A17.1 (1965) Safety Code for Elevators, Dumbwaiters and Moving Walks, Including Supplements, A17.1a (1967); A17.1b (1968); A17.1c (1969); A17.1d (1970).	1910.261
ANSI A17.2 (1960) Practice for the Inspection of Elevators, Including Supplements, A17.2a (1965), A17.2b (1967).	1910.261
ANSI A90.1 (1969) Safety Standard for Manlifts	1910.68
ANSI A92.2 (1969) Standard for Vehicle Mounted Elevating and Rotating Work Platforms.	1910.67; 268
ANSI A120.1 (1970) Safety Code for Powered Platforms for Exterior Building Maintenance.	1910.66
ANSI B7.1 (1970) Safety Code for the Use, Care and Protection of Abrasive Wheels.	1910.94; 215; 218
ANSI B15.1 (1953, R1958) Safety Code for Mechanical Power Transmission Apparatus.	1910.68; 261
ANSI B20.1 (1957) Safety Code for Conveyors, Cableways, and Related Equipment.	1910.218; 261; 265; 266
ANSI B30.2 (1943, R1952) Safety Code for Cranes, Derricks, and Hoists.	1910.261
ANSI B30.2.0 (1967) Safety Code for Overhead and Gantry Cranes	1910.179; 261; 266
ANSI B30.5 (1968) Safety Code for Crawler, Locomotive, and Truck Cranes.	1910.180; 261; 266
ANSI B30.6 (1969) Safety Code for Derricks	1910.181; 268
ANSI B31.1 (1955) Code for Pressure Piping	1910.261
ANSI B31.1a (1963) Addenda to ANSI B31.1 (1955)	1910.261
ANSI B31.1.0 (1967) and Addenda B31.1.0a (1969) Code for Pressure Piping.	1910.106; 218; 261
ANSI B31.2 (1968) Fuel Gas Piping	1910.103; 104; 106; 252; 261
ANSI B31.3 (1966) Petroleum Refinery Piping	1910.103; 106
ANSI B31.5 (1966) Addenda B31.5a (1968) Refrigeration Piping	1910.103; 111
ANSI B56.1 (1969) Safety Standard for Powered Industrial Trucks	1910.178; 261
ANSI B57.1 (1965) Compressed Gas Cylinder Valve Outlet and Inlet Connections.	1910.252
ANSI B71.1 (1968) Safety Specifications for Power Lawn Mowers	1910.243
ANSI C1 (1971) National Electrical Code	1910.66; 68; 94; 103; 178
ANSI C33.2 (1956) Safety Standard for Transformer-Type Arc Welding Machines.	1910.252
ANSI D8.1 (1967) Practices for Railroad Highway Grade Crossing Protection.	1910.265
ANSI H23.1 (1970) Seamless Copper Water Tube Specification	1910.110
ANSI H38.7 (1969) Specification for Aluminum Alloy Seamless Pipe and Seamless Extruded Tube.	1910.110
ANSI J6.1 (1950, R1962) Standard Specifications for Rubber Insulating Line Hose.	1910.137
ANSI J6.2 (1950, R1962) Standard Specifications for Rubber Insulating Hood.	1910.137
ANSI J6.4 (1970) Standard Specification for Rubber Insulating Blankets.	1910.137
ANSI J6.4 (1971) Standard Specification for Rubber Insulating Blankets	1910.268
ANSI J6.5 (1962) Standard Specification for Rubber Insulating Sleeves	1910.137
ANSI J6.6 (1967) Standard Specification for Rubber Insulating Gloves	1910.137
ANSI J6.6 (1971) Standard Specification for Rubber Insulating Gloves	1910.268
ANSI J6.7 (1935, R1962) Standard Specifications for Rubber Matting for Use Around Electric Apparatus.	1910.137
ANSI K13.1 (1967) Identification of Gas Mask Canisters	1910.261

29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

PART 1910—Continued	*CFR Citation*
ANSI K61.1 (1960) Safety Requirements for the Storage and Handling of Anhydrous Ammonia.	1910.111
ANSI K61.1 (1966) Safety Requirements for the Storage and Handling of Anhydrous Ammonia.	1910.111
ANSI O1.1 (1954, R1961) Safety Code for Woodworking Machinery	1910.261
ANSI S1.4 (1971, R1976) Specification for Sound Level Meters	1910.95
ANSI S1.11 (1971, R1976) Specification for Octave, Half-Octave and Third-Octave Band Filter Sets.	1910.95
ANSI S1.25 (1978) Specification for Personal Noise Dosimeters	1910.95
ANSI S3.6 (1969) Specifications for Audiometers	1910.95
ANSI Z4.1 (1968) Requirements for Sanitation in Places of Employment	1910.261; 264
ANSI Z4.2 (1942) Standard Specifications for Drinking Fountains	1910.142
ANSI Z9.1 (1951) Safety Code for Ventilation and Operation of Open Surface Tanks.	1910.94; 261
ANSI Z9.2 (1960) Fundamentals Governing the Design and Operation of Local Exhaust Systems.	1910.94; 261; 264
ANSI Z9.2 (1971) Fundamentals Governing the Design and Operation of Local Exhaust Systems.	1910.1001
ANSI Z12.12 (1968) Standard for the Prevention of Sulfur Fires and Explosions.	1910.261; 265
ANSI Z12.20 (1962, R1969) Code for the Prevention of Dust Explosions in Woodworking and Wood Flour Manufacturing Plants.	1910.265
ANSI Z21.30 (1964) Requirements for Gas Appliances and Gas Piping Installations.	1910.264; 265
ANSI Z24.22 (1957) Method of Measurement of Real-Ear Attenuation of Ear Protectors at Threshold.	1910.261
ANSI Z33.1 (1961) Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying.	1910.261; 265
ANSI Z33.1 (1966) Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying.	1910.94
ANSI Z35.1 (1968) Specifications for Accident Prevention Signs	1910.261
ANSI Z41.1 (1967) Men's Safety Toe Footwear	1910.94; 136; 261; 266
ANSI Z48.1 (1954) Method for Marking Portable Compressed Gas Containers to Identify the Material Contained.	1910.103; 110; 252
ANSI Z48.1 (1954, R1970) Method for Marking Portable Compressed Gas Containers To Identify the Material Contained.	1910.111; 134
ANSI Z49.1 (1967) Safety in Welding and Cutting	1910.252
ANSI Z53.1 (1967) Safety Color Code for Marking Physical Hazards and the Identification of Certain Equipment.	1910.97; 145; 154
ANSI Z54.1 (1963) Safety Standard for Non-Medical X-Ray and Sealed Gamma Ray Sources.	1910.252
ANSI Z87.1 (1968) Practice of Occupational and Educational Eye and Face Protection.	1910.133; 252; 261
ANSI Z88.2 (1969) Practices for Respiratory Protection	1910.94; 134; 261; 266; 1001
ANSI Z89.1 (1969) Safety Requirements for Industrial Head Protection	1910.135; 261; 266
ANSI Z89.2 (1971) Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B.	1910.268
American Petroleum Institute (API)	
API 12A (Sept. 1951) Specification for Oil Storage Tanks With Riveted Shells, 7th Edition.	1910.106
API 12B (May 1958) Specification for Bolted Production Tanks, 11th Edition, With Supplement #1, March 1962.	1910.106
API 12D (August 1957) Specification for Large Welded Production Tanks, 7th Edition.	1910.106
API 12F (March 1961) Specification for Small Welded Production Tanks, 5th Edition.	1910.106
API 620, Fourth Edition (1970) Including Appendix R, Recommended Rules for Design and Construction of Large Welded Low Pressure Storage Tanks.	1910.103; 106; 111
API 650 (1966) Welded Steel Tanks for Oil Storage, 3rd Edition	1910.106
API 1104 (1968) Standard for Welding Pipelines and Related Facilities	1910.252
API 2000 (1968) Venting Atmospheric and Low Pressure Storage Tanks.	1910.106
API 2201 (1963) Welding or Hot Tapping on Equipment Containing Flammables.	1910.252
American Society of Mechanical Engineers (ASME)	
ASME Boiler and Pressure Vessel Code, 1949 Edition, Section VIII, Paragraph U-68 and U-69.	1910.168

29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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29 CFR CHAPTER XVII (PARTS 1910, 1916, 1917, 1926, AND 1928)—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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Addresses

Technical Data Center: Frances Perkins Department of Labor Building, Room N2439, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Boston Regional Office—Region I: Regional Administrator, U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109.

New York Regional Office—Region II: Regional Administrator, U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

Philadelphia Regional Office—Region III: Regional Administrator, U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104.

Atlanta Regional Office—Region IV: Regional Administrator, U.S. Department of Labor—OSHA, 1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30309.

Chicago Regional Office—Region V: Regional Administrator, U.S. Department of Labor—OSHA, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604.

Dallas Regional Office—Region VI: Regional Administrator, U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202.

Kansas City Regional Office—Region VII: Regional Administrator, U.S. Department of Labor—OSHA, 911 Walnut Street, Room 3000, Kansas City, Missouri 64106.

Denver Regional Office—Region VIII: Regional Administrator, U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294.

San Francisco Regional Office—Region IX: Regional Administrator, U.S. Department of Labor—OSHA, 11349 Federal Building, 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, California 94102.

Seattle Regional Office—Region X: Regional Administrator, U.S. Department of Labor—OSHA, Federal Office Building, Room 6003, Seattle, Washington, 98174.

30 CFR CHAPTER I (PARTS 11, 28, 29, 55, 56, 57, 70, 71, 75, 77, AND 90)—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

(Copies of material incorporated in Parts 55, 56, and 57 are available at MSHA Metal and Nonmetal Mine Safety and Health District and Subdistrict Offices. Copies of material incorporated in parts 70, 71, 75 and 77 are available at MSHA Coal Mine Safety and Health District and Subdistrict Offices. For a complete listing of these addresses, see the end of this table.)

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30 CFR CHAPTER I (PARTS 11, 28, 29, 55, 56, 57, 70, 71, 75, 77, AND 90)—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

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30 CFR CHAPTER I (PARTS 11, 28, 29, 55, 56, 57, 70, 71, 75, 77, AND 90)—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

	CFR Citation
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Copies of military specifications and standards incorporated in Parts 11, 28 and 29 are available at: MSHA Approval and Certification Center, Box 201B, Industrial Park Boulevard, Triadelphia, West Virginia 26059.	
MIL-F-15160D Fuses; Instrument, Power, and Telephone	28.31
MIL-STD-105D Sampling Procedures and Tables for Inspection by Attributes.	11.41; 11.43; 29.41
MIL-STD-248 Welding and Brazing: Procedure and Performance Qualification.	77.403a
MIL-STD-414 Sampling Procedures and Tables for Inspection by Variables for Percent Defective.	11.41; 11.43; 29.41
General Services Administration (GSA)	
The following document is available at MSHA Metal and Nonmetal Mine Safety and Health District and Subdistrict Offices.	
Federal Specification GGG-M-125d-1965 Mask, Air Line: and Respirator, Air Filtering, Industrial.	11.76; 11.99; 11.116; 11.179
Institute of Electrical and Electronics Engineers, Inc. (IEEE)	
IEEE standard No. 32—1972 Requirements, Terminology, and Test Procedures for Neutral Grounding Devices.	75.1719-2; 77.801-1; 77.901-1
Interior, U.S. Department of	
Bureau of Mines Instruction Guide No. 2—MSA W-65 Self Rescuer (1972).	57.18-28
Bureau of Mines Instruction Guide No. 3—Permissible Drager 810 Respirator for Self-Rescue (1972).	57.18-28
Bureau of Mines Instruction Guide No. 19—Mine Emergency Training (1972).	57.18-28
Safety and Health Regulations for Construction (1971): Part II—Bureau of Reclamation Supplement; Section 9—Machinery and Mechanized Equipment.	55.9-88; 56.9-88; 57.9-88
Labor, U.S. Department of, Mine Safety and Health Administration	
MSHA Information Report No. 1121—1980 Standard Calibration and Maintenance Procedures for Wet Test Meters and Coal Mine Respirable Dust Samplers.	70.204; 71.204; 90.204
National Board of Boiler and Pressure Vessel Inspectors 1055 Crupper Avenue, Columbus, OH 43229	
National Board Inspection Code, 1979	55.13-15; 56.13-15; 57.13-15
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NFPA 13—1968-1969 Installation of Sprinkler Systems	75.1101-7
NFPA 13A—1971 Care and Maintenance of Sprinkler Systems	75.1107-16
NFPA 15—1969 Water Spray Fixed Systems for Fire Protection	75.1107-16
NFPA 17—1969 Dry Chemical Extinguishing Systems	75.1107-16
NFPA 22—1971 Water Tanks for Private Fire Protection	75.1107-3; 75.1107-13
NFPA 30—1969 Flammable and Combustible Liquids Code	57.4-4; 77.1103
NFPA 60—1961 Installation and Operation of Pulverized Fuel Systems	77.301
NFPA 72A—1967 Local Protective Signaling Systems	75.1103-2; 75.1107-4; 75.1107-16
NFPA 198—1969 Care of Fire Hose	75.1107-16
NFPA 252—1972 Standard Method of Fire Tests of Door Assemblies	57.2
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SAE J140a—1970 (1973 rev.) Seat Belt Hardware Test Procedures	55.9-88; 56.9-88; 57.9-88
SAE J141—1976 (1970 rev.) Seat Belt Hardware Performance Requirements.	55.9-88; 56.9-88; 57.9-88

30 CFR CHAPTER I (PARTS 11, 28, 29, 55, 56, 57, 70, 71, 75, 77, AND 90)—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

	CFR Citation
SAE J167—1974 Protective Frame with Overhead Protection—Test Procedures and Performance Requirements.	77.403a
SAE J231—1971 Minimum Performance Criteria for Falling Object Protection Structures (FOPS).	77.403
SAE J320a—1967 (1969 rev.; 1970 editorial change) Roll-Over Protective Structures for Rubber-Tired Self-Propelled Scrapers.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J320b—1967 (1972 rev.; 1972 editorial change) Roll-Over Protective Structures for Prime Movers.	55.9–88; 56.9–88; 57.9–88
SAE J333a—1968 (1970 rev.) Operator Protection for Wheel Type Agricultural and Industrial Tractors.	55.9–88; 56.9–88; 57.9–88
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SAE J386—1968 Seat Belts for Construction Equipment	55.9–88; 56.9–88; 57.9–88
SAE J394—1969 (1970 editorial change) Roll-Over Protective Structures for Rubber-Tired Front-End Loaders and Rubber-Tired Dozers.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J394a—1969 (1972 rev.; 1972 editorial change) Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled dozers.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J395—1969 (1970 editorial change) Roll-Over Protective Structures for Crawler Tractors and Crawler-Type Loaders.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J395a—1969 (1972 rev.; 1972 editorial change) Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J396—1969 (1970 editorial change) Roll-Over Protective Structures for Motor Graders.	55.9–88; 56.9–88; 57.9–88
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SAE J397—1969 Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J397a—1969 (1972 rev.; 1973 editorial change) Deflection Limiting Volume for Laboratory Evaluation of Roll-Over Protective Structures (ROPS) and Falling Object and Protective Structures (FOPS) of Construction and Industrial Vehicles.	55.9–88; 56.9–88; 57.9–88; 77.403a
SAE J429d—1967 Mechanical and Quality Requirements for Externally Threaded Fasteners.	77.403a
SAE J429e—1969 Mechanical and Quality Requirements for Externally Threaded Fasteners.	77.403a
SAE J429f—1971 Mechanical and Quality Requirements for Externally Threaded Fasteners.	77.403a
SAE J429g—1977 Mechanical and Quality Requirements for Externally Threaded Fasteners.	77.403a
SAE J995—1967 Mechanical and Quality Requirements for Steel Nuts	77.403a
SAE J995a—1969 Mechanical and Quality Requirements for Steel Nuts.	77.403a
SAE J995b—1971 Mechanical and Quality Requirements for Steel Nuts.	77.403a
SAE J1040—1974 Performance Criteria for Roll-Over Protective Structures (ROPS) for Earth Moving, Construction, Logging, and Industrial Vehicles.	55.9–88; 56.9–88; 57.9–88
Underwriters Laboratories, Inc.	
Copies of the following document are available at: MSHA Approval and Certification Center, Box 201B, Industrial Park Boulevard, Triadelphia, West Virginia 26059.	
UL–198—1971 UL Standard for Alternating Current Fuses	28.40
U.S. Corps of Engineers	
EM–385–1–1 General Safety Requirements, 1967	55.9–88; 56.9–88; 57.9–88; 77.403a

MSHA District and Subdistrict Office Addresses

Coal Mine Safety and Health

District No. 1 Office, 20 North Pennsylvania Ave., Wilkes-Barre, PA 18701.
District No. 2 Office, 4800 Forbes Ave., Pittsburgh, PA 15213.
District No. 3 Office, P.O. Box 886, Morgantown, WV 26505.
District No. 4 Office, P.O. Box 112, Mount Hope, WV 25880.
District No. 5 Office, P.O. Box 560, Norton, VA 24273.
District No. 6 Office, 218 High St., Pikeville, KY 41501.
District No. 7 Office, P.O. Box 572, Barbourville, KY 40906.
District No. 8 Office P.O. Box 418, Vincennes, IN 47591.
District No. 9 Office, P.O. Box 23567, Denver, CO 80225.
District No. 10 Office, P.O. Box 473, Madisonville, KY 42431.
Monroeville Subdistrict Office, 4099 William Penn Hgwy., Monroeville, PA 15146.
Johnstown Subdistrict Office, Sunray and Goucher, Johnstown, PA 15905.
Mount Hope Subdistrict Office, P.O. Box 112, Mount Hope, WV 25880.

30 CFR CHAPTER I (PARTS 11, 28, 29, 55, 56, 57, 70, 71, 75, 77, AND 90)—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR—Continued

CFR Citation

Princeton Subdistrict Office, 110 Gott Rd., Princeton, WV 24740.
Madison Subdistrict Office, P.O. Box 8, Madison, WV 25130.
Norton Subdistrict Office, P.O. Box 560, Norton, VA 24273.
Richlands Subdistrict Office, Drawer AA, Richlands, VA 24641.
Paintsville Subdistrict Office, 1568 F.M. Stafford St., Paintsville, KY 41240.
Pikeville Subdistrict Office, 218 High St., Pikeville, KY 41501.
Barbourville Subdistrict Office, 616 Manchester St., Barbourville, KY 40906.
Birmingham Subdistrict Office, 228 West Valley Ave., Birmingham, AL 35209.
Hazard Subdistrict Office, R.R. 3, Box 550-F, Hazard, KY 41701.
Benton Subdistrict Office, P.O. Box 370, Benton, IL 62812.
St. Clairsville Subdistrict Office, R.D. 6, St. Clairsville, OH 43950.
Denver Subdistrict Office, P.O. Box 23567, Denver, CO 80225.
Price Subdistrict Office, Drawer J, Price, UT 84501.
Madisonville Subdistrict Office, P.O. Box 473, Madisonville, KY 42431.
McAlester Subdistrict Office, 509 S. Third St., McAlester, OK 74501.

Metal and Nonmetal Mine Safety and Health
Northeastern District Office, 4800 Forbes Ave., Pittsburgh, PA 15213.
Southeastern District Office, 228 West Valley Ave., Birmingham, AL 35209.
North Central District Office, 228 Federal Building, Duluth, MN 55802.
South Central District Office, 1100 Commerce St., Rm. 4C50, Dallas, TX 75242.
Rocky Mountain District Office, Box 25367, Denver, CO 80225.
Western District Office, 620 Central Ave., Bldg. 7, Alameda, CA 94501.
Pittsburgh Subdistrict Office, 4800 Forbes Ave., Pittsburgh, PA 15213.
Albany Subdistrict Office, P.O. Box 1894, Albany, N.Y. 12201.
Birmingham Subdistrict Office, 228 West Valley Ave., Birmingham, AL 35209.
Knoxville Subdistrict Office, 301 West Cumberland Ave., Rm. 223, Knoxville, TN 37902.
Duluth Subdistrict Office, 228 Federal Building, Duluth, MN 55802.
Vincennes Subdistrict Office, 501 Busserson St., Vincennes, IN 47591.
Dallas Subdistrict Office, 1100 Commerce St., Rm. 4C50, Dallas TX 75242.
Rolla Subdistrict Office, 900 Pine St., Rolla, MO 65401.
Denver Subdistrict Office, Box 25367, Denver, CO 80225.
Salt Lake City Subdistrict Office, 2900 Main St., Salt Lake City, UT 84115.
Phoenix Subdistrict Office, 2721 N. Central Ave., Suite 900, Phoenix, AZ 85004.
Bellevue Subdistrict Office, 117 107th Ave., N.E., Rm. 100, Bellevue, WA 98004.

30 CFR CHAPTER VII (PARTS 700, 785, 795, 816, 817, 820)—OFFICE OF SURFACE MINING, DEPARTMENT OF THE INTERIOR

CFR Citation

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001
AASHTO T-99, Standard Specification for Transportation Materials and Methods of Sampling and Testing, Part II 1978. — 816.85; 817.85

American National Standards Institute (ANSI)
1430 Broadway, New York, New York 10018
ANSI S1.4-1971—Specification for Sound Level Meters—1971 ..... — 816.65; 817.65

American Public Health Association (APHA)
1015 18th Street, N.W., Washington, D.C. 20036
APHA Standard Methods for the Examination of Water and Waste Water, 14th Ed., 1975. — 795.17

American Society for Testing and Materials
1916 Race Street, Philadelphia, Pennsylvania 19103
D 388-77 Standard Specification for Classification of Coals by Rank—1977. — 700.5

American Society of Civil Engineers
345 East 47th Street, New York, New York 10017
The Journal of the Irrigation and Drainage Division, American Society of Civil Engineers, "Crop Salt Tolerance-Current Assessment" by Maas and Hoffman—1977. — 785.19

Pennsylvania, Commonwealth of
Office of Surface Mining, Central Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, and each OSM Regional, District, and Field Office

30 CFR CHAPTER VII (PARTS 700, 785, 795, 816, 817, 820)—OFFICE OF SURFACE MINING, DEPARTMENT OF THE INTERIOR—Continued

	CFR Citation
Pennsylvania Code—Title 25, Chapters 75, 77, 91, 92, 93, 94, 95, 97, 99, 100, 101, 102, 105, 121, 123, 124, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 209, 210, 211, 241, 243 and 401.	820.11
The Pennsylvania Administrative Code of 1929, April 9, 1929, P.L. 177, as amended through December 31, 1980, 71 P.S. Sections 1920–A and 1928–A (Purdons 1980 Supp.)	
The Pennsylvania Coal Refuse Disposal Control Act, September 24, 1968, P.L. 1040, No. 318, as amended through December 31, 1980, 52 P.S. Section 30.51 et seq. (Purdons 1966, 1980 Supp.)	
The Pennsylvania Surface Mining Conservation and Reclamation Act, May 31, 1945, P.L. 1198, as amended through December 31, 1980, 52 P.S. 1396.1 et seq. (Purdons 1966, 1980 Supp.)	
The Pennsylvania Anthracite Coal Mine Act of 1965, P.L. No. 346, as amended through December 31, 1980, 52 P.S. Section 70.101 et seq. (Purdons 1966, 1980 Supp.)	
The Pennsylvania Clean Streams Law, as amended through December 31, 1980, 35 P.S. Section 691.1 et seq. (Purdons 1977, 1980 Supp.)	
The Pennsylvania Gas Operations, Well-Drilling, Petroleum and Coal Mining Act, P.L. 756, November 30, 1955, as amended through December 31, 1980, 52 P.S. Section 2101 et seq. (Purdons 1966, 1980 Supp.)	
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Regulation of coal stripping under P.L. 133, June 18, 1941, as amended through December 31, 1980, 52 P.S. Section 1471 et seq. (Purdons 1966, 1980 Supp.)	
Regulation of subsidence under P.L. 1198, May 22, 1921, as amended through December 31, 1980, 52 P.S. Section 661 et seq. (Purdons 1966, 1980 Supp.)	
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The establishment of mine safety zones under P.L. 1994, December 22, 1959, as amended through December 31, 1980, 52 P.S. Section 3101 et seq. (Purdons 1966, 1980 Supp.)	
Pennsylvania Air Pollution Control Act of January 8, 1960, P.L. 2119, as amended through December 31, 1980, 35 P.S. Section 4001 et seq. (Purdons 1980)	
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Use of Explosives Act, July 10, 1957, P.L. 685, No. 362, as amended through December 31, 1980, 73 P.S. Section 164 et seq. (Purdons 1980 Supp.) and	
Explosives Act, July 1, 1936, P.L. 268, No. 537, as amended through December 31, 1980, 73 P.S. Section 151 et seq. (Purdons 1971, 1980 Supp.)	
U.S. Department of Agriculture, Soil Conservation Service	
Superintendent of Documents, Government Printing Office, Washington, D.C. 20402	
Agricultural Handbook No. 18, "Soil Survey Manual"—1951	785.17
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U.S. Department of Agriculture, Soil Conservation Service	
Deputy Administrator—Technical Services, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013	
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U.S. Environmental Protection Agency, Office of Technology Transfer	
Office of Technology Transfer, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268	
EPA Methods for Chemical Analysis of Water and Wastes, 1979	795.17

31 CFR CHAPTER I—MONETARY OFFICES, DEPARTMENT OF TREASURY

	CFR Citation
American National Standards Institute (ANSI)	
1430 Broadway, New York, New York 10018	
ANSI A117.1—1980, Specifications For Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped.	51.55(K)(9)

31 CFR CHAPTER I—MONETARY OFFICES, DEPARTMENT OF TREASURY—Continued

	CFR Citation
(The following standard is available from: The Engineering Society Library, 345 East 47th Street, New York, New York 10017 (212) 644–7611 and Document Engineering Company, 15210 Stagg Street, Van Nuys, California 91405, (213) 782–1010, 873–5366.)	
ANSI A117.1—1961 (1971) Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped.	51.55(k)(9)

33 CFR CHAPTER I—UNITED STATES COAST GUARD, DEPARTMENT OF TRANSPORTATION

All the following materials are also on file at Coast Guard Headquarters, Room 4407, Trans Point Building, 2100 Second Street S.W., Washington, D.C. 20593.

	CFR Citation 33 CFR
Air Moving and Conditioning Association (AMCA) 30 West University Drive, Arlington Heights, IL 60004	
210–74 Laboratory Methods of Testing Fans for Ratings	183.810
American Bureau of Shipping 65 Broadway, New York 10006	
Rules for Building and Classing Single Point Moorings, 1975	150.405; 149.209
American National Standards Institute (ANSI) 1430 Broadway, New York, NY 10018	
ANSI A12.1—1973 Safety Requirements for Floor and Wall Openings, Railings and Toeboards.	149.441
ANSI B16.5—1977 Steel Pipe Flanges and Flange Fittings	154.500; 155.350; Part 155, Appendix
ANSI B16.24—1971 Brass or Bronze Pipe Flanges	154.500
ANSI B16.31—1971 Nonferrous Pipe Flanges	154.500; 155.350
ANSI B31.3—1976 Chemical Plant and Petroleum Refinery Piping (with 1978 addenda B31.4a).	154.510
ANSI B31.4—1974 Liquid Petroleum Transportation Piping Systems (with 1979 addenda B31.4a).	149.205
ANSI Z41.1—1972 Requirements for Men's Safety-toe Footwear	150.509
ANSI Z87.1—1979 Practice for Occupational and Educational Eye and Face Protection.	149.517; 150.509
ANSI Z89.1—1969 Safety Requirements for Industrial Head Protection	150.509
American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, PA 19103	
D–471–79 Rubber Property—Effect of Liquids	183.114; 183.516; 183.607; 183.620
D–1621–73(1979) Comprehensive Properties of Rigid Cellular Plastics	183.516
D–1622–65(1975) Apparent Density of Rigid Cellular Plastics	183.516
D–2842–69(1975) Water Absorption of Rigid Cellular Plastics	183.114
E–11–70(1977) Wire Cloth Sieves for Testing Purposes	159.125
Illumination Engineering Society 345 East 47th Street, New York, NY 10017	
Lighting Handbook, 5th Edition, 1972 p. 3–36	149.703
Institute of Electrical and Electronic Engineers, Inc. (IEEE) 345 East 47th Street, New York, NY 10017	
45–1977 Cable Construction	183.435
Inter-governmental Maritime Consultative Organization IMCO Sales, New York Nautical Instrument and Service Corp., 140 West Broadway, New York, NY 10013	
Resolution A.378(x) as amended by Assembly Resolution A. 428(xi) of November 15, 1979. (This section replaces IMCO Assembly Resolution A.284(viii) of November 20, 1973).	150.305
International Chamber of Shipping 30–32 St. Mary's Axe, London, UK ED3A8ET	
Clean Seas Guide for Oil Tankers, 1973	157.23
International Commission on Illumination (CIE) Illumination Engineering Society, 345 East 47th Street, New York, NY 10017	
Standard Observer Diagram, 1931 (1964 Suppl.) in Lighting Handbook, 5th edition, 1972 on pp. 5–3 and 5–5.	149.727
National Fire Protection Association (NFPA) 470 Atlantic Ave., Boston, MA 02210	

33 CFR CHAPTER I—UNITED STATES COAST GUARD, DEPARTMENT OF TRANSPORTATION—Continued

All the following materials are also on file at Coast Guard Headquarters, Room 4407, Trans Point Building, 2100 Second Street S.W., Washington, D.C. 20593.

	CFR Citation
NFPA 11A–1978 High Expansion Foam Systems	149.481
NFPA 12–1977 Carbon Dioxide Extinguishing Systems	149.481
NFPA 12A–1977 Halogenated Fire Extinguishing Agent Systems Halon 1301.	149.481
NFPA 13–1978 Installation of Sprinkler Systems	149.481
NFPA 70–1981 National Electrical Code, Articles 310 and 400	183.435
NFPA 72A–1975 Installation, Maintenance, and Use of Local Protective Signalling Systems.	149.541
NFPA 407–1975 Fueling at Rooftop Heliports, Chapter 6	149.213
Naval Publications Forms Center	
Customer Service—Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120	
Federal Specification, ZZ–H–451–1978 Woven Hose, Rubber or Cambric-lined, with Couplings.	149.469
Military Specification, MIL–C–25050 Color, Aeronautical Lights & Lighting Equipment, 1963(1971).	67.30–5(a)
MIL–P–21929B Plastic Material, Cellular Polyurethane, Foam-in-Place, Rigid, 1970.	183.505; 183.516
Radio Technical Commission for Marine Services (RCTM)	
P.O. Box 19087, Washington, D.C. 20036	
Paper 12–78/DO–100 Minimum Performance Standards, Loran C Receiving Equipment, 1977.	164.41
Society of Automotive Engineers, Inc. (SAE)	
400 Commonwealth Drive, Warrendale, PA 15096	
SAE J30–1977 Fuel and Oil Hoses	183.505
SAE J378–1978 Marine Engine Wiring	183.430
SAE J557–1968 High Tension Ignition Cable	183.440
SAE J1127–1980 Battery Cable	183.430
SAE J1128–1975 Low Tension Primary Cable	183.430
Underwriters Laboratories (UL)	
333 Pfingsten Road, Northbrook, IL 60062	
UL 19–1978(1979) Woven Jacketed, Rubber-lined Firehose	149.469
UL 83–1980 Standard for Thermoplastic Insulated Wires	183.435
UL 1114–1979 Standard for Marine Use, Flexible Fuel Line Hose	183.505
UL 1128–1977 Marine Blowers	183.610
UL Hazardous Location Equipment Directory, May 1979 Portable Lighting Units.	149.539
United States Coast Guard	
2100 Second St., SW., Washington, D.C. 20593	
Guidelines for Preparation of a Deepwater Ports Operations Manual, 1975.	150.105

33 CFR CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

	CFR Citation
Institute of Electrical and Electronic Engineers, Inc. (IEEE)	
IEEE Service Center, 445 Hoes Lane, Piscataway, N.J. 08854	
ANSI C2–1981 National Electrical Code. See also NFPA 70	222.5

34 CFR, SUBTITLE B, CHAPTER II (PART 104)—OFFICE OF CIVIL RIGHTS, DEPARTMENT OF EDUCATION

	CFR Citation
American National Standards Institute, Inc.	
1430 Broadway, New York, New York 10018	
ANSI A117.1–1961	104.23(c)
American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped	

38 CFR CHAPTER I—VETERANS ADMINISTRATION

	CFR Citation
American National Standards Institute	
(This standard is available at the Office of Human Goals, Veterans Administration, Room 900, 1425 K Street, N.W., Washington, D.C. 20420. Mailing Address: 810 Vermont Avenue, N.W., Washington, D.C. 20420)	
ANSI A117.1–1961(R1971)—American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped.	18.423
Department of Housing and Urban Development	
(This material is available for public inspection at Veterans Administration field installations; at Information Center Room 1202, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; and at HUD Regional, Area, and Insuring Offices)	
HUD 4900.1 Minimum Property Standards for One- and Two-Family Dwellings, November, 1980.	36.4360

39 CFR CHAPTER I—UNITED STATES POSTAL SERVICE

	CFR Citation
United States Postal Service	
Washington, D.C. 20260	
Domestic Mail Manual, October 1, 1980	111.1
International Mail, Postal Service Publication 42, December 15, 1979	10.1
Postal Contracting Manual, Postal Service Publication 41, March 23, 1981.	601.100
For information on where these materials are available see—	
39 CFR 10.2 Availability of Postal Service Publication 42, International Mail	
39 CFR 111.2 Availability of the Domestic Mail Manual	
39 CFR 601.104 Availability of Postal Contracting Manual	

40 CFR, CHAPTER I (PART 51): SUBCHAPTER C—AIR PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY

	CFR Citation
Environmental Protection Agency	
Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711	
"Guidelines for Determining Best Available Retrofit Technology for Coal-Fired Power Plants and Other Existing Stationary Facilities", (1980), EPA 450/3–80–0096.	51.03(c)
Copies may be obtained from: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.	

40 CFR, CHAPTER I (PART 52): SUBCHAPTER C—AIR PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY

	CFR Citation
Environmental Protection Agency	
Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711	
State Implementation Plans: Consisting of Original State Implementation Plans for the fifty States and the territories of Guam; Puerto Rico, Virgin Islands and American Samoa; Regulatory and Non-Regulatory Revisions to State Implementation Plans approved 1972–June 1979 (prepared by Atlantic Environmental Associates, Inc.); and Individual State Implementation Plan Revisions approved July 1979–June 1981, which are identified below by State and Date of publication of the **Federal Register** notice. (Note.—The Director of the **Federal Register** has extended for 30 days the 1980 approval of the State Implementation Plans pending completion of review under 1 CFR 51.13.).	52.02(d)
Alabama: Nov. 26, 1979, June 3, Aug. 11, 1980, Oct. 31, 1980, April 27, 1981	
Alaska: Dec. 30, 1980, April 15, 1981	
Arizona: Dec. 17, 1979, Aug. 11, 1980, Oct. 10, 1980	
Arkansas: Jan. 29, 1980, Aug. 15, 1980	
California: July 30, 1979, Dec. 6, 1979, April 24, 1980 (2 notices), May 9, 1980, May 28, 1980 (2 actions), June 3, 1980, June 4, 1980, Aug. 11, 1980 (2 notices), Sept. 26, 1980, Oct. 24, 1980, Oct. 31, 1980, Nov. 10, 1980, Dec. 4, 1980, Jan. 16, 1981, Jan. 21, 1981, Jan. 27, 1981, April 14, 1981, May 18, 1981 (2 notices)	
Colorado: Oct. 5, 1979, July 9, 1980, July 16, 1980, Aug. 1, 1980, Aug. 11, 1980, March 13, 1981, March 19, 1981, April 30, 1981	

40 CFR, CHAPTER I (PART 52): SUBCHAPTER C—AIR PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY—Continued

	CFR Citation
Connecticut: July 30, 1979, Dec. 23, 1980, April 27, 1981, May 14, 1981	
Delaware: July 30, 1979, March 6, 1980, Aug. 1, 1980, May 15, 1981	
District of Columbia: Jan. 4, 1980, March 3, 1980, Jan. 30, 1981	
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Georgia: Sept. 18, 1979, Jan. 3, 1980, Jan. 24, 1980, March 20, 1981, May 5, 1981, May 22, 1981	
Hawaii: Aug. 7, 1979	
Idaho: July 30, 1979, Oct. 23, 1980, March 4, 1981	
Illinois: Dec. 6, 1979, Jan. 3, 1980, Feb. 21, 1980, Sept. 22, 1980, Oct. 24, 1980, Jan. 27, 1981, March 4, 1981	
Indiana: Jan. 2, 1981, May 19, 1981	
Iowa: March 6, 1980, March 20, 1981, April 17, 1981	
Kansas: April 3, 1981	
Kentucky: Jan. 25, 1980, Oct. 31, 1980, Dec. 24, 1980, June 15, 1981	
Louisiana: Feb. 14, 1980	
Maine: Jan. 30, 1980, Feb. 19, 1980, Sept. 9, 1980, Dec. 9, 1980, Jan. 5, 1981, Jan. 22, 1981	
Maryland: Dec. 6, 1979, March 18, 1980, April 17, 1980, April 25, 1980, July 3, 1980, Aug. 12, 1980, Aug. 19, 1980, Sept. 3, 1980, Sept. 4, 1980, March 18, 1981	
Massachusetts: May 21, 1979, July 16, 1979, Jan. 10, 1980, May 28, 1980, June 17, 1980, Aug. 12, 1980, Sept. 10, 1980 (2 actions), Sept. 16, 1980, Dec. 15, 1980, Jan. 19, 1981, Jan. 27, 1981, March 4, 1981, March 19, 1981	
Michigan: May 6, 1980, June 2, 1980, Aug. 11, 1980, Aug. 25, 1980, Dec. 17, 1980, Dec. 29, 1980, Jan. 27, 1981, March 4, 1981, April 17, 1981, May 1, 1981, May 14, 1981, May 22, 1981, June 5, 1981	
Minnesota: Dec. 13, 1979, June 16, 1980, March 4, 1981, April 8, 1981	
Mississippi: Jan. 10, 1980, July 10, 1980	
Missouri: March 18, 1980, April 9, 1980, May 9, 1980, June 16, 1980, Oct. 31, 1980, Dec. 24, 1980, March 16, 1981, April 3, 1981, April 27, 1981, May 22, 1981, June 12, 1981	
Montana: Sept. 6, 1979, Jan. 10, 1980, March 4, 1980, Sept. 23, 1980, March 3, 1981	
Nebraska: (none)	
Nevada: Feb. 4, 1980, Feb. 6, 1980, July 10, 1980, April 14, 1981	
New Hampshire: April 11, 1980, June 23, 1980, Sept. 9, 1980, Sept. 22, 1980, Dec. 18, 1980	
New Jersey: March 11, 1980, April 19, 1980, May 7, 1980, Oct. 31, 1980, April 15, 1981, April 27, 1981, May 12, 1981	
New Mexico: April 10, 1980, Dec. 24, 1980, March 26, 1981, June 18, 1981	
New York: Feb. 5, 1980, Mar. 6, 1980, April 24, 1980, May 21, 1980, July 1, 1980, Nov. 10, 1980, Jan. 27, 1981 (2 actions), March 19, 1981 (2 actions), April 27, 1981, May 26, 1981	
North Carolina: Jan. 10, 1980, April 17, 1980, Aug. 20, 1980, Sept. 10, 1980, March 19, 1981, April 13, 1981, April 16, 1981, May 15, 1981	
North Dakota: Nov. 2, 1979, Aug. 12, 1980	
Ohio: Oct. 31, 1980 (3 actions), Nov. 28, 1980, Jan. 27, 1981, March 4, 1981, March 31, 1981, May 1, 1981	
Oklahoma: Feb. 13, 1980, Nov. 28, 1980, May 26, 1981	
Oregon: July 30, 1979, April 18, 1980, June 24, 1980, July 15, 1980, Jan. 2, 1981, March 4, 1981	
Pennsylvania: July 7, 1979, Aug. 8, 1979, Dec. 17, 1979, May 20, 1980, Aug. 19, 1980	
Rhode Island: Jan. 15, 1981, Jan. 21, 1981, May 7, 1981	
South Carolina: Sept. 21, 1979, Jan. 29, 1980, July 7, 1980	
South Dakota: July 30, 1979, Aug. 9, 1979, Sept. 4, 1980	
Tennessee: Jan. 10, 1980, Feb. 6, 1980, April 24, 1980, Aug. 13, 1980, Nov. 17, 1980	
Texas: Sept. 24, 1979, Dec. 18, 1979, March 25, 1980, Aug. 6, 1980	
Utah: Feb. 19, 1980, Sept. 10, 1980, May 5, 1981	
Vermont: Jan. 30, 1980, Feb. 19, 1980, Sept. 9, 1980, March 18, 1981	
Virginia: Dec. 17, 1979, Jan. 31, 1980, Aug. 19, 1980, Oct. 8, 1980 (2 actions), Dec. 5, 1980, March 18, 1981, April 20, 1981	
Washington: July 30, 1979, June 5, 1980, July 31, 1980, Dec. 24, 1980, April 15, 1981	
West Virginia: Aug. 14, 1980, Nov. 10, 1980	
Wisconsin: Jan. 11, 1980, April 9, 1981, April 17, 1981, May 6, 1981, June 9, 1981	
Wyoming: July 2, 1979, Sept. 6, 1979, April 27, 1981	
Guam: March 6, 1980, May 12, 1981	
Puerto Rico: Nov. 3, 1980, April 27, 1981	
Virgin Islands: May 2, 1980, April 27, 1981	
American Samoa: (none)	
Copies of the Plans listed above are available at the Environmental Protection Agency, Public Information Reference Unit, Room 2404, 401 M Street, SW, Washington, DC 20460 and at the appropriate EPA Regional Office as follows:	
EPA Region	
I—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont—JFK Federal Building, Boston, Mass. 02203	

40 CFR, CHAPTER I (PART 52): SUBCHAPTER C—AIR PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY—Continued

	CFR Citation
II—New York, New Jersey, Puerto Rico, Virgin Islands—Federal Office Building, 26 Federal Plaza, New York, N.Y. 10007	
III—Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, West Virginia—Curtis Building, 6th and Walnut Sts., Philadelphia, Pa. 19106	
IV—Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee—345 Courtland NE., Atlanta, Ga. 30308	
V—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin—Federal Building, 230 South Dearborn St., Chicago, Ill. 60606	
VI—Arkansas, Louisiana, New Mexico, Oklahoma, Texas—1st International Building, 1201 Elm Street, Dallas, Texas 75270	
VII—Iowa, Kansas, Missouri, Nebraska—1735 Baltimore Street, Kansas City, Mo. 64108	
VIII—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming—916 Lincoln Towers, 1860 Lincoln Street, Denver, Colo. 80203	
IX—Arizona, California, Hawaii, Nevada, Guam, American Samoa—215 Fremont Street, San Francisco, Calif. 94105	
X—Washington, Oregon, Idaho, Alaska—1200 6th Avenue, Seattle, Washington 98101	
OAQPS Guideline Series, "Guideline on Air Quality Modeling" (OAQPS 1.2-080) (1978). Copies are available at: Environmental Protection Agency Library, 401 M Street, SW, Room 2404, Washington, DC 20460; Environmental Protection Agency, Office of Air Quality Planning and Standards, 411 Chapel Hill St., Durham, NC 27701	52.21(m)

40 CFR CHAPTER I (PART 62): SUBCHAPTER C—AIR PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY

	CFR Citation
Copies available at: First International Building, 1201 Elm Street, Dallas, Texas 75270	
EPA-approved State Plans for designated facilities and pollutants..... Approved plan for Louisiana	62.02(d)

40 CFR CHAPTER I (PART 141): SUBCHAPTER D—WATER PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY

	CFR Citation
American Society for Testing and Materials	
1916 Race Street, Philadelphia, Pennsylvania 19103	
ASTM D-2459, Gamma Spectrometry in Water, 1975.....	141.25(a)(6)
ASTM D-2907, Micro-quantities of Uranium in Water by Flourometry, 1975.	141.25(a)(7)
Address code: b.	
Department of Commerce	
National Bureau of Standards, Washington, D.C. 20234	
Handbook No. 69, Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air or Water for Occupational Exposure, August 1963.	141.16(b)
Address code: b.	
Department of Energy	
Environmental Measurements Laboratory, 376 Hudson Street, New York, New York 10014	
HASL Procedures Manual HASL—300, 1978.....	141.25(b)(2)
Address code: b.	
Environmental Protection Agency	
Environmental Monitoring & Support Laboratory (EMSL), 25 W. St. Clair Street, Cincinnati, Ohio 45268	
Interim Radiochemical Methodology for Drinking Water, EMSL, EPA-600/4-75-008.	141.25(a)
Address code: b.	
National Environmental Research Center	
Methods Development and Quality Assurance Research Laboratory (MDQARL), Cincinnati, Ohio 45268	
Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents, MDQARL, 1973.	141.24(f)
Methods for Organochlorine Pesticides in Industrial Effluents, MDQARL, 1973.	141.24(e)
Address code: a.	
Availability Address Codes.....	
a. Document Control Officer, Room E-447, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460	

40 CFR CHAPTER I (PART 141): SUBCHAPTER D—WATER PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY—Continued

	CFR Citation
b. Office of Drinking Water, Criteria and Standards Division, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460	

40 CFR, CHAPTER I (PART 180): SUBCHAPTER E—PESTICIDE PROGRAMS—ENVIRONMENTAL PROTECTION AGENCY

The following is available from the Document Control Officer, Rm. E-107, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

	CFR Citation
Williams & Wilkinson Baltimore, MD.	
Bergey's Manual of Determinative Bacteriology, Eighth Edition, 1974, pp. 530-536.	180.1011(a)(1)

40 CFR, CHAPTER I (PARTS 410, 415, 420): SUBCHAPTER N EFFLUENT GUIDELINES AND STANDARDS—ENVIRONMENTAL PROTECTION AGENCY

	CFR Citation
American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, Pennsylvania 19103	
ASTM D2036-72 Standard Methods of Test for Cyanides in Water, Method B, 1972 Annual Book of ASTM Standards, page 553. Availability address code: a.	415.91(c); 420.11(b); 420.41(b); 420.51(b)
Ann Arbor Science Publishers, Inc. P.O. Box 1425, Ann Arbor, Michigan 48106	
Color as Measured by the Modified Tristimulus Method. Proceedings of the 28th Industrial Waste Conference, Purdue University. This publication is no longer available. The same information is contained in the Development Document for Effluent Limitations Guidelines for Textile Mills cited below.. Availability address code: See reference referred to below.	410.11(d); 410.21(c); 410.41(c); 410.51(c); 410.61(c); 410.71(c)
U.S. Environmental Protection Agency (WH-552) 401 M Street, S.W., Washington, D.C. 20460	
Color as Measured by the Modified Tristimulus Method. Development Document for Effluent Limitations, Guidelines and New Source Performance Standards for the Textile Mills Point Source Category, Appendix A, June 1974, EPA-440/1-74-022-a. Availability address code: a and b.	410.11(d); 410.21(c); 410.41(c); 410.51(c); 410.61(c); 410.71(c)

Availability Address Codes

a. Distribution Officer, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

b. EPA Libraries at the following locations.

Headquarters, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

EPA Region I, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203

EPA Region II, 26 Federal Plaza, Room 900, New York, New York 10007

EPA Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106

EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308

EPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604

EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270

EPA Region VII, 324 East 11th Street, Kansas City, Missouri 64106

EPA Region VIII, 1860 Lincoln Street, Denver, Colorado 80295

EPA Region IX, 215 Fremont Street, San Francisco, California 94105

EPA Region X, 1200 6th Avenue, Seattle, Washington 98101

40 CFR CHAPTER I (PARTS 430, 440): SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS—ENVIRONMENTAL PROTECTION AGENCY

National Council for Air and Stream Improvements, Inc.
260 Madison Avenue, New York, New York 10016

40 CFR CHAPTER I (PARTS 430, 440): SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS—ENVIRONMENTAL PROTECTION AGENCY—Continued

	CFR Citation
Technical Bulletin 253, December 1971	430.11(b); 430.21(b); 430.31(b); 430.41(b)

Availability address code: a.

U.S. Department of Energy
Environmental Measurements Laboratory, 376 Hudson Street, New York, New York 10014

HASL Procedures Manual, HASL-300, 1973, page EU-03	440.82(g)

Availability address code: b and c.

Availability Address Codes

a. National Council for Air and Stream Improvements, Inc., 260 Madison Avenue, New York, New York 10016
b. Health and Safety Research Division, Oak Ridge National Laboratory, Oak Ridge, Tennessee 37830
c. National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151

40 CFR CHAPTER I (PART 761)—SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT—ENVIRONMENTAL PROTECTION AGENCY

American Society for Testing and Materials (ASTM)
1916 Race Street, Philadelphia, PA 19103

ASTM D93-77 Standard Test Method for Flash Point by Pensky-Martens Closed Tester.	761.10(a)(3)(iii)(B)(*6*); 761.41(b)(8)(iii)
ASTM D129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method).	761.10(a)(3)(iii)(B)(*6*)
ASTM D240—76 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter.	761.10(a)(3)(iii)(B)(*6*)
ASTM D482-74 Standard Test Method for Ash from Petroleum Products.	761.10(a)(3)(iii)(B)(*6*)
ASTM D524-76 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	761.10(a)(3)(iii)(B)(*6*)
ASTM D808-63 (Reapproved 1976) Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	761.10(a)(3)(iii)(B)(*6*)
ASTM D923-75 Standard Test Method for Sampling Electrical Insulating Liquids.	761.10(g)(1)(ii); .10(g)(2)(ii)
ASTM D1266-70 (Reapproved 1975) Standard Test Method for Sulfur in Petroleum Products (Lamp Method).	761.10(a)(3)(iii)(B)(*6*)
ASTM D1796-68 (Reapproved 1977) Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge.	761.10(a)(3)(iii)(B)(*6*)
ASTM D2158-65 (Reapproved 1975) Standard Test Method for Residues in Liquefied Petroleum (LP) Gas.	761.10(a)(3)(iii)(B)(*6*)
ASTM D2709-68 (Reapproved 1977) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge.	761.10(a)(3)(iii)(B)(*6*)
ASTM D2784-70 (Reapproved 1975) Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp).	761.10(a)(3)(iii)(B)(*6*)
ASTM D3178-73 Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal.	761.10(a)(3)(iii)(B)(*6*)
ASTM D3278-73 Standard Test Methods for Flash Point of Liquid by Setaflash Closed Tester.	761.41(b)(8)(iii)
ASTM E258-67 (Reapproved 1977) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method.	761.10(a)(3)(iii)(B)(*6*)

41 CFR CHAPTER 50 (PART 50-204)—PUBLIC CONTRACTS, DEPARTMENT OF LABOR

	CFR Citation
U.S. Department of Agriculture, Agricultural Research Service (ARS) Science and Education Administration, National Agricultural Library, Photo Duplication Division, Beltsville, Maryland 20705	
Respiratory Devices for Protection Against Certain Pesticides, ARS-33-76-2	204.1(a)(4)

(Copies of this standard are also available for inspection and copying at the addresses provided for in the Department of Labor's other submissions for 41 CFR Chapter 50)

The following standards are available for inspection and copying at the following locations:

Technical Data Center: Frances Perkins Department of Labor Building, Room N2439, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Boston Regional Office—Region I: Regional Administrator, U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109.

New York Regional Office—Region II: Regional Administrator, U.S. Department of Labor — OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

41 CFR CHAPTER 50 (PART 50-204)—PUBLIC CONTRACTS, DEPARTMENT OF LABOR—Continued

Philadelphia Regional Office—Region III: Regional Administrator, U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104.

Atlanta Regional Office—Region IV: Regional Administrator, U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30309.

Chicago Regional Office—Region V: Regional Administrator, U.S. Department of Labor—OSHA, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Illinois 60604.

Dallas Regional Office—Region VI: Regional Administrator, U.S. Department of Labor—OSHA, 555 Griffin Square Bldg., Room 602, Dallas, Texas 75202.

Kansas City Regional Office—Region VII: Regional Administrator, U.S. Department of Labor—OSHA, 911 Walnut Street Room 3000, Kansas City, Missouri 64106.

Denver Regional Office—Region VIII: Regional Administrator, U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294.

San Francisco Regional Office—Region IX: Regional Administrator, U.S. Department of Labor—OSHA, 11349 Federal Building, 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, California 94102.

Seattle Regional Office—Region X: Regional Administrator, U.S. Department of Labor—OSHA, Federal Office Bldg., Room 6003, Seattle, Washington 98174.

	CFR Citation
American Conference of Governmental Industrial Hygenists	
Threshold Limit Values for Air-borne Contaminents for 1968	50-204.50(a)(1)
American Welding Society, Inc.	
Pamphlet A-6.0-1965, Safe Practices for Welding and Cutting Containers that Have Held Combustibles.	50-204.72
Compressed Gas Association, Inc.	
Pamphlet C-6-1978, Standards for Visual Inspection of Compressed Gas Cylinders.	50-204.65
Pamphlet C-8-1962, Standard for Requalification of ICC-3HT Cylinders.	50-204.65
Pamphlet G-1-1966, Acetylene	50-204.66(a)
Pamphlet G-1.3-1959, Acetylene Transmission for Chemical Synthesis.	50-204.66(b)
Pamphlet G-1.4-1966, Standard for Acetylene Cylinder Charging Plants.	50-204.66(c)
Pamphlet G-4-1966, Oxygen	50-204.67
Pamphlet G-5.1-1961, Standard for Gaseous Hydrogen Systems at Consumer Sites.	50-204.68
Pamphlet G-5.2-1966, Standard for Liquefied Hydrogen Systems at Consumer Sites.	50-204.68
Pamphlet G-8.1-1964, Standard for the Installation of Nitrous Oxide Systems at Consumer Sites.	50-204.69
Pamphlet P-1-1965, Safe Handling of Compressed Gases	50-204.70
Pamphlet S-1.1-1963 and 1965 Addenda, Safety Release Device Standards—Cylinders for Compressed Gases.	50-204.71
Pamphlet S-1.2-1963, Safety Release Device Standards—Cargo and Portable Tanks for Compressed Gases.	50-204.71
National Committee on Uniform Traffic Laws and Ordinances	
Uniform Vehicle Code-1962 Edition—Chapters 10, 11, 12, and 14	50-204.75

41 CFR CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, DEPARTMENT OF LABOR

	CFR Citation
American Medical Association	
535 North Dearborn Street, Chicago, IL 60610	
Guides to the Evaluation of Permanent Impairment—1971	60-741.7(d)

41 CFR CHAPTER 101—GENERAL SERVICES ADMINISTRATION

	CFR Citation
General Services Administration	
Washington, DC 20405	
(The following publications are distributed in accordance with 41 CFR 101-1.104-2 and are available in accordance with 41 CFR 105-60.3.)	
Federal Travel Regulations GSA Bulletin FPMR A-40 as supplemented by FPMR Temporary Regulation A-11 and its Supplements 4, 8, 9, 10, and 11, September 26, 1980.	101-7.003(a)
Commuted rate schedule for transportation of household goods GSA Bulletin FPMR A-2 thru Supplement 92, October 27, 1980.	101-7.003(b)

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Federal Register

Vol. 46, No. 125

Tuesday, June 30, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	633-6930
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
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Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
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Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5239

FEDERAL REGISTER PAGES AND DATES, JUNE

29239-29452	1
29453-29690	2
29691-29920	3
29921-30072	4
30073-30326	5
30327-30480	8
30481-30622	9
30623-30796	10
30797-30996	11
30997-31248	12
31249-31402	15
31403-31634	16
31635-31868	17
31869-31998	18
31999-32226	19
32227-32424	22
32425-32550	23
32551-32852	24
32853-33018	25
33019-33236	26
33237-33508	29
33509-34302	30

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3	33019
51	33980

3 CFR

Executive Orders:	
May 9, 1898 (Revoked by PLO 5949)	29939
February 25, 1919 (Revoked in part by PLO 5959)	31894
April 4, 1922 (Revoked in part by PLO 5961)	31894
June 13, 1925 (Revoked in part by PLO 5957)	31893
February 6, 1926 (Revoked by PLO 5948)	29938
April 17, 1926 (Revoked in part by PLO 5950)	29939
February 14, 1933 (Revoked by PLO 5944)	29710
5451 (Revoked by PLO 5947)	29938
5907 (Revoked in part by PLO 5960)	31894
6618 (Revoked in part by PLO 5958)	31893
11476 (Amended by EO 12306)	29693
11835 (See EO 12306)	29693
12018 (See EO 2306)	29693
12198 (Amended by EO 12306)	29693
12233 (See EO 12306)	29693
12285 (Amended by EO 12307)	30481
12296 (Amended by EO 12309)	30997
12306	29693
12307	30483
12308	30485
12309 (Amends EO 12296)	30997
12310	31869
Proclamations:	
4846	29691
4847	30483
4848	31403
Administrative Orders:	
Presidential Determinations:	
No. 81-8 of June 2, 1981	30797
No. 81-9 of June 2, 1981	29921
No. 81-10 of June 9, 1981	31635

5 CFR

Ch. XIV	30327, 33019
213	31405
230	32425
930	31405
1200	30999
Proposed Rules:	
Ch. I	31018

7 CFR

2	31871, 32227, 32853
20	32227
28	30073
29	32590
301	31999
354	32006
406	32853
409	32853
700	29453
800	30322, 32859
907	29923, 30799, 32425
908	32007, 32425, 32860
910	30012, 31249, 32008, 33020
911	32425
915	32425
917	30075, 30077, 32425
918	32425
923	32008
925	32425
945	32010
953	29454, 30487
979	29693
982	32012
984	31637
991	29693
1425	30327
1464	32591, 33217
1944	29239
1948	33020
Proposed Rules:	
Ch. I	33528
Ch. II	33528
Ch. III	33528
Ch. IV	33528
Ch. V	33528
Ch. VI	33528
Ch. VII	33528
Ch. IX	33528
Ch. X	33528
Ch. XI	33528
Ch. XII	33538
Ch. XIV	33528
Ch. XV	33528
Ch. XVI	33528
Ch. XVII	33528
Ch. XVIII	33528
Ch. XXI	33528

Ch. XXIV 33528
Ch. XXV 33528
Ch. XXVI 33528
Ch. XXVII 33528
Ch. XXVIII 33528
Ch. XXIX 33528
102 30620
201 ..... 30780, 31424
226 32026
907 32030
921 32871
922 32031
948 32031
989 ..... 30645, 32872
993 29271
1002 33007
1006 33529
1012 33529
1013 33529
1125 31424
1133 31424
1135 ..... 32873, 32874
1701 32033

8 CFR

204 ..... 29923, 30078
214 29456
238 32551

9 CFR

78 30487
82 ..... 29456, 30488, 31249
92 ..... 29239, 29240

Proposed Rules:

Ch. I 33528
Ch. II 33528
Ch. III 33528
Ch. IV 33528

10 CFR

2 30328
51 29457
376 29680
390 29680
440 29242
1008 31637
1500 29924
1502 29924
1534 29924

Proposed Rules:

2 30349
30 29712
40 29712
70 29712
73 31267
500 31216
501 31216
503 31216
504 31216
505 31216
1504 33053

12 CFR

Ch. II 31406
204 32426
217 32426
220 31250
265 33022
303 30079
523 32013
552 30488
570 30079
701 31871

Proposed Rules:

213 29245
220 ..... 32033, 32592
221 32592
225 32594
226 29246
332 31018
337 31018
526 30113
545 30114
569a 29246
615 32450
701 ..... 29247, 29482, 31651, 31654, 31660, 32875
720 29248

13 CFR

120 32430
124 29251

Proposed Rules:

105 32259
124 ..... 29276, 31899

14 CFR

36 33454
39 ..... 29252, 29253, 29924–29926, 30332–30334, 30799, 30800, 31250, 31251, 31873–31879, 32228–32230, 32860, 32862, 33217–33228
71 ..... 29254–29256, 29927, 30335, 30801–30806, 31250–31252, 32231–32233, 32863, 33229–33235
73 ..... 29256, 30806
75 31253
97 ..... 29257, 30807, 33236
121 32863
135 ..... 30968, 32863
150 33465
152 30808
207 31000
208 31000
212 31000
221 32551
222 32552
241 33022
291 32560
302 31001
384 32560
385 ..... 32560, 32563

Proposed Rules:

Ch. I 30352
39 ..... 31268, 31899, 31900, 32265, 32266, 32675, 33280–33282
47 33284
49 33284
61 33284
63 33284
65 33284
67 33284
71 ..... 29278–29281, 29947–29951, 30353, 30354, 30833, 31269, 32267, 32269, 32876–32879, 33284–33286
73 30833
75 ..... 29280, 29281, 31278
121 ..... 32409, 32413
123 32409
127 32409
135 ..... 32409, 32413
143 33284
187 33284
323 29282
302 29718
399 ..... 29285, 29719, 29727

15 CFR

19 33238
50 33509
370 29457
371 32431
374 32563
376 ..... 31001, 31407, 32563
377 32431
379 32563
385 ..... 31407, 33509
399 ..... 31407, 32431
806 30336
908 32233
935 32014
936 32014

Proposed Rules:

330 29662
331 29662
332 29662
340 29662
341 29662
342 29662
343 29662
350 29662
351 29662
352 29662
353 29662
354 29662
373 30623
937 33530

16 CFR

4 32435
13 ..... 29458, 29928, 30337, 32233, 32234, 33510
460 29256
1031 29928
1032 29928
1212 29696

Proposed Rules:

Ch. II 29951, 30115, 31901
13 ..... 30646, 32450
453 31662

17 CFR

15 29931
16 29931
17 29931
18 29931
21 29931
230 31880
285 32879
286 32879
287 32879

Proposed Rules:

Ch. I 29952
Ch. II 33287
1 33293
17 33293
33 33293
270 32595

18 CFR

141 29459
271 ..... 29697, 29699, 30489–30491, 31253–31256, 32235–32238, 33023, 33024
282 33238
284 30491
292 ..... 32238, 33025
375 29700
1301 31002
1309 30811

Proposed Rules:

Ch. I 31902
157 30505
271 ..... 30833, 32270, 32596, 32597
292 31663
375 30505

19 CFR

101 ..... 29462, 32436
103 32564
134 30338
152 32564
175 32564
353 32864

Proposed Rules:

Ch. I 29953
200 29729

20 CFR

655 32437

Proposed Rules:

Ch. I 33536
Ch. V 33536
Ch. VI 33536
404 29953

21 CFR

5 31003
74 31004
101 31004
135 31004
145 33027
166 31004
172 ..... 30080, 32015
173 ..... 30492, 30493
175 32015
178 31005–31007
193 ..... 30338, 30494, 31008, 32239, 32865
314 32016
436 33512
444 31009
510 33028
520 ..... 29464, 31010, 32017, 32438, 32439, 33028
522 33513
524 32440
540 33029
558 ..... 32018, 32019
561 ..... 30339, 31637
573 30081
1308 32019

Proposed Rules:

105 33053
145 33055
161 30505
180 ..... 31020, 32453
182 ..... 31020, 32453
430 30115
436 30115
440 30115
444 30115
448 30115
452 30115
1308 29484

22 CFR

41 30082

Proposed Rules:

171 30649

23 CFR

450 33513
630 33513

Proposed Rules:

625 32880

655 32880

24 CFR

235 ..... 29256, 31257
570 29908
841 33468
3280 33980

25 CFR

52 31880
256 33241

26 CFR

1 ..... 29465, 31409, 31881, 32239
7a 30495
11 29465
35 30495

Proposed Rules:

20 32598
31 31278

27 CFR

4 29260
19 ..... 29261, 32224
70 29261
240 29261
245 29261
250 29261
270 29261
275 29261

Proposed Rules:

9 31020

28 CFR

0 ..... 29704, 29931
16 ..... 30495, 32021, 32866
42 33980
301 31204

Proposed Rules:

31 29438
522 31210
527 31210
544 31210
545 31210

29 CFR

Ch. XXVI 32574
1 33514
4 33515
5 33514
6 33514
92 32214
402 33980
403 33980
404 33980
405 33980
406 33980
408 33980
409 33980
526 33981
570 33981
778 ..... 32440, 33515
1601 33030
1910 ..... 31010, 32021, 33244, 33515, 33981
1915 33981
1916 33981
1917 33981
1918 33981
1926 33981
1928 ..... 32021, 33981
1952 32022
2530 33517
2610 ..... 31257, 32022
2613 32866

Proposed Rules:

Subtitle A 33536
Ch. II 33536
Ch. IV 33536
Ch. XIV 33055
Ch. XVII 33536
Ch. XXV 33536
530 29485

30 CFR

1 33517
11 ..... 33517, 33989
15 33517
16 33517
17 33517
18 33517
19 33517
20 33517
21 33517
22 33517
23 33517
24 33517
25 33517
26 33517
27 33517
28 ..... 33517, 33989
29 ..... 33517, 33989
31 33517
32 33517
33 33517
35 33517
36 33517
49 33517
50 33517
55 33989
56 33989
57 33989
70 33989
71 ..... 33517, 33518, 33989
74 33517
75 ..... 33517, 33989
77 ..... 33517, 33989
90 33989
250 29932
700 ..... 31258, 33993
716 31258
785 ..... 31258, 33993
795 33993
816 33993
817 33993
820 33993
906 33056
920 33056
931 ..... 31638, 33056
934 33056
944 33056
948 33056
950 33056

Proposed Rules:

Ch. I 33536
Ch. II 32885
221 32454
715 32455
816 32455
817 32455

31 CFR

51 ..... 29261, 31409, 33994
535 ..... 30340, 31630

32 CFR

199 29704
294 29705
295 33245
581 33518
706 32023

Proposed Rules:

41 31663
298a 29486
505 33057

33 CFR

25 29933
67 33995
149 33995
150 33995
154 33995
155 33995
157 33995
159 33995
164 33995
165 29933
183 ..... 32867, 33995
204 29934
222 33996

Proposed Rules:

82 32886
100 29288
110 31278
117 ..... 30354, 30834, 32887
160 30835
162 29954
402 30838

34 CFR

64 33246
104 33996
324 31996
773 31866

36 CFR

13 ..... 31836, 33031
261 33518
262 33518

Proposed Rules:

Ch. II 33528
223 33533
272 31021
1190 30839

37 CFR

201 33248
202 33248
303 32576

Proposed Rules:

201 30649
202 30651

38 CFR

3 31011
17 33521
18 33997
21 ..... 29474, 32023
36 33997

Proposed Rules:

Ch. I 31903
3 32036
21 31022

39 CFR

10 33997
111 ..... 32578, 33249, 33997
601 ..... 30623, 33997

Proposed Rules:

10 30505

40 CFR

30 31259
35 31642
40 31259
51 33997
52 ..... 29707, 30082, 30496, 31011, 31012, 31258–31261, 31881, 32440, 33524, 33997
60 29262
61 29262
62 ..... 30496, 33999
81 ..... 31013, 31886, 32582, 33031, 33269, 33524
86 ..... 30497, 31411, 32868
122 ..... 29708, 30624
123 29935
141 33999
162 29708
180 ..... 30342, 30499, 30624, 31014, 31015, 31642, 32441, 32442, 33269, 34000
228 ..... 31412, 31413
260 29708
261 29708
264 ..... 29708, 30624
265 ..... 29708, 30624, 33502
410 34000
413 30625
415 34000
420 34000
430 34000
440 34000
761 ..... 32868, 34001

Proposed Rules:

52 ..... 29289, 29488, 30116, 30355–30366, 30653–30655, 31023, 31024, 31446, 31675, 31903, 32036, 32271, 32456, 33058, 33333–33336
60 ..... 29955, 31904
61 32599
62 31026
81 ..... 29281, 30368, 30655, 31027, 32272, 33059
86 31677
123 ..... 29292, 31028, 31279
180 ..... 30506, 30662, 31279, 32038, 32273, 32457, 33060
192 32458
408 30663
420 32274
430 31028
431 31028
761 32887
773 30300

41 CFR

Ch. I 33270
7-1 ..... 31566, 31886
7-3 31886
7-6 31886
7-7 31886
7-10 31886
7-15 31886
7-30 31886
8-4 33032
8-14 31262
8-74 31262
Ch. 12 30816
15-1 29709
15-3 31643
Ch. 18 (Parts 1, 2, 3, 8, 20, App. M) 32443
Ch. 18 (Parts 1, 3, 4, 13, 21) 32444
50-204 34001
51-1 33032
51-2 33032

51-3.....33032
51-4.....30084, 33032
51-5.....30084, 33032
60-1.....33033
60-2.....33033
60-4.....33033
60-20.....33033
60-30.....33033
60-50.....33033
60-60.....33033
60-250.....33033
60-471.....33033
60-741.....34002
Ch. 101.....31890, 31891
101-7.....34002
Proposed Rules:
Ch. 1.....30369
Ch. 4.....33528
Ch. 29.....33536
Ch. 50.....33536
Ch. 60.....33536
1-4.....30369
101-11.....30369
101-37.....30369
104-4.....29955

43 CFR
5420.....29262
Public Land Orders:
1281 (Revoked by 5883).....29263
1933 (Revoked by 5956).....31892
5169 (Amended by PLO 5396 and 5951).....29937
5179 (Amended by PLO 5250 and 5951).....29937
5180 (Amended by PLO 5418 and 5951).....29937
5250 (Amended by PLO 5951).....29937
5396 (Amended by PLO 5951).....29937
5418 (Amended by PLO 5951).....29937
5865.....30500
5866.....30500
5867.....32240
5883.....29263
5904.....33275
5943.....29710
5944.....29710
5945.....29939
5946.....29939
5947.....29938
5948.....29938
5949.....29939
5950.....29939
5951.....29937
5952.....30086
5953.....30817
5954.....31892
5955.....31892
5956.....31892
5957.....31893
5958.....31893
5959.....31894
5960.....31894
5961.....31894
5962.....31895
Proposed Rules:
35.....29955
230.....32459

44 CFR
1.....32583
64.....29940, 29942, 30626, 31643, 32240, 32241, 33275
65.....32243, 32247
67.....30500, 30628, 31263, 31645, 31646
205.....32587
Proposed Rules:
55.....29292
61.....29292
67.....29729-29732, 29956, 30116, 30124, 30507, 30663, 30665, 31281-31285, 31680, 31686, 31692, 32275, 33060-33062, 33337
300.....29264

45 CFR
3.....30343
46.....29883
74.....30500
235.....29264
Proposed Rules:
71.....29732
301.....30372
304.....29964
1300.....31029

46 CFR
Proposed Rules:
160.....33341
310.....30507
502.....30666
510.....32279
524.....32460
547.....30667

47 CFR
1.....30818
2.....31414, 31415
22.....31417
61.....29264, 30818
63.....31418
64.....29474, 32039
73.....30086-30091, 30343, 30344, 31264, 31265, 31421, 31422, 31895, 32039, 32868, 33033-33037
74.....31265
81.....31015
83.....31015
90.....31422, 31647, 32039
95.....32039, 32416
97.....31415
Proposed Rules:
Ch. I.....30516, 30668, 31286, 33533
2.....30124, 31290, 31693, 32280
21.....32280
22.....31292
23.....30124
31.....30150, 30152
63.....31693
67.....32281
73.....29488, 30153, 30154, 30372, 30516-30518, 31029, 31290, 31695, 31909, 32887
87.....32280
90.....32280
94.....30124
97.....32888

48 CFR
Proposed Rules:
4.....32600
8.....32600
47.....32600

49 CFR
1.....29269
172.....29392, 32250
387.....30974
531.....29944
571.....32251, 32254
575.....29269
613.....33513
Ch. X.....30092
1000.....30502
1003.....31016, 33277
1011.....32449
1033.....29480, 30502, 30632, 32588
1039.....32025, 32257
1043.....33277
1056.....29711, 29945
1090.....32257
1100.....30832
1137.....30832
1300.....32257
Proposed Rules:
171.....29967
172.....29968, 29973
173.....29967, 29968, 29973, 31294
175.....29968
178.....29973
192.....32287
195.....32287
212.....32888
213.....32898
571.....31294, 32899
1004.....30668, 32460
1047.....30668
1048.....31450
1057.....32460
1127.....30156
1201.....30839, 32289
1241.....30839
1248.....30839

50 CFR
17.....29481, 33278
36.....31818
91.....30633
219.....31648
301.....30345
371.....32868
611.....33038
651.....30348
661.....29733, 30633
672.....33038
674.....33041
Proposed Rules:
17.....29490, 33063
20.....31030
23.....33534
651.....33350
653.....30674
682.....30674

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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.

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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Vol. 46, No. 125
Book 2 of 2 Books
Pages 34003-34302

federal register

Book 2 of 2 Books
Tuesday, June 30, 1981

Part IV

REGULATORY INFORMATION SERVICE CENTER

Calendar of Federal Regulations

34011 Chapter 1—Energy

34033 Chapter 2—Environment and Natural Resources

34067 Chapter 3—Finance and Banking

34089 Chapter 4—Health and Safety

34144 Chapter 5—Human Resources

34159 Chapter 6—Trade Practices

34183 Chapter 7—Transportation and Communication

34209 Index I—Sectors Affected by Regulatory Action

34243 Index II—Date of Next Regulatory Action

34256 Index III—Dates for Comments, Hearings, or Meetings

34262 Appendix I—Executive Order 12291

34269 Appendix II—Status of Regulations from November 1980 Edition

34282 Appendix III—Publication Dates for Agency Semiannual Regulatory Agendas

34283 Appendix IV—Important Regulations Scheduled for Agency Review

REGULATORY INFORMATION SERVICE CENTER

AGENCY: Regulatory Information Service Center.

ACTION: Calendar of Federal Regulations.

SUMMARY: The Regulatory Information Service Center publishes the **Calendar of Federal Regulations** in order to provide the President, the Congress, and the public with a tool to better understand and help shape the Federal regulatory process. Special indices to the material help readers identify quickly items that might be of most interest.

ADDRESS: Regulatory Information Service Center, Suite 700, 2100 M Street N.W., Washington, DC 20037.

FOR FURTHER INFORMATION: For information about specific regulations, please refer to the Agency Contact listed at the end of each entry.

For further information about the work of the Regulatory Information Service Center: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Suite 700, 2100 M Street N.W., Washington, DC 20037, (202) 653–7246.

For further information about the **Calendar** project: Elizabeth Jester, Project Manager, **Calendar of Federal Regulations**, Regulatory Information Service Center, Suite 700, 2100 M Street N.W., Washington, DC 20037, (202) 653–7240.

SUPPLEMENTARY INFORMATION:

Letter From the Executive Director of the Regulatory Information Service Center

The Regulatory Information Service Center is responsible for providing regulatory information to the President, the Congress, and the public so they can understand and help shape Federal regulatory policy. The Center publishes the **Calendar of Federal Regulations** twice a year as a part of its responsibility. The **Calendar of Federal Regulations** provides a comprehensive overview of important regulations that agencies are developing and a summary of the analytical bases for them. Agencies submit entries describing their regulatory activities to Center staff who review the material to make sure it is in a consistent format and provides the reader as much information as is available. The Center is not, however, responsible for the accuracy or completeness of agency materials.

The **Calendar** is designed to help improve the regulatory process, to identify areas of multiple regulatory impact, and to assist the regulators in developing well-reasoned, cost-effective, and consistent regulatory policies. By doing so, it complements other efforts by President Reagan's Administration, such as Executive Order 12291, "Federal Regulation," which seek to reduce the regulatory burden on our economy and our citizens. It also provides information to Vice President Bush's Task Force on Regulatory Relief about the burdens and benefits of important regulatory activities under development.

The **Calendar** and the Regulatory Agendas required under E.O. 12291 allow interested parties to track most of the regulatory activity under development in the Federal Government. Through continued publication of the **Calendar of Federal Regulations** and other projects we will undertake, the Regulatory Information Service Center will design and implement systems that will provide information about regulatory activities so that we can better understand and manage the Federal regulatory process. We solicit your comments on what regulatory information you need and in what forms that information would be most valuable. You can provide this information by completing the comment card we have provided on the back of this volume or by writing to us. We look forward to hearing from you.

Dated: June 26, 1981.

Mark G. Schoenberg,

Executive Director.

TABLE OF CONTENTS

Introduction

Page

Letter from the Executive Director of the Regulatory Information Service Center.. 34004
Agency Participation in the Calendar Project 34004
Information about Additional Copies..... 34005
How to Use the Calendar..... 34005
About the Entries
Criteria for Selection..... 34005
Contents of Entries 34005
Data Limitations 34006
List of Abbreviations 34006
List of Agency Acronyms 34006
List of Regulations (Alphabetically by Agency)..... 34007

Chapters

Chapter 1 Energy..... 34011
Chapter 2 Environment and Natural Resources 34033
Chapter 3 Finance and Banking..... 34067
Chapter 4 Health and Safety.... 34089

Chapters—Continued

Chapter 5 Human Resources... 34144
Chapter 6 Trade Practices..... 34159
Chapter 7 Transportation and Communication 34183

Indices

Index I Sectors Affected by Regulatory Action..... 34209
Index II Date of Next Regulatory Action..... 34243
Index III Dates for Comments, Hearings, or Meetings..... 34256

Appendices

Appendix I Executive Order 12291..... 34262
Appendix II Status of Regulations from November 1980 Edition 34269
Appendix III Publication Dates for Agency Semiannual Regulatory Agendas..... 34282
Appendix IV Important Regulations Scheduled for Agency Review..... 34283

AGENCY PARTICIPATION IN THE CALENDAR PROJECT

Thirty-three Federal departments and agencies with significant regulatory responsibilities have submitted information about regulations under development for this edition of the **Calendar**. Eighteen of these 33 are executive departments and agencies, and 15 are independent regulatory agencies. The extent of an independent regulatory agency's activity in the **Calendar** project is determined by the independent agency. Listed below are the 33 agencies that contributed to this edition:

Executive Agencies

Department of Agriculture
Department of Commerce
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury
Environmental Protection Agency
Equal Employment Opportunity Commission
Federal Emergency Management Agency

General Services Administration
National Credit Union Administration
Small Business Administration
Veterans Administration

Independent Regulatory Agencies

Civil Aeronautics Board
Commodity Futures Trading Commission
Consumer Product Safety Commission
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Energy Regulatory Commission
Federal Home Loan Bank Board
Federal Maritime Commission
Federal Reserve System
Federal Trade Commission
Interstate Commerce Commission
Nuclear Regulatory Commission
Postal Rate Commission
Securities and Exchange Commission

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Additional copies of this edition of the **Calendar** are available for $5.50 each as Stock No. 052-003-00834-3 from:

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HOW TO USE THE CALENDAR

The **Calendar** is organized to help users locate information about regulations of interest to them. The **Calendar** contains a letter from Mark G. Schoenberg, Executive Director of the Regulatory Information Service Center; a table of contents; a section on how to use the **Calendar**; a list of abbreviations; a list of regulations covered in this edition; seven chapters describing these regulations; three indices; and four appendices.

The section on how to use the **Calendar** explains the basic organization of the **Calendar**, how to use its individual components, the criteria the agencies used to select the regulations reported, the type of information available in each entry, and the limitations on the data presented.

The entries describing regulations have been divided into seven chapters; each covers a major area of Federal regulatory activity:

(1) Energy
(2) Environment and Natural Resources
(3) Finance and Banking
(4) Health and Safety
(5) Human Resources
(6) Trade Practices
(7) Transportation and Communication

Within each chapter entries are presented in alphabetical order, first by executive and then by independent agencies. The entries are further alphabetized by issuing office, if any, and then by the title of the entry.

Seven indices and appendices have been created to aid **Calendar** readers to locate easily information that may be important to them.

Separate indices identify sectors affected by each proposal, the estimated date of the next regulatory action, and dates for comments, hearings, and meetings on the regulations under development, when applicable.

The appendices include: (I) President Reagan's Executive Order 12291 ("Federal Regulation"), (II) the status of the regulations that were reported in the last edition of the **Calendar** but are absent from this edition, (III) publication dates for each agency's Semiannual Regulatory Agenda, and (IV) important regulations scheduled for agency review.

Each index and appendix begins with a brief description of its contents, and how to use it.

ABOUT THE ENTRIES

Agencies submitted entries for the **Calendar** that describe their regulations under development. These entries comprise the body of the **Calendar**.

Criteria for Selection

This edition of the **Calendar** provides an overview of important regulations *under development* by 33 Federal agencies. Each agency submitted entries for the **Calendar** according to several criteria. At a minimum, agencies were asked to use the same criteria as those they use for determining when to prepare Regulatory Impact Analyses under the general guidelines in Executive Order 12291 ("Federal Regulation," 46 FR 13193, February 19, 1981).

In addition to these criteria, agencies have submitted reports on regulations for this **Calendar** that concern:

- Precedent-setting rules.
- Issues of great public interest.
- Rules that may increase productivity and/or profits without causing any adverse effects.
- Grants and income transfer program regulations that may impose annual compliance costs of $100 million or more.
- Regulations that the agency is reproposing after review pursuant to Executive Order 12291 or their own internal review procedures, if the proposed change would have important consequences.

Any regulation which the agency reported in the fourth edition of the **Calendar** is also reported in this edition unless it has been issued as a final rule, is "on hold" for various reasons, or has been withdrawn. If so, we have noted this action in Appendix II: Status of Regulations from November 1980 Edition.

The regulations covered in the **Calendar** are those for which an agency is reasonably likely to issue an Advance Notice of Proposed Rulemaking (ANPRM), a Notice of Proposed Rulemaking (NPRM), a Final Rule, or to take other significant action *within the next twelve months.*

For clarity and consistency, the **Calendar** staff asked all agencies in preparing their **Calendar** entries to follow a set of guidelines we developed in consultation with the agencies and the Office of Management and Budget, the Council of Economic Advisers, and other offices in the Executive Office of the President. The guidelines used by agencies in preparing submissions to this edition of the **Calendar** are available from the Regulatory Information Service Center.

Contents of Entries

Each **Calendar** entry describes a regulation and contains the following information

Title and CFR Citation	Title of the regulation under development and the CFR citation for the regulation. An asterisk (*) after the CFR citation indicates that the regulation will be a revision to an existing regulation that has been codified in the CFR. If the regulation under development will occupy a new CFR section, there is no asterisk. If there is no CFR citation, the regulation has not yet been assigned a place in the CFR.
Legal Authority	A citation of the statutory authority under which the agency undertakes the regulatory action.
Reason for Including This Entry	A brief statement of the importance of the regulation under development.
Statement of Problem	A brief discussion of the problem that the regulation is addressing.

Contents of Entries—Continued

Alternatives Under Consideration	A brief description of the major choices the agency is considering to achieve its regulatory objectives.
Summary of Benefits	A discussion of the expected direct and indirect benefits of the regulatory action to the sectors of the economy, population, government, etc., that will be affected.
Sectors Affected	A listing of those sectors that may benefit as a result of the proposal. Where possible, we use Standard Industrial Classification (SIC) terminology in listing the sectors.
Summary of Costs	A discussion of the expected direct and indirect costs of this action to the sectors of the economy, population, government, etc., that may be affected.
Sectors Affected	A listing of the sectors that may bear costs as a result of the proposal. Where possible, we use SIC terminology in listing the sectors.
Related Regulations and Actions	A description of other regulations or actions, either within or outside the agency, that are related to the regulation under consideration.
Active Government Collaboration	The steps the agency is taking to coordinate the proposed regulation with any other Federal, State, or local agencies.
Timetable	A chronological listing of the future major steps the agency will take to develop the regulation.
Available Documents	A list of major background documents related to the proposed regulation, and notice of where they may be obtained or read.
Agency Contact	The name, address, and telephone number of a person in the agency who can respond to questions about the proposed regulation.

Data Limitations

Agencies prepared entries for this edition of the **Calendar** to give the public the earliest possible notice of their plans to propose and promulgate regulations. They have tried to predict their future activities accurately, but dates and schedules are still tentative. Agencies may withdraw some of the entries they have listed, or they may promulgate or propose other regulations not included in this edition. Agency actions in the rulemaking process may occur before or after the dates they have listed in the **Calendar**. The **Calendar** does not create a legal obligation on submitting agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear. The information in this edition is accurate as of May 1, 1981, in the judgment of the submitting agencies.

LIST OF ABBREVIATIONS

The following abbreviations appear throughout this edition of the **Calendar**:

ANPRM—The Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM usually describes the general area that will be subject to the regulation, lists the alternatives that the agency is considering, and asks for public comment on the proposed regulation.

CFR—The Code of Federal Regulations is a codification of the general and permanent rules published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. The Office of the Federal Register revises it annually.

E.O.—Executive Orders are Presidential directives issued to agencies. They are published in the **Federal Register** and in Title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that announces all proposed and final Federal regulations. It also contains notices of public meetings and other events Federal agencies may schedule.

FY—Fiscal year is a budget term. The Federal fiscal year runs from October 1 to September 30, as opposed to the calendar year, which runs from January 1 to December 31. (For example, fiscal year 1982 extends from October 1, 1981 to September 30, 1982.)

NTIS—The National Technical Information Service of the Department of Commerce is the central point in the United States for the public sale of government-funded research and development reports and other analyses prepared by Federal agencies, their contractors, or grantees.

NPRM—The Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, it must include, at a minimum:

- Statement of the time, place, and nature of the public rulemaking proceeding.
- Reference to the legal authority under which the rule is proposed.
- Either the terms or substance of the regulation under development, or a description of the subjects and issues involved.

SIC—The Standard Industrial Classification Manual defines industries in accordance with the composition and structure of the economy and covers the entire field of economic activities. The **Calendar of Federal Regulations** uses SIC terminology, whenever possible, throughout the "Sectors Affected" sections. Please see the introduction to Index I for a detailed description of SIC terminology and for information on how to obtain the SIC manual.

U.S.C.—The United States Code contains a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles which represent broad areas of Federal law.

LIST OF AGENCY ACRONYMS

Executive Agencies

USDA—U.S. Department of Agriculture
- AMS—Agricultural Marketing Service
- APHIS—Animal and Plant Health Inspection Service
- FmHA—Farmers Home Administration
- FNS—Food and Nutrition Service
- FS—Forest Service
- FSQS—Food Safety and Quality Service
- SCS—Soil Conservation Service

DOC—Department of Commerce
- ITA—Industry and Trade Administration
- MARAD—Maritime Administration
- NMFS—National Marine Fisheries Service
- NOAA—National Oceanic and Atmospheric Administration
- NTIA—National Telecommunications and Information Administration
- OCZM—Office of Coastal Zone Management
- OPSP—Office of Product Standards Policy
- PTI—Productivity, Technology, and Innovation

ED—Department of Education
- OCR—Office for Civil Rights
- OERI—Office of Educational Research and Improvement
- OESE—Office of Elementary and Secondary Education
- OM—Office of Management
- OPE—Office of Post-Secondary Education

OS—Office of the Secretary
OSERS—Office of Special Education and Rehabilitative Services
DOE—Department of Energy
CE—Conservation and Renewable Energy
CS—Conservation and Solar Applications (now changed to CE)
ERA—Economic Regulatory Administration
FE—Fossil Energy
RA—Resource Applications (now changed to FE)
HHS—Department of Health and Human Services (formerly Department of Health, Education, and Welfare)
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HUD—Department of Housing and Urban Development
FHA—Federal Housing Administration
HOUS—Office of the Assistant Secretary for Housing
NVACP—Neighborhoods, Voluntary Associations, and Consumer Protection
OS—Office of the Secretary
DOI—Department of the Interior
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
HCRS—Heritage Conservation and Recreation Service
NPS—National Park Service
OSM—Office of Surface Mining
WPRS—Water and Power Resource Service
DOJ—Department of Justice
CRD—Civil Rights Division
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
OJARS—Office of Justice Assistance, Research, and Statistics
DOL—Department of Labor
ESA—Employment Standards Administration
ETA—Employment and Training Administration
LMSA—Labor Management Services Administration
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration
PWBP—Pension Welfare Benefits Program
DOT—Department of Transportation
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
NHTSA—National Highway Traffic Safety Administration
OST—Office of the Secretary of Transportation
RSPA—Research and Special Programs Administration
UMTA—Urban Mass Transportation Administration
USCG—United States Coast Guard
TREAS—Department of the Treasury
ATF—Alochol, Tobacco, and Firearms Bureau
CUSTOMS—U.S. Customs Service
IRS—Internal Revenue Service
OCC—Office of the Comptroller of the Currency
ORS—Office of Revenue Sharing
EPA—Environmental Protection Agency
OANR—Office of Air, Noise, and Radiation
OE—Office of Enforcement
OMSAPC—Office of Mobile Source Air Pollution Control
OPTS—Office of Pesticides and Toxic Substances
ORP—Office of Radiation Programs
OWWM—Office of Water and Waste Management
EEOC—Equal Employment Opportunity Commission
OGC—Office of the General Counsel
OPI—Office of Policy Implementation
FEMA—Federal Emergency Management Agency
GSA—General Services Administration
FPRS—Federal Property Resources Service
HRO—Administration Operations Division
NARS—National Archives and Records Service
NCUA—National Credit Union Administration
OMB—Office of Management and Budget
SBA—Small Business Administration
VA—Veterans Administration
DMA—Department of Memorial Affairs
OHG—Office of Human Goals

Independent Regulatory Agencies

CAB—Civil Aeronautics Board
CFTC—Commodity Futures Trading Commission
CPSC—Consumer Product Safety Commission
FCC—Federal Communications Commission
FDIC—Federal Deposit Insurance Corporation
FEC—Federal Election Commission
FERC—Federal Energy Regulatory Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
ICC—Interstate Commerce Commission
NRC—Nuclear Regulatory Commission
OSD—Office of Standards Development (now combined with and referred to, as RES)
RES—Office of Nuclear Regulatory Research
PRC—Postal Rate Commission
SEC—Securities and Exchange Commission

LIST OF REGULATIONS

Alphabetically by Agency

EXECUTIVE AGENCIES

Department of Agriculture

Please see Appendix II. 34269

Department of Commerce

DOC-MARAD Construction-Differential Subsidy Repayment; Total Repayment Policy 34159
DOC-NOAA Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area 34033
DOC-NOAA Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships 34011
DOC-NOAA Regulations on the Mining of Deep Seabed Hard Mineral Resources 34036

Department of Education

ED-OESE Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs 34144
ED-OPE Institutional Aid Program Regulations 34145

Department of Energy

DOE-CE Commercial and Apartment Conservation Service Program 34013
DOE-CE Energy Conservation Program for Consumer Products Other Than Automobiles 34014
DOE-CE Energy Performance Standards for New Buildings ... 34015
DOE-ERA Natural Gas Curtailment Priorities for Interstate Pipelines 34016

DOE–FE Variable Work Commitment Bidding System for Outer Continental Shelf Oil and Gas Lease Sales 34019

Department of Health and Human Services

HHS–FDA Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use .. 34089
HHS–FDA Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues 34091
HHS–FDA New Drug and Antibiotic Drug Regulations; Revision of Regulations Governing Approval for Marketing 34093
HHS–HCFA Uniform Reporting Systems for Health Services Facilities and Organizations 34094

Department of Housing and Urban Development

HUD–HOUS Minimum Property Standards for One- and Two-Family Dwellings 34146

Department of the Interior

DOI–HCRS Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands 34038
DOI–NPS Right-of-Way Regulations 34041

Department of Justice

DOJ–CRD Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs 34147
DOJ–CRD Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds 34149
DOJ–CRD Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs 34150
DOJ–CRD Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance 34151
DOJ–INS Admission of Refugees and Asylum Procedures .. 34152

Department of Labor

Please see Appendix II. 34269

Department of Transportation

DOT–FAA Flammability Standards for Crewmember Uniforms 34096
DOT–FHWA Buy America Requirements 34161
DOT–FHWA Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways 34183
DOT–FHWA Hours of Service of Drivers 34098
DOT–NHTSA Bumper Standard .. 34100
DOT–NHTSA Crashworthiness Ratings 34100
DOT–NHTSA Heavy-Duty Vehicle Brake Systems 34102
DOT–NHTSA Occupant Crash Protection 34103
DOT–OST Special Air Traffic Rules and Airport Traffic Patterns 34185
DOT–USCG Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases 34104
DOT–USCG Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage 34042

Department of the Treasury

TREAS–ATF Implementation of the Distilled Spirits Tax Revision Act of 1979 34162
TREAS–ATF Labeling and Advertising Regulations Under the Federal Alcohol Administration Act 34164
TREAS–CUSTOMS Civil Aircraft Regulations 34166
TREAS–CUSTOMS Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act 34167
TREAS–CUSTOMS Interest Charges on Delinquent Accounts 34168
TREAS–OCC Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements 34067
TREAS–OCC Lending Limits; Unimpaired Surplus Fund 34069
TREAS–OCC Use of Data Processing Equipment and Furnishing of Data Processing Services 34071

Environmental Protection Agency

EPA–OANR Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes 34105
EPA–OANR Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer 34107
EPA–OANR Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead) 34044
EPA–OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Carbon Monoxide 34046
EPA–OANR Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide 34047
EPA–OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter 34048
EPA–OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide) 34049
EPA–OANR Standards of Performance to Control Atmospheric Emissions from Industrial Boilers 34050
EPA–OANR–OMSAPC Fuels and Fuel Additives Protocols ... 34109

EPA–OANR–OMSAPC Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines 34051
EPA–OANR–OMSAPC Heavy-Duty Diesel Particulate Regulations 34053
EPA–OANR–ORP Remedial Action Standards for Inactive Uranium Processing Sites 34110
EPA–OPTS Pesticide Registration Guidelines 34113
EPA–OPTS Premanufacture Notification Requirements and Review Procedures 34115
EPA–OPTS Rules Restricting the Commercial and Industrial Use of Asbestos Fibers 34116
EPA–OPTS Toxic Substances Control Act (TSCA) Section 4 Test Rules 34118
EPA–OWWM Control of Organic Chemicals in Drinking Water 34121
EPA–OWWM Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities 34055
EPA–OWWM Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways 34057
EPA–OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introducted into Publicly Owned Treatment Works 34059
EPA–OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants 34063
EPA–OWWM Hazardous Waste Regulations: Phase II–C Regulations Applicable to Hazardous Waste Disposal Facilities 34122
EPA–OWWM Sewage Sludge Disposal Regulations 34125

Equal Employment Opportunity Commission

Please see Appendix II. 34269

Federal Emergency Management Agency

FEMA Review and Approval of State and Local Radiological Emergency Plans and Preparedness 34126

General Services Administration

GSA–FPRS National Defense Stockpile Disposal Regulations 34169
GSA–HRO Nondiscrimination in Federally Assisted Programs 34153
GSA–NARS Freedom of Information Act Requests for National Security Classified Information in the National Archives 34156

National Credit Union Administration

NCUA Group Purchasing Activities of Federal Credit Unions 34072

Small Business Administration

SBA Revision of Business Loan Policy; Business Loans and Guarantees 34188
SBA Revision to Method of Establishing Size Standards and Definitions of Small Business 34157

Veterans Administration

Please see Appendix II. 34269

INDEPENDENT REGULATORY AGENCIES

Civil Aeronautics Board

CAB Air Carrier Insurance and Liability 34190
CAB Essential Air Service Subsidy Guidelines 34191
CAB Notice to Passengers of Conditions of Carriage 34193

Commodity Futures Trading Commission

CFTC Large Trader Reporting to Exchanges and Reporting Open Positions 34074
CFTC Proposed Dealer Option Regulations 34075
CFTC Proposed Rules Concerning Foreign Brokers and Traders 34077
CFTC Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation 34078

Consumer Product Safety Commission

CPSC Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products 34128
CPSC Consumer Products Containing Asbestos 34130
CPSC Omnidirectional Citizens Band Base Station Antenna Standard 34131
CPSC Safety Requirements for Chain Saws 34133
CPSC Upholstered Furniture Cigarette Flammability Standard 34136
CPSC Urea Formaldehyde Foam (UFF) Insulation 34137

Federal Communications Commission

FCC Children's Television Programming and Advertising Practices (Docket 19142) 34194
FCC Creation of "New" Personal Radio Service (PR Docket 79–140) 34195
FCC Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79–252) 34196
FCC Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System (Broadcast Docket No. 78–253; RM–1932; FCC 80–503) 34198

Federal Deposit Insurance Corporation

Please see Appendix II. 34269

Federal Election Commission

FEC Nonpartisan Communications by Corporations or Labor Organizations 34170

Federal Energy Regulatory Commission

FERC High-Cost Natural Gas Produced from Wells Drilled in Deep Waters 34021

FERC High-Cost Natural Gas: Production Enhancement Procedures 34022
FERC Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 34023
FERC Rate of Return on Common Equity for Electric Utilities 34024
FERC Regulations Governing Applications for Major Unconstructed Projects 34026
FERC Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act 34028
FERC Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings 34029
FERC Revision of Form 1 Annual Report by Electric Utilities 34031

Federal Home Loan Bank Board

Please see Appendix II. 34269

Federal Maritime Commission

FMC Filing of Currency Adjustment Factors 34199

Federal Reserve System

Please see Appendix II. 34269

Federal Trade Commission

FTC Proposed Amendment to Eyeglasses Rule and Eyeglasses II 34172
FTC Proposed Trade Regulation Rule Concerning Credit Practices 34174
FTC Proposed Trade Regulation Rule on Mobile Home Sales and Service 34178
FTC Residential Real Estate Brokerage Industry Practices 34180

Interstate Commerce Commission

ICC Leasing Rules Modifications (Ex Parte No. MC–43 (Sub-No. 12)) 34200
ICC Revision of Abandonment Regulations (Ex Parte No. 274 (Sub-No. 5)) 34202

Nuclear Regulatory Commission

NRC–RES Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation 34142

Postal Rate Commission

PRC Postal Rate Commission Docket—Attached Mail Proceeding, 1981 34203
PRC Postal Rate Commission Docket—E-COM Forms of Acceptance, 1980 34205
PRC Postal Rate Commission Docket MC81-3, ZIP + 4 Subclasses of First-Class Mail 34206

Securities and Exchange Commission

SEC Classification of Issuers for Reducing or Modifying Certain Reporting Requirements 34079
SEC Proposed Comprehensive Revision to System for Registration of Securities Offerings 34081
SEC Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports 34083
SEC Simplification of Investment Company Prospectuses 34085

CHAPTER 1—ENERGY

DOC–NOAA

Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships 34011

DOE–CE

Commercial and Apartment Conservation Service Program 34013

DOE–CE

Energy Conservation Program for Consumer Products Other Than Automobiles 34014

DOE–CE

Energy Performance Standards for New Buildings 34015

DOE–ERA

Natural Gas Curtailment Priorities for Interstate Pipelines 34016

DOE–FE

Variable Work Commitment Bidding System for Outer Continental Shelf Oil and Gas Lease Sales 34019

FERC

High-Cost Natural Gas Produced from Wells Drilled in Deep Waters 34021

FERC

High-Cost Natural Gas: Production Enhancement Procedures 34022

FERC

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 34023

FERC

Rate of Return on Common Equity for Electric Utilities 34024

FERC

Regulations Governing Applications for Major Unconstructed Projects 34026

FERC

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act 34028

FERC

Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings 34029

FERC

Revision of Form 1 Annual Report by Electric Utilities 34031

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships (15 CFR Part 1001)

Legal Authority

Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. § 9101 *et seq.*

Reason for Including This Entry

These regulations are of signficant public interest and may have a major impact on the economy by providing a new legal system under which various commercial Ocean Thermal Energy Conversion (OTEC) operations may proceed.

Statement of Problem

Ocean Thermal Energy Conversion is a process for using solar energy stored in the warm surface waters of the ocean as a renewable source of power to produce electricity or other power used to manufacture energy-intensive products such as ammonia or aluminum. The OTEC process is driven by the temperature differential between warm ocean surface waters and cold, deep waters. It can be implemented by means of an OTEC facility, which is moored or fixed to the ocean bottom or located on land with intake and discharge piping running out to appropriate locations in the ocean. OTEC plantships which float unmoored or move through the ocean can also use the OTEC process.

The OTEC principle can be applied efficiently in areas where the temperature difference between surface waters and deep waters is about 20°C or more. This makes the most probable U.S. locations for OTEC facilities or plantships the Gulf of Mexico area, the southeastern continental United States, the island areas under U.S. jurisdiction such as the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa.

The OTEC industry is in a formative stage at present because, although the basic principles of OTEC power generation have been developed and demonstrated at sea, the hardware, engineering, and operational requirements of commercial-scale OTEC operations have not yet been fully developed, and to conduct that development will require substantial private sector capital investment, on the order of $25 million to $100 million or more per OTEC facility or plantship (all dollar values are expressed in 1980 dollars unless otherwise noted).

Estimates in the report of the House of Representatives Committee on Merchant Marine and Fisheries on H.R. 6154, which was a predecessor to the OTEC Act, indicate that OTEC could provide from 5 to 20 percent of all new electrical generating capacity coming on line in the U.S. by the year 2000 if commercial development of OTEC is aggressively pursued. The OTEC Research, Development, and Demonstration Act, P.L. 96–310, 94 Stat. 941 (42 U.S.C. 9001 *et seq.*) sets a goal of 10,000 megawatts of installed U.S. OTEC capacity by the year 1999. Meeting that goal would stimulate capital investment on the order of $25 billion in the evolving OTEC industry and its supliers. If that projected OTEC capacity replaced the use of imported oil for electricity generation and other product production, an import reduction of 360,000 barrels per day would result, with a concurrent reduction of $4.6 billion per year in oil import costs at $35 per barrel.

These proposed regulations will implement the Ocean Thermal Energy Conversion Act of 1980 (the Act), which authorizes the Administrator of NOAA to license (and requires persons to obtain licenses prior to) the construction, location, ownership, and operation of: (1) OTEC facilities connected to the United States by pipeline or cable; (2) OTEC facilities located in the territorial sea of the U.S.; (3) OTEC plantships documented under the laws of the United States; and (4) OTEC plantships that are constructed, owned, or operated by U.S. citizens.

The Act requires NOAA to issue regulations with respect to licensing of these OTEC facilities and plantships.

Along with its licensing provisions, the Act is intended to: (1) establish a legal system to encourage the development of OTEC as a commercial energy technology; (2) protect the marine and coastal environment and the

interests of other users of the territorial sea, Continental Shelf, and high seas and foreign nations that might be affected by a discharge plume from an OTEC; and (3) ensure that Federal OTEC-related actions are consistent with approved State coastal zone management plans. The Act requires NOAA to issue final implementing regulations by August 13, 1981.

Alternatives Under Consideration

NOAA has evaluated three general regulatory approaches to OTEC licensing: (A) establishment of initial regulations specifying the designs to be used for OTEC plant components and requiring use of specific operating procedures, (B) establishment of detailed performance standards and guidelines in initial regulations with the burden on the applicant to prove compliance with each of the detailed performance standards and guidelines as a prerequisite to obtaining a license, or (C) establishment of general guidelines and performance standards in initial regulations and use of detailed guidelines and performance standards as license terms and conditions coupled with subsequent operational and environmental monitoring to ascertain whether additional requirements are necessary in the future.

The advantage of requiring the detailed information contained in alternative (A) would be greatly outweighed by the disadvantages. The substantive provisions of the regulations might include detailed design specifications for screens on warm and cold water intakes, specification of the geometry of discharge outlets, detailed design criteria for valves and controls to prevent discharge of working fluid into the environment, and detailed specification of operating procedures for biofouling control. NOAA would have to conduct detailed reviews of all aspects of the proposed OTEC plant—including its design—in order to determine full compliance with the detailed regulations. The information required to be submitted with an application would have to be voluminous, and the level of plant design detail required would necessitate completion of detailed design of the proposed OTEC plant prior to preparation of the license application for submission to NOAA. Therefore, the requirement for a large and expensive administrative apparatus, and the lack of allowance for design flexibility needed for technological development led NOAA to reject alternative (A).

Under alternative (B) the regulations would not contain detailed substantive provisions specifying design of OTEC plant components or plant operating procedures. The regulations would, however, contain detailed guidelines and performance standards applicable to all OTEC facilities and plantships in order to insure adherence to the overall regulatory goals.

Use of this approach would result in NOAA establishing uniform guidelines and performance standards applying to all OTEC plants, regardless of specific design or location. In some cases the uniform guidelines and performance standards would restrict design options which might be preferred from an engineering standpoint. Prospective OTEC plant owners would have to make major expenditures of time, personnel, and funds to prepare their applications. NOAA would have to increase the size of its staff to review the information and consequently the amount of the application fee for the license would need to be increased. The licensee would be required to keep substantially more detailed records than were kept in the normal course of business.

In summary, alternative (B) has two disadvantages: (1) it requires a relatively large administrative apparatus to develop performance standards and determine compliance with them, and (2) it would limit engineering flexibility more than necessary to meet the regulatory goals at some potential sites.

NOAA has adopted alternative (C) as most appropriate to the developmental state of the OTEC industry and the need to accommodate to site- and technology-specific issues which will be raised when an OTEC application is submitted for licensing. Detailed guidelines and performance standards would not be prescribed in advance in regulations, but would be included as terms and conditions in a license if they were deemed necessary by the Administrator to prevent significant adverse impacts on the environment or to prevent other results contrary to law. Only those problems which appear to be significant would be analyzed in detail.

Though some minor degree of predictability may be lost, other benefits greatly outweigh this potential loss. For instance, the information required of the applicant would not be as extensive, the administrative burden would be reduced, flexibility for this new industry would be maintained, and the greatest probability of obtaining the potential benefits to society from OTEC development at the least possible cost would occur. Once NOAA issued a license we would expect the OTEC builder, owner, or operator to conduct its activities according to the terms of its application.

Summary of Benefits

Sectors Affected: Ocean thermal energy production; shipbuilding and repairing; manufacturing of electric transmission and distribution equipment and electric industrial apparatus; electric utilities; production of ammonia, fertilizer, aluminum, and other energy-intensive products; inhabitants of the U.S. southeastern and Gulf of Mexico States, the U.S. Virgin Islands, Puerto Rico, Hawaii, and the U.S. Pacific island possessions and territories; and the general public.

Commercialization of OTEC technology under the new legal system of the Ocean Thermal Energy Conversion Act and the proposed regulations could generate benefits to the shipbuilding and repairing industry that would construct and maintain the OTEC facilities and plantships. Electrical equipment manufacturers would benefit from any additional demand for electric generation and transmission equipment. Energy intensive industries such as production of ammonia, some fertilizers, and aluminum would benefit from availability of a competitively priced alternative source of electric power. Areas of the United States adjacent to ocean waters which contain thermal differentials sufficient to support OTEC power generation would benefit from availability of a non-fossil fuel, non-nuclear energy supply, and consequent reduction of costs or risks associated with fossil or nuclear fuel. The regulations will provide the framework for development of a new OTEC industry, which will benefit those owning and operating OTEC facilities or plantships as a business.

Development of OTEC technology to produce energy intensive products, such as ammonia, could also have significant implications for reducing fossil fuel consumption in the United States. The substitution of OTEC-produced ammonia for ammonia currently produced from natural gas could conserve the equivalent of 300,000 to 500,000 barrels of oil per day, based on the fact that approximately 3 percent of U.S. natural gas production is currently used in ammonia production.

Commercial OTEC technology also represents a major export opportunity for the United States. Approximately 70 countries and territories, many of them lesser developed countries which are now dependent on imported oil, are located near exploitable OTEC resource areas. If even a small fraction of the projected demand for new electrical

generating capacity in those countries between the years 1990 and 2010 were met through export of U.S.-built OTEC facilities and plants, the OTEC export market potential would be on the order of $200 billion to $300 billion (in 1980 dollars).

NOAA has prepared a Preliminary Regulatory Impact Analysis/Initial Regulatory Flexibility Analysis on these proposed regulations, which further details these potential benefits.

Summary of Costs

Sectors Affected: Suppliers of fossil and nuclear fuel for electric power production; suppliers of natural gas for production of ammonia, fertilizer, and other energy-intensive products; and ocean thermal energy production.

Some companies whose business is based on supplying fossil or nuclear fuel for electric power production may lose market opportunities to the extent OTEC facilities or plantships are built on a commercial scale and replace other sources of energy. Suppliers of natural gas feedstocks for production of ammonia and other energy intensive products would suffer some market displacement as OTEC power becomes available for ammonia production from air and seawater. To the extent that availability of OTEC electric power in affected areas of the U.S. results in economic development which causes environmental or socioeconomic problems, some costs may be incurred in the areas where OTECs operate. Persons applying to construct, own, or operate OTEC facilities or plantships will incur costs in assembling the financial, technical, environmental, and other information required for the license application, and in complying with license conditions relating to matters such as environmental protection and monitoring and non-interference with other users of the ocean.

NOAA has preapared a Preliminary Regulatory Impact Analysis/Initial Regulatory Flexibility Analysis which addresses these costs in more detail.

Related Regulations and Actions

Internal: None.

External: Under the Act, the Coast Guard must issue regulations governing documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of OTEC facilities and plantships. The Coast Guard also is to issue, after consulting with the Administrator of NOAA, regulations governing the movement and navigation of OTEC plantships. The Coast Guard also is to ensure that the discharge plume from the plantship generally does not unreasonably impinge upon and degrade the operation of another OTEC facility or plantship, or adversely affect the territorial sea or natural resource jurisdiction zone of a foreign nation. NOAA consulted the Coast Guard before deciding not to issue regulations governing site evaluation and preconstruction activities. NOAA and the Coast Guard may jointly or severally issue enforcement regulations. The Environmental Protection Agency may prepare regulations applicable to OTEC facilities and plantships under the National Pollutant Discharge Elimination System program under the Clean Water Act. The Secretary of Energy may determine, after consultation with the Administrator of NOAA, which substantive requirements of Title I of the Act will apply to OTEC demonstration projects. NOAA must consult with the Secretary of Energy and the heads of other Federal agencies before issuing regulations to carry out the Act.

Active Government Collaboration

NOAA has initiated discussions with the Department of Energy, the Maritime Administration, the Coast Guard, and the Environmental Protection Agency concerning implementation of the Act and the respective programs and jurisdictions of the other agencies. NOAA also has discussed matters with the Departments of State (with respect to non-interference with other ocean users, and with other nations) and Justice (with respect to OTEC antitrust issues). NOAA also has initiated discussions with components of the Department of the Interior, such as the U.S. Geological Survey and the Bureau of Land Management, in order to benefit from their experience in certain areas where those agencies have faced similar issues. NOAA has coordinated with the Small Business Administration in order to assess the potential impact of these regulations on small businesses.

In addition to this coordination with affected Federal agencies, NOAA will contact relevant State (and, as appropriate local) government officials in potentially affected areas (for example, the Gulf of Mexico area, the U.S. Virgin Islands, Puerto Rico, Hawaii, and the Commonwealth of the Northern Mariana Islands).

Timetable

Final Rule—August 3, 1981.

Final Rule Effective—September 2, 1981.

Available Documents

A Federal Register notice requesting other Federal agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of OTEC facilities and plantships to send NOAA written descriptions of their expertise or statutory responsibilities (45 FR 56857, August 26, 1980).

Ocean Thermal Energy Conversion Environmental Issues Discussion Paper, September 1980.

Notice of Environmental Impact Statement (EIS) scoping meeting (45 FR 63543, September 25, 1980).

ANPRM—45 FR 77038, November 21, 1980.

NPRM—46 FR 19418, March 30, 1981.

Public comments on the ANPRM and NPRM.

Draft Environmental Impact Statement (March 25, 1981).

Preliminary Regulatory Impact Analysis/Initial Regulatory Flexibility Analysis (March 1981).

Record/transcript of hearings held in Honolulu, HI; (April 27, 1981); San Juan, PR (May 1, 1981); and Washington, DC (May 11, 1981).

Documents may be obtained from the Office of Ocean Minerals and Energy, NOAA, Page Building No. 1, Room 410, 2001 Wisconsin Avenue, N.W., Washington, DC 20235 ((202) 254–3483).

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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Commercial and Apartment Conservation Service Program (10 CFR 458*)

Legal Authority

National Energy Conservation Policy Act (NECPA), 42 U.S.C. § 8211, as amended by Energy Security Act (ESA), P. L. 96–294, 794 Stat. 611.

Reason for Including This Entry

The Department of Energy (DOE) includes this entry because the regulations could impose costs in excess of $100 million per year.

Statement of Problem

The Energy Security Act of 1980 (ESA), amends the National Energy Conservation Policy Act (NECPA) to require DOE to develop rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings. Large gas and electric utilities are required to offer, and to provide upon request, energy audits of commercial buildings and multifamily dwellings. Building heating suppliers may provide these services at their discretion.

States may submit plans to DOE for approval to administer and enforce utility compliance with State programs, but, if they do not, NECPA requires DOE to prepare a Federal plan and order covered investor-owned utilities to comply with it. Covered utilities include those which during the second preceding year had sales (for purposes other than resale) which exceeded 10 billion cubic feet for natural gas, or exceeded 750 million kilowatt hours of electricity. Participating Governors must decide whether or not to include non-regulated, municipally owned utiltities and interested home heating suppliers in State plans. Non-regulated utilities not included in State plans but meeting the above size criteria must prepare and submit their own plans for DOE approval.

The Department issued an NPRM on January 16, 1981 (46 FR 4482). Some comments were received in response to this proposal which questioned the cost effectiveness of the program. DOE is currently in the process of reviewing its analysis of the program in light of these comments. Moreover, the Administration has requested rescission of funds for this program in fiscal year 1981 and no funds in fiscal year 1982. These requests reflect the Administration's and the Department's view that this program would impose unnecessary costs on the economy and public and would not result in significant savings of energy.

Alternatives Under Consideration

In the absence of further legislative action, DOE is required to proceed with this rulemaking, and no alternatives under the requirements of the current statute would significantly reduce the costs and burdens of the program. However, the Department is exploring alternative ways of designing the rules so as to minimize their potential adverse effects.

Summary of Benefits

Sectors Affected: The Federal Government; State governments; investor-owned and municipally owned electric and gas utilities; participating building heating suppliers; tenants and owners of eligible commercial buildings and multifamily dwellings of five or more units; and the general public.

DOE is in the process of reviewing the detailed estimate of the benefits of this program. The results of this review, if available, will be provided in the next **Calendar.**

Summary of Costs

Sectors Affected: The Federal Government; State governments; investor-owned and municipally owned electric and gas utilities; participating building heating suppliers; tenants and owners of eligible commercial buildings and multifamily dwellings of five or more units; and the general public.

DOE is in the process of reviewing its detailed estimate of the costs of this program. The results of this review, if available, will be provided in the next **Calendar.**

Related Regulations and Actions

Internal: Residential Conservation Service (10 CFR 456); Low Income Weatherization Assistance Program (10 CFR 440).

External: Existing State laws and regulations.

Active Government Collaboration

None at this time.

Timetable

Regulatory Flexibility Analysis—To accompany final rule.
Final Rule—Summer 1981.

Available Documents

NPRM—46 FR 4482, January 16, 1981.
Draft Regulatory Analysis—November 1980.
Comments in response to NPRM.
All documents are available for review in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA-142, 1000 Independence Avenue, S.W., Washington, DC 20585.

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DOE-CE

Energy Conservation Program for Consumer Products Other Than Automobiles (10 CFR Part 430*)

Legal Authority

Energy Policy and Conservation Act, Title III, as amended by the National Energy Conservation Policy Act, 42 U.S.C. § 6315.

Reason for Including This Entry

The Department of Energy (DOE) includes this entry because the proposed rule would impose substantial costs on the home appliance industry and increase the cost of appliances.

Statement of Problem

The Energy Policy and Conservation Act (EPCA) requires DOE to adopt energy efficiency standards for 13 product categories if such standards are technologically feasible, economically justified, and result in significant energy conservation. These product categories are: refrigerators and refrigerator/freezers, freezers, dishwashers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), television sets, kitchen ranges and ovens, clothes washers, humidifiers and dehumidifiers, central air conditioners, and furnaces. Nine of these categories were given priority under EPCA, and standards for these products (or a determination that standards are not technologically feasible and economically justified) were required by January 2, 1981. The statutory deadline for the other four categories is November 1981. The public comments following the publication of the NPRM relating to the standards for the first nine product categories (45 FR 43976, June 30, 1980) raised substantial issues with regard to the economic justification of the standards as well as other issues. Consequently, in December 1980, the Department announced that it would not be able to meet the statutory deadline for rules for the first nine products. Later, in February 1981, DOE gave notice of its intent not to issue standards until further study (46 FR 13517).

As announced in February, DOE is currently reviewing the methodology and analysis upon which the standards would be based. Furthermore, additional assessment of the underlying data is necessary. Moreover, the Administration has requested rescission of funds for this program in FY 81 and

no funds in FY 82. These requests reflect the Administration's view that with rising energy prices consumers are demanding and manufacturers are producing more energy efficient products without mandatory Federal standards.

Alternatives Under Consideration

Under EPCA the alternatives are either to adopt standards, or make a finding that standards would not be technologically feasible, economically justified, or would not result in significant conservation of energy.

Summary of Benefits

Sectors Affected: Manufacturers and users of major household appliances; and the general public.

The Department is reviewing its detailed estimate of the benefits that would result from implementing mandatory energy efficiency standards for consumer products. The results of this review, if available, will be provided in the next **Calendar.**

Summary of Costs

Sectors Affected: Manufacturers of major household appliances; and users of these appliances.

The Department is reviewing its detailed estimate of the costs that would result from implementing mandatory energy efficiency standards for consumer products. The results of this review, if available, will be provided in the next **Calendar.**

Related Regulations and Actions

Internal: None.
External: Federal Trade Commission Appliance Labeling Program.

Active Government Collaboration

Federal Trade Commission and National Bureau of Standards.

Timetable

Final Rule for Nine Products—To be determined. The statutory deadline was January 1981.
Final Rule for Five Products—November 1981 (statutory deadline).
Regulatory Flexibility Analysis—Will accompany NPRM and final rule.

Available Documents

Draft Regulatory Analysis.
Test Procedures:
Refrigerators, Refrigerator/freezers and Freezers—42 FR 46140, September 14, 1977; 45 FR 47396, July 14, 1980.
Dishwashers—42 FR 39964, August 8, 1977.
Clothes Dryers—42 FR 46140, September 14, 1977; 45 FR 46762, July 10, 1980.
Water Heaters—42 FR 54110, October 4, 1977; 43 FR 48986, October 19, 1978; 44 FR 52632, September 7, 1979.
Room Air Conditioners—42 FR 27896, June 1, 1977; 45 FR 43362, June 26, 1980.
Furnaces and Home Heating Equipment—43 FR 20108, May 10, 1978; 44 FR 1970, January 9, 1979; 45 FR 53714, August 12, 1980.
Television Sets—42 FR 46140, September 14, 1977.
Kitchen Ranges and Ovens—42 FR 20106, May 10, 1978.
Clothes Washers—42 FR 49802, September 28, 1977.
Humidifiers and Dehumidifiers—42 FR 55599, October 18, 1977.
Central Air Conditioners, including Heat Pumps—42 FR 60150, November 25, 1977; 44 FR 76700, December 27, 1979.
NPRM Regarding Provisions for the Waiver of Consumer Product Test Procedures, 45 FR 14188, March 4, 1980.
Sampling Requirements of Consumer Products Test Procedures—44 FR 22410, April 13, 1979.
Public comments (including comments from public hearing held August 1980).
Representative Average Unit Cost of Electricity, Natural Gas, No. 2 Heating Oil, and Propane—44 FR 37534, June 27, 1979.
Standards:
ANPRM Regarding Energy Efficiency Standards for Nine Types of Consumer Products—44 FR 49, January 2, 1979.
ANPRM Regarding Energy Efficiency Standards for Four Types of Consumer Products—44 FR 72276, December 13, 1979.
NPRM Regarding Energy Efficiency Standards for Nine Types of Consumer Products—45 FR 43976, June 30, 1980.
Notice of Intent Not to Issue Energy Efficiency Standards Until Further Study—46 FR 13517, February 23, 1981.
All documents are available for review in the Freedom of Information Office.

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DOE—CE

Energy Performance Standards for New Buildings (10 CFR 435*)

Legal Authority

Energy Conservation Standards for New Buildings Act of 1976, 42 U.S.C. §§ 6831–6840; Department of Energy Organization Act, § 304, 42 U.S.C. § 7101 *et seq.*; and the Housing and Community Development Act of 1980, 42 U.S.C. § 6831 *et seq.*

Reason for Including This Entry

This entry is included because this program would impose significant costs on the building and residential housing industries as well as the general public.

Statement of Problem

The Energy Conservation Standards for New Buildings Act, which is Title III of the Energy Conservation and Production Act (ECPA), requires the Department of Energy (DOE) to develop, by regulation, interim and final building energy performance standards (BEPS) for new commercial and residential buildings. The standards would establish minimum levels of overall building energy efficiency, by building type and climate zone. The standards would not bar, on energy efficiency grounds, use of any particular building components. Rather, they would allow a building to be designed in any of a variety of ways that would meet the maximum level of energy usage established for that particular building type and climate.

ECPA requires DOE to promulgate interim standards by August 1, 1981. The interim standards are to apply only to new Federal construction and to two demonstrations in the private sector testing whether the BEPS concept is feasible. Under ECPA the final standards, which would have nationwide mandatory applicability subject to Congressional approval, are to be promulgated by April 1, 1983.

Before ECPA was amended last fall to require initial testing of the BEPS concept by interim standards, the Department has issued an NPRM on the standards (44 FR 68120, November 28, 1979). Many comments were received in response to this proposal indicating that DOE's approach failed to result in significant conservation of energy, was technologically impracticable, and would be economically disabling to the construction industry. These comments raised serious concerns about the need or justification for the program. These concerns apparently contributed to the amendment of ECPA and are undergoing further review by DOE. Moreover, the Administration has requested a rescission of funds for this program in fiscal year 1981 and no funds in fiscal year 1982. These requests reflect the Administration's and the Department's view that this program would impose

unnecessary costs on the economy and the public.

Alternatives Under Consideration

In the absence of further legislative action, DOE is required to proceed with this rulemaking. However, the Department is exploring alternative ways of designing the rules so as to minimize their potential adverse effects.

Summary of Benefits

Sectors Affected: The building industry; construction workers; the building market; and the general public.

The benefits of BEPS are under continuing review by DOE. The results of this review, if available, will be provided in the next **Calendar.**

Summary of Costs

Sectors Affected: The building industry; the building market; DOE; HUD; State and local governments; and the general public.

The costs of BEPS are under continuing review by DOE. The results of this review, if available, will be provided in the next **Calendar.**

Related Regulations and Actions

Internal: None.

External: Minimum Property Standards for One- and Two-Family Dwellings, Department of Housing and Urban Development (HUD); Minimum Property Standards for Multifamily Dwelling; HUD Handbook 4910, Revision 5, April 1977; Proposed Increase in Thermal Insulation Requirements for the Minimum Property Standards for One- and Two-Family Dwellings, 43 FR 17311, April 24, 1978; Farmers Home Administration, Form 424.1; 7 CFR Part 1804, Subpart A, Appendix D, Construction Standards, and criteria of all Federal agencies that build new buildings.

Active Government Collaboration

The Department of Housing and Urban Development, the National Bureau of Standards, and the National Institute of Building Sciences (a quasi-governmental organization).

Timetable

Regulatory Flexibility Analysis—Not required.
Interim Final Rule—August 1981 (statutory deadline).
Public Comment Period—Will follow interim final rule.
Demonstration—August 1981 to August 1982 (statutory requirement).
Final Rule—April 1983 (statutory deadline).

Available Documents

In support of this proposed rule, the Department has developed ten Technical Support Documents. These documents provide detailed information on important aspects of the proposed rule and are referred to throughout the preamble. All documents may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22150, and the Technical Information Center, Oakridge National Laboratory, P.O. Box 62, Oakridge, TN 37830.

Technical support document No.	Title	Administrative record No.
1	The Standard Evaluation Technique	9561.00
2	Statistical Analysis	9562.00
3	Energy Budget Levels Selection	9563.00
4	Weighting Factors	9564.00
5	Standard Building Operating Conditions	9565.00
6	Draft Regulatory Analysis	9566.00
7	Draft Environmental Impact Statement	9567.00
8	Economic Analysis	9568.00
9	Passive and Active Solar Heating Analysis	9569.00
10	Climate Classification Analysis	9570.00

Additional documents: Development of Energy Performance Standards for New Buildings, phase one/base data (Final Report, PB–286 898; Climatic Classification, PB–286 900; Data Collection, PB–286 902; Residential Data Collection and Analysis, PB–286 901; Building Classification, PB–286 904; and Sample Design, PB–286 903), January 12, 1978; Comments on ANPRM and NPRM.

ANPRM—43 FR 54512, November 21, 1978.

NPRM—44 FR 68120, November 28, 1979.

All documents are available for review in the Freedom of Information Office at the address below.

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DOE—Economic Regulatory Administration

Natural Gas Curtailment Priorities for Interstate Pipelines (10 CFR Part 580*)

Legal Authority

Natural Gas Act, § 15, U.S.C. § 717 *et seq:* Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.;* Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.;* E.O. 11790 (3 CFR 1974 Comp.); E.O. 12009 (3 CFR 1977 Comp.).

Reason for Including This Entry

The Department of Energy (DOE) is including this rule because of its potentially far reaching effects on interstate pipelines and local distributors and their natural gas customers.

Statement of Problem

The Department of Energy Organization Act (DOE Act) makes the Secretary of Energy responsible for reviewing and establishing natural gas curtailment (rationing) priorities.

Natural gas curtailment priorities deal with the manner in which natural gas will be allocated to customers of interstate pipelines when there are serious shortages. Under the DOE Act, the Secretary of Energy is responsible for establishing and reviewing priorities for curtailments. The Secretary of Energy has delegated this authority to the Administrator of the Economic Regulatory Administration (ERA). Under the DOE Act, the Federal Energy Regulatory Commission (FERC) administers and implements the curtailment policies developed by the ERA.

Historically, FERC's predecessor, the Federal Power Commission (FPC), had exclusive Federal jurisdiction, under the authority of the Natural Gas Act (NGA), for curtailment of natural gas in interstate pipelines. The FPC dealt with curtailment of natural gas on a case-by-case basis. From the rulings issued in these cases by the FPC, a priority system developed which ranked end-users of natural gas from high (last to be curtailed) to low (first to be curtailed). The FPC priority system generally placed residential and small commercial use in the highest priorities and interruptible large volume industrial users in the lowest, first curtailed, priorities.

Several considerations shaped FPC's approach to the curtailment priority system: first, the importance of gas used to protect health, safety, and other human needs; second, the operational difficulty of physically cutting off or reducing service to residential and small commercial customers; third, the differences in the costs that different kinds of end-users would experience in converting to an alternative fuel.

This review and rulemaking process will implement the provisions of the Natural Gas Policy Act that mandate the establishment of certain curtailment

priorities. Additionally, the rulemaking provides an opportunity for review of the policy statement concerning gas curtailment priorities adopted by the FPC in 1973.

Specifically, the review of curtailment priorities has focused on the following:

(1) High priority and essential agricultural uses. Section 401 of the NGPA requires the Secretary of Energy to prescribe a rule restricting interstate pipelines from curtailing the essential agricultural use requirements that the Secretary of Agriculture has certified as necessary for full food and fiber production (44 FR 15642, March 15, 1979). The ERA issued this rule on March 9, 1979. Essential agricultural uses may be curtailed only to meet needs of "high priority users" (e.g., schools, hospitals, residences) or when FERC determines in consultation with the Secretary of Agriculture that an alternative fuel is economically practicable and reasonably available.

(2) Essential industrial process and feedstock uses. Section 402 of the NGPA directs the Secretary of Energy to prescribe a rule limiting the circumstances in which an interstate pipeline may curtail gas supplies used in an essential industrial process or as an essential feedstock. Use as a feedstock refers to gas employed as an ingredient of the end-product, as distinguished from gas used to power production machinery.

(3) Emergency allocation authority. Relevant sections of the National Energy Act (NEA) authorize the President to declare a natural gas supply emergency which would trigger various consequences related to this review. As an example, the President could authorize an interstate pipeline to make emergency purchases from intrastate pipelines under short term contracts. This authority, while outside the scope of the curtailment priority system itself, must work in concert with it. Therefore, this rule will consider the effects of the NEA emergency authorities on the curtailment priority system. Decontrol of natural gas prices will not affect the curtailment priorities established by this rule.

Alternatives Under Consideration

(A) Maintain a system similar to the present system as developed by the FPC while making those changes required by the NGPA and improving the present system by facilitating free flow of gas between systems. As compared to making no change in the present system, this alternative would have a benefit for gas users in the order of magnitude of $1 billion of average annual costs, in constant 1978 dollars, due largely to savings in costs of fuel. This benefit would be offset by $0.9 billion, which is the estimated cost to gas users of establishing the essential agricultural priority required by the NGPA. If the present system is also improved by allowing a "percentage-limitation" option, i.e., allowing lower priorities to not be curtailed completely before a higher priority is curtailed, this would provide a further reduction in average annual costs to users of $1.1 billion. The net benefit to gas users of this alternative would be in the estimated order of magnitude of $1.2 billion ($1 billion plus $1.1 billion minus $0.9 billion).

The present curtailment system also has the advantage of being familiar to both gas suppliers and users, which would minimize the uncertainty that could otherwise lead to additional costs during the period the system was being changed and could offset most of the benefits of a newer and more complicated system, such as a "pricing" system, until the suppliers and users became completely familiar with the new system. However, a pricing system could allocate natural gas to users more precisely on the basis of cost benefit analysis. A pricing system would allow each end-user of natural gas to decide the price he would be willing to pay for available gas supplies based on his determination of the cost benefit to his particular operation. The present end-use type systems makes these determinations based on broad general categories of end-use.

(B) Developing a curtailment system as in alternative (A) but updating the base period from which requirements are measured. Systems using a fixed base period instead of rolling or updating the base period are likely to cause increases in shortage costs if they switch under the present Federal curtailment approach. A rolling base period involves updating the index of gas requirements from which curtailments are measured. In rolling the base period, the total supply of gas available to all distrubution companies served by a pipeline would not be affected, but the supply would be reallocated in proportion to the current end-use profiles of the pipeline's distribution company customers, which may have changed over time.

Athough this updating process may give a more current picture of the end-use of the gas delivered, it would increase the costs of curtailments to gas users by about $0.2 billion per year (1978 dollars), if there were a complete shift to a rolling base period in the present Federal plans. Suppliers and users have instigated self-help measures obtaining their own supplies of gas under the present curtailment system and the cost of disrupting these self-help projects would most likely offset any benefits derived from the updating process.

(C) Develop a pro-rata system that reduces all users' deliveries by a percentage equal to the percentage of supply reduction. It is tempting to think that the apparent fairness of pro-rata curtailment justifies this alternative and that users with low conversion costs would switch to another fuel, allowing a gradual evolution to an optimal curtailment system based on pro-rata allocation, but this is not the case. Unfortunately, switching to a pro-rata system would destroy good parts of the present system and eliminate the benefits from users who have already adjusted to curtailments under the present system.

The present FERC curtailment policy provides for pro-rata allocation within each priority category. Since the present categories have been formed by an end-use system that does recognize differences in shortage costs, a full pro-rata plan is bound to increase costs. It will lump all users into one category even though surveys show that there are widely different costs. The 1976–77 shortage had impact costs to users of $54 per thousand cubic feet (Mcf) of shortfall in higher priorities and only $2/Mcf in lower priorities. Pro-rata is less precise than the end use approach in present curtailment plans for identifying uses which have high costs of conversion to other fuels.

In addition to causing higher shortage costs, pro-rata is not practical and not in accordance with new legislation. For example, pro-rata cannot be applied to residential and small commercial users for operational reasons. It cannot be applied to "essential agricultural uses" and "essential industrial process or feedstock uses" because of stipulations in the NGPA.

Weather and price controls combined create shortages that cause high shortage costs under pro-rata. There are high costs of fuel switching and there are high impact costs for users who cannot justify fuel substitution. Even when feasible, fuel substitution is expensive when the investment is only for infrequent shortages.

Emergency gas allocations do not follow a pro-rata approach because of the high value of selected gas use to protect life, health, and property. Curtailment pertains to situations with lesser shortage costs, but the same principle of high costs under a pro-rata

system eliminates this alternative as an easy solution to curtailment.

(D) Use some form of "pricing" or bidding approach to distributing available gas supplies during periods of curtailments instead of a rationing system. Fuel substitution costs vary greatly, even among users within the same carefully designed end-use priority categories; precise ranking of users in line with substitution costs may not be possible except under some type of pricing approach. Surveys reveal that substitution costs range from $2/Mcf to $20/Mcf even within one end-use category, as presently constituted; in addition, shortage impact costs range from $0.10/Mcf to $100/Mcf among users within one end-use priority class due to large impacts as curtailment reaches 100 percent.

To be practical, a pricing system must be implemented at the end-user level. Since local distribution companies deliver most of the gas to end-users and these companies are subject to the jurisdiction of State regulatory agencies, this would involve changes in concepts for State regulation and would require distribution company participation. There appears to be no practical implementation plan for a pricing system at the Federal level, i.e., using only interstate pipeline participation. Such a plan would have to be developed at the end-user distribution company level.

Additional studies are necessary to determine if a practical pricing approach could be developed and whether it could attain most or all of the $3.6 billion savings estimated as the national average annual benefit (in 1978 dollars) of switching from the present system to some type of pricing system. These studies could also determine if implementation of a pricing approach would have significant costs that might affect the annual gains. A thorough study of pricing prior to any major change in curtailment policy would be valuable for outlining the best long-run solution to managing natural gas curtailments.

We are also considering whether the guidelines should apply strictly to all interstate pipelines which transport gas, or whether FERC should be allowed to depart from strict application of the general policy under the ERA rule to account for the differing circumstances of individual pipelines, making adjustments where they are necessary. Individual pipelines vary as to number and types of customers and suppliers of gas as well as to the conditions under which they operate, such as weather conditions in their particular service areas.

The present Federal approach to curtailment priorities is based on end-use; it reflects costs of substitution and has the benefit of being familiar to suppliers and users after years of operation. NGPA mandates some changes in priorities, but no further changes are warranted because benefits will not justify the greater costs and uncertainty from changing priorities. However, there are worthwhile modifications that can be made to the overall functioning of the present system. For example, the total costs of natural gas curtailments could be reduced if priority systems and natural gas policies in general could encourage freer flow of gas from users with low costs of fuel substitution to users with high costs of substitution.

The proposed rule concerns all priority-of-service categories related to curtailment of natural gas deliveries by interstate pipeline companies. The rule is consistent with the majority of the comments responding to our Notice of Inquiry (NOI) (44 FR 16954, March 20, 1979) and the findings of our Regulatory Analysis, and adopts in substance our previously issued final rule regarding essential agricultural uses. Priorties established by the proposed rule, with Priority One to be the last curtailed, are as follows:

(1) high priority, which includes residential, small commercial (less than 50 Mcf on a peak day), schools, hospitals, plant protection, and institutions such as prisons.

(2) Essential agricultural uses, certified by the Secretary of Agriculture, without alternative fuel capability.

(3) Essential industrial process and feedstock uses, as defined by the proposed rule, without alternative fuel capability.

(4) All gas use less than 300 Mcf per day not included in Priorities One through Three, including large commercial users.

(5) All other uses not included in Priorities One through Four, with volumetric subcategories, i.e., larger users would be curtailed before smaller users.

The first three priorities are defined in accordance with the language in Title IV of the NGPA and our final rule governing priorities for essential agricultural use. The 300 Mcf per day cutoff level of Priority Four is based on comments from the NOI indicating that it is logistically almost impossible to curtail such uses on a short-term basis. These uses may be presumed not to have alternate fuel capability.

The rule provides more flexibility for priority categories Four and Five by providing that curtailment of volumes within any priority category or subcategory below the statutorily mandated categories (Priorities One, Two, and Three) may be limited to some percentage of the total requirements in circumstances where such treatment would reduce shortage costs and where more precise end-use priority classification is not possible. Imprecision in present curtailment plans might be reduced in two ways. First, individual suppliers and users could more precisely classify uses within the base period requirements for each priority category. Second, a Federal rule could give higher priority to more critical volumes within categories, e.g., by establishing subdivisions within intermediate priorities, such as the "percentage-limit" option. Priority Five is subdivided into volumetric ranges for requirements over 300 Mcf per day based on findings by the Regulatory Analysis that large users have lower curtailment costs per unit of gas.

The proposed rule should give the FERC ample flexibility to take into consideration a pipeline's specific circumstances in implementing the rule.

The proposed rule sets out a curtailment priority system which the comments to our NOI and our draft Regulatory Analysis say should reduce the overall national costs of curtailments. Costs from implementing changes that are not necessasry may outweigh any benefits. To prevent this, the proposed rule states that "nothing requires that a curtailment plan in effect on the date of the adoption of this rule be changed, except to the extent that changes are necessary to protect Priorities One, Two, and Three from curtailment."

Summary of Benefits

Sectors Affected: The general public.

Placing users with higher costs of curtailment in the higher priorities reduces the economic costs of gas shortages. Any reduction in the costs of curtailments under improved curtailment options helps to reduce the inflationary effects of cost increases stemming from delayed production and from shifting production among producers. Studies and analysis show that the net macroeconomic effect of using any alternative that reduces curtailment costs is a reduction in the amount of inflation in the same proportion as the reduction in total costs resulting from the use of such alternative. The proposed rule is based on alternative (A) which would result in an estimated annual average cost reduction in the event of natural gas

shortages in the magnitude of $1.2 billion (1978 dollars).

Summary of Costs

Sectors Affected: Interstate pipelines, natural gas distribution companies; low priority direct users of natural gas, such as large volume industrial or electric utility users; high priority users, such as residential users; customers of industrial users and electric utilities; and the general public.

The selection of a curtailment option has no significant effects on real Gross National Product. Curtailment impacts on gas users are offsetting because any permanently lost production of goods and services by a curtailed end-user is made up by other establishments and temporarily lost production is made up later by the same end-user. Surveys of redistribution of services indicate that this is usually not a problem because of the short duration of critical gas shortages.

The following types of costs have been analyzed:

(1) *Users' shortage impact costs:* These are all users' costs that can be attributed to a specific shortage of natural gas, e.g., the higher costs of substitute fuels, cost of interrupted production, and unemployment.

(2) *Users' shortage coping costs:* These are all users' costs to prepare for natural gas curtailments whenever it might occur, e.g., the investment costs of having dual-fuel capability to prevent interrupted production during curtailment.

(3) *Suppliers' operating costs:* All costs that pipeline and distribution company suppliers incur to supply and allocate gas, e.g., the cost of maintaining underground storage, liquefied natural gas, and propane storage to meet sharp peaks on abnormally cold days, and the cost to operate in a spot market during potential shortages.

(4) *Non-user pollution costs:* The costs of different pollution levels, e.g., the additional pollution damage when dirtier fuels are substituted for natural gas.

For example, the "users' shortage impact costs" that could result from doing nothing about the present curtailment system is estimated to be in the order of magnitude of $4 billion on an overall national basis; the "users' shortage coping costs" are $1.6 billion and the "suppliers' operating costs" are $18 billion, or a total of $23.6 billion in constant 1978 dollars. These same costs for a system based on a pricing approach which is integrated with rate design structure is estimated to have total costs of $20 billion. The result of using a pricing approach could theoretically reduce costs by $3.6 billion ($23.6 billion less $20 billion). These costs represent the willingness-to-pay to avoid curtailments, and they are based on simulations of day-to-day management of curtailments in the face of uncertain weather. Shortage costs are the average for all types of weather that could occur. The studies of "non-user pollution costs" indicate a negligible cost change between the alternatives for changing the present rationing approach and doing nothing and an uncertain gain if some type of pricing approach is used.

The results of case studies indicated there would be little change in environmental impacts from the *status quo* of any of the curtailment alternatives. The impacts of all alternate curtailment policies on annual pollutant concentrations were nearly identical to the impact of the existing curtailment policy. The net effect, therefore, of any change from the *status quo* was essentially zero. This is explained in major industrial areas by the fact that large quantities of emissions from other sources in these major industrial areas completely overshadow the emissions from the burning of alternate fuels during periods of winter season natural gas curtailment.

Exceptional cases of larger incremental increases in pollutants can be dealt with on a case-by-case basis. The FERC currently has authority to grant exemptions from a given curtailment policy if it finds that undue hardship otherwise would result. The Draft Environmental Impact Statement therefore recommends that the FERC continue environmental reviews of individual pipelines for the purpose of evaluating requests for exemptions from applicable curtailment rules.

Related Regulations and Actions

Internal: "Curtailment Priorities for Essential Agricultural Use," Final Rule issued 44 FR 15642, March 15, 1979. "Emergency Natural Gas Regulations," under consideration.

External: FERC—Incremental Pricing Rules issued under Title III of the NGPA.

FERC—Curtailment Implementation Rules issued under Title IV of the NGPA.

Active Government Collaboration

The Federal Energy Regulatory Commission staff is kept informed of Economic Regulatory Administration activities. The Commission is formally reviewing the DOE-ERA rule, as provided in § 404 of the DOE Act. ERA and FERC held four joint hearings on this NPRM in July and August 1980 (Chicago, Atlanta, San Francisco, and Washington, DC).

Timetable

Final Rule—June 1981.
Final Rule Effective—30 days after publication in the **Federal Register.**
Regulatory Flexibility Analysis—Not required.

Available Documents

Final Rule—"Curtailment Priorities for Essential Agricultural Uses," Docket No. ERA-R-78-22 (44 FR 15642, March 15, 1979).

NOI "Concerning Review of Natural Gas Curtailment Priorities," Docket No. ERA-R-79-10 (44 FR 16954, March 20, 1979).

NOI "Concerning the Use of Natural Gas Authorities to Increase Coal and Other Non-Petroleum Fuel Usage and Heavy Oil Production," ERA Docket No. ERA-R-79-49 (44 FR 61243, October 24, 1979). NPRM (45 FR 45098, July 2, 1980) and related Regulatory Analysis and Environmental Impact Statement.

Public comments on the above.

Transcripts of public hearings.

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA-142, 1000 Independence Avenue, S.W., Washington, DC 20585.

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DOE-Fossil Energy

Variable Work Commitment Bidding System for Outer Continental Shelf Oil and Gas Lease Sales (10 CFR Parts 376* and 390*)

Legal Authority

Department of Energy Organization Act, §§ 302(b)(2) and 303(c), 42 U.S.C. §§ 7152(b)(2) and 7153(c); and the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 *et seq.*, as amended by the Outer Continental Shelf Lands Act Amendments of 1978, § 205, 43 U.S.C. § 1337(a)(1)(G).

Reason for Including This Entry

This regulation establishes a new bidding system for use in connection with the sale of Outer Continental Shelf (OCS) oil and gas leases. Use of this system may have a significant economic impact upon the revenues generated by

OCS lease sales and may significantly affect the rate and method of development of OCS resources.

Statement of Problem

The Department of the Interior (DOI) periodically sells oil and gas leases for tracts of land on the OCS using many different statutorily authorized bidding systems. These bidding systems establish the criteria for awarding leases and the basis for calculating the compensation due to the United States for the right to drill for and extract oil and gas resources from the OCS. The Secretary of Energy is responsible for the promulgation of regulations establishing the components of the different bidding systems.

On June 22, 1979, Energy Action Educational Foundation and others sued the Secretaries of Energy and Interior, alleging that the failure to issue regulations implementing two new alternative bidding systems enumerated in § 8(a) of the Outer Continental Shelf Lands Act, as amended, and the failure to use those systems violated that law. On October 30, 1980, the U.S. Court of Appeals for the District of Columbia Circuit agreed and directed the Secretary of Energy, through a subsequent order of the District Court, to take expedited action to issue regulations establishing the variable net profit share and variable work commitment bidding systems. In accordance with the District Court order, new draft regulations were published in the **Federal Register** on March 5, 1981, and April 3, 1981, for the respective systems. On April 6, 1981, the U.S. Supreme Court granted certiorari in this case.

The plaintiffs in the lawsuit contend that use of these two systems will create more competition for OCS leases and increase OCS revenues to the U.S. Treasury. The Departments of Energy (DOE) and Interior are investigating these contentions.

Failure to issue regulations establishing these systems would result in an injunction of the OCS leasing program until the regulations are promulgated.

The variable work commitment bidding system requires a bidder interested in leasing OCS tracts to offer to commit a varying (at the bidder's option) amount of money toward the exploration of the lease tract. The bidder is also required to pay to the Government a fixed cash bonus payment, a fixed royalty, and a fixed annual rental payment for the right to explore and extract oil and gas from the lease tract. The bidder offering to commit the largest amount of money to lease exploration will generally be awarded the lease.

Alternatives Under Consideration

Because the Court specifically directed promulgation of this regulation (and the variable net profit share regulation), alternatives, such as non-promulgation or promulgation of other regulations, were not considered.

Summary of Benefits

Sectors Affected: Offshore oil and gas extraction (including independent producers and joint business ventures); and the general public.

The proposed regulation is designed to encourage more participation in OCS lease sales by a more diverse range of firms. Participation in OCS lease sales may be measured in terms of an increase in the overall number of bids in an OCS lease sale, in the number of bids per tract, or in the number of sale participants. To the extent that greater participation may be considered a measure of competition for OCS leases, the proposed regulation should lead to increased competition. Also, to the extent that available capital is not used to pay large front-end cash bonuses, it should remain available for downstream exploration and development expenses. DOE and DOI are investigating these possibilities.

Summary of Costs

Sectors Affected: The U.S. Treasury; DOE; and DOI.

DOE expects that the most immediate effect of using the bidding system proposed in this regulation would be a reduction in front-end cash bonuses and a consequent reduction of funds flowing into the U.S. Treasury at the time of the lease sale. The reduction in bonus amounts may be eventually offset, at least in part, to the extent that lessees make higher contingency payments during production; however, any such contingency payments would not begin for several years after issuance of the lease. It is also possible that these lower cash bonus amounts may lead to speculative bidding.

In any bidding system where the bid variable is not the cash bonus, there is no assurance that the high bid on a tract will yield the greatest return to the public or to the Government over the life of the lease.

DOE and DOI are investigating these matters.

Related Regulations and Actions

Internal: Final OCS Oil and Gas Leasing Regulations (10 CFR Part 376); Final Accounting Procedures for Determining Net Profit Share Payment for OCS Oil and Gas Leases (10 CFR Part 390).

External: Regulations of the Department of the Interior regarding OCS leases (43 CFR Part 3300).

Active Government Collaboration

As required by § 303(b) of the Department of Energy Organization Act, the Secretary of the Interior was consulted during the preparation of these proposed regulations and afforded the statutory opportunity to comment formally on them.

Pursuant to § 5(a) of the Outer Continental Shelf Leasing Act (43 U.S.C. § 1334(a)), a copy of this proposed regulation has been transmitted to the Attorney General for his views on any matters contained herein that may affect competition. The Attorney General is required to consult with the Federal Trade Commission in the preparation of any such views. Their views will be carefully considered by DOE before the promulgation of any final regulation.

Pursuant to § 605(b) of the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) a copy of this proposed regulation was transmitted to the Chief Counsel for Advocacy, Small Business Administration, for his views on the economic effect of this regulation upon small entities. Any comments of the Chief Counsel will be carefully considered by DOE before the promulgation of any final regulation.

Timetable

Regulatory Impact Analysis—These rules are being promulgated pursuant to judicial order with a judicial deadline that does not permit sufficient time for preparing a complete Regulatory Impact Analysis prior to issuing a final rule. However, an RIA will be made available as soon as possible thereafter.

Regulatory Flexibility Analysis—Not required.

Final Rule—June 30, 1981.

Available Documents

Notice of Inquiry—July 17, 1980 (45 FR 49588, July 25, 1980).

NPRM—46 FR 20522, April 3, 1981.

Public comments in response to the NPRM are available for inspection at the DOE Freedom of Information Office, Room 1E-190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585 (Docket No. LPDO 81-2).

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FEDERAL ENERGY REGULATORY COMMISSION

High-Cost Natural Gas Produced from Wells Drilled in Deep Waters

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3317.

Reason for Including This Entry

This rule will encourage production of natural gas from unconventional sources by setting an incentive price for one source of such gas—gas from wells drilled in deep water. "Unconventional" or "high-cost" gas, gas produced from geologic formations or under other conditions that make it especially expensive or risky to produce, represents an important and abundant domestic energy resource and can help in our national efforts to reduce dependence on foreign fuels.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) placed all sales of natural gas by producers under Federal jurisdiction and set a series of gradually escalating prices for recently discovered or "new" natural gas which more closely approximated the higher costs of alternate fuels at the time that Act was passed. These prices were intended to stimulate production and to smooth the transition to deregulation of most new gas which was set for january 1, 1985 by the NGPA.

Unconventional gas, while abundant, can be discovered and produced only at extraordinary risk or cost. The Natural Gas Policy Act of 1978 (NGPA) specifies certain categories of unconventional gas eligible for an incentive price, that is, a selling price higher than the prices for conventional gas set by Congress and high enough to make recovery of this gas economically feasible. Under § 107(c)(5), the NGPA gives the Federal Energy Regulatory Commission authority to designate other categories of natural gas as unconventional.

In a Notice of Inquiry issued on June 13, 1979, the Commission requested that the public suggest categories of gas which might qualify under § 107(c)(5) for an incentive price as high-cost or high-risk gas. This rulemaking is an outgrowth of the comments received in response to the Notice of Inquiry. All commenters agreed the production of gas from submerged acreage becomes more costly as offshore production moves seaward. Costs and risks escalate rapidly because specially designed exploratory vessels, drilling and production platforms, and other equipment are required.

The purpose of this rule would be to encourage the development and production of one type of unconventional gas—gas produced from wells drilled in deep water—with an incentive price.

Alternatives Under Consideration

The Commission has proposed an incentive price of 150 percent of the otherwise applicable maximum lawful price for gas produced from water 500 feet deep or deeper. Under the proposed regulations, to qualify for the incentive price, surface drilling of the well must have been commenced on or after May 28, 1980. The Commission proposes to qualify submerged acreage in blocks conforming to the blocks leased by the Department of the Interior (DOI) by reference to the 500-foot contour line on National Oceanic and Atmospheric Administration (NOAA) maps.

The Commission specifically solicited public comment on the incentive price necessary to encourage production of natural gas produced from deep water and on the depth at which an incentive price becomes necessary.

The Commission is considering several alternatives. The Commission could:

(A) vary the incentive price;

(B) vary the depth at which drilling is eligible for the incentive price;

(C) establish several depths and set corresponding graduated incentive prices;

(D) take no action.

Comments on the proposed rule and continued staff analysis are expected to provide information on the relative merits of each alternative.

Summary of Benefits

Sectors Affected: Natural gas producers; natural gas users; and the general public.

An appropriate incentive price should permit producers to develop natural gas from wells drilled in deep water on submerged acreage that has already been leased. The pace at which additional development will proceed and the additional volumes of gas that will be produced are not quantifiable. The benefits to natural gas users and the general public of increased domestic supplies of natural gas—a clean, environmentally benign fuel—and the possibility of a concomitant reduction in imports of foreign fuels are likewise not precisely quantifiable.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas users; and the general public.

If the incentive price finally adopted is lower than that necessary to encourage production from deep-water wells, producers will be discouraged from recovering deep-water gas, less gas will be available to domestic consumers and we will not, therefore, be able to displace that amount of imported fuel. Conversely, if a higher than necessary price is adopted, consumers will pay unnecessarily high prices for the additional gas.

Related Regulations and Actions

Internal: The Commission is considering other categories of gas which may be eligible, as high-cost or high-risk gas, for an incentive price.

External: None.

Active Government Collaboration

The Commission worked with the Department of the Interior to develop a method of designating qualified acreage.

Timetable

Final Rule—To be determined.
Final Rule Effective—To be determined.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Impact Analysis prescribed in E.O. 12291. However, the FERC performs essentially the same analysis for rules of major importance, the results of which are reported in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—45 FR 47863, July 17, 1980 (Docket No. RM80-38).

The comments filed on this proposed rule are available to the public at the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, DC 20426.

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FERC

High-Cost Natural Gas: Production Enhancement Procedures (18 CFR Part 271, Subpart G*)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3317.

Reason for Including This Entry

This rule will encourage production of reserves of natural gas which are recoverable only by application of techniques to enhance production which are often too costly to apply at the prices available.

This, along with other categories of "unconventional" or "high-cost" gas, gas produced from geologic formations or under other conditions that make it especially expensive or risky to produce, represents an important and abundant domestic energy resource and can help to reduce imports of foreign fuels.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) placed all sales of natural gas by producers under Federal jurisdiction and set a series of gradually escalating prices for recently discovered or "new" natural gas which more closely approximated the higher costs of alternate fuels at the time the Act was passed. These prices were intended to stimulate production and to smooth the transition to deregulation of most new gas which was set for January 1, 1985 by the NGPA.

Unconventional gas, while abundant, can be discovered or produced only at extraordinary risk or cost. The NGPA specifies certain categories of unconventional gas eligible for an incentive price, that is, a selling price higher than the prices for conventional gas established by Congress and high enough to make recovery of these reserves economically feasible. Section 107(c)(5) of the NGPA gives the Commission authority to designate other categories of natural gas as unconventional.

In a Notice of Inquiry issued on June 13, 1979, the Federal Energy Regulatory Commission requested that the public suggest categories of gas which might qualify under § 107(c)(5) as high-cost or high-risk.

This rulemaking is an outgrowth of the comments received in response to that Notice of Inquiry and a petition filed by the Sun Gas Company requesting the Commission to classify gas produced as a result of production enhancement procedures as high-cost. This petition was supported by other natural gas producers and environmental groups such as Friends of the Earth and the Environmental Policy Center.

Production enhancement procedures often become necessary in order to maintain or to increase production from a depleting well or a well in which production has become marginal. Production supply enhancement procedures eligible under the proposed rule include: (1) re-entry into a well which has been plugged and abandoned; (2) re-entry into a well in order to drill deeper or start a side shaft; (3) reperforation of the well casing or perforation into a separate gas-producing zone; (4) repair or replacement of a faulty or damaged casing or related equipment in the well; (5) acidizing, fracturing, or installation of compression equipment. Current regulations do not allow sufficient flexibility to contracting parties to amend, modify, or renegotiate contracts in order to provide for production enhancement work.

The purpose of this rule is to set a ceiling or maximum price which may be paid by a purchaser and which is high enough to encourage production of reserves of natural gas recoverable only if production enhancement procedures are applied.

Alternatives Under Consideration

The Commission has proposed that gas produced with supply enhancement procedures applied after May 29, 1980 be eligible for an incentive price as high as the price for gas under § 109 of the NGPA. (In August 1980, the price for § 109 gas was $1.72 per million Btu's.) A negotiated contract price must be in effect to ensure that the price for qualified production enhancement gas is set by agreement of all the contract parties. The Commission has also proposed a formula limiting the unit cost of production that results from enhancement procedures so that incremental revenues are not excessive.

The Commission specifically solicited comments on what constitutes a reasonable incentive price and whether other production enhancement techniques should be eligible for the incentive. The Commission also requested any information on the types of supply enhancement projects that will not be undertaken unless the ceiling is even higher that the § 109 price.

The Commission will consider in a separate proceeding whether gas subject to § 104 (gas already dedicated to interstate commerce when the NGPA was enacted) and § 106 (natural gas subject to both interstate and intrastate "rollover" contracts) of the NGPA should be eligible for the incentive price if supply enhancement procedures are necessary to maintain production.

Summary of Benefits

Sectors Affected: Natural gas producers; natural gas users; and the general public.

Large volumes of gas remain in mostly depleted or faulty wells, although it is impossible to estimate the amount. An appropriate incentive price should allow producers to tap reserves on natural gas recoverable only through supply enhancement procedures. The benefits to natural gas users and the general public of increased domestic supplies of natural gas—a clean, environmentally benign fuel—and the possibility of a concomitant reduction in imports of foreign fuels are not precisely quantifiable.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas users; the general public; State jurisdictional agencies; and the Commission.

If the incentive price finally adopted is lower than that necessary to encourage production of reserves recoverable through supply enhancement procedures, these reserves may be left in the ground and therefore, natural gas users and the economy will not benefit from increased domestic supply. If an incentive price that is higher than necessary is adopted, consumers will pay unjustified prices for additional gas.

Workload will be increased at the Commission and at the State jurisdictional agencies in order to determine that the supply enhancement work for which the incentive price is claimed has actually been performed and that such work is in fact necessary to produce the gas.

Related Regulations and Actions

Internal: The Commission is considering other categories of gas which may be eligible, as high-cost or high-risk gas, for an incentive price.

External: None.

Active Government Collaboration

None.

Timetable

Rehearing Decision—To be determined.

Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Impact Analysis as prescribed in E.O. 12291. However, the FERC performs/

essentially the same analysis for rules of major importance and reports the results in the orders issuing NPRMs and final rules.

Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—45 FR 51219, August 1, 1980 (Docket No. RM80–50).

Sun Gas Petition for Rulemaking (Docket No. RM80–41).

Sun Gas Petition for Rulemaking (Docket No. RM80–41).

Final Rule—45 FR 77421, November 24, 1980 (Docket No. RM80–50).

The comments filed on the proposed rule and copies of the final rule are available to the public at the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, DC 20426.

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FERC

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 (18 CFR Parts 2* and 271*)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.*; Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; E.O. 12009, 3 CFR, 1977–78 Comp., p. 142.

Reason for Including This Entry

These proposed regulations would encourage producers of these categories of natural gas to undertake new production or production enhancement projects not otherwise economically feasible. These regulations will cover natural gas production costing millions of dollars annually.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) established a maximum lawful price (MLP) for any first sale of natural gas. The proposed regulations are important in that they would implement the Federal Energy Regulatory Commission's (Commission) authority under the NGPA to set prices higher than the MLP for three categories of gas sales, namely: first sales of gas committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA, first sales of gas under rollover contracts, and first sales of gas not covered by any MLP under any other section of the NGPA. ("First sale" is a term indicating that the sale is subject to the terms of the NGPA and is therefore eligible for NGPA prices. The term does not refer to the first time gas is sold—hence there may be a chain of first sales.) Thus, producers of these categories of natural gas would be encouraged to undertake new production or production enhancement projects not otherwise economically feasible at the MLP specified in the NGPA.

In the past, ceiling prices for producer sales of natural gas were set by the Commission or its predecessor, the Federal Power Commission (FPC), on an area—later a nationwide—basis. These prices were set to cover classes of producers (large or small) and vintage (when the well was drilled or production began). In some instances, however, the ceiling price did not permit a producer to earn a fair profit or, in the extreme case, recover his cost of production. This put the producer face-to-face with two alternatives: continue production at an economic loss, or abandon the well. Neither of these alternatives was in the public interest, as the first affected the producer and would likely discourage further business ventures, and the latter affected the consumer in that it made less gas available. Therefore, regulations called "special relief procedures" were adopted; they allowed producers to apply for prices higher than those set at area or nationwide ceilings.

Passage of the NGPA fundamentally removed the responsibility for establishing ceiling prices from the Commission. The MLP for a particular sale now depends on when the well is drilled, where the gas is produced, and whether it was priced under the earlier practices of the Commission. As part of its general regulatory scheme, however, the NGPA provides that the Commission may set a price higher than that stated in the NGPA for certain types of producer sales; in other words, the Commission may continue to grant "special relief" under the NGPA.

The Commission believes that it is necessary to continue providing producers with the opportunity, in special or unusual situations, to obtain relief from the MLPs. To this end, the Commission has proposed new regulations for granting such relief. The new regulations describe the circumstances under which a producer-seller of natural gas may seek a "special relief" rate, the manner in which the seller may apply for the rate, the process by which the Commission will consider an application, and the cost standards which the Commission will use to determine a special relief rate.

Alternatives Under Consideration

In providing regulations to govern the application for, and granting of special relief under, the NGPA, the Commission must determine which of the various categories of natural gas that are priced under the NGPA will be eligible for the relief, and on what basis it will grant the relief. There are alternatives for both of these questions.

The Commission has the authority to grant special relief for the three above-discussed categories of natural gas sales. It does not, however, have authority to grant special relief for the remaining five categories of natural gas sales defined in the NGPA, namely: new natural gas and certain natural gas produced from the outer continental shelf; natural gas produced from new, onshore production wells; natural gas sold under existing intrastate contracts; certain high-cost natural gas; and stripper well natural gas (wells which produce at very low rates). However, the NGPA could be read to permit a price higher than the MLP for these categories under circumstances which might be considered as warranting "special relief." The Commission is, therefore, considering other rulemaking procedures to encompass some or all of these categories.

Also under consideration is the advisability of an upper limit or "cap" on special relief. The Commission has requested comments on this issue, and a related one: If a "cap" is indeed advisable, what should it be?

One of the more complex problems in establishing a rule for special relief is the criteria by which the Commission should determine a special relief rate. Under the old special relief rules a producer could recover either out-of-pocket expenses or a rate sufficient to provide a fair return on past and future costs, including any extra investment he had to make. The new regulations, while simplifying the standards by providing a formula approach, also distinguish between a producer who must undertake an important investment to make his well economically productive, and one who needs no further investment but needs special relief to cover ongoing operating and maintenance expenses.

The most difficult issues concern the rates to be granted to producers making new investment. The Commission must

decide what kinds of investment should be recovered and what the appropriate rate of return on investment should be.

The relative pros and cons of alternative standards are extremely complex. In deciding among them, the Commission must balance the impact of each alternative against the practicalities of producer regulation, the supplies affected, the administrative difficulty (or simplicity) of the regulations, and the intent of the NGPA.

Summary of Benefits

Sectors Affected: The Commission; natural gas production; natural gas pipelines; and natural gas consumers.

This proceeding will directly benefit producer-sellers of natural gas. It will provide the sellers with an opportunity to petition for maximum lawful prices greater than those explicitly set forth under the NGPA. This is important for those sellers who might incur real economic harm or hesitate to undertake new projects because the costs to produce their gas exceeds the MLP they could get for the gas under the NGPA.

In addition, the proceeding will benefit the pipelines that purchase the gas and the ultimate consumers. The benefits will be in the form of added supplies of natural gas—a clean, environmentally benign fuel—which would otherwise never reach the market. These added supplies may permit a reduction in imports of foreign fuels.

The new procedures of the proposed rule should result in a more economical use of the Commission's time. Thus, administrative costs should be lower than under prior practices. However, about 130 requests for special relief are now pending. These cases, originally filed under the old procedures, form a backlog requiring immediate administrative action under the new procedures.

Summary of Costs

Sectors Affected: The Commission; natural gas producers and sellers; natural gas pipelines that purchase the gas; and natural gas consumers.

The procedures to allow special relief applications will add to administrative time and costs at the Commission. The number of petitions for special relief that may be filed cannot be determined at this time and will depend upon many variables, including general economic trends and the particulars of individual cases. About 50 to 60 cases per year were administered under the old special relief procedures. This would be a realistic estimate for cases filed under the proposed regulations.

The granting of a special relief rate means that a producer can receive a higher price for the sale of his gas. This higher price can be passed through to the ultimate consumer. The exact magnitude of this effect is unknown but could well reach millions of dollars annually.

Related Regulations and Actions

Internal: Regulations implementing the Natural Gas Policy Act.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—To be determined.

Rehearing Decision—To be determined.

Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Impact Analysis prescribed in E.O. 12291. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.

Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—44 FR 49468, August 23, 1979 (Docket No. RM79–67).

Notice Granting Extension of Time to Comment—44 FR 53759, September 17, 1979 (Docket No. RM79–67).

Notice of Public Hearing, issued October 13, 1979 under Docket No. RM79–67.

Notice of Request for Public Comments and Notice of Public Discussion, 45 FR 5321, January 23, 1980 (Docket No. RM79–67).

NPRM—45 FR 31744, May 14, 1980 (Docket No. RM79–67).

Transcripts of public hearings and public discussions, and written comments are available at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC 20426.

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FERC

Rate of Return on Common Equity for Electric Utilities (18 CFR Part 2)

Legal Authority

Federal Power Act, 16 U.S.C. §§824, 824d and, 824e (Supp. 1979) and 42 U.S.C. § 712(a)(1)(B)(Supp. 1979).

Reason for Including This Entry

The Commission regulates the sale of electric power sold wholesale in the interstate market. This means that the Commission regulates about 13 percent of the total sales of electricity made in the U.S. This rulemaking can have an important impact on the amounts paid by those who purchase electric power in sales regulated by the Commission and on the ability of those utilities that make those sales to raise money for capital improvement. The rulemaking can also have an important impact on the processes used by the Commission to decide ratemaking issues.

Statement of Problem

The Federal Energy Regulatory Commission (FERC) has begun an inquiry to explore alternatives to the case-by-case procedure it now uses in setting an allowed rate of return on common equity for electric utilities that sell wholesale electric power. "Return on common equity" is the amount of the utility's total revenues—earned by the rates charged for electricity—that remains for sharing among common shareholders or for improving the business after payment of expenses and debts (including dividends to preferred shareholders).

FERC now sets the allowed rate of return, a percentage that defines the return to be permitted on the common shareholders' capital contribution to the utility, for each utility individually as part of its general rate case. This takes time and involves a great deal of highly involved financial analysis. If a new generic procedure can be developed, the necessary calculations in each of these rate cases could be greatly simplified. This can mean not only a savings in time for the FERC and the utilities (and as time frequently means money, a savings to those utilities' customers), but also a more accurate determination of a critical component of a utility's rate structure.

Electric utilities finance construction of new plant and equipment to serve ratepayers just like other businesses, that is, with a mixture of borrowed funds (debt) and the utilities' shareholders' invested funds (equity). In general, those who purchase the utilities'

electricity (the ratepayers) do not finance new construction or system upgrading. They only pay for the plant that is actually in use for current service. For this reason, the utilities must attract investors and raise capital for construction. To do this, the utilities must be allowed a sufficient rate of return on investment; that is, they must be permitted a rate that—considering the riskiness of the business and other factors—will cover their costs of equity capital.

Many local electric utilities do not own facilities to generate power, and confine their operations to the distribution of electric power bought in interstate wholesale transactions. Under the Federal Power Act of 1935, FERC set the rates for these interstate wholesale power transactions. The FERC regulates rates charged by 211 privately owned electric utilities for their wholesale sales of electricity—about 13 percent of the total annual sales of electricity in the U.S. This authority to set rates is, of course, the authority to specify the overall revenues of the utility; included within these overall revenues is a recovery of equity capital costs through the Commission-established rate of return on common equity investment.

Because many rate increases filed by electric utilities subject to the FERC's jurisdiction are contested by customers of utilities, in order to determine an appropriate rate of return on equity, extensive evidence must be taken in a trial-type hearing before an administrative law judge. The equity rate of return issue is at present essentially considered anew in each contested rate case, and is thus now determined on a utility-by-utility, case-by-case basis.

In a special report to Congress ("Decisional Delay in Wholesale Electric Rate Increase Cases: Causes, Consequences and Possible Remedies," January 23, 1980), FERC Chairman Charles Curtis spoke of the Commission's large and growing electric rate caseload and the length and complexity of electric rate cases. At that time, he suggested that the Commission should work to develop alternative methods for determining the equity rate of return, perhaps the most important and time-consuming of the many elements in a rate case. This is because electric utilities, like most other regulated utilities, are "capital intensive"—that is, far more than in unregulated manufacturing or retailing industries, a considerable amount of capital investment in plant, including costly transmission and distribution equipment, is required to earn a relatively low level of revenues. The cost of invested capital accordingly is a relatively much larger component of the final "sale price" of a kilowatt hour of electricity, than it is, for example, in the case of a pair of shoes. Moreover, the allowed level of this element of a utility's total cost of service will in a sense determine that utility's net profit—and it thus is not surprising that disputes on this matter are frequent.

Although the capital structure, business organization, and financial condition of electric utilities vary widely, there are enough similarities to suggest that a more general approach to equity rate of return questions might be possible.

Alternatives Under Consideration

The Commission has four basic alternatives to consider in determining a method for setting the common equity rate of return for electric utilities.

(A) The Commission could continue the current practice of determining the rate of return on a case-by-case basis. This method is geared to individual company requirements and circumstances, and complex issues of corporate finance and economic market conditions are considered. The advantage of this method is that these individualized factors can be carefully weighed and—in theory—a finely-tailored result will be produced. However, this alternative necessarily involves a large commitment of efforts by analysts, accountants, and attorneys from the utilities, and at the FERC, and additional efforts in the Federal courts.

(B) The Commission could develop a general, or generic, approach for determining an appropriate return for all electric utilities. Within this general approach, there are three options.

(1) The Commission could establish a specific percentage rate of return, based on industry-wide averages, that would apply to each utility. Once the "standard rate" had been set, this approach would be easily and cheaply administered; and FERC could develop a system of periodic revisions to keep the industry average rate of return current with existing capital market conditions.

(2) FERC could set a limited range of percentages within which the equity rate of return for each utility could be set. Depending on whether a given utility's equity costs were relatively low, medium, or high, its return could be set at the bottom, middle, or top of this zone. However, litigation over whether a specific utility falls in the upper, middle, or lower classes could be just as lengthy and costly as the current litigation over what the percentage rate should be.

(3) A "formulaic" alternative would involve the use of a general formula for setting rate of return on a case-by-case basis: Appropriate utility-specific numbers, when entered into the general formula, would result in a return for that specific utility. With this alternative, the Commission could speed up rate cases while retaining some of the advantages of examining each company's specific structure and capital requirements. There are many precedents for this formulaic approach: For example, the valuation of oil pipelines has been determined in a similar manner for more than 40 years. However, litigation over the utility-specific numbers that would be entered into the formula could create costly delays.

While the results of all these generic approaches may not be as "individualized" as those produced by the present case-by-case approach, it is possible that the savings in litigation costs (both to utilities and FERC) may easily offset the arguable precision that the current system achieves.

All three generic alternatives were developed in some detail by a special FERC Staff Study Group, and were presented to the Commission and its staff. This presentation, including the report entitled "Establishing the Rate of Return on Equity for Wholesale Electric Sales: Potential Regulatory Reforms," was made public for comment and discussion on December 15, 1980. A public hearing, attended by representatives of electric power sellers and buyers, the Special Study Group, and FERC staff, was held January 30, 1981, to discuss this report, and written comments from the public have also been submitted. The concept of the report—that there should be a generic approach to setting rates of return—was well received. However, there was no consensus as to which of the three specific approaches (single inflexible percentage rate, range of permissible rates, or formula) was best suited to the needs of the public, the utilities, or the Commission. There was a recommendation from the participants in the public conference that whatever approach the Commission adopts, that approach should be followed concurrently with the current system of case-by-case treatment until the new approach "proves out."

The next step may be an NPRM. Staff will be making its recommendations on such a proposal to the Commission later this year.

Summary of Benefits

Sectors Affected: Electric utilities selling power at wholesale; investors

in those utilities: electric utilities purchasing power at wholesale; and ultimate industrial, commercial, agricultural, and residential consumers of electricity.

Shortening the time to decide rate of return issues and simplifying the processes involved could benefit electricity consumers, electric utilities, and the Commission.

Under the law, a utility that sells electric power at wholesale and that wishes to increase its rates must file with the FERC a rate increase notice. The new rate goes into effect no sooner than 2 months after the rate increase is filed with FERC, and no later than 7 months after it is filed with the FERC. However, a final FERC decision on whether the new rate is proper can require an additional 2 or 3 years, or even longer; thus, until that final decision is made, both customers and the selling utility cannot be certain that the new rate is lawful—even though it may have previously gone into effect and is being charged to the rate-payers.

Although these rates are collected subject to the seller's obligation to refund to the customers any excess charges (plus interest) if the new rate is finally determined to be too high, the uncertainty of what that refund will be (if any) makes it difficult for utilities—which both sell and buy the electricity—to decide on firm financial commitments and attract investors. Any procedural change that can speed up the time required to finally decide the proper rate reduces that uncertainty, and the substantial costs thereby created.

Summary of Costs

Sectors Affected: Electric utilities selling power at wholesale; investors in those utilities; electric utilities purchasing wholesale power; and ultimate consumers of electricty.

Depending on which alternative the Commission selects and how the Commission decides to implement the method selected, there may be costs to one or more of the sectors involved. A high rate of return would result in higher costs to consumers. Conversely, a low rate would reduce rates to consumers. But low rates might also adversely affect investor interest in individual utilities and utilities in general; that in turn might force the utility to postpone needed new construction to a later date, when it may well be far more costly; and these postponements in turn might well result in poorer or more costly service to the ratepayers.

If the generic alternatives are adopted—for example, industry-wide determinations of an appropriate rate of return through the use of either a single number, a zone, or a formula—there will be additional costs.

First, there is an administrative development cost. To develop a workable procedure will most likely take a considerable amount of FERC time and manpower. And these commitments must, in some measure, be maintained in future years in order to "fine tune" the number, range, or formula over time to accord with the vagaries of shifting financial conditions and capital markets.

Second, there will be an implementation and use cost. This is particularly true if the percentage range approach is adopted. Under that approach, although a "high" and a "low" rate is set, precisely where between these two extremes a specific utility may fall will likely be a subject of administrative litigation, much as now occurs. While the scope of that litigation might be considerably narrower than it is at present, it may still be complex and time-consuming. The single rate and formula approaches minimize this type of cost, by virtue of their inflexible rigidity.

Third, there is the cost that accompanies a "wrong" result, when a particular utility is subjected to the "wrong" rate of return. If that rate is too low, the utility will suffer, and ultimately, so will its customers; if it is too high, the customers will pay too much, for too little service. This potential cost problem is most likely with the single rate approach, for that approach is the least utility-specific. Conversely, it is least likely with the formula approach.

Fourth, because a generic or industry-wide ratemaking procedure may not cover all utilities—for example, utilities at the extreme ends of the industry norms may be deliberately excluded from the generic rate because they are so atypical (e.g., their financial structure or condition or their capital costs are substantially different from the industry norms)—there is a possible added cost that could be incurred in determining the proper rate of return for atypical companies that cannot "fit" under a generic approach. This would be the cost of a case-by-case ratemaking procedure for those special cases that would not be addressed under some of the generic alternatives.

At the present time, all of these various costs are very much unquantifiable, and subject to much debate. Some, such as the costs of a "wrong" decision, can never be computed.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—To be determined.
Final Rule—To be determined.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Impact Analysis as prescribed in E.O. 12291. However, the FERC performs a similar analysis for rules of major importance, and includes the results in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—To be determined.

Available Documents

Staff Study Group Report and Executive Summary, "Establishing the Rate of Return on Equity for Wholesale Electric Sales: Potential Regulatory Reforms," RM80-36, December 15, 1980.

Transcript of public hearing held January 30, 1981, to discuss the Staff Study Group Report.

Written comments submitted in response to the Report.

All documents are available at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC 20426, during regular business hours.

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FERC

Regulations Governing Applications for Major Unconstructed Projects (18 CFR Part 4*)

Legal Authority

Federal Power Act, 16 U.S.C. § 791a *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.*

Reason for Including This Entry

This rulemaking is important because it simplifies and clarifies licensing requirements and procedures for major projects yet to be constructed, thereby making the development of new sources of hydroelectric power generation—a

renewable energy resource with great undeveloped potential—more attractive and efficient.

Statement of Problem

This rulemaking is the third phase of the Federal Energy Regulatory Commission's (FERC) licensing reform program for all projects built for the generation of electric energy by water power that are within the Commission's jurisdiction.

Section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA) charges the Commission to establish simple licensing procedures for water power projects which are connected with existing dams and have a capacity to generate 15 megawatts (20,000 horsepower) or less of electricity at any one time. The Commission is extending this reform effort to licensing procedures for all water power projects. As a result, this rulemaking proposes licensing reforms which deal with all "major" projects (those with a generating capacity of more than 1.5 megawatts or 2,000 horsepower) (1) for which there is no dam or impoundment (body of water impounded by a dam) at the time of the application, or (2) which would result in a significant increase in the normal surface elevation of an existing impoundment, or (3) which are otherwise determined, pursuant to the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), to have a potentially significant environmental impact.

The current requirements governing licensing of major water power projects are to be found in various sections of the Commission's regulations. An applicant may be required to submit information in as many as 23 different exhibits within each application. Frequently, the existing regulations do not explain in sufficient detail what information applicants must submit. This can result in duplicate filings or deficient applications. The revision of the regulations governing major unconstructed projects where no dam or impoundment has been built will consolidate and simplify the information required of any applicant in order to elicit only that information which is relevant to an informed decision on the merits of the application.

Projects of the magnitude covered by this rulemaking naturally result in more significant environmental disturbances than other, smaller water power projects. The Commission will therefore require any applicant for a major unconstructed project to file an Environmental Report of considerably greater depth and detail than it will require for smaller projects or projects at existing dams. The Commission is also revising its NEPA regulations that set forth the specifications of an Environmental Report for all projects, and is tailoring the requirements for such reports to the type of water power project for which the applicant seeks a license. The need for relatively greater detail concerning such projects also extends to information relating to their structural and financial integrity.

Alternatives Under Consideration

The Commission is not required by PURPA to reform its licensing procedures for hydroelectric projects that are not connected with existing dams. Nevertheless, the FERC has previously reformed hydroelectric licensing procedures outside the scope of PURPA, and this rulemaking accordingly extends to major unconstructed projects the benefits of the simplified licensing program.

The Commission must determine how it will revise the licensing procedures, and decide which of the current reporting requirements to simplify and consolidate. For example, the Commission must determine how extensive the Environmental Report for such projects must be. Because construction of a dam involves flooding land permanently and for the first time and the impacts of extensive construction activity, more environmental detail will be needed to assess the environmental impacts of such a project than is needed for projects where the dam already exists. The Commission will also revise its NEPA reporting requirements to require an Environmental Impact Statement for all such projects.

Summary of Benefits

Sectors Affected: The Commission; State, municipal, and private developers of major unconstructed hydroelectric power projects within the jurisdiction of the Commission; consumers of hydroelectric power; and the general public.

Better licensing procedures should expedite the licensing of water power projects, thus encouraging hydroelectric development. This in turn may help replace costly imported energy supplies with this cheap, renewable energy resource.

Additional hydroelectric facilities will mean that more consumers will have access to hydropower. This may create greater stability in the cost of electricity to consumers. It may even result in lower rates for electric power.

The improved regulations will help conserve the manpower and financial resources of both the Commission and the hydroelectric facility applicants, because the regulations will be more understandable and more reasonable in their requirements. As a result, developers may file fewer deficient applications which require upgrading, and both developers and the Commission may waste less time interpreting and litigating the regulations.

By obtaining more complete environmental data, the improved regulations should also enable the Commission to better fulfill its obligations under NEPA to identify and minimize adverse environmental disturbances. The public will benefit because development of hydropower will be more attractive and adverse environmental impacts will be minimized.

Summary of Costs

Sectors Affected: State, municipal, and private developers of major unconstructed hydroelectric power projects within the jurisidiction of the Commission.

This proposal will require an applicant for a license to construct a major project to file with the Commission a more detailed Environmental Report than is required for smaller projects or for projects at existing dams. The Commission will also require greater specificity regarding the structural and financial integrity of these projects. This will create an additional reporting burden for major project developers. The burden should not discourage them from applying for licenses, however, in light of the significant improvements in the other licensing procedures.

Related Regulations and Actions

Internal: The first phase of the licensing reform program revised the licensing regulations for all "minor" projects (installed capacity of 1.5 megawatts or less) (FERC Order No. 11, 43 FR 40215, September 11, 1978). The second phase revised the regulations for "major" projects (more than 1.5 megawatts of installed capacity) where at least a dam and impoundment are in existence at the time of the application (FERC Order No. 59, 44 FR 67645, November 27, 1979). In conjunction with these reforms, the Commission also revised its procedural regulations governing licenses and preliminary permits for all water power projects (FERC Order No. 54, 44 FR 61328, October 25, 1979).

The Commission proposed new Regulations Implementing the National Environmental Policy Act of 1969

governing the collection, evaluation, and dissemination of environmental information concerning Commission actions (NPRM, 44 FR 50052, August 20, 1979, Docket No. RM79–76).

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—June 1981.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Impact Analysis prescribed in E.O. 12291. However, the FERC performs essentially the same analysis and includes the results in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—To be determined.

Available Documents

FERC Order No. 11, 43 FR 40215, September 11, 1978.
FERC Order No. 59, 44 FR 67645, November 27, 1979.
FERC Order No. 54, 44 FR 61328, October 25, 1979.
NPRM, 44 FR 50052, August 20, 1979, Docket No. RM79–76.
NPRM, 46 FR 10165, February 2, 1981, Docket No. RM80–39

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FERC

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act (18 CFR Part 271, Subpart K*)

Legal Authority

15 U.S.C. § 3320(a) (Supp. II 1978).

Reason for Including This Entry

These regulations will determine who pays for certain services necessary for natural gas production and transportation and how much may be paid for those services.

This rule involves millions of dollars annually in potential revenues to producers and other sellers of natural gas. The Federal Energy Regulatory Commission (FERC), in providing for collection of production-related costs, will establish a workable set of rules for natural gas pricing which may increase deliveries of properly compressed, treated, and processed gas for shipment to ultimate consumers.

Statement of Problem

On December 1, 1978, the Natural Gas Policy Act of 1978 (NGPA) became law. By that law, the Congress established maximum prices for which a producer could sell natural gas. In establishing these prices, the Congress specified that a producer could collect amounts above the maximum lawful prices when the producer incurred particular types of costs, if the Commission approved.

When the NGPA went into effect, the Commission put out interim regulations implementing the Act. Among those regulations were rules defining who could apply to the Commission for production-related costs, what costs could be applied for, and how an application could be made for authorization to collect the add-ons (i.e., additions to a ceiling price that compensate a producer for certain production-related costs) for the costs. The Commission solicited comments on these interim regulations and amended them in July of 1980.

The July 1980 amendments attempted to address three important problems. First, how can the Commission establish a mechanism so that a producer can promptly receive approval to add on to a ceiling price an amount for production-related costs? Second, how can the Commission best respond to the situation in which a pipeline company rather than the producer agrees to incur production-related costs? And third, how can the regulations best be designed to ensure that a producer knows what can be applied for and how to apply?

Alternatives Under Consideration

In implementing the production-related cost section of the NGPA, the Commission has two basic alternatives. It could provide a "simple rule" outlining who can apply, what kinds of production-related costs can be applied for, and how to apply. This was the approach used in the interim regulations first issued to implement the NGPA. That approach was based on a case-by-case determination of cost add-ons and only treated cases in which the producers or other sellers of natural gas incur the production-related costs.

Alternatively, the Commission could establish certain categories of production-related costs that could automatically be added to a producer's ceiling price and provide for situations when the purchaser, instead of the seller, agrees to incur those costs. In this way, the administration of the program becomes simpler, and both the seller and the purchaser are considered. This was the approach adopted by the Commission in the July 1980 amendments.

In adopting this approach, the Commission decided to proceed step-by-step. First, the regulations were amended to immediately provide that certain minimal types of production-related costs could be automatically added by a producer to a sales price without further administrative action or delay. Second, the two most important types of production-related costs were isolated—costs for gathering natural gas (i.e., collecting it from individual wells and bringing it to a common transporting system) and compressing natural gas (i.e., pressurizing it so that it will move from the gas well to and through a transporting system). An appropriate add-on for these costs will be determined in separate notices of proposed rulemaking so that they too may automatically be added on by sellers.

Third, a policy statement for pipelines that purchase natural gas from producers was issued. This policy describes the types of production-related activities that the Commission will automatically permit in the pipeline's rates, further simplifying administrative proceedings.

Finally, FERC would propose a new rule to mark out certain costs that will be considered production costs, as opposed to production-related costs. These costs must therefore be covered by the sales price for the gas, which price cannot exceed the maximum lawful price.

Summary of Benefits

Sectors Affected: Producers and other sellers of natural gas; industry purchasers of natural gas, such as pipelines; and ultimate consumers of natural gas.

All sectors will benefit from a workable and prcticable set of rules governing collection of production-related costs.

This rule involves several millions of dollars in potential revenues to producers and other sellers of natural gas. The Commission, in providing for production-related costs, is seeking to establish a workable set of rules for natural gas pricing and to increase deliveries of properly compressed, treated, and processed gas for shipment to consumers.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas purchasers; and natural gas consumers.

Any and every add-on permitted by the Commission to a producer will increase the sale price of natural gas. This price must be paid in all cases by the ultimate consumer of that gas. To the extent that a producer does not get an add-on for a production-related cost, or is delayed in getting the add-on, the producer will incur costs. To the extent that the add-on is permitted, costs will be incurred by natural gas purchasers and, ultimately, paid by natural gas consumers.

The cost involved is sizable but not quantifiable. The amounts involved will be determined by several factors: how many sellers request or receive add-ons; what add-ons are sought; and the amounts of those add-ons. Some measure of the potential impact of the rule can be deduced from the number of producing natural gas wells in the country. There are some 15,000 such wells now in existence, and more being completed every year. There may be production-related costs allowed for most, if not all, of these wells.

Related Regulations and Actions

Internal: Because of the step-by-step process, there are several rulemakings involved. These will include, in addition to the main docket described in this entry, the rulemaking for gathering allowances (Docket No. RM80-73), the rulemaking for compression allowances (Docket No. RM80-74), and a rulemaking for production costs (Docket No. RM80-72). Also, rules considered under Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80-14 (issued January 18, 1980, 45 FR 5678, January 24, 1980), may affect this regulation.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—Mid-1981.
Final Rule Effective—The rule is effective on an interim basis as of July 25, 1980.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Impact Analysis as prescribed in E.O. 12291. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—Not required.

Available Documents

The interim regulations on which this proceeding is based were published in the **Federal Register** of December 1, 1978 (43 FR 56488).

Amendments to interim regulations, Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80-47 (issued July 25, 1980, 45 FR 53099, August 11, 1980).

NPRM, "Special Rule Under Part 270: Production Costs and Maximum Lawful Prices in Sales Under the Natural Gas Policy Act of 1978," 45 FR 61643, September 17, 1980, Docket No. RM 80-72.

Notice of Inquiry, "Gathering and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," 45 FR 84814, December 16, 1980, Docket Nos. RM80-73 and RM80-74. This is a special staff report, published for public comment, that estimates costs for gathering and compressing natural gas.

Transcripts of hearings and comments on the interim regulations and their amendments and the notices of inquiry and proposed rulemaking are available and may be obtained from the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, DC 20426.

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FERC

Revised Rules of Practice: Procedures To Expedite Trial-Type Proceedings (18 CFR Part 385)

Legal Authority

Administrative Procedure Act, 5 U.S.C. §§ 551-557; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.;* Federal Power Act, 16 U.S.C. § 791 *et seq.;* Natural Gas Act, 15 U.S.C. § 717 *et seq.;* Natural Gas Policy Act, 15 U.S.C. § 3301 *et seq.;* Public Utility Regulatory Policies Act, 16 U.S.C. § 2601 *et seq.;* and Interstate Commerce Act, 49 U.S.C. § 1 *et seq.*

Reason for Including This Entry

This rulemaking can have an important impact on how the Commission operates in reaching decisions. In addition, this rulemaking will have a significant impact upon those who take part in that process.

Statement of Problem

Many of the Federal Energy Regulatory Commission's (FERC) most significant ratemaking and licensing decisions are initially determined in formal, trial-type proceedings—proceedings in which evidence on disputed factual matters is formally presented in hearings presided over by an independent Administrative Law Judge (ALJ), with testimony by witnesses who are subject to cross-examination, and a decision made by the ALJ based solely upon the record evidence. To avoid costly delays and excessive litigation, it is imperative that the FERC's rules establishing the procedural requirements for these formal, on-the-record, trial-type proceedings be as clear, simple, and precise as possible.

This proposed rulemaking seeks to clarify, simplify, and reorganize the FERC rules governing trial-type proceedings so that uncertain or confusing rules are clarified, and out-dated rules are revised to provide shorter and more sensible procedures. These changes should significantly help to expedite formal natural gas pipeline, oil pipeline, hydroelectric, and electric utility ratemaking and licensing proceedings at the FERC, as well as a variety of other proceedings which are handled in a less formal manner.

Since its inception in 1977, the Commission has been faced with a substantial backlog of numerous proceedings which had been pending for a number of years. In mid-1978, it undertook an examination of its decisionmaking process. To this end, the Commission established an Advisory Committee on the Rules of Practice and Procedure. One of the subcommittees was asked to focus on the procedures governing formal, trial-type proceedings. The final recommendation of that Subcommittee is the subject of this rulemaking.

There are two primary objectives in this proposed rulemaking: First, to create a comprehensive set of rules that can be easily understood by all persons affected by Commission action; these include all who come to the Commission seeking rates or licenses (both electric utilities and gas pipelines and producers) and their customers. Second,

to recommend new hearing procedures that would remove unnecessary work from the Commission's agenda and expedite decisionmaking by the Commission.

The need for reorganized and comprehensive FERC procedural rules is compelling. The Department of Energy Organization (DOE) Act conferred upon the Commission many functions of the old Federal Power Commission (FPC) as well as the oil pipeline ratemaking functions of the Interstate Commerce Commission (ICC). Provisions in the DOE Act (42 U.S.C. § 7295) continued the effectiveness of FPC and ICC regulations for Commission proceedings previously conducted by those agencies, until such time as the Commission promulgates its own procedural rules. Accordingly, at this time, the Commission operates under two unrelated sets of rules. This, of course, is difficult and confusing for both the Commission and the public. Equally confusing is the fact that in many respects the existing FPC and ICC rules are obsolete and do not accurately reflect current Commission practice.

Work on these proposed rules has led to the conclusion that a complete reorganization of the procedural rules was necessary to achieve a set of rules that could be easily found in the Code of Federal Regulations and understood by all who practice before the Commission.

Among the areas addressed by the proposal are the following:

- pleadings, tariff or rate filings, notices of tariff or rate examination, orders to show cause, intervention, and summary disposition;
- formal hearings, including the powers of presiding officers, the presentation of evidence, and the examination of witnesses;
- conferences, settlements, and stipulations;
- decisions by presiding officers and by the Commission;
- shortened procedures;
- commission review of remedial orders;
- commission review of adjustment request denials;
- petitions for adjustments under the Natural Gas Policy Act (NGPA);
- cooperative procedure with State commissions;
- subpoenas, depositions, and NGPA interpretations;
- formal filing requirements;
- appearance and practice before the Commision; and
- ex parte communications and separation of functions between advisory and trial staff.

Alternatives Under Consideration

This proposal presents the Commission and its staff with an unusually wide variety of alternatives. For example, to what extent should the Commission treat in a similar fashion the different types of legal filings presented to it—applications, tariff and rate filings, complaints, notices of protest or intervention, adjustment requests, motions, answers, orders to show cause, and other pleadings or amendments to pleading—in order to reduce the complexities necessarily introduced by a different legal status and effect for each of these filings? Or will a more uniform treatment instead blur legitimate distinctions among these different filings, make them less suited to fulfill the specific legal functions they do serve, and thereby result in greater confusion and delay? If a more uniform treatment is desirable, to what extent can the Commission achieve it with each type of filing?

Similarly, to what extent should the FERC expressly codify in these rules a variety of procedures and practices customarily followed at the FERC, but not specifically set down in detail in the present FERC rules? Too much specific codification can result in overly-detailed, inflexible, and unwieldy rules; but too little can be equally counterproductive, simply because vague rules may create uncertainty and in turn, needless litigation.

Summary of Benefits

Sectors Affected: Natural gas producers and pipelines; oil pipelines; electric utilities; cogeneration and small power producers; hydroelectric powerplants; persons served by these facilities; and the FERC.

The most likely benefits will be in the form of more rapid, simpler, and less costly processing of the wide variety of filings made with the FERC by the industries regulated by it, and in the form of shorter, more streamlined formal hearings in ratemaking, certificate, and license proceedings.

These savings cannot be quantified. However, it is expected that they will translate into not only savings of dollars to the private and public sectors; but, because of changes in the processes, better participation by all involved.

Summary of Costs

Sectors Affected: Natural gas producers and pipelines; oil pipelines; electric utilities; cogeneration and small power producers; hydroelectric powerplants; and persons served by these facilities.

The most likely costs will be those inevitably occasioned by any new procedures—attorneys practicing before the FERC, and to some extent their clients, will have to become familiar with, and master, a new set of ground rules; and so will the Commission's Members, administrative law judges, and trial, supervisory, and advisory staff. It is accordingly important that the new rules be drafted in a way that minimizes these "switchover" costs as much as possible. Although these costs are impossible to quantify, some portion of them could be borne by consumers and taxpayers in general.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Public Comment Period—Written comments due by June 1, 1981.
Final Rule—To be determined.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Impact Analysis as prescribed in E. O. 12291. However, the FERC performs a similar analysis for rules of major importance, and includes the results in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—To be determined.

Available Documents

Report of FERC Advisory Committee on the Rules of Practice and Procedure, February 13, 1981.

Notice of Proposed Rulemaking, Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings, issued March 9, 1981, Docket No. RM78-22 (46 FR 17023, March 17, 1981).

Transcript of public hearing held May 19, 1981.

All documents are available at the Commission's Office of Public Information, Room 1000, 825 North Capital Street, N.E., Washington, DC 20426, during regular business hours.

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FERC

Revision of Form 1 Annual Report by Electric Utilities

Legal Authority

Federal Power Act, § 304, 16 U.S.C. § 825c.

Reason for Including This Entry

The Federal Energy Regulatory Commission (FERC) is systematically reviewing each of its information collection and reporting forms, to verify whether all the data thereby collected are in fact required by the FERC to carry out its regulatory responsibilities. This rulemaking is part of that effort and should result in a substantial reduction in reporting requirements imposed on electric utilities.

Statement of Problem

One of the major reporting requirements imposed by the FERC on the electric utility industry is the annual Form 1 report. The Form 1 collects summary information on corporate organization, finances, balance and income statements and their supporting information, and electric plant sales and operating and statistical data. Form 1 must be filed by all investor-owned utilities that earn annual operating revenues of $1 million or more, and either sell electricity for resale in interstate commerce, or transmit electricity in interstate commerce. On the average, it takes about 1,500 person-hours to complete the form. By eliminating the reporting in Form 1 of data that are not used by the FERC, this rulemaking seeks to minimize unnecessary reporting burdens and costs now borne by these utilities, and in turn, by their ratepayers.

The present version of Form 1 has evolved over many decades, by the intermittent addition of new reporting requirements, to a point where a substantial volume of data is now required. Over that same time period, however, there have been numerous changes in applicable law and Commission policy. Despite these many changes, a comprehensive review of the FERC's present need for each item of information collected under Form 1 had never been instituted. Such a review is the purpose of this rulemaking.

This review—undertaken in accordance with the goals of Executive Orders 12044 and 12291, which urge Federal agencies to systematically review their information collection demands and delete unnecessary reporting requirements, and the similar mandate of the Paperwork Reduction Act of 1980, 35 U.S.C. § 3501—has to date resulted in plans to delete about 28 percent of the information currently required under Form 1.

Alternatives Under Consideration

In one sense, this proposal presents the FERC with hundreds of alternatives: That is, for each of the hundreds of items of information now submitted in Form 1, the FERC may choose to retain that reporting requirement in its entirety; or choose to partially reduce the requirement by setting different information thresholds or by requiring summarized or aggregated data instead of more detailed data arranged in a subcategory-by-subcategory basis; or choose to entirely delete that specific data requirement.

In each case, the decision will depend on the Commission's assessment of its current need for the data in order to carry out its ratemaking duties; whether the data at issue are currently collected under some other reporting requirement and are thus otherwise available; and whether the data can be collected by means of separate filings by utilities made in support of proposed rate increases, or pursuant to data requests by parties in formal rate proceedings.

Summary of Benefits

Sectors Affected: Electric utilities, including investor-owned utilities and non-investor-owned utilities that purchase wholesale power or transmission services from investor-owned utilities; and all ultimate consumers of electricity generated or transmitted by investor-owned utilities.

The most likely benefit is a reduction in reporting burdens currently incurred by reporting utilities. The Commission's best estimate is that, by deleting about 28 percent of the information currently required under Form 1, the electric utility industry would save a total of approximately 167,000 hours of effort—the equivalent of several millions of dollars in salaries and related costs. These savings could be shared by the utilities and their customers.

Summary of Costs

Sectors Affected: Electric utilities, including investor-owned utilities and non-investor owned utilities that purchase wholesale power or transmission services from investor-owned utilities; and ultimate consumers of electricity.

The most significant costs imposed by the proposed reduction in reporting requirements will likely be the added costs incurred by purchasers of electricity from investor-owned utilities—including other utilities, and industrial, commercial, agricultural, and residential ratepayers—who presently use the information reported in Form 1 to monitor and scrutinize the prudence of electric utility investments and costs, and to challenge the lawfulness of proposed utility rate increases. These added costs, which are difficult to quantify, will be the costs of using other means to gather information that may no longer be reported under Form 1, but which may still be relevant to a State or Federal rate or licensing proceeding involving an investor-owned utility. Some of the data proposed for deletion from Form 1 would be available in the form of other filings made by the utility, for example, filings in support of rate increases, which typically contain considerable detail; and even data not otherwise separately filed by a utility could be requested in discovery proceedings before State commissions or the FERC, if those data were necessary and relevant.

Nevertheless, gathering these data from several sources, and in different proceedings, could entail more costs for participants in rate and licensing proceedings, than they would incur by simply copying and reviewing the full, unrevised Form 1 report filed annually with the FERC.

However, it may also be the case that participants rarely rely entirely on the data presently submitted in Form 1, but instead routinely use these other sources of information—rate filing information and data or discovery requests—to provide a more detailed and current analysis of a given utility, than is available solely from that utility's Form 1 report. In this latter instance, these possible added costs stemming from the proposed revision of Form 1 could be less significant.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—Mid-1981.
Rehearing Decision—To be determined.
Regulatory Impact Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Impact Analysis as prescribed in E.O. 12291. However, the FERC performs a similar analysis for rules of major importance, and includes the results in the orders issuing NPRMs and final rules.
Regulatory Flexibility Analysis—Not

required.

Available Documents

NPRM issued July 8, 1980 (45 FR 47705, July 16, 1980).

Extensions of Comment Period on RM80-55, issued September 11, and October 17, 1980; comment period closed November 20, 1980.

Transcript of October 9, 1980, informal public conference on RM80-55.

Transcript of October 14, 1980, informal public conference on RM80-55.

Transcript of October 16, 1980, informal public conference on RM80-55.

All documents are available at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC 20426, during regular business hours.

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CHAPTER 2—ENVIRONMENT AND NATURAL RESOURCES

DOC–NOAA

Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area 34033

DOC–NOAA

Regulations on the Mining of Deep Seabed Hard Mineral Resources 34036

DOI–HCRS

Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands 34038

DOI–NPS

Right-of-Way Regulations 34041

DOT–USCG

Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage 34042

EPA–OANR

Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead) 34044

EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Carbon Monoxide 34046

EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide 34047

EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Particulate Matter 34048

EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide) 34049

EPA–OANR

Standards of Performance to Control Atmospheric Emissions from Industrial Boilers 34050

EPA–OANR–OMSAPC

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines 34051

EPA–OANR–OMSAPC

Heavy-Duty Diesel Particulate Regulations 34053

EPA–OWWM

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities 34055

EPA–OWWM

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways 34057

EPA–OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works 34059

EPA–OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants 34063

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

The Department of Commerce (DOC) believes these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the North Pacific Fishery Management Council. We expect the regulations, developed by the National Marine Fisheries Service (NMFS), to provide the framework for development of underutilized species of fish, to rebuild fishery stocks or maintain them at productive levels, and to increase profits and productivity of the U.S. fishing industry.

Statement of Problem

Background Information on Fishery Management Plans

The Fishery Conservation and Management Act of 1976 (the Act), as amended, established a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal state and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future generations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils (the Councils), or under certain conditions, by the Secretary of Commerce (the Secretary). The Secretary is responsible for the review, approval, and implementation of these FMPs. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics.) Enforcement of the Act, including the provisions of approved FMPs and the implementing regulations, is the joint responsibility of the Secretary and the Secretary of Transportation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Council and the Secretary in the preparation and review of any FMP. The National Standards require that the Councils design their FMPs to: (1)

achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory among residents of different States (assigning fair and equitable fishing privileges); (5) promote efficiency in harvesting techniques or strategies; (6) take into account the variability of fishery resources and the needs of fishermen, consumers, and the general public; and (7) minimize the costs of conservation and management measures. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the optimum yield of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

Before a foreign nation may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary, determines the allocation of the total allowable surplus the applicant nation will receive.

The Bering Sea/Aleutian Island Groundfish FMP

The North Pacific Fishery Management Council (the Council) has developed an FMP for the groundfish fishery of the Bering Sea/Aleutian Island area off the coast of Alaska. The stocks covered by this FMP include Pacific Ocean perch, Alaska pollock, Pacific cod, yellowfin sole, turbots, sablefish, other flounders and flatfish, Atka mackerel, squid, and other species.

The FMP for the groundfish fishery in the Bering Sea/Aleutian Island area would replace the current Preliminary Fishery Management Plan (PMP) prepared by NOAA/NMFS. This is necessary because the PMP cannot regulate domestic fishing activities and, therefore, guard against overfishing and the potential for incidental catches of halibut in a directed fishery for groundfish.

The FMP addresses four problems: (1) maintaining stocks currently at levels of MSY; (2) rebuilding depleted stocks to levels of abundance producing MSY; (3) controlling the incidental catch of species of commercial importance to U.S. fishermen; and (4) establishing an environment conducive to development of a U.S. groundfish fishery.

(1) Maintaining or rebuilding of stocks. We (NOAA/NMFS) have conducted stock assessment studies on the following categories of Bering Sea/Aleutian Island groundfish species: Alaska pollock, Pacific halibut, Pacific Ocean perch, yellowfin sole, turbots, other flatfishes, Pacific cod, rockfishes, sablefish, Atka mackerel, squid, and other species. With the exception of Pacific Ocean perch, Pacific halibut, and sablefish, we believe all other groundfish species in the Bering Sea/Aleutian Island area to be at levels of abundance equal to or greater than those that would produce MSY.

We consider Pacific Ocean perch stocks to be at relatively low levels of abundance because of: (1) a continuous decline in catch per unit of effort (CPUE) since 1968, (2) a drastic reduction in the availability of all sizes of ocean perch between 1969–1972, (3) a heavy dependence of the fishery on younger fish, and (4) the lack of any evidence of a strong incoming year class. The Council defined the target level which would serve the development of a stock rebuilding program as being equal to MSY (107,000 metric tons (mt)) in the FMP. Therefore, to promote rebuilding, the Council set the allowable biological catch (ABC=10,750 mt) of Pacific Ocean perch at half of the current equilibrium yield (EY=21,500 mt). The ABC is a seasonally determined catch that may differ from MSY for biological reasons. The EY is the annual or seasonal harvest which allows the stock to be maintained at approximately the same level of abundance, apart from the effects of environmental variation, in successive seasons or years.

Pacific halibut stocks have declined sharply in the eastern Bering Sea since the early 1960s. Recent surveys indicate an increase in the abundance of juveniles; however, abundance is still below early 1960s levels. The Council did not set an allowable biological catch for Pacific halibut in the FMP because the fishery is currently regulated by the International Pacific Halibut Commission (IPHC). Instead, the Council specified OY for species other than halibut covered by the FMP to accommodate rebuilding of halibut stocks. It is important to note that the rebuilding program of the IPHC is governed by a philosophy rather than a mandate to achieve a specified stock size. Specifically, the IPHC's concern is focused on rebuilding stocks back to levels which can support the maximum catch, given the biological and economic conditions of the fishery.

Analyses of CPUE data for sablefish by both U.S. and Japanese scientists show a declining trend. They have interpreted the declining trend in CPUE, coupled with catch data, as indicating that sablefish stocks in the eastern Bering Sea/Aleutian Region are at reduced levels of abundance. The Council set the allowable biological catch for sablefish (5,000 mt) at 38 percent of the estimated MSY (13,200 mt) to facilitate rebuilding of the stock.

(2) Incidental catch. Foreign fishing fleets dominate current fishery activity directed at Bering Sea groundfish resources. Foreign vessels target on groundfish and substantial numbers of halibut and crabs (king and Tanner) are taken as an incidental catch. Although regulations require that these species be released, most die from injuries received during capture. In the eastern Bering Sea, we estimated the annual yield loss of halibut due to the incidental catch by foreign vessels to be 5,000 mt. On the basis of 1978 exvessel prices (the value of the catch at dockside), we calculated the potential market value of the lost halibut to be $11,550,000. We projected the incidental catches of king and Tanner crab during 1977 to be about 0.6 million and 17.5 million crabs, respectively. The potential market value of the incidental crab losses using 1977 U.S. exvessel prices was estimated at $4.8 million for king crab and $13.6 million for Tanner crab. These estimates assume that U.S. fishermen would have caught the king and Tanner crab and that exvessel prices would not have changed significantly in response to the additional crab landings. We expect that regulations implementing the Bering Sea

groundfish FMP and the Tanner crab FMP will reduce the incidental catch of crabs and halibut by foreign vessels. The magnitude of halibut and crab losses indicates that optimum yields, total allowable levels of foreign fishing (TALFF), and domestic allowable harvests established in the FMP can affect several important domestic fisheries.

(3) Development of a U.S. groundfish fishery. Many U.S. fishing interests perceive the presence of fleets of large foreign trawlers as an impediment to the development of a domestic groundfish trawl fishery in the Bering Sea because of the possibility of: (a) preemption of favored grounds by concentrations of foreign vessels that are two to three times the size of the largest U.S. trawlers, and (b) competition for fish by foreign vessels that can apparently operate successfully at levels of abundance and average fish sizes that are less than those required for economic operation of domestic trawlers.

Management objectives for the groundfish fishery in the Bering Sea/Aleutian Island area are as follows:

(a) continue rebuilding the halibut resource so that a viable halibut longline (a type of gear with hooks attached to a long rope suspended from buoys) fishery is again available to American fishermen;

(b) rebuild depleted groundfish stocks to, and maintain healthy groundfish stocks at levels of abundance that will produce MSY;

(c) provide an opportunity for U.S. involvement in the Bering Sea/Aleutian Island groundfish fishery, limited only by the OY of individual species and objectives (a) and (b) above; and

(d) allow foreign participation in the fishery, consistent with objectives (a), (b), and (c), above.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to attain the plan's objectives. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of all interested persons, including States and commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation. The alternatives we now are considering are:

(A) Continue the 1981 PMP—Under this alternative, we would extend the 1981 PMP to cover the 1982 fishing season. However, a PMP can only regulate foreign fishing. As a result, the Council would not be able to develop regulations to permit the rebuilding of depleted stocks or to adequately control the incidental catch of species of commercial importance to U.S. fishermen (halibut, king crab, and Tanner crab).

(B) Develop an FMP—The FMP developed by the North Pacific Fishery Management Council contains management measures specifying OY for the total fishery (1,559,226 metric tons (mt)), domestic allowable harvest (56,100 mt), reserves (73,324 mt), and the total allowable level of foreign fishing (TALFF) (1,429,802 mt). The Council set optimum yields for Pacific Ocean perch and sablefish at levels which should result in rebuilding these stocks to MSY levels. The Council also set the domestic allowable harvest at a level consistent with the production expectations of both U.S. harvesters and processors.

To prevent the OY from being exceeded without hindering unexpected domestic fishery development (an unanticipated increase in U.S. catching capability and intent), we will hold in reserve 500 mt or 5 percent of the OY (whichever is greater) of each species for allocation later in the fishing season on the basis of domestic need. Unless specifically withheld by the National Marine Fisheries Service Alaska Regional Director, acting with the advice of the North Pacific Council, up to 25 percent of the reserve of each species can be released to TALFF every two months, beginning with the end of the second month of the fishing year. The Council determined initial TALFFs for each species by subtracting the sum of domestic allowable harvest and reserve from optimum yield.

Additional management measures selected by the Council included statistical reporting requirements, and permit requirements and area closures for foreign fishing vessels.

(C) Areas Closed to Foreign Fishing—The Council considered several area closure alternatives applicable to foreign fishing fleets. These areas cover the "Winter Halibut-savings areas," the Petrel Bank, and fishing grounds off the western portions of the Aleutian Islands. If we allowed foreign fishing in these areas during the specified time periods, there would be a continuation of incidental halibut catches. Although these areas are known to contain large concentrations of juvenile halibut, we are unable to quantify the halibut yield losses.

Public comment on the proposed regulations and the draft environmental impact statement raised new issues which forced the Council to reassess the impacts of the management measures on the environment and user groups in the fishery. This has caused at least a 1-year delay in the implementation of the FMP. The PMP, therefore, has been extended through the 1981 fishing season to prevent overfishing by foreign nations. An amendment to the original FMP has been proposed by the Council which updates the specifications of OY, Domestic Annual Harvest (DAH), and TALFF on the basis of current ecological and economic conditions in the fishery.

Summary of Benefits

Sectors Affected: U.S. commercial fishing and processing in Alaska; exporting of groundfish; consumers of groundfish; and the general public.

The optimun yield of 1,559,226 mt set by the 1980 FMP represents an increase of 133,156 mt over the OY of 1,426,070 mt specified in the 1979 PMP. There were also increases in the domestic allowable harvest (46,100 mt), reserves (71,224 mt), and the TALFF (15,832 mt). We have estimated that foreign nations could pay $21 million in vessel and privilege fees to fish in the Bering Sea/Aleutian Island area in 1981.

At present, there is insufficient information to quantify the economic effects of this FMP on U.S. fishermen and processors. Projections of domestic catches are not reliable for the fishery because there has been only a limited amount of effort directed at the harvesting of groundfish by U.S. fishermen in the Bering Sea/Aleutian Island area. However, the preferential U.S. allocation of groundfish allows opportunity for expansion of U.S. harvests as rapidly as the private sector is willing to invest in the fishery. The U.S. allocation will permit the continued harvest of groundfish, which are used as crab bait, as well as the implementation of pilot projects for food fish production. If these projects are successful, there may be an opportunity for expansion of U.S. exports of seafood products.

We also expect economic benefits from the rebuilding of stocks to levels of high abundance or to MSY levels. There are potential reductions in the cost of harvesting fish because of larger CPUE (i.e., greater productivity). Additionally, there is a strong consumer demand for halibut products. A rebuilt stock, under proper management, will enable the catch of the fishery to expand and increase the supply of halibut for the U.S. consumer.

A biological benefit of rebuilding depleted fish stocks is the maintenance of a large amount of genetic variability in the stock to increase its chances of adapting to changes in the environment. Also, there is the benefit of stabilizing the fishable population to reduce the likelihood of sharp yearly variations in the harvest.

Summary of Costs

Sectors Affected: The State of Alaska; the Federal Government; and the Departments of Commerce, State, and Transportation.

We project the total annual cost of implementing the FMP at $5,574,000 (in 1979 dollars). Of this total, the cost of the foreign fishery observer program of $370,000 will be reimbursed to the U.S. Treasury by foreign governments. The remaining $5,204,000 is divided among the National Oceanic and Atmospheric Administration ($493,000) for administrative and data collection costs, the State of Alaska ($11,000) for data collection costs, and the Coast Guard ($4.7 million) for ship and aerial patrols.

Related Regulations and Actions

Internal: Provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. § 1361 *et seq.*) have a bearing on this FMP through restrictions on killing or harvesting seals and sea lions (50 CFR Part 216), which may prey on fish already captured in nets. The FMP for Groundfish in the Gulf of Alaska (43 FR 17242, April 22, 1978) has implementing regulations designed to minimize the incidental catch of halibut. In addition, the Convention for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (5 UST 5) controls the directed catch of halibut.

External: The Alaska Department of Fish and Game and the Alaska Limited Entry Commission issue regulations which control the harvest of fishery resources in State territorial waters (0 to 3 miles) off the coast of Alaska.

Active Government Collaboration

We requested comments on this FMP from the Environmental Protection Agency; the Marine Mammal Commission; the Departments of Agriculture, Interior, State, and Transportation; and several State governments.

Timetable

Final Rule—Summer 1981.
Final Rule Effective—Fall 1981.
Regulatory Flexibility Analysis—None.

Available Documents

NPRM—44 FR 66356, November 19, 1979.
The Draft Environmental Impact Statement and Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island area.
Draft Regulatory Analysis for the FMP.
Public Comments.
Amendment No. 1 to the FMP.
Amendment No. 2 to the FMP.
Trawl and Herring Gillnet Fishing in the Eastern Bering Sea—Preliminary Fishery Management Plan.
All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan Review Division, 3300 Whitehaven Street, Washington, DC 20235.

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DOC-NOAA

Regulations on the Mining of Deep Seabed Hard Mineral Resources (15 CFR Part 970)

Legal Authority

Deep Seabed Hard Mineral Resources Act, 30 U.S.C. § 1401 *et seq.*

Reason for Including This Entry

The National Oceanic and Atmospheric Administration (NOAA) includes these proposed regulations because they may create a major impact on the economy by providing a legal system under which seabed mining by U.S. citizens may proceed. The proposed rules will have an integral relationship to the regulations of certain other programs and agencies, and they also may have significant public interest.

Statement of Problem

Pursuant to the Deep Seabed Hard Mineral Resources Act, the deep seabed hard minerals mining industry will be engaging in exploration authorized by NOAA until at least January 1988, at which time it may begin commercial recovery operations under permits issued by NOAA. The industry will be mining from the deep seabed nodules that include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper. The industry is in a formative stage, and the engineering and equipment requirements for mining at the necessary tremendous depths (approximately 15,000 feet) will necessitate very substantial investments by the mining industry. It is estimated that over $1 billion ultimately must be invested for each mining system, including processing facilities. Five international consortia are now engaged in seabed mining exploration and development efforts, and nine United States companies are participants in four of these.

The significance to the United States of such mining is apparent from the fact that this country must rely almost entirely on imports to meet its needs for manganese (approximately 98 percent), cobalt (approximately 98 percent), and nickel (approximately 75 percent), which are necessary for the production of steel and other alloys. Because of the increasing domestic needs and other export opportunities of present suppliers, the United States cannot count on a continued supply of imports of all of these metals. Thus, the future supply of such metals is not as reliable as it should be, considering their significance to the needs of the Nation.

The mining of such nodules from the deep seabed has been a major issue in the present discussions at the U.N. Conference on the Law of the Sea. In the face of the uncertainties created by the Law of the Sea negotiations with respect to the legal status of potential miners, and their priority of rights to pursue mining in specific areas of the sea floor, U.S. companies determined that they could no longer proceed with their mining activities, in the absence of domestic legislation authorizing mining, due to their inability to obtain the commitment of the substantial financial resources needed for such efforts.

In response to this situation, Congress passed domestic legislation to establish a legal structure pursuant to which U.S. miners could proceed with their efforts, pending the conclusion of an acceptable Law of the Sea treaty. On June 28, 1980, P.L. 96-283, the Deep Seabed Hard Mineral Resources Act (the Act), became law. It establishes an interim program to regulate exploration for and commercial recovery of seabed minerals by U.S. citizens; encourages the successful conclusion of a Law of the Sea treaty that will assure, among other things, nondiscriminatory access to seabed minerals for all nations; establishes an international revenue-sharing fund; accelerates NOAA's seabed mining environmental assessment program; encourages the conservation of seabed mineral resources; protects the environment; promotes safety of life and property at

sea; and encourages the continued development of necessary seabed mining technology. The Act requires NOAA to promulgate implementing regulations, which will govern the issuance by NOAA of exploration licenses and, eventually, commercial recovery permits for industry. As required by the Act, NOAA issued, on March 24, 1981, proposed regulations for the issuance of exploration licenses (46 FR 18448). Final regulations are scheduled for issuance in September 1981.

Aside from the Act's requirement to promulgate these regulations, the consequences of not responding to the above problem would have been the continued uncertainty for potential U.S. miners with respect to their legal ability to rely on returns on their deep seabed mining investments. This uncertainty probably would have led to a halt in the development of such industry, which in turn would mean the continued U.S. dependence for the important metals on potentially unreliable foreign sources, at the same or increased levels.

Alternatives Under Consideration

NOAA has prepared a preliminary Regulatory Impact Analysis on these regulations pursuant to E.O. 12291, and an initial Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act. As part of this analysis, NOAA has considered alternative regulatory approaches. NOAA has relied on certain innovative techniques to allow more flexibility to individual miners while still accomplishing the purposes and requirements of the statute.

The regulations address eleven major issues concerning which NOAA has discretion in implementing the Act. These issues are:

(1) The extent of information needed to determine the applicant's financial responsibility to engage in the proposed exploration.

(2) The extent of information needed to determine the applicant's technological capability to undertake the proposed exploration.

(3) The information specified for an applicant to include in its exploration plan.

(4) The extent of information or analysis to require on, and use as a basis for evaluating potential environmental effects from, exploration activities.

(5) Criteria and procedures for resolving overlapping applications by explorers who began activity before the Act was passed.

(6) Criteria for evaluating the proposed size and location of an exploration area.

(7) Criteria for resolving potential conflicts on uses of the high seas and other international conflicts.

(8) Criteria for determining whether there are undue threats to the safety of life and property at sea.

(9) Criteria for terms, conditions, and restrictions to be included in a license for the purpose of ensuring diligent or persevering implementation of the licensee's exploration plan.

(10) Requirements in the form of license terms, conditions, and restrictions relative to environmental impact monitoring and mitigation measures.

(11) Provisions for terms, conditions, and restrictions in licenses to avoid waste during mining and to allow the opportunity for future recovery of the unrecovered balance of nodules.

In order to benefit the decisionmaking process in developing the regulations, NOAA has identified and considered three alternative regulatory approaches. These are:

(1) fixed regulations;

(2) flexible regulations preceding license issuance; and

(3) flexible regulations both preceding and following license issuance.

The first alternative approach provides the benefit of maximum predictability or certainty derived from minimum discretion or variation on the part of the Agency. However, NOAA also concluded that in most cases this benefit would be outweighed by the resulting lack of flexibility which is needed for this evolving industry. The specificity and certainty of this alternative can be provided and is appropriate, for instance, with respect to major issue number 8 above (safety of life and property at sea), because NOAA can address this issue by specifying adherence to vessel inspection and certification requirements of the U.S. Coast Guard. Thus, there would be no costs to seabed miners above those required for other vessel operations. In addition, we have selected a fixed approach for the procedural provisions in the regulations, to conform to the Act where applicable and also to provide the certainty for which procedures are intended.

The second alternative provides for more of a performance standard approach, by setting forth the necessary requirements but allowing applicants discretion in how they are to be met. This approach has been selected for those issues which must be addressed by the time a license is issued. It provides the opportunity for innovation by potential miners by allowing the miners and NOAA to take account of the individual approaches and circumstances of each company, while allowing the certainty of resolving the issue by the time the license is granted. Innovation in such areas as the development of mining techniques and equipment is necessary to meet the statutory purpose of encouraging the development of deep seabed mining technology. This approach has been selected for major issues number 1, 2, 3, 5, and 6 above.

The third alternative approach has been selected for those issues for which the Act allows NOAA to continue its review and consideration after a license has been issued. This approach provides the benefit of flexible guidance to applicants for the issuance of a license, like the second alternative, yet allows the additional benefit of not imposing undue requirements on an applicant and NOAA, when requirements are unnecessary for agency determinations prior to the issuance of a license. For example, with respect to issue number 4 (relating to required information or analysis on environmental effects), preliminary information does not indicate likely significant environmental effects from seabed mining exploration activities. The use of the third approach allows the issuance of a license initially, with greater reliance on subsequent monitoring to verify preliminary conclusions on the environmental effects of exploration. This approach has been selected for major issues number 4, 7, 9, 10, and 11 above, which is also consistent with the requirements of the Act.

Summary of Benefits

Sectors Affected: Mining of copper ores and ferroalloy ores, except vanadium; metal mining services; primary metal industries; and the general public.

Generally, the benefits from these regulations will relate to the initiation of a more certain legal structure within which deep seabed mining may proceed. Yet mining will proceed in a responsible manner with respect to concerns such as environmental effects and rational development of the resources. These efforts in turn will lead to a more stable source to the United States of important metals such as cobalt, manganese, nickel, and copper. Furthermore, a greater demand for products from these metals ultimately can provide a variety of employment. There also should be a positive effect on the U.S. balance of payments. NOAA also further assumes that those companies will realize a reasonable profit from their future commercial recovery efforts.

Summary of Costs

Sectors Affected: Mining copper ores and ferroalloy ores, except vanadium; metal mining services; primary metal industries; and NOAA.

Due to the fact that the deep seabed mining industry is just developing, NOAA's investigation of costs is preliminary. Currently, it appears that the primary costs which would be incurred are the costs to NOAA to establish a legal foundation conducive to seabed mining and the costs to the private sector from the license application and reporting requirements. Although the cost estimates are general and preliminary, NOAA has concluded that the cost of compliance with such requirements should be negligible when compared with a miner's substantial overall exploration costs. Furthermore, NOAA envisions that the information needed is not significantly greater than a company in this field would generate for its own planning and operations.

Related Regulations and Actions

Internal: None.

External: Pursuant to the Act, the Coast Guard will provide NOAA with necessary license conditions for seabed miners in order to meet the statute's requirement pertaining to avoiding inordinate threat to the safety of life and property at sea. The Act provides that the Coast Guard will have the exclusive responsibility for enforcement measures which affect the safety of life and property at sea, and may assist NOAA in the enforcement of the provisions of the statute. Furthermore, the Act specifies that any discharge of a pollutant from a mining vessel or other floating craft will be subject to the Clean Water Act and thus require a National Pollutant Discharge Elimination System (NPDES) permit from the Environmental Protection Agency (EPA).

Active Government Collaboration

NOAA already has initiated preliminary discussions with the Environmental Protection Agency and the Coast Guard with respect to their authorities discussed above. NOAA has sought to facilitate Federal decisions related to seabed mining and to reduce duplication by specifying in its proposed regulations information needed for both Coast Guard vessel inspection requirements and EPA NPDES permits. Furthermore, NOAA has coordinated information requirements with the Department of Justice and the Federal Trade Commission, which under the statute are to conduct antitrust reviews of seabed mining applications. NOAA also has initiated discussions with the Department of State, which has specified functions under the statute relating to NOAA's designation of reciprocating foreign states (the recognition of other nations' programs, referenced above). NOAA intends to continue to coordinate these functions in the most effective and efficient manner possible.

In addition to preliminary discussions with the above agencies, NOAA has initiated discussions with other agencies with expertise concerning or jurisdiction over any aspect of the recovery or processing of deep seabed hard mineral resources. Thus, NOAA has initiated discussions with the Corps of Engineers to assist and coordinate with that agency in planning for the impact of onshore processing of deep seabed nodules under future commercial recovery permits. NOAA has also discussed the potential implications of the statute with the Maritime Administration, which may receive requests for financial assistance for mining-related vessels. NOAA has undertaken joint studies pertaining to processing waste disposal with EPA and the Bureau of Mines of the Department of the Interior.

In addition to coordination at the Federal level, NOAA has sponsored studies of the Federal, State, and local laws which would affect the possible siting of a seabed mining processing plant on the west coast of the United States ("An Analysis of Applicable Law Concerning Seabed Mineral Processing in California, Washington, Oregon and Alaska," Nossaman, Krueger, and Marsh) and on the Gulf Coast (contract still in process). NOAA also is conducting public hearings on the West Coast and in Hawaii, and has initiated discussions with interested governmental representatives, in preparation for the onshore effects of commercial scale mining due to transportation and processing activities.

Timetable

Public Comment Period—Comment period on NPRM ends May 29, 1981.
Final Rules—September 1981.
Final Rules Effective—October 1981.

Available Documents

ANPRM—45 FR 49953, July 28, 1980.

A preliminary discussion paper on the regulations which NOAA made available to the public in November 1980.

NPRM—46 FR 18448, March 24, 1981.

Preliminary Regulatory Impact Analysis and initial Regulatory Flexibility Analysis.

Draft Programmatic Environmental Impact Statement.

Record of public hearings held in Honolulu (April 24, 1981), San Francisco (April 28, 1981), and Washington, DC (May 8, 1981).

Information on the availability of these documents may be obtained from the Agency Contact below.

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands (36 CFR 1215)

Legal Authority

The Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470 aa–11.

Reason for Including This Entry

The Department of the Interior (DOI) believes these rules and regulations are important because they will significantly affect many archaeological investigations conducted on public and Indian lands by providing an equitable decisionmaking process within the permitting procedure and thereby ensuring greater accountability among Federal agencies. Furthermore, the regulations will improve the management of archaeological resources, detail procedures for civil penalties, and benefit authorized users by reducing or eliminating procedural differences within and among agencies.

Statement of Problem

In the past, the administration of the American Antiquities Act of 1906 (Public Law 59–209; 16 U.S.C. §§ 431–433) was subjected to legal challenges in the courts. The challenges were based on the statute's vagueness, resulting from its failure to inform the public in lay terms of what constitutes an "object of antiquity." Consequently, the criminal sanctions of this statute were easily avoided by those individuals who were destroying, excavating, and removing objects of antiquity without authorization from federally owned or controlled lands. In addition, P.L. 59–209

did not foster cooperation from all segments of society to protect and conserve such resources, for its focus was directed toward institutionally initiated research only. By 1974, it became obvious that the permitting sections of the Act were outdated because they did not provide adequate criminal penalties for violations.

As a result of the above, the Congress enacted the Archaeological Resources Protection Act of 1979 (P.L. 96–95), which provides adequate criminal penalties, clear definitions, new civil penalties, and the promotion of greater public involvement in the decisionmaking process connected with the permitting procedure. This new law is administered by the Heritage Conservation and Recreation Service (HCRS), as is P.L. 59–209, on behalf of the Secretary of the Interior. Although HCRS exercises overall program policy direction, each land-managing bureau of the Department is responsible for field-level program operations on those lands under its immediate jurisdiction. This statute also applies to all Interior land-managing bureaus, the Departments of Defense and Agriculture, the Tennessee Valley Authority, and all other independent land-managing or holding agencies of the Federal Government.

On Indian lands, the specific individual Indian land owner or the recognized Indian tribal authority with jurisdiction over such lands owns the archaeological resources located thereon. Such lands are administered jointly by the Bureau of Indian Affairs and the appropriate tribal authority.

These regulations establish procedures for enforcing the Act. The regulations will place limitations on the use of archaeological resources located on all public and Indian lands. The rule will include a systematic permitting procedure, an appeals process for parties denied permits, and a procedural approach for civil penalties imposed by the Secretary of the Interior and the other major Federal land managers for those persons who violate the statute in a noncriminal manner. This approach leaves a measure of Secretarial discretion in educating the public rather than using only criminal sanctions as the single effective deterrent to resource degradation.

These regulations seek Federal-wide uniformity in program administration and management policy direction. The Department of the Interior, as the lead Federal agency in the field of historic preservation, seeks to provide national leadership in this effort through the administration of the Federal Antiquities Program by the Departmental Consulting Archaeologist.

The regulations will have a direct impact on the activities of collectors, treasure hunters, and other users of the public domain. These rules will also have a direct impact upon the activities of professional archaeologists undertaking either institutionally initiated field research investigations or work directly related to survey, clearance, and mitigation investigations for energy projects. These regulations will also create new opportunities for the Native American community, resulting in its direct authority to provide protection for resources that form a part of their immediate cultural heritage.

The Departmental Consulting Archaeologist or his/her duly authorized representative, on behalf of the Secretary, either issues or denies permits for archaeological investigations after completion of an institutional and professional review process in response to each application received. Applications are received from potential permittees and placed within a comprehensive review system which includes internal review, and review by the affected land managing bureau, scholars who are familiar with the archaeology of the proposed land area, and representatives of the appropriate Native American community. The review system constitutes a formal analysis of the applicant's ability to undertake the work, provide adequate curatorial facilities for the archaeological resources recovered, and meet several other requirements which demand professional objectivity by the Federal Government. Permits are normally issued within 4 to 6 weeks after an application is received. In addition, HCRS may impose an emergency permitting procedure when specific archaeological resources are in immediate danger from natural or manmade terrain-altering activities, or when such investigations may delay energy-related projects if not allowed to commence immediately.

Today, the success of many small professional archaeological businesses and the livelihood of thousands of employees depends upon responsible and objective review.

Therefore, the Federal Antiquities Program is one of the few centralized programs to maintain uniform policy direction within the Department of the Interior and to ensure full professional accountability within the permitting authority.

Alternatives Under Consideration

The Department considered several alternatives to this proposal:

(A) No rules and regulations to implement the legislation. This alternative was rejected, for the Act requires at least two levels of rulemaking to occur: (1) interagency uniform regulations as required in § 10(a) of the Act; and (2) departmental or independent agency regulations directly oriented to the individual mission of each, as required in § 10(b) of the Act.

(B) Implementation through voluntary compliance guidelines. This alternative would not have the binding force of rulemaking and would be contrary to Congressional intent, and was therefore rejected.

(C) More restrictive definition of "archaeological resource," which would exclude bottles, bullets, coins, or other collector items of non-Native American manufacture. This alternative was rejected because it was not viewed as consistent with the broad purpose of the Act to protect and conserve the Nation's archaeological resources and sites. The field of archaeology is not confined to the study of prehistoric Indian cultural remains. Much of this Nation's cultural heritage is of non-Indian origin and can be the object of archaeological inquiry. Even common collector's items such as bottles and coins can be of great value in establishing the age of associated materials, demonstrating cultural contact, or determining the function of a site. In order to preserve such value, blanket exclusion of such items was rejected in favor of a definition which provides a test for determining whether items have archaeological value.

Summary of Benefits

Sectors Affected: Federal land managers (including the Departments of the Interior, Defense, and Agriculture; the Tennessee Valley Authority; and all other independent land-managing or holding agencies of the Federal Government); professional archaeologists, particularly small professional archaeological firms; Native Americans; the general public; and public and Indian lands throughout the United States (approximately 800 million acres), with major emphasis in the 13 Western States where the majority of such lands are located.

The major benefit of the proposed rules will be to inform the public of what is expected of them, and to clarify obligations of the Federal land managers to the public. The general public will benefit from increased knowledge of important cultural resources and availability of those resources for educational purposes. Archaeological

research benefits because the program procedures are simpler to understand, and thereby inform the public in a clear, concise manner while affording a systematic and equitable permitting procedure for legitimate field investigations. Professional archaeologists will be affected, particularly small professional archaeological firms to which permitting delays are financially burdensome. These firms will benefit from the appeals process in cases of permit denial and from the general streamlining of the permitting process, especially in cases of energy related projects. The Native American community also benefits greatly because these regulations provide greater control of archaeological resources to the Indian landowners, and afford all Indian tribes an opportunity to provide comment on all undertakings proposed to occur on non-Indian public lands which may be their former traditional tribal lands.

This rule also clarifies the enforcement procedures of each land-managing bureau of the Department. The most important single benefit to the public in this rule lies in its implicit intent to foster greater and improved involvement and cooperation among the professional archaeological community, Native Americans, and collectors nationwide.

The Department of the Interior strongly believes one of the most important aspects of the Archaeological Resources Protection Act and its regulations lie in their authority to bring about a greater national sensitivity for the protection and conservation of archaeological resources. Because this program will increase public awareness, the Interior Department is confident that it will help to enhance and safeguard that which remains of our national patrimony as represented by the tangible remains of man's prehistory and history in the United States.

Summary of Costs

Sectors Affected: Federal land managers.

It is difficult to provide reliable estimates for the direct and indirect costs of the regulations to the sectors they affect. However, we anticipate only minimal costs. Increases will occur in the costs to the Federal Government of administering the Federal Antiquities Program, especially through policy direction at the national level by the Office of the Departmental Consulting Archaeologist on behalf of the Secretary of the Interior. Beyond costs incurred for overall program management and policy direction through the Federal Antiquities Program, responsibilities at the national level also include initial costs for coordination with Native Americans in constructing a centralized registry of interested Native Americans for application consultation purposes; a classified listing of sites that are significant to Native Americans for religious and cultural purposes; leadership in constructing departmental regulations; policy for the disposition of collection and exchange procedures; and other purposes. In addition, the ongoing activities of the Federal Antiquities Program include the annual report to the Congress and the national public awareness program element to sensitize the general public to the benefits of protecting and conserving this component of the national heritage. Such expenses as recordkeeping, inspections of curatorial facilities, onsite field investigations, and overall program monitoring of project-specific activities by the land-managing bureaus will obviously bring additional costs. These same bureaus will incur slight increases in funds for law enforcement efforts, not by increasing the number of field agents, but by providing greater coordination among existing law enforcement facilities at the State and local levels and increased coordination among Federal law enforcement agencies. However, total costs incurred by the Interior land managing bureaus at the operational level, other Departments, and independent agencies will not increase over present required program funds for application field review. Costs in time involved in securing permits will be reduced for the private sector by further streamlining the review process and permit issuance.

HCRS requested $425,000 for FY 1981 for implementation of the program at the national policy direction level. Such funds as are necessary to implement the responsibilities of the several land-managing bureaus of the Department will be sought as needed by those bureaus, as well as the other Federal land managing departments and independent agencies. We anticipate the needs of the Interior land-managing bureaus not to exceed $700,000 per fiscal year.

Costs are greater for the Interior Department because as the nationally recognized lead Federal agency in the field of historic preservation, it maintains national program expertise, and the law itself directs Interior to assume greater responsibilities and to provide leadership for the protection and conservation of archaeological resources throughout the Nation.

For other departments and independent agencies, the levels of funding for full program implementation above existing program levels will depend upon their actual level of involvement and whether or not they choose to delegate program administration and/or policy direction to the Department of the Interior. Fiscal impacts to existing protection and permitting programs for non-Interior agencies is expected to be proportionally equal to Interior.

Related Regulations and Actions

Internal: American Antiquities Act of 1906 (43 CFR 3)—The Department of the Interior published proposed rulemaking on the "Definition of an Object of Antiquity" on April 10, 1978 (43 CFR 14975). Due to the passage of P.L. 96-95, the definition of an "object of antiquity" will be republished as proposed rulemaking under 36 CFR 1214 to coordinate definitions between the two separate statutes next fall after uniform regulations under 36 CFR 1215 are published in final form and become effective after Congressional review.

External: None.

Active Government Collaboration

The Department of the Interior, through the auspices of the Federal Antiquities Program, initiated an interagency task force to write the rules and regulations immediately prior to the President's signing of House Bill 1825 (Archaeological Resources Protection Act), on October 31, 1979. On March 24, 1980, the Secretary of the Interior formally created the Interagency Rulemaking Task Force for the Implementation of Public Law 96-95. This task force is comprised of representatives of each Interior land-managing bureau, the Departments of Defense (Navy, Air Force, and Army) and Agriculture, and the Tennessee Valley Authority. In addition, several other smaller land-managing and holding independent agencies will be affected by these uniform regulations, and will be expected to issue agency-specific guidelines and procedures. This interagency task force will remain active through publication of final uniform regulations in the **Federal Register**.

These rules and regulations are the first in a three-tier rulemaking process. Subsequent to the publication of final regulations in the **Federal Register** of the uniform regulations, each Federal land manager (department or independent agency) is required to publish the next level of regulations specific to that department or agency's overall mission.

Procedurally, each may vary in scope and applicability within the framework of the uniform regulations. Subsequent to the publication of final departmental regulations in the **Federal Register**, each bureau of a department may issue bureau mission-specific guidelines or procedures which may take the form of regulations within the scope of that particular bureau's departmental regulations or departmental manual.

Timetable

Compliance with Executive Order 12291 and Regulatory Flexibility Act by June 1, 1981.
Completion of Task Force's draft final rulemaking scheduled for June 15, 1981.
Endorsement by Secretary of the Interior expected by June 23, 1981.
Concurrence by Departments of Defense and Agriculture, and the Tennessee Valley Authority expected by July 15, 1981.
Office of Management and Budget (OMB) review completed by July 24, 1981.
Publication of final rulemaking in **Federal Register** scheduled for July 27, 1981, initiating 90 day review by Congress.
Proposed effective date: October 27, 1981.
Final Rule—Spring 1981.

Available Documents

"Archaeological Resources Protection Act of 1979; Notice of Permitting Procedures Pending Publication of New Regulations," **Federal Register**, January 23, 1980 (45 FR 5302).

"Archaeological Resources Protection Act of 1979; Public Hearings Prior to Publication of Proposed Rulemaking," **Federal Register**, March 19, 1980 (45 FR 17622).

"Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands," 36 CFR 1215, 45 FR 77755, November 24, 1980.

Transcripts and recordings of early input public hearings held in Denver, Colorado (March 22, 1980); Phoenix, Arizona (March 29, 1980); Portland, Oregon (April 12, 1980); and Knoxville, Tennessee (April 19, 1980).

The Environmental Assessment, the Determination of Significance, and the Work Plan for Public Involvement.

"Archaeological Resources Protection Act of 1979; Proposed Uniform Rulemaking and Notice, 46 FR 5566, January 19, 1981.

Transcripts of public hearings held in Chicago, Illinois (February 7, 1981); Atlanta, Georgia (February 14, 1981); Albuquerque, New Mexico (February 21, 1981); San Francisco, California (February 28, 1981); Anchorage, Alaska (March 7, 1981); and Denver, Colorado (March 14, 1981).

"Archaeological Resources Protection Act of 1979; Extension of Comment Period; Rulemaking." 46 FR 22208, April 16, 1981.

The above documents are available by mail from the offices of the Heritage Conservation and Recreation Service, Washington, DC 20243, (202) 343–5264.

Agency Contact

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DOI—National Park Service

Right-of-Way Regulations (36 CFR Part 14*)

Legal Authority

16 U.S.C. §§ 5, 79; 23 U.S.C. § 317; 36 CFR Part 14 (45 FR 47092, July 11, 1980).

Reason for Including This Entry

The National Park Service (NPS) includes this entry because these regulations may have regionwide or local impacts on State and local government, and on other programs of the Department of the Interior or other Federal agencies.

Statement of Problem

A right-of-way is a use of National Park System lands by State and local governments, other Federal agencies, and private individuals and organizations for such purposes as roads and highways, utility and communication lines and facilities, pipelines, and water facilities.

At the present time, the National Park System of the United States comprises nearly 320 areas covering some 76 million acres in 49 States, the District of Columbia, Guam, Puerto Rico, Saipan, and the Virgin Islands. These areas include such designations as national park, national preserve, national monument, national memorial, national historic site, national seashore, and national battlefield park.

Until July 1, 1980, the National Park Service, in dealing with requests for rights-of-way, used regulations promulgated by the Bureau of Land Management (BLM) and codified in 43 CFR Part 2800. However, BLM revised these regulations in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1761) and deleted all reference to the National Park Service. Since the provisions of this Act and the regulations promulgated to comply with it do not apply to the National Park Service, the Service must develop independent regulations applicable to right-of-way requests on National Park System lands.

These regulations will provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System. They will establish procedures for the granting of rights-of-way to State and local governments, other Federal agencies, and private individual and organizations. These procedures will cover rights-of-way authorized at the discretion of the Secretary of the Interior, by individual park legislation, and for rights-of-way issued because of the right to which the holder is legally entitled.

Until these regulations are drafted, the Service is following interim regulations (45 FR 47092, July 11, 1980).

Alternatives Under Consideration

The National Park Service is considering two alternatives:

Alternative (A) is the drafting of right-of-way regulations which at a minimum are needed to comply with existing laws (16 U.S.C. §§ 5, 79 and 23 U.S.C. § 317). This will provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System.

The disadvantage of this alternative is that it will not address all the issues and problems and may not assure the best protection of all National Park values. Issues and problems that would not be addressed under Alternative A include: access across park lands to private property and rights-of-way authorized in specific legislation establishing a park. These situations currently exist in most of the more than 320 units of the National Park System. By failing to address them in regulations, the NPS will not be providing the maximum protection to the natural, cultural, aesthetic, and recreational resources it administers and is required by law to preserve and protect.

Alternative (B) is the drafting of broader regulations that will cover such issues as: reasonable access to an owner's property, a legally held right to cross NPS lands, and right-of-way authorizations in individual statutes.

These broader regulations will address problems and issues that

presently exist in units of the National Park System and will afford greater protection for the natural, cultural, aesthetic, and recreational values that the parks were established to protect. However, since these regulations will be addressing a greater number of complex issues it is likely that they will be more controversial and difficult to enforce.

At this time the National Park Service prefers alternative (B) because it will afford greater protection for all National Park System areas.

Summary of Benefits

Sectors Affected: Other Federal agencies; State and local governments; private industries (e.g., electric, gas, and other utility services, oil and gas extraction, pipeline transportation, communication services); other establishments requesting rights-of-way across National Park System areas; and NPS.

These rules will benefit each of these sectors because they will provide more detailed, specific, and concise procedures for rights-of-way across National Park System areas. They will also provide information on costs involved and the terms and conditions for revocation and cancellation of permits. These sectors will realize these benefits over the entire time span of the permit.

These regulations will benefit the National Park Service because they will provide detailed, specific, and concise instructions to park management and will afford protection to natural, cultural, aesthetic, and recreational park resources.

If these rules are not promulgated, none of these sectors will have the information or guidance that is necessary to deal with right-of-way requests.

Summary of Costs

Sectors Affected: Other Federal agencies; State and local governments; private industries (i.e., electric, gas, and other utility services, oil and gas extraction, pipeline transportation, communication companies); other establishments requesting rights-of-way across National Park System areas; and NPS.

At this time, NPS does not know what costs these sectors will bear as a result of this proposal. However, fees will be charged to applicants to cover the cost of processing the application. Rental fees, appraised at fair market value, will also be charged to the holder of a right-of-way. It is likely that these charges will be waived for State and local governments if their use of a right-of-way is for governmental purposes and such lands and resources shall continue to serve the general public.

The National Park Service will incur costs for reviewing and processing applications and permits and insuring that the necessary environmental documents are prepared. It is unknown at this time what these costs will be.

Related Regulations and Actions

Internal: On July 11, 1980, the National Park Service issued interim right-of-way regulations (45 FR 47092). These regulations will remain in effect until replaced or revised through the rulemaking process. Other Interior agencies have right-of-way regulations. Bureau of Land Management regulations are located in 43 CFR Part 2800, and the U.S. Fish and Wildlife Service regulations are located in 50 CFR Part 28.

External: None reported.

Active Government Collaboration

The National Park Service is working with other Interior agencies (Bureau of Land Management, U.S. Fish and Wildlife Service) in the promulgation of these regulations. In addition, NPS will be working with State and local agencies as these rules are developed since these regulations will have an impact on their programs.

Timetable

NPRM—July 15, 1981.
Regulatory Impact Analysis—The National Park Service has not made a determination on the need for a Regulatory Impact Analysis. We are soliciting public comment on the potential economic impact of the proposed rule.
Public Hearing—None scheduled.
Public Comment Period—90 days following publication of NPRM. Comments should be directed to Division of Ranger Activities and Protection, National Park Service, Department of the Interior, Washington, DC 20240.
Final Rule—January 15, 1982.
Final Rule Effective—February 15, 1982.
Regulatory Flexibility Analysis—Undecided.

Available Documents

ANPRM—45 FR 54771, August 18, 1980.

Agency Contact

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DEPARTMENT OF TRANSPORTATION

United States Coast Guard

Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage (46 CFR Parts 30*, 32*, and 35*)

Legal Authority

Port and Tanker Safety Act of 1978, 33 U.S.C. § 1221, 46 U.S.C. § 391a.

Reason for Including This Entry

The Coast Guard believes that this rule is important because it has major economic implications for the barge and towing industry in this country. In addition, testimony presented at the hearings on this proposal indicated that the rule may adversely affect the national oil supply network because it would take barges out of service that may not be replaced.

Statement of Problem

Data gathered by the Coast Guard show that, from 1973 through 1977, the total volume of oil spilled by tank barges was about 174,000 barrels. Approximately 85 percent of the oil spilled resulted from hull damage, which occurred as a result of groundings and collisions in the normal course of barge movements. Because barges operate mainly on the inland river system, most of the oil spilled by tank barges enters highly sensitive inland waters where the effect on the marine environment is more significant than it would be on the high seas. While the amount of pollution entering the waters from tank barges fluctuates annually, it is not decreasing in general. Thus, the present regulations in 33 CFR Subchapter O dealing with pollution prevention, which essentially regulate only loading and unloading operations, are insufficient to reduce oil pollution from tank barges. After examining a study entitled "Tank Barge Oil Pollution Study," prepared by Automation Industries, Inc., the Coast Guard concluded that the lack of construction standards for tank barges is a major factor in the pollution they cause. After reviewing the data, the Coast Guard determined that a "no action" alternative is not acceptable. The barge industry would not attack the river pollution problem without our intervention. The Coast Guard believes

that barges need the protection of a double hull to prevent cargo discharge, which would ordinarily result from groundings and minor collisions that breach the hulls of single-skin barges.

Alternatives Under Consideration

In 1971 the Coast Guard proposed a requirement for double walls on new tank barges constructed for the carriage of oil in specified trades. This proposal would have required the vertical surfaces, or walls, of barges to be double, but it did not propose double bottoms. Because the normal attrition of existing tank barges is fairly slow, there would be no dramatic reduction in oil pollution due to improved construction standards for new barges. In order to accelerate the retirement of the existing fleet of single-hull barges, the 1971 proposal included a provision that would have prohibited the complete rebuilding of existing vessels, and would have allowed only limited repair to damaged areas on these vessels. This provision was designed to speed the attrition of existing single-hull barges, while at the same time allowing them sufficient service life to reduce the financial impact that total fleet replacement would have on barge owners. Another proposed alternative was to specify a date after which owners and operators could not use single-hull barges.

Because of the extensive negative comments from the towing industry, we did not impose the double-wall construction requirement for new tank barges at that time. Instead, the Coast Guard initiated two studies. The first, "Alternative Inland Tank Barge Designs for Pollution Avoidance," developed design and construction alternatives and evaluated them for effectiveness. The second, "Tank Barge Study," evaluated design, construction, and equipment standards for tank barges that carry oil. These studies convinced the Coast Guard that a double-hull tank barge fleet is necessary to prevent pollution due to hull damage.

The comments we received in response to the 1971 NPRM indicated that, while the industry supported the intent of the regulations to prevent pollution, it strongly objected to the methods proposed to accelerate the retirement of existing single-hull vessels and to substitute double-hull barges. Both the early retirement option and rebuilding prohibition were attacked as being too costly. We received no comments suggesting economically acceptable ways to accelerate retirement of these vessels.

The Coast Guard is aware that the problems and costs associated with the construction of new barges differ greatly from the problems and costs associated with modifying existing barges. For this reason, following the 1971 proposal, the Coast Guard split this rulemaking into two parts: an ANPRM asking for comments on how to reduce the pollution problem posed by the existing fleet, and an NPRM proposing construction standards for new barges.

The present barge fleet consists of about 1,200 full double-hull barges, 2,200 single-hull barges, and 428 barges with partial double skins. Hastening the retirement of single-hull barges could significantly affect both the economic viability of many individual tank barge operators and the tank barge industry's ability to respond to the Nation's need to transport bulk liquid cargo. The alternatives we considered in the ANPRM are early retirement of vessels, conversion to other service, restriction of routes, increased Coast Guard inspection standards, and reduction of the numbers of barges towed together as a single unit.

In the case of new construction, the NPRM proposed two alternatives to the double-hull approach: (1) taking no action or (2) requiring the use of heavier internal structures in either selected areas of the vessel or overall to make the hulls more resistant to penetration. We selected the double-hull alternative as a result of information gathered in a joint Coast Guard/Maritime Administration study known as the "1974 Tank Barge Study," which indicated that this was the most effective method.

Because any action taken on these two items would have a profound effect on the environment and the economy of the towing industry, we decided to hold a series of hearings on both the ANPRM and the NPRM in various parts of the country. Responses at the hearings addressed both the ANPRM and the NPRM, without distinguishing between them.

In general, the comments pointed out the high costs of the proposed alternatives to both the towing industry and the Nation's economy. The comments advocated the following alternatives:

(A) Do not retire existing equipment.

(B) Require constructing single-hull barges with heavier materials.

(C) Require more stringent inspection and vigorous enforcement of existing regulations.

In addition, industry representatives questioned the effectiveness of double hulls in preventing pollution.

These issues are valid and deserve further consideration. The Coast Guard has decided that an independent agency should evaluate the proposed alternatives. In addition, industry estimates of costs differ greatly from Coast Guard estimates. Industry estimates are higher by far. In light of the industry data, the Coast Guard will have to reexamine the anticipated economic effects of the proposal. Consequently, the National Academy of Sciences will reexamine the entire tank barge issue and recommend various options to accomplish the Coast Guard's objective.

Summary of Benefits

Sectors Affected: Manufacturing of tank barges; aquatic environment for wildlife; and the general public.

The Coast Guard has concluded that double hulls would be 95 percent effective in preventing pollution due to hull damage. This conclusion is based on the report we mentioned previously, the "1974 Tank Barge Study." In fairness to those protesting the proposal, it should be pointed out that several comments called into question the data used in the study. Simply stated, these comments contended that the amount of hull penetration suffered in several of the casualties examined in the study would have resulted in spills regardless of whether or not the barge had been equipped with a double hull.

The benefits to the general public are impossible to quantify. There would be some reduction in the amount of oil in the water, which would have an aesthetic value for those using the waterways for recreational purposes. However, the actual improvement in the aquatic environment for wildlife is difficult to determine, because destruction done to plants and animals depends upon such factors as how much oil is spilled and how quickly and at what time of year. The success of subsequent cleanup efforts also has a direct bearing upon how much environmental damage is done. A relatively large spill that occurs in protected waters and is promptly cleaned up could have very little impact on the quality of the water while representing a statistically significant pollution incident. There are no reliable statistical data available to determine the actual extent of damage oil pollution has caused in terms of destroyed wildlife or depleted income as a result of fish-kills. All parties involved with this proposal agree that reduced oil pollution is a desirable goal, but there are no ways to measure the benefits.

Shipyards that manufacture barges would benefit from an increased demand for construction and servicing.

Summary of Costs

Sectors Affected: Water transportation of oil tank barges; towing services; manufacturing of tank barges; and users of oil.

In 1978, the cost of a double-hull inland tank barge ranged from $146,000 to $425,000 more than for a single-hull inland barge of comparable size. Added costs for full double hulls on ocean barges ranged from $700,000 to $1,700,000 for each barge.

The costs for modifying existing barges are more difficult to determine.

The total cost differential between normal fleet replacement and imposed replacement for inland barges is $120,274,000 (1978 dollars), a 28 percent increase over normal replacement costs. The difference for ocean barges (those engaged in trade between U.S. and foreign ports) and coast-wise barges (those engaged in trade between U.S. ports) is $245,030,000, an 85 percent increase over normal replacement costs. To assess which portion of this cost is attributable to the new construction standards, the replacement costs for imposed attrition of these barges was also computed using single-hull construction costs. The early replacement cost for these barges was $101,268,000, a 35 percent increase. The remaining $143,763,000 cost differential is attributable to the proposed rule for double-hull construction and represents a 50 percent increase over normal replacement costs.

The ANPRM solicited estimates of these costs as well as costs the industry would incur for activities such as oil recovery and cleanup resulting from spills related to hull damage. Comments received indicated industry estimates for increased expenses were several times the Coast Guard estimates. In addition, repair costs for double-hull barges would be much more expensive because the space between the hulls is difficult to work in and must be freed from toxic and explosive gas before any work can be done on the barge's hull. The comments also failed to show any offsetting savings to industry resulting from decreased cleanup costs. Compliance costs would be passed on to the consuming public.

We do not anticipate any significant administrative costs associated with the proposal.

Related Regulations and Actions

Internal: The Coast Guard is also considering double-hull requirements as a possible solution to spilling hazardous materials.

External: None.

Active Government Collaboration

The Coast Guard has informed the Environmental Protection Agency, the Maritime Administration, and the National Oceanographic and Atmospheric Administration of its regulatory proposals.

Timetable

Since the comments called so many of its basic assumptions into question, the Coast Guard has decided that it is time for an impartial third party to be consulted on the merits of the proposed regulations. The Coast Guard has contracted with the National Academy of Sciences to study the problem and make recommendations concerning the alternatives we have identified and to propose any additional alternatives that may be developed during the course of the study.

The National Academy of Sciences held a workshop on these proposals on April 15 and 16, 1980. The Academy's report has been delayed until the end of April 1981, at the earliest. We will defer any further action until we have evaluated these recommendations and any new economic information.

The Regulatory Flexibility Act requires a Regulatory Flexibility Analysis for this proposal. One has not yet been drafted.

Available Documents

Karlson, E. S., et al., "Alternative Inland Tank Barge Designs for Pollution Avoidance," May 22, 1974.

"Polluting Incidents In and Around U.S. Waters," annual reports for 1971 through 1977. Coast Guard publication number C.G. 487.

Joint Coast Guard/Maritime Administration Study, "Tank Barge Study," October 1974. National Technical Information Service number COM-75-10284/AS.

Bender, A., et al., "Tank Barge Oil Pollution Study," prepared for the Coast Guard by Automation Industries, Inc., 1978.

NPRM—36 FR 24960, December 24, 1971 (superseded).

NPRM—44 FR 34440, June 14, 1979, for new construction.

ANPRM—44 FR 34443, June 14, 1979, for existing construction.

Supplementary NPRM—45 FR 16438, March 13, 1980, for both proposals.

Draft Regulatory Analysis and Environmental Impact Statement, "Design Standards for New Tank Barges and Regulatory Analysis for Existing Tank Barges to Reduce Oil Pollution Due to Accidental Hull Damage, May 1979."

Documents available from Agency Contact. Fees will be charged for duplicating the material.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead) (40 CFR 51.24* and 52.21*)

Legal Authority

The Clean Air Act, as amended, § 166, 42 U.S.C. § 7476.

Reason for Including This Entry

The regulation, when developed and promulgated, is likely to impose siting restrictions on air pollution sources because of limitations on areawide emission totals. This could have a significant effect on industry.

Statement of Problem

The purpose of this program is to provide for adequate representation of the public interest where the Nation's clean air resources are threatened by increases in concentrations of Set II pollutants (hydrocarbons, carbon monoxide, nitrogen oxides, ozone, and lead). The present Prevention of Significant Deterioration (PSD) regulations administered by the Environmental Protection Agency (EPA) require the use of "best available control technology" (BACT) on all new or modified major sources of all pollutants covered by the Clean Air Act. In addition, the present program also limits increases in areawide concentrations of sulfur dioxide and particulate matter through an air quality increment system, which limits the amount of emission increases based on air quality impact. The present program, however, does not similarly limit areawide emission levels or air quality impacts of Set II pollutants and, therefore, cannot protect against the degradation of air quality up to the National Ambient Air Quality Standards (NAAQS) (i.e., those levels of air quality set to prevent adverse health and welfare effects). The Clean Air Act, as

amended in 1977, requires EPA to respond to this problem (42 U.S.C. 7476).

Alternatives Under Consideration

EPA is now reviewing a range of regulatory alternatives which appear to be most reasonable at this time. These alternatives include the following:

(A) Existing Emissions Controls—This system would rely primarily on the requirements for best available control technology (BACT) on major new stationary sources and the Federal standards for motor vehicle emissions. Control requirements under this system would not vary as a function of ambient pollutant concentrations or of the proximity of other sources, as long as the National Ambient Air Quality Standards were not violated.

(B) Ambient Air Quality Allocation.

Ambient Air Quality Increments—This approach would call for the States to develop an area classification system establishing numerical limits for allowable degradation of ambient air quality. This system would be similar to that already in effect for particulate matter and sulfur dioxide.

(C) Emission Allocation—

(1) Emission Density Zoning (EDZ)—An EDZ system would set theoretical ambient air quality increments to serve only as a guideline for establishing limits on maximum allowable emissions per unit land area. Once EPA established these emissions density limits, the appropriate State or local air pollution control agency would base preconstruction review of new and modified sources on the emission density limits rather than on ambient air quality.

(2) Inventory Management—This system would require State and local agencies to develop and maintain detailed emission inventories, with the provision for mandatory periodic public review whenever the local emission inventory increased by a pre-established quantity or percentage. The system would require this public review before allowing any further incremental increase in emissions, and could include an environmental analysis, a community environmental education program, a public hearing, and a vote by elected officials from the potentially affected areas.

(D) Empirical Criteria—

(1) Transportation BACT—This alternative would require means to reduce emissions associated with motor vehicle-related sources. These means could involve specifications for road systems or performance standards for public transportation systems, such as specified levels of service for public transportation. EPA also could consider additional criteria for existing transportation processes and inspection and maintenance.

(2) Indirect Source Review for Federally Funded Projects—The Clean Air Act precludes EPA from requiring States to perform indirect source reviews of non-federally funded projects; therefore, this alternative would require indirect source review for Federally owned, funded, or assisted projects. These projects could include airports, highways, sport complexes, and other projects constructed with Federal grants.

EPA is also investigating economic allocation schemes to use in conjunction with the above described regulatory alternatives. The specific programs we are considering at this time are emission fees and marketable permits.

The final regulation will include the existing emission controls option combined with one or more of the other alternatives, or may present several regulatory options from which a State would choose its specific program.

Summary of Benefits

Sectors Affected: The general public.

Areas of the country which are presently attaining the NAAQS for carbon monoxide, nitrogen dioxide, ozone, and lead will have a program to prevent significant air quality deterioration from those pollutants. In addition, regulations will provide special protection to national parks, national wilderness areas, and other Class I areas.

These regulations are at such an early stage of development that we cannot yet quantify benefits and costs. The benefits will vary depending on the alternative or alternatives we select. The regulations are unlikely to impose additional direct emission control requirements on air pollution sources, but they may impose siting restrictions because of limitations on areawide emission totals. Once we complete the Regulatory Impact Analysis, we will have a better estimate of the benefits and costs associated with this regulation.

Summary of Costs

Sectors Affected: Industries emitting Set II pollutants, including: transportation, electric services, and manufacturing (particularly the petroleum refining and the primary metal industries).

We do not anticipate that the regulation will affect small entities disproportionately. The Regulatory Impact Analysis will, however, specifically address this problem.

As we noted above, we will assess the costs of implementing these regulations as a part of the Regulatory Impact Analysis. We already require the affected sources under the present PSD regulations to install the best available control technology (40 CFR 51.24 and 40 CFR 42.21). Therefore, the costs (decline in economic growth, regional costs, etc.) resulting from this regulation alone will be related only to site location.

Related Regulations and Actions

Internal: EPA has developed and currently administers regulations for the prevention of significant deterioration of air quality resulting from emissions of particulate matter and sulfur dioxide (40 CFR 51.24). The same regulations also require best available control technology on the stationary sources potentially affected by this regulation.

External: The regulation will require each State to develop regulations to implement this program. These regulations will require EPA review and approval.

Active Government Collaboration

EPA has formed an interagency work group to assist it in the development and review of these regulations. The following are members of the work group: Department of Transportation, Department of Energy, Department of Interior (National Park Service, Fish and Wildlife Service, and Bureau of Land Management), Department of Commerce, Department of Housing and Urban Development, Department of Agriculture, and Council on Environmental Quality. In addition, we have solicited and received cooperation from State governments through the State and Territorial Air Pollution Program Administrators, and local agencies through the Association of Local Air Pollution Control Officers.

Timetable

Regulatory Flexibility Analysis—July 1981.

Regulatory Impact Analysis—July 1981.

NPRM—September 1981.

Public Hearing—October 1981.

Public Comment Period—November 1981.

Final Rule—June 1982.

Available Documents

"Program to Prevent Significant Deterioration of Carbon Monoxide, Ozone, Hydrocarbons, Nitrogen Dioxide and Lead" (EPA report number EPA-450/2-80-071, March 1980), available from NTIS Accession No. PB80-221260.

"Community Environmental Education: Three Models of Organization for PSD Set II" (EPA report number EPA–450/2–80–079, June 1980), available from NTIS, Accession No. PB81–118721.

EPA has established a docket (EPA, Central Docket Section A–79–34) for review of the PSD Set II regulations.

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EPA–OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Carbon Monoxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d)(1) of the Clean Air Act as amended directs EPA to review existing national ambient air quality standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and welfare. EPA set the original carbon monoxide (CO) standards (36 FR 8186, April 30, 1971) at 9 parts per million (ppm) averaged over an 8-hour period and 35 ppm for a 1-hour period. On August 18, 1980 (45 FR 55066), the Agency proposed to retain the 9 ppm 8-hour standard and lower the 1-hour standard to 25 ppm. EPA also proposed to change the form of the original standards, which allowed one exceedance in any year, to a statistical form, in which the standards cannot be exceeded more than one day per year averaged over several years.

The incidence of adverse health effects in the general population resulting from human exposure to carbon monoxide has not been completely quantified. However, there are several population groups that are particularly sensitive to carbon monoxide exposure, such as people with coronary heart disease (e.g., angina pectoris), peripheral vascular disease, cerebrovascular disease, or chronic obstructive pulmonary disease; pregnant women and their fetuses; and people with anemia. These sensitive population segments range from 5 to 12 percent of the U.S. population. Thus, between 11 million and 27 million persons in the United States with cardiovascular, pulmonary, and central nervous system diseases can have these conditions aggravated by exposure to carbon monoxide.

Alternatives Under Consideration

The Agency considered the following alternative standards prior to the August 18, 1980 proposal:

1 hr averaging time	8-hr averaging time
15 ppm	7 ppm.
25 ppm	9 ppm.
35 ppm	12 ppm.

EPA originally selected the 8-hour averaging time because most people achieve equilibrium or near-equilibrium levels of carboxyhemoglobin (COHb) in the blood after an 8-hour exposure to carbon monoxide. In addition, most people are exposed to carbon monoxide in roughly 8-hour blocks of time. We uncovered no evidence during the review process resulting in the August 18, 1980 NPRM that indicated that the 8-hour averaging time should be changed.

As a result of the review and revision of the health criteria, EPA proposes to retain the existing primary 8-hour standard at 9 ppm and to lower the primary 1-hour standard from the current 35 ppm to 25 ppm. The change in the 1-hour standard is being proposed because of the more rapid accumulation of blood carboxyhemoglobin in moderately exercising sensitive persons compared to resting individuals. The impact of exercise, which is greater for short-duration exposures, was not considered in the original standard.

We are investigating no new Federal regulatory techniques in the CO NAAQS review process. State governments use their own discretion in taking regulatory actions to meet EPA's national ambient air quality standards. The States are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jursidiction. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: Persons with cardiovascular or pulmonary disease; pregnant women and fetuses; and anemics.

The newly proposed CO NAAQSs should result in a greater assurance that persons with cardiovascular heart disease will not experience deleterious health effects due to high ambient concentrations of carbon monoxide. Specifically, the two standards are intended to keep exposure of 99 percent of the estimated 11 million to 27 million people particularly affected by cardiovascular heart or peripheral vascular disease to a COHb level below 2.1 percent.

Summary of Costs

Sectors Affected: Consumers who purchase automobiles; manufacturing of automobiles; administration of State and local transportation programs; the driving public; EPA; and State air pollution control agencies.

In its Regulatory Impact Analysis, EPA estimated the 1987 annualized costs of various CO control strategies for the three 8-hour alternatives; the total nationwide cost in 1979 dollars is approximately $2.8 billion for the 9 ppm proposed standard. It is $2.9 billion for the 7 ppm alternative and $2.6 billion for the 12 ppm alternative. Costs for alternative 1-hour standards were not developed because control strategies needed to attain any of the three alternative 8-hour standards investigated automatically attain all of the 1-hour standards that EPA analyzed.

Approximately 82 percent of these costs are due to the Federal Motor Vehicle Control Program (the automobile emission control program). Buyers of new cars incur these costs. An additional 15 percent of total costs are borne by the auto-using public through inspection and maintenance program fees and repair costs. The remaining 3 percent of total costs are borne by local governments and industrial plants.

Related Regulations and Actions

Internal: The newly proposed CO NAAQSs will not affect any other Agency program since there is no change in the controlling 8-hour standard. Emission standards for moving sources will not be affected since they are established under Title II of the Clean Air Act (42 U.S.C. § 7501 *et seq.*).

External: The newly proposed CO NAAQSs will not alter any on-going or planned State, local, or private industry

control program since there is no change in the controlling 8-hour standard.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the standard include the Departments of Transportation, Energy, and Health and Human Services. In addition, EPA has contacted the Interagency Regulatory Liaison Group (IRLG) and will involve them in the standard review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

Final Rule—To be determined.
Regulatory Flexibility Analysis—None.

Available Documents

ANPRM—"Review of the Carbon Monoxide Air Quality Standard," 43 FR 56250, December 1, 1978.

NPRM—"Carbon-Monoxide. Proposed Revisions to the NAAQS," 45 FR 55066, August 18, 1980.

"Air Quality Criteria for Carbon Monoxide" (External Review Draft, April 1979); it is available from the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency Science Advisory Board Clean Air Scientific Advisory Committee, Subcommittee on Carbon Monoxide, "Transcript of Proceedings" for January 30 and 31, 1979 and June 14–16, 1979.

Public hearing record and public comments (comment period closed November 10, 1980).

The following reports are available from the U.S. EPA Library (MD-35), Research Triangle Park, NC 27711. Telephone: (919) 541-2777 (FTS: 629-2777).

"Control Techniques for Carbon Monoxide Emissions," EPA-450/3-79-006, June 1979.

"Regulatory Impact Analysis of the National Ambient Air Quality Standards for Carbon Monoxide," April 2, 1980.

"Proposed National Ambient Air Quality Standards for Carbon Monoxide: Draft Environmental Impact Statement," July 1980.

"Estimated Exposure to Ambient Carbon Monoxide Concentrations Under Alternative Air Quality Standards (Draft)," August 1980.

"Preliminary Assessment of Adverse Health Effects from Carbon Monoxide and Implications for Possible Modifications of the Standard (Draft)," June 1, 1979.

"Sensitivity Analysis of Coburn Model Predictions of COHb levels Associated with Alternative CO Standards (Draft)," July 1, 1980.

"Significant Harm Levels for Carbon Monoxide (Draft)," July 1980.

EPA has established a docket (EPA, Central Docket Section OAQPS-79-7) for review of this standard. The docket is available for investigation between 9:00 a.m. and 4:00 p.m. on weekdays in the Section Office: Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, §§ 109(c) and 109(d), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(c) of the Clean Air Act, as amended, directs EPA to promulgate a short-term nitrogen dioxide (NO_2) standard unless there is no significant scientific evidence that such a standard is needed to protect public health. Section 109(d)(1) of the Act requires EPA to review the scientific basis of existing National Ambient Air Quality Standards (NAAQS) every 5 years. (Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and safety. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.) This review includes the existing NO_2 annual average standard promulgated by EPA on April 30, 1971 (36 FR 8186). The standard is 100 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean (40 CFR 50.11). The Agency has combined possible proposal of a short-term NO_2 standard with review of the annual average NAAQS into one rulemaking process (see 45 FR 6959, January 31, 1980). After review of scientific bases for the standards (the air quality criteria), EPA will decide whether to propose a short-term NO_2 standard and change or reaffirm the existing annual NO_2 NAAQS.

Public exposure to NO_2 can result in impairment of pulmonary (lung) function and can increase susceptibility to respiratory infection. NO_2 or other nitrogen oxide compounds in the ambient air can adversely affect crops, visibility, and materials, and can cause acid rainfall. Acid rainfall adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

Based on revised air quality criteria, EPA may decide to keep the existing annual standard without change, or make some modification to the allowable air concentration of nitrogen dioxide, the period over which the concentration is measured, or the number of times States will be allowed to exceed the standards. The Agency may also decide to propose a short-term NO_2 standard.

We are investigating no new regulatory techniques in the NO_2 NAAQS review/standard-setting process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdictions. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory attainment dates.

Summary of Benefits

Sectors Affected: The general public, particularly those persons suffering from respiratory disease; agriculture; and the aquatic ecosystem.

Revision of air quality criteria and review of the existing ambient air standard will result in greater assurance that the standard which EPA reaffirms or newly promulgates will protect public health and welfare, crops, materials, and aquatic ecosystems.

Summary of Costs

Sectors Affected: Industries emitting nitrogen oxides, such as manufacturing, electric services, and natural gas pipelines; manufacturing of motor vehicles and motor vehicle equipment; regulation and administration of transportation programs; EPA; and State air pollution control agencies.

We will assess the costs and economic effects of controlling oxides of nitrogen for alternative short-term and annual standards at the time we propose a revised standard. In addition, EPA will also assess the impact on State air pollution control agencies of developing and modifying control programs to attain and maintain a possible short-term and annual NO_2 standard. The Agency will publish these assessments in a Regulatory Impact Analysis that will be issued simultaneously with the NPRM.

The costs may exceed $100 million annual impact on the economy.

If the Agency's NO_2 activities result in a new regulatory action, the regulation could affect the level of control for sources of nitrogen oxides emissions, such as power plants, industrial boilers, and natural gas pipeline stations. We currently are controlling mobile source emissions under existing emissions limits for motor vehicles; however, a stringent short-term NO_2 standard could result in the need for community-wide inspection and maintenance programs for automobile and truck emissions.

Related Regulations and Actions

Internal: Changes to the current ambient standard may affect EPA's regulations for nitrogen oxides emissions from motor vehicles and EPA regulations for new source review (40 CFR 51.18 and 51.24).

External: Modifications in the existing standard may require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary. A new short-term standard would require States to assess ambient air quality data, and if concentrations exceed the standard, develop a State implementation plan to control NO_2 emissions.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the nitrogen dioxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, we have informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—To be determined.
Regulatory Impact Analysis—To be determined.
Public Comment Period—To be specified in NPRM.
Public Hearings—60 days after publication of NPRM.
Final Rule—To be determined.
Regulatory Flexibility Analysis—Undecided.

Available Documents

"Air Quality Criteria for Nitrogen Dioxide" (external review draft, annotated version, June 1980), available from the Environmental Criteria and Assessment Office (ECAO), U.S. Environmental Protection Agency, MD-52, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency, Science Advisory Board, Clean Air Scientific Advisory Committee, Committee Meeting on Air Quality Criteria for Oxides of Nitrogen, "Transcript of Proceedings" conducted in Washington, DC on January 29 and 30, 1979; available from ECAO.

"Control Techniques for Nitrogen Dioxide Emissions" (draft, January 1978), available from Emission Standards and Engineering Division, U.S. Environmental Protection Agency, MD-13, Research Triangle Park, NC 27711.

"National Ambient Air Quality Standards: Establishment of Standard Review Docket for Nitrogen Dioxide," 45 FR 6958, January 31, 1980.

EPA has established a docket (EPA, Central Docket Section OAQPS-78-9) for review of the NO_2 standard. Reports in the docket are available for inspection between 8 a.m. and 4 p.m. on weekdays at the Docket Section Office, Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) beleives that this review is important to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air quality standards define the level of pollutant concentrations in the ambient air that are allowed while still protecting public health and safety. The current primary standard for particulate matter (to protect public health) is 75 micrograms per cubic meter ($\mu g/m^3$), annual geometric mean, and 260 $\mu g/m^3$, maximum 24-hour concentrations, not to be exceeded more than once per year. The current secondary standard for particulate matter (to protect public welfare, e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 150 $\mu g/m^3$, maximum 24-hour concentration, not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the primary and secondary standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Exposure to airborne particulate matter (PM) aggravates asthma and other respiratory disorders, as well as cardiovascular diseases and can impair pulmonary function; this exposure can also increase coughing and chest discomfort. PM may also increase the adverse health effects of gaseous air pollutants, such as sulfur dioxide. Depending on their chemical composition, specific types of PM may have more serious toxic or carcinogenic effects than others. Elevated PM levels

result in increased soiling of exposed materials and impair visibility.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may decide to change the allowable air concentration of particulate matter, the period over which the concentration is measured, or the number of allowable exceedances of the standards. EPA is also considering standards based on the size of the particulate as well as its concentration. This consideration is based on evidence that smaller particles penetrate deeper into the lung and evidence that when elevated concentrations of particulate matter occur in combination with elevated levels of sulfur oxides, adverse health effects may be more pronounced.

EPA is not investigating new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments, which are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases and cardiovascular diseases.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adequately protect health and welfare of the general public, including those groups within the general public most sensitive to adverse health effects of PM.

Summary of Costs

Sectors Affected: Industries emitting particulate matter, including (1) electric and sanitary services, (2) the primary metal industry, and (3) those industries that use or supply large quantities of fossil fuels; and State air pollution control agencies.

EPA will complete a study of costs and economic impacts of controlling particulate matter under alternative standards when it issues the NPRM. This analysis will involve estimates of capital, operating, and energy cost for various industries. Also, estimates of national annual cost will be provided. The annualized cost may exceed $100 million, depending upon the final level of the standards proposed. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs to accommodate revisions to the existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards for particulate matter may affect EPA's regulations for new source review (40 CFR 51.18 and 51.24).

External: Modifications in the existing standards would require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the standards for particulate matter are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates the regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—To be determined.
Regulatory Impact Analysis—Fall 1981.
Public Comment Period—To be specified in NPRM.
Public Hearing—60 days after publication of NPRM.
Final Rule—To be determined.
Regulatory Flexibility Analysis—Will be combined with Regulatory Impact Analysis.

Available Documents

ANPRM—"National Ambient Air Quality Standards: Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 56730, October 2, 1979.

"Air Quality Criteria for Particulate Matter," AP-49, January 1969, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Health Effects Considerations for Establishing a Standard for Inhalable Particles," July 1978, available from the Health Effects Research Laboratory, Environmental Protection Agency, Research Triangle Park, NC 27701.

"Airborne Particles," National Academy of Sciences, 1977, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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EPA—OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide) (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs the EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are allowed while still protecting public health and welfare. The present primary standard for sulfur oxides measured as sulfur dioxide (set to protect public health) is 80 micorgrams per cubic meter ($\mu g/m^3$), annual arithmetic mean, and a maximum 24-hour concentration of 365 $\mu g/m^3$, not to be exceeded more than once per year. The current secondary standard for sulfur oxides measured as sulfur dioxide (to protect public welfare e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 1300 $\mu g/m^3$ with the maximum 3-hour concentration not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Sulfur oxides in the air, working alone or in combination with other pollutants, aggravate respiratory diseases such as asthma, chronic bronchitis, and emphysema and also irritate the eyes and respiratory tract. Sulfur oxides also cause impaired visibility, harm vegetation, and help form acid rain, which harms crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may alter the air concentration of sulfur dioxide or the period over which the concentration is measured.

EPA is investigating no new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases; and agricultrure.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adequately protect the health and welfare of the general public, including those most sensitive to adverse health effects of sulfur oxides.

Summary of Costs

Sectors Affected: Industries emitting sulfur dioxides, including (1) electric, gas, and sanitary services industries, (2) the non-ferrous metal industry, (3) the petroleum refining industry, and (4) those industries that supply or use large quantities of fossil fuel; and State air pollution control agencies.

A study of costs and economic impacts of controlling sulfur oxides under alternative standards will be completed by EPA when the NPRM is issued. These estimates will include capital, operating, administrative, and other costs (including research and development) for the various industries. Nationwide estimates of annualized cost of the regulatory action will also be provided. It is estimated that such cost will exceed $100 million. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs in order to accommodate any revisions to existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards may affect EPA's regulations for new source review (40 CFR 51.18 and 51.24).

External: Modifications in the existing standards would require States to reassess their current implementation control programs, and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the sulfur oxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates certain regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—To be determined.
Regulatory Impact Anaylsis—To be determined.
Public Comment Period—To be specified in NPRM.
Public Hearing—60 days after publication of NPRM.
Final Rule—To be determined.
Regulatory Flexibility Analysis—Will be combined with Regulatory Impact Anaylsis.

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides." 44 FR 56730, October 2, 1979.

"Air Quality Criteria for Sulfur Oxides," AP-50, January 1969—available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Sulfur Oxides." National Academy of Sciences, 1978—available from the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Avenue, Washington, DC 20418.

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EPA-OANR

Standards of Performance to Control Atmospheric Emissions from Industrial Boilers (40 CFR Part 60*)

Legal Authority

The Clean Air Act, as amended, § 111, 42 U.S.C. 7411.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this rule would be important because it would affect many industries; address a major air polluter, namely industrial boilers; and minimize emissions in the face of increased industrial use of coal. The impact of this regulation on industry would approach $100 million per year for additional capital and annualized costs by 1990.

Statement of Problem

Combustion of coal, oil, and gas in industrial boilers results in the emission of significant quantities of particulate matter, sulfur dioxide, and nitrogen oxides to the atmosphere. Because of the large number of boilers and the associated emission rates, industrial boilers contribute significantly to air pollution in the United States. In 1975, emissions from industrial boilers were estimated to include 2.8 million tons of particulate matter, 3.3 million tons of sulfur dioxide, and 2.0 million tons of nitrogen oxides, or approximately 17, 11, and 8 percent of total national emissions of these pollutants. The projected growth rate of the use of industrial boilers, coupled with the emphasis on shifting fuel from gas and oil to coal, will increase the potential for emissions. These air pollutants affect the health and welfare of most of our urban-dwelling citizens by contributing to respiratory disease in people and animals, reducing visibility in the atmosphere, damaging vegetation, and soiling and deteriorating real estate. Failure to provide more effective control

of emissions from industrial boilers will increase exposure to the undesirable effects of these pollutants and will expand the portions of the country that exceed EPA's ambient standards for these pollutants. This rule will apply to new and modified industrial boilers. Only the largest industrial boilers are presently covered by standards established in § 111 of the Clean Air Act; these standards apply only to new and modified units. Existing industrial boilers are required to meet State and local regulations which usually limit sulfur dioxide and particulate emissions. The expanded § 111 regulations are expected to incorporate limits for nitrogen oxides and limits for sulfur dioxide and particulates that are more stringent than State and local regulations.

Alternatives Under Consideration

The 1977 Clean Air Act Amendments require that EPA adopt standards of performance for stationary sources of air pollution that are fired by fossil fuels. EPA is gathering information on eight technologies for reducing boiler pollutants: (1) oil cleaning and use of existing clean oil, (2) coal cleaning and existing clean coal, (3) synthetic fuels, (4) fluidized bed combustion (a relatively new technology applicable only to large coal-fired boilers), (5) particulate control, (6) flue gas desulfurization, (7) nitrogen oxides combustion modification, and (8) nitrogen oxides flue gas treatment.

We are examining several control alternatives which include different levels of control for the three pollutants being studied. Computer modeling is being used to determine the cost impacts, emission impacts, effects upon fuel consumption, overall energy impacts, and other environmental effects on a regional and national basis. Based upon results of this modeling, the regulation will be designed to exempt the 70 to 85 percent of small boilers which release only 10 to 20 percent of total air pollutants from industrial boilers.

Summary of Benefits

Sectors Affected: Manufacturing industries; and the general public.

This rule will apply to new and modified industrial boilers used in a large number of manufacturing industries, particularly energy-intensive industries, such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281), and will affect people in urban and rural areas who are subject to pollution emissions from these industries.

Installing equipment that represents the best available control technology at new and modified industrial boiler facilities will help lessen air pollution in already affected areas and preserve clean air in as yet unpolluted areas of the country. Since only a small fraction of the industrial boiler population is replaced or modified annually, the short term impact on air quality will be only nominal. However, annual reductions in emissions will be cumulative resulting in significant betterment of air quality over the long term. Equipping new boilers with best available control technology will reduce the need for using the "cleanest" fuels, which can be diverted to existing plants in which new add-on controls are less cost effective.

A regulation that requires more stringent controls on new and modified industrial boilers will allow industrial expansion and economic growth without an accompanying assault on ambient air quality.

Summary of Costs

Sectors Affected: Manufacturing industries; and users of products produced by these industries.

Energy intensive industries such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281) are the specific industries that this rule would affect most.

Cost estimates for applying the control technology required by a regulation governing emissions from industrial boilers would be determined by the number, sizes, and types of sources we regulate and the degree of control we require. EPA estimates that by 1990, annual added capital costs of control will approach $200 million and annualized costs will approach $100 million (1978 dollars). These estimates are necessarily very tentative at this time. Consumers may pay higher prices for products manufactured by energy-intensive industries.

Related Regulations and Actions

Internal: We have issued water pollution regulations for several industries in the form of "Best Practical Technology Currently Available" and "Best Available Technology Economically Achievable." In some industries, these regulations cover effluents from boilers. Industrial boilers are also subject to requirements of the Resource Conservation and Recovery Act, Part 261, Subpart C.

External: Industrial boilers are subject to the Power Plant and Industrial Fuel Use Act and associated regulations established by the Department of Energy.

Active Government Collaboration

Because emissions from industrial boilers come from the combustion of fossil fuels, EPA is working closely with the Department of Energy to share information and stimulate advances in technology.

EPA works closely with State and local governments in developing and implementing these rules.

Timetable

Regulatory Impact Analysis—November 1981.
NPRM—November 1981.
Regulatory Flexibility Analysis—November 1981.
Public Hearing—December 1981.
Public Comment Period—To be announced on proposal.
Final Rule—December 1982.

Available Documents

ANPRM—40 CFR Part 60 (44 FR 37632, June 28, 1979).

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EPA-OANR—Office of Mobile Source Air Pollution Control

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, § 202, 42 U.S.C. § 7521.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we expect it will have an annual economic impact of more than $100 million.

Statement of Problem

The Clean Air Act Amendments of 1977 require EPA to establish regulations which require a reduction (from the uncontrolled state) of heavy-duty engine or vehicle emissions of 90 percent for hydrocarbon (HC) and carbon monoxide (CO) in 1983 and 75 percent for oxides of nitrogen (NO_x) in 1985. These amendments also provide EPA with options to either temporarily revise or change the standards under certain conditions. As defined in the Act, heavy-duty vehicles include those trucks over 6,0000 pounds gross vehicle

weight (GVW); excluded are off-road vehicles, such as farm tractors and construction equipment. This definition overlaps two truck categories as used by EPA. These are light-duty trucks (LDTs), which EPA defines as trucks up to 8,500 pounds GVW, and heavy-duty vehicles (HDVs), which include the 8,500 pounds GVW and over trucks. We published regulations implementing the mandated reductions in HC and CO emissions for HDVs on January 21, 1980 (45 FR 4136) and for LDTs on September 25, 1980 (45 FR 63734). This entry concerns the regulations implementing the mandated reduction in NO_x.

During high temperature combustion in internal combustion engines, atmospheric nitrogen reacts to form nitric oxide (NO) and a comparatively small amount of nitrogen dioxide (NO_2). In the atmosphere, the NO is converted to NO_2 by direct reaction with oxygen and by photochemical processes. NO_2 in the atmosphere causes visibility restrictions and brownish coloration, and is a major contributor to the incidence of acid precipitation, commonly referred to as "acid rain." Elevated NO_2 levels are also associated with both long-term and short-term health effects on the respiratory system.

Based upon the present annual standard of 0.05 parts per million, EPA identified 34 (out of a total of roughly 250) Air Quality Control Regions in 1976 which were either exceeding acceptable levels, or were within 40 percent of the standard. EPA's analysis of future oxides of nitrogen (NO_x) emissions indicates that current light-duty and heavy-duty vehicle NO_x control strategies will produce some overall NO_x reductions through the mid-1980s, after which annual growth of vehicle sales, industry, and other sources contributing to pollution will begin to dominate. Thus, to even maintain the status quo, further NO_x controls will be needed. Heavy-duty vehicles and light-duty trucks, representing approximately 40 percent of mobile source NO_x emissions, constitute one area where further NO_x control is available on a cost-effective basis. Mobile sources (which as a group include railroads, boats, planes, etc., in addition to motor vehicles) constitute about 30 percent of total NO_x emissions.

Alternatives Under Consideration

In the development of the NO_x standard, EPA will consider the following alternatives:

(A) Implement an NO_x standard that reflects the Clean Air Act's mandated 75 percent reduction.

(B) Implement an NO_x standard that is either less stringent or more stringent than the 75 percent reduction required by the Clean Air Act.

EPA is currently evaluating the advantages and disadvantages of both alternatives. The Clean Air Act (as amended August 1977) directs EPA to set an NO_x standard that reflects a 75 percent reduction (from uncontrolled levels), applicable for the 1985 model year. However, Congress incorporated provisions in the Act allowing EPA either to set more stringent standards or less stringent standards. EPA can make such revisions to the standard if it finds that the emission standards cannot be achieved by available technology at reasonable cost. Of course, as standards are made more stringent, more benefits will accrue. Likewise, as standards become more stringent, costs of compliance will generally increase. The task confronting EPA is one of determining techological capabilities, and balancing costs and benefits.

At the present time, the Agency considers alternative (B) as the most likely option to propose. Based on available information, a 75 percent reduction standard appears to be infeasible for heavy-duty diesel engines. However, EPA does not yet have enough information to propose a specific alternative level though we are in the process of gathering this information.

EPA had also considered the additional alternative of emission averaging, but has decided to pursue averaging as a separate rulemaking. Under an averaging approach, a manufacturer could achieve compliance to an emission standard by averaging its aggregate fleet emissions. The manufacturer could design some engines to be below the standard and others above it. Conceptually, this approach could increase a manufacturer's flexibility from both a technological and an economic standpoint. Averaging will require a major effort to incorporate the concept into the existing regulations. Since the Clean Air Act requires EPA to promulgate the NO_x rulemaking swiftly, and since we believe the averaging concept will need lengthy analysis and discussion between EPA and the industry and public, we will pursue averaging and NO_x as separate rulemakings. We published an ANPRM for the averaging concept on November 28, 1980 (45 FR 79382) and will attempt to complete the averaging rulemaking as close as possible to the time of the NO_x final rule.

Summary of Benefits

Sectors Affected: The general public, especially urban populations and persons particularly susceptible to respiratory disease.

As stated above, the Agency believes that an NO_x standard representing a 75 percent reduction from uncontrolled levels is infeasible for heavy-duty diesel vehicles. Given that we do not yet have enough information to propose a specific alternative level, our benefit analysis is based on a 75 percent reduction standard. Such a standard would reduce lifetime emissions of an average light-duty truck by 0.2 tons (59 percent) and of an average heavy-duty vehicle by 0.9 tons (77 percent) and 7.8 tons (79 percent) for gas and diesel, respectively (compared to vehicles sold under present regulations). These reductions will yield improvements in excess of 10 percent in average NO_x air quality by 1995.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty engines and vehicles and light-duty trucks; and purchasers and users of heavy-duty engines and vehicles and light-duty trucks.

Based on technology we expect heavy-duty diesel engine manufacturers to use to achieve maximum feasible emission levels, and based on a 75 percent reduction standard for all other classes, we project that the average initial price increase of a light-duty truck will be roughly $150 (2 percent), while the average initial price increases of heavy-duty vehicles will be roughly $280 (3 percent) for gasoline engines and $740 (at most 7 percent) for diesel engines (in 1980 dollars). We do not expect these price increases to have a substantial impact on total vehicle sales, nor do we expect the cost of products hauled by heavy-duty vehicles to increase appreciably.

EPA is not able to quantify the fuel economy impacts of the regulations at this time, though buyers of gasoline-powered light-duty trucks and heavy-duty vehicles will probably see an improvement over earlier models, and buyers of diesel light-duty trucks may see a decrease. We cannot predict the effect on heavy-duty diesel vehicles until we have more information on a feasible standard level. We do not project an increase in maintenance costs for any of these vehicles.

We stated earlier that we expect this regulation to have an annual economic impact of over $100 million. Specifically, EPA expects this regulation to have a total cost over the first 5 years of $2.4 billion for light-duty trucks, and $1.8 billion for heavy-duty vehicles. These costs are expressed in 1980 dollars as a lump sum investment made in the first year of production, assuming a discount rate of 10 percent. Since we are not able

to quantify fuel economy effects at this time, these costs do not reflect possible fuel economy impacts.

Related Regulations and Actions

Internal: Current emission standards for light-duty trucks and heavy-duty engines can be found in "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86. Regulations implementing the Department of Transportation light-duty truck fuel economy standards are found in "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

EPA has recently finalized standards and measurement procedures for the control of particulate emissions for diesel-fueled light-duty trucks ("Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496, March 5, 1980). Other related regulations recently finalized are HC and CO emission regulations for 1984 and later model year heavy-duty engines and for 1984 and later light-duty trucks ("Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," 45 FR 4136, January 21, 1980, and "Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks," 45 FR 63734, September 25, 1980).

In addition to the existing regulations above, EPA has proposed particulate regulations for heavy-duty diesel engines (46 FR 1910, January 7, 1981).

External: Light-duty vehicle and light-duty truck fuel economy standards are found in the Department of Transportation "Passenger Automobile Average Fuel Economy Standards," 41 CFR Part 351.

Active Government Collaboration

Department of Transportation (discussions with the National Highway Traffic Safety Administration prior to ANPRM regarding light-duty truck fuel economy). Other government offices (for example, the Department of Commerce) routinely provide comment during the rulemaking process.

Timetable

NPRM—June 1982.
Public Hearing (on ANPRM)—After July 1981.
Public Comment Period (on ANPRM)—Ends 30 days after the public hearing. Comments may be sent to Central Docket Section A-130, West Tower Lobby, Gallery 1, Environmental Protection Agency, Attn: Docket No. A-80-18, 401 M Street S.W., Washington, DC 20460.
Regulatory Flexibility Analysis—Need to be determined.
Final Rule—Applicable to model year 1985 for light-duty trucks and 1986 for heavy-duty vehicles.

Available Documents

ANPRM—46 FR 5838, January 19, 1981.

Draft Regulatory Impact Analysis—January 1981.

Draft Regulations—January 1981.

All documents available for review in Public Docket No. A-80-18, located at the EPA, Central Docket Section A-130, West Tower Lobby Gallery 1, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 4:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA-OANR-OMSAPC

Heavy-Duty Diesel Particulate Regulations (40 CFR Part 86 *)

Legal Authority

The Clean Air Act, as amended, §§ 202, 206, 207, and 301, 42 U.S.C. §§ 7521, 7525, 7541, and 7601.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have an annual effect of $100 million or more on the economy.

Statement of Problem

Despite significant gains made in the control of particulate emissions, there are still many regions of the United States that are not able to meet the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP). To help improve this situation, Congress required EPA (through the Clean Air Act Amendments of 1977) to prescribe standards for the emission of particulate matter from 1981 model year heavy-duty diesel vehicles. EPA must base this standard on the lowest emission rates that we find technologically feasible at the time the standard will take effect, while also taking cost, noise, energy, and safety into consideration.

Diesel engines already power one-third of the heavy-duty vehicles sold in this country. By 1995, EPA expects this figure to increase to over two-thirds, primarily because of the fuel economy advantage of diesel engines over gasoline engines. These diesels emit 40 to 100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. (EPA expects that most gasoline-fueled heavy-duty vehicles will require catalysts and unleaded gasoline beginning in 1984 due to stringent standards for the emissions of hydrocarbons and carbon monoxide (see 45 FR 4136, January 21, 1980).) Heavy-duty diesel vehicles, if left uncontrolled, would emit 218,000 to 266,000 metric tons per year of particulate matter to the atmosphere by 1995. Urban areas would be the most seriously affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2 to 7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat smaller levels of 2 to 5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional diesel particulate levels of 5 to 6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways. If controls are not applied, these ambient impacts would hinder the efforts of many urban air quality control regions to meet the primary NAAQS for TSP of 75 micrograms per cubic meter. EPA set this NAAQS at a level to protect the public health; many areas of the county are currently exceeding the standard.

Diesel particulate is a particular health concern because of its chemical nature. Diesel particulate contains polycyclic organic matter, which is believed to be carcinogenic, and carbon, which can react with other pollutants and increase their effects. The extractable organic fraction of diesel particulate has been shown to be mutagenic (causing genetic damage) in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human health.

Diesel particulate is also extremely small in size, allowing it to penetrate deeply into the lungs. Over 95 percent of diesel particulate is fine (aerodynamic diameter of less than 2.5 micrometers). Fine particles, such as these, have the greatest potential health impact as they have the longest contact with the most sensitive areas of the respiratory tract. Particulate emitted from diesels also has a greater relative exposure impact than

that from many stationary sources because it is emitted at ground level in areas where people live and work.

Alternatives Under Consideration

EPA is considering the following alternatives in adopting a standard for particulate emissions from heavy-duty diesel vehicle engines:

(A) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply additional controls to particulate emissions from stationary sources. Control of particulate emissions from stationary sources may be less costly than controlling particulate emissions from heavy-duty diesel vehicles. But these stationary source controls may not be able to provide the necessary improvements in air quality which are available from the control of heavy-duty vehicles.

(B) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply more stringent controls to particulate emissions from other classes of motor vehicles, such as gasoline-powered passenger cars, light-duty trucks and heavy-duty vehicles, and diesel light-duty trucks and passenger cars. Controls placed on these other vehicle classes, however, do not at this time appear to be as cost effective as heavy-duty diesel controls. Also, controls placed on these other vehicle classes may not be able to provide the same improvement in air quality as the regulation of emissions from heavy-duty diesels.

(C) Prescribe a heavy-duty diesel particulate standard and examine alternative levels of control along with alternative dates of implementation. It is likely that the different alternatives examined will have different costs and effectiveness and one may prove to be significantly better than the others, while still complying with Congressional mandates.

We currently regard alternative (C) as the most desirable alternative. Additional particulate controls available for stationary sources and other mobile sources do not appear able to reduce particulate emissions enough to remove the need for regulation of particulate emissions from heavy-duty diesel engines.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas or near busy roadways, and those who are especially susceptible to respiratory disease; and States containing areas currently in violation of the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP).

EPA estimates that this regulation will reduce particulate emissions from heavy-duty diesel vehicles by 64 percent. This reduction would begin to appear with those new vehicles produced in the 1986 model year. By 1995, emissions of particulate matter from these vehicles would be reduced from 218,000–266,000 metric tons per year (depending on the number of diesels on the road) to 78,000–95,000 metric tons per year. Urban levels of heavy-duty diesel particulate in the atmosphere would be reduced from 2–7 micrograms per cubic meter to 1–3 micrograms per cubic meter. Roadside levels would be reduced similarly. These reductions will help many areas of the country meet the primary NAAQS for TSP (75 micrograms per cubic meter) which EPA set at a level to protect the public health. Because diesel particulate is highly respirable, these reductions should provide an added benefit in the area of public health.

Also, because diesel particulate is very small (average diameter of 0.07 to 0.2 micrometer) and is primarily made up of carbon, it is very effective in reducing visibility. Thus, any reduction in diesel-particulate concentration should improve visibility, particularly in urban areas.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty diesel engines and vehicles; and purchasers and users of heavy-duty diesel vehicles.

This regulation probably will require the addition of emission control devices to heavy-duty diesel engines, though the actual devices used and their cost could vary from manufacturer to manufacturer and engine to engine. Manufacturers of these engines and of the vehicles equipped with these engines will have to raise prices to recover their increased investment. While this increase could be substantial, roughly a one-time purchase price increase of $527 to $650 (1980 dollars), EPA does not expect this to adversely affect sales. This increase only represents a 0.5 to 3 percent increase in the price of a heavy-duty diesel vehicle.

EPA does not expect this regulation to increase the operating costs of heavy-duty diesel vehicles; in fact, a decrease may actually be possible. Because operating costs comprise 90 to 95 percent of the total cost of owning and operating heavy-duty diesel vehicles, this regulation should have a negligible impact (less than 0.3 percent) on the cost of hauling freight in these vehicles. Thus, neither those whose business is hauling freight nor those who have their freight hauled should be adversely affected. Small independent haulers should experience no disproportionate effect.

The regulation could have an annual effect on the economy of $100 million or more.

Related Regulations and Actions

Internal: "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86.

EPA is also in the process of revising the standard for the emissions of nitrogen oxides from both gasoline-fueled and diesel heavy-duty engines.

External: None.

Active Government Collaboration

None.

Timetable

Public Hearings—After July 1981.

Public Comment Period—Ends 30 days after public hearings.

Comments may be sent to:
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Final Rule—June 1982.

Final Rule Effective—1986 model year.

Regulatory Flexibility Analysis—Not required.

Available Documents

ANPRM—42 FR 61287, December 2, 1977, EPA docket A–80–18.

NPRM—46 FR 1910, January 7, 1981.

Draft Regulatory Impact Analysis—December 23, 1980.

All documents available for review at the EPA, Central Docket Section A–130, West Tower Lobby, Gallery 1, Attn: Docket No. A–80–18, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 4:00 p.m. or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—Office of Water and Waste Management

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities (40 CFR Part 413)

Legal Authority

The Clean Water Act, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, and 1361.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this regulation is important because it will prevent the annual discharge into the water and into publicly owned treatment works (POTWs) of approximately 266 million pounds of toxic metals and 164 million pounds of toxic organics. It is expected to have an annual effect on the economy of more than $100 million.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to limit the industrial discharge of pollutants to the waters of the United States and the introduction of pollutants into publicly owned treatment works (POTWs). (In general, POTWs store or treat municipal sewage or liquid industrial wastes and are owned by a State or municipality.) This is accomplished for categories and classes of direct dischargers, i.e., industries that discharge directly to the Nation's waters, through effluent limitations guidelines based on best practicable technology (BPT), best available technology (BAT), best conventional technology (BCT), and new source performance standards (NSPS). For categories and classes of indirect dischargers, i.e., industries that discharge to POTWs, limits are established through pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS). (In general, pretreatment is the treatment of pollutants prior to the introduction of such pollutants into a POTW). EPA must review these effluent limitation guidelines and pretreatment standards at least once every 5 years.

The Clean Water Act requires industry to achieve, by July 1, 1984, effluent limitations requiring application of BAT for toxic pollutants identified under § 307(a) of the Act. The Act requires industry to achieve, by July 1, 1984, effluent limitations requiring the application of BCT for conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are neither "toxic" nor "conventional" are considered "non-conventional" pollutants and are subject to regulation under BAT 3 years after the date of promulgation of the regulation but in no case later than July 1, 1987.

The Metal Finishing Category combines two previous studies conducted by the Agency: electroplating and mechanical products. Although there are no existing effluent limitations or pretreatment standards for the mechanical products category, the results of our earlier study have been incorporated into the metal finishing rulemaking. The electroplating study led to the promulgation on September 7, 1979 of pretreatment standards for existing sources based on BPT (44 FR 52590). These standards were subsequently amended on January 28, 1981 (46 FR 9462). Plants discharging 38,000 liters (10,000 gallons) or more per day must meet limitations for the discharge of cyanide, copper, nickel, chromium, zinc, lead, cadmium, and, in some cases, silver. Plants discharging less than 38,000 liters (10,000 gallons) must meet limitations for the discharge of cadmium, lead, and cyanide. These standards only apply to indirect discharging electroplaters, i.e., those that discharge to POTWs; there are no currently effective standards for direct discharging electroplaters. The electroplating pretreatment standards took effect on March 30, 1981, and establish a compliance deadline of May 12, 1983, for non-integrated facilities, and 3 years after the effective date of 40 CFR § 403.6(e) (the "combined wastestream formula") for integrated facilities. Section 403.6(e) has not yet taken effect. Therefore, the integrated facilities do not have to comply with the electroplating standards yet. (The term "integrated facility" is defined in 40 CFR § 413.02(h); in general, it means a facility that performs electroplating as only one of several operations, has significant quantities of non-electroplating process wastewater, and its electroplating and non-electroplating process wastewater lines are combined prior to treatment.)

The metal finishing regulations we are proposing are more comprehensive than the electroplating regulations, and, with two exceptions, are expected to supersede the electroplating pretreatment standards. The exceptions apply to the job shop and printed circuit board segments of the electroplating industry currently covered by the electroplating pretreatment standards. Since the publication of the final electroplating amendments on January 28, 1981, the Agency has reviewed the data which serve as support material for the new metal finishing regulations. EPA has agreed, in view of the estimated economic impact, not to apply more stringent limitations for metals and cyanide to electroplating job shops (operations plating goods owned by other companies) and printed circuit board manufacturers that were covered by the existing electroplating pretreatment standards.

However, the Agency may propose limitations on the dumping of toxic organic solvents by all electroplaters, including indirect discharging job shops and printed circuit board manufacturers. This additional control is expected to result in very low cost to the industry, and, in fact, is predicted in many cases to result in cost savings due to the reclamation value of spent solvents. We expect that most operators would store their spent solvents in separate containers and sell them to a solvent reclaimer. The limitation would take the form of a pretreatment standard for total toxic organics. As an alternative to monitoring for these organics, the plant operator or owner would be permitted to certify that toxic organic solvents are not being dumped into the plant's wastewater. Such certification would obviate the need for monitoring, including monitoring for other toxic organics that might come from sources other than solvents.

The proposed Metal Finishing regulation includes electroplating operations among the 45 total regulated processes such as painting, machining, hot dip coating, and others. With the exceptions noted above, direct and indirect dischargers for both existing and new sources will be covered.

EPA estimates that there are approximately 31,000 metal finishing plants in the United States which discharge about 2 billion gallons per day of wastewater. During EPA's sampling program, a number of toxic pollutants, including silver, copper, chromium nickel, lead, cadmium, zinc, cyanide, and various toxic organics, were found in significant concentrations. Although there are variations in toxicity among the toxic organic pollutants, a number are known carcinogens. The toxic metals and cyanide are, in varying degrees, hazardous to human, aquatic, and plant life. The toxic metals may also contaminate sludges resulting from wastewater treatment and make them unsuitable for recycling into agricultural use as a soil conditioner. Conventional pollutants of concern are TSS and oil and grease.

Toxic metals can enter wastewater as a result of any one of 45 operations

considered to be metal finishing operations, while cyanide can enter wastewater through electroplating, heat treating, burnishing, and tumbling operations. Toxic organics are generally present in metal finishing wastewater in very small quantities. EPA believes the presence of high concentrations of toxic organics detected in the sampling program is due to the dumping of waste solvents.

Alternatives Under Consideration

In evaluating options for development of regulations, the Agency takes into account several important factors, including the quantity and type of pollutants discharged, available treatment technologies, the air pollution and solid waste that the treatment systems may produce, and the cost of these systems. In selecting a treatment technology as the basis for a regulation, the Agency considers the criteria provided in § 304(b) of the Clean Water Act (33 U.S.C. § 1314(b)). For example, the choice of technology systems for BAT and new source regulations depends on EPA's consideration of the age of equipment and facilities involved; the process employed; engineering aspects of the application of various control techniques; process changes; cost of achieving such effluent reduction; non-water quality environmental impact; and such other factors as the Administrator deems appropriate.

For metal finishing, EPA plans to propose BPT and NSPS regulations controlling toxic and conventional pollutants, and PSES, PSNS, and BAT regulations controlling toxic pollutants. The Agency may also regulate conventional pollutants under BCT.

For BPT, the technology being considered includes isolated hexavalent chromium reduction, cyanide destruction, emulsion breaking/skimming of excessive oily wastes, followed by precipitation/clarification and toxic organic control by in-plant isolation and contract hauling of waste solvent degreasers. The Agency refers to this treatment chain as a "precipitation/clarification" system. With the exception of emulsion breaking and toxic organic control, this is the same technology which is the basis for the current Electroplating Pretreatment Standards for Existing Sources.

Two technologies are being considered for BAT and PSES regulations. Option 1 is the same precipitation/clarification system under consideration for BPT. In both the BPT and BAT–Option 1 systems, the control of toxic organics would be achieved by setting an effluent limitation or pretreatment standard for total toxic organics and then permitting demonstration of compliance through certification by a plant operator that solvent degreasers are not being dumped into the wastewater. Option 2 includes all of Option 1 plus the addition of filtration. New source technology systems (NSPS and PSNS) being considered include the precipitation/clarification/filtration system with in-plant controls to achieve zero discharge from lead and cadmium plating.

EPA estimates that the precipitation/clarification process would remove about 97.6 percent of the raw waste toxic metals from metal finishing wastewater, assuming there is no existing treatment in place. An estimated additional 0.7 percent of the raw waste toxic metals would be removed by the addition of filtration, assuming no filtration is presently in place. It is noteworthy that although the incremental reduction of pollutants from a plant's raw waste load due to filtration is small compared to the percent of removal afforded by precipitation/clarification, filtration nevertheless removes approximately 30 to 40 percent of the pollutants still in the waste stream following precipitation/clarification treatment. This results in the removal of a considerable mass of toxic metals industrywide because of the large number of dischargers in this industry and the relatively concentrated nature and high flow of their process wastes.

Because of the projected significant economic impact on the direct discharging job shop segment of the industry (see Summary of Costs below), EPA is also considering alternative regulatory approaches such as subcategorization of the industry by job shops and captive shops (captive shops perform electroplating operations on their own materials), limited treatment requirements, and size exemptions based on wastewater flow.

Summary of Benefits

Sectors Affected: The general public; and manufacturers of wastewater treatment equipment.

The metal finishing industry is a major industrial source of water pollution in the United States. If precipitation/clarification is selected as the basis for the proposed metal finishing BAT effluent limitation guidelines and pretreatment standards, the metal finishing regulations would prevent the discharge into the Nation's waters and POTWs of approximately 266 million pounds per year or about 97 percent of the toxic metals currently discharged by the metal finishing industry. (The 266 million pound/97 percent removal is in addition to that currently being achieved by treatment equipment already in place.) The proposed rule would also prevent the discharge of approximately 164 million pounds per year of toxic organics by preventing the dumping of organic solvents at little or no cost to metal finishing firms. These levels of removal constitute approximately one third of the total toxic metals and organics removal that could be achieved by all industrial sources for which effluent limitations and standards have been planned or promulgated. Finally, a significant reduction in cyanide, TSS, and oil and grease pollution would be achieved by the proposed regulations.

Although it is not possible to estimate the impact on human health, the proposed rules would lead to a significant improvement in water quality in areas populated with metal finishing plants. Manufacturers of wastewater treatment equipment would indirectly benefit by this regulation, through increased demand for their products.

Summary of Costs

Sectors Affected: Metal finishing plants; and users of products from metal finishing plants.

The Agency currently estimates that a total capital expenditure of $1.6 billion in 1980 dollars may be necessary for installation of precipitation/clarification technology systems (Option 1) and an additional $2.0 billion would be required if filtration (Option 2) were chosen as part of the BAT technology system. Both of these estimates assume some treatment equipment already in place. The total annual operating costs for the precipitation/clarification system are estimated to be $0.49 billion, while the total incremental operating costs for the addition of the filtration system are estimated to be $0.60 billion. These large aggregate costs are, in part, due to the size of the industry: current EPA estimates place the total number of plants at over 31,000. Although these costs do not include the costs for control of toxic organics, EPA believes such control can be achieved at little or no cost to the industry by proper solvent segregation and resale of spent solvents to reclaimers.

Despite the high projected industrywide costs, the impact on the direct and indirect discharging captive shops, which comprise approximately 80 percent of the metal finishing plants, is projected to be low. They are projected to have a "closure" rate due to metal finishing regulations based on precipitation/clarification of only 0.3

percent. (For captive shops, "closures" are being estimated on the basis of both closures and projected "divestitures" of electroplating lines. In estimating divestitures, EPA has projected that some captive shops would send their electroplating work to a third party rather than shut down the entire business.) The Agency projects an employment loss of .1 percent or 1,976 jobs for this option. If filtration is added to precipitation/clarification, captive shop divestitures are projected to be 0.9 percent. The Agency projects an employment loss of .5 percent or 7,669 jobs for this option. The impact on direct discharging job shops, which comprise approximately 1 percent of the industry, is expected to be much higher. For Option 1 (precipitation/clarification), EPA projects a closure rate of 11 percent of job shops and an employment loss of 11.9 percent or 855 jobs. For Option 2 (precipitation/clarification/filtration), EPA projects a closure rate of 37 percent of job shops and an employment loss percent of 40 percent or 2,860 jobs. EPA is evaluating this segment of the industry in great detail and, as was stated previously, is currently exploring options to alleviate the impact of these regulations on this segment of the industry.

No additional closures are expected for indirect discharging job shops and printed circuit board manufacturers already subject to the Electroplating Pretreatment Standards for Existing Sources, because EPA does not plan to impose more stringent limitations on such facilities. (See Statement of Problem above.)

The metal finishing regulations are estimated to affect prices of metal finishing products by about 0.3 percent if limitations are not based on filtration and by 0.72 percent if based on filtration. These price increases could affect many items in the wide range of metal-based products (e.g., automobiles, household appliances, and machinery). EPA will carefully consider these costs prior to proposal and throughout the rulemaking. Because this rule is expected to have an annual effect on the economy in excess of $100 million and therefore is a major rule under Executive Order 12291, the Agency will conduct a Regulatory Impact Analysis (RIA). EPA plans to complete the RIA in 1981.

These regulations should not require additional resources of EPA or State permit authorities.

Related Regulations and Actions

Internal: Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the cost of installation and operation of various wastewater treatment technologies. The General Pretreatment Regulations, 40 CFR Part 403, may reduce some of the costs of compliance with these regulations through various provisions modifying these and other categorical pretreatment standards.

External: None.

Active Government Collaboration

The Department of Commerce has provided assistance by reviewing materials.

Timetable

NPRM—Fourth quarter 1981.
Public Comment Period—60 days following publication of NPRM.
Regulatory Impact Analysis—Second half of 1981.
Regulatory Flexibility Analysis—Under preparation.
Final Rule—1982.

Available Documents

Development Document for Existing Source Pretreatment Standards for the Electroplating Point Source Category, EPA, April 1979, National Technical Information Service (NTIS) Number PB80-196488.

Draft Development Document for Effluent Limitation Guidelines and Standards for the Metal Finishing Point Source Category, prepared for the U.S. Environmental Protection Agency by Hamilton Standard, Division of United Technologies (available for review at EPA Headquarters and Regional Libraries only).

Economic Impact Analysis of Proposed BATEA Regulations for the Metal Finishing Industry (available for review at EPA Headquarters and Regional Libraries in mid-July).

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EPA—OWWM

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways (40 CFR Parts 430 and 431)

Legal Authority

The Clean Water Act, §§ 301, 304, 306, 307, 308, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, and 1361.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it will have an annual effect of $100 million or more on the economy. Also, the pulp, paper, and paperboard industry is the largest industrial discharger of conventional pollutants.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to develop technology-based effluent limitations guidelines and standards for discharges of pollutants into navigable waterways and the introduction of pollutants into publicly owned treatment works (POTWs), and to review such guidelines and standards at least once every 5 years. EPA promulgated effluent limitations guidelines reflecting the best practicable control technology currently available (BTP) and the best available technology economically achievable (BAT) and new source performance standards (NSPS) for six subcategories of the industry on May 9 and 29, 1974 (39 FR 16578, 40 CFR Part 431; and 39 FR 18742, 40 CFR Part 430). EPA promulgated BPT guidelines for the 16 remaining subcategories of the industry on January 6, 1977 (42 FR 1398, 40 CFR Part 430).

The Clean Water Act of 1977 requires industry to achieve, by July 1, 1984, effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under § 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve, by July 1, 1984, "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand (BOD), suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-conventional" and

are subject to regulation under BAT.

EPA published proposed effluent limitations guidelines for BAT, BCT, and NSPS, and pretreatment standards for existing and new sources (PSES, PSNS) for the pulp, paper, and paperboard and the builders' paper and board mills point source categories in the **Federal Register** on January 6, 1981 (46 FR 1430).

EPA estimates that there are 706 operating pulp, paper, and paperboard mills in the United States which discharge about 4.2 billion gallons per day of wastewater. Toxic pollutants of concern detected in the industry's wastewaters during an EPA sampling program were 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, chloroform, and zinc. Chloroform, pentachlorophenol, 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, and zinc can be toxic to aquatic organisms. Chloroform and trichlorophenol are known carcinogens. Conventional pollutants routinely monitored in discharges from pulp, paper, and paperboard mills include biochemical oxygen demand, suspended solids, and pH. Excessive discharge of conventional pollutants may cause a depletion of the dissolved oxygen in streams, which can kill fish and other aquatic life.

Alternatives Under Consideration

The Agency considered various wastewater treatment technologies for controlling toxic and conventional pollutant discharges from the pulp, paper, and paperboard industry to the Nation's waterways. We are required to regulate toxic pollutants under the best available technology economically achievable (BAT), and to set new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS). We are required to regulate conventional pollutants under the best conventional pollutant control technology (BCT) and under new source performance standards (NSPS). In setting these various standards, we have divided the industry into 25 separate subcategories to account for processing differences and differences in final products manufactured.

In evaluating the options for development of regulations, the Agency considered several important factors, including the quantity and type of pollutants each wastewater source discharges, treatment technologies that are available for the control of these wastewaters, the air pollution and solid wastes that the wastewater treatment systems may produce, the cost of these systems, and the economic effects of the regulations.

The Agency, through its sampling and data gathering efforts, has determined that existing biological treatment systems are very effective in removing most toxic pollutants found in pulp, paper, and paperboard industry wastewaters. However, several toxic pollutants were detected with sufficient frequency and/or at sufficient levels to concern us and we have proposed that they be controlled through implementation of BAT and pretreatment regulations. The pollutants of concern and the basis of the proposed regulations are described below.

Pentachlorophenol, 2,4,5-trichlorophenol, and 2,4,6-trichlorophenol (toxic pollutants) are present in treated effluents in many subcategories of the industry. These compounds are present in certain of the slimicide and fungicide formulations used in the pulp, paper, and paperboard industry. The best and least expensive method for control of these pollutants is the substitution of these slimicides and fungicides with formulations that do not contain pentachlorophenol, 2,4,5-trichlorophenol, or 2,4,6-trichlorophenol. Chemical substitution forms the basis for proposed BAT, PSES, NSPS, and PSNS for control of these chlorophenolic compounds.

Chloroform (a toxic pollutant) is present in very high concentrations (up to 10 milligrams per liter) in raw wastewaters from mills producing bleached pulps. Biological treatment systems are capable of removal of chloroform to low levels (less than 0.1 milligram per liter). The Agency has proposed establishing BAT effluent limitations guidelines and NSPS based on those levels of chloroform attained through the application of biological treatment.

Zinc (a toxic pollutant) is present in wastewaters from facilities using zinc hydrosulfite as a bleaching chemical. The Agency has proposed the establishment of BAT effluent limitations guidelines, NSPS, and pretreatment standards based on the substitution of zinc hydrosulfite with sodium hydrosulfite.

Conventional pollutants currently regulated include: biochemical oxygen demand (BOD), total suspended solids (TSS), and pH. BCT requires that limitations for conventional pollutants be assessed in light of a "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works (POTWs) to the cost and level of reduction of such pollutants from a class or category of industrial sources. This methodology compares subcategory removal costs (dollars per pound of pollutant, measuring from BPT to BCT) with costs experienced at POTWs. EPA applied this methodology in developing BCT effluent limitations.

Four technology alternatives were considered under BCT to reduce further the discharge of BOD and TSS from pulp, paper, and paperboard mills:

Alternative (A) includes BPT plus additional production process controls to reduce raw waste loads.

Alternative (B) includes BPT plus chemically assisted clarification, which involves the use of different chemicals to agglomerate dissolved and colloidal particles in treated effluents which are not readily removed from solution by simple settling, for those subcategories where BPT was based on biological treatment, or BPT plus biological treatment for subcategories where BPT was based on primary treatment only.

Alternative (C) includes Alternative (A) plus chemically assisted clarification for those subcategories where BPT was based on biological treatment, or Alternative (A) plus biological treatment for those subcategories where BPT was based on primary treatment only.

Alternative (D) includes upgrading of existing BPT to attain effluent levels characteristic of best performing mills.

Proposed BCT effluent limitations are based on Alternative (D) for those subcategories that pass the BCT cost-reasonableness test. In those subcategories where Alternative (D) fails the cost-reasonableness test, the less stringent Alternative (A) forms the basis of BCT if it passes the cost-reasonableness test. There are two exceptions—facilities where dissolving sulfite pulp and builders' paper or roofing felt are manufactured—where neither Alternatives (A) or (D) were chosen. Instead, BCT is established at the BPT level because of projected severe economic impact.

EPA selected Alternative (D) as the primary basis of BCT effluent limitations because it yields significant BOD and TSS removals at substantially less cost to the industry than would Alternatives (B) or (C). Alternative (D) technology has proved successful in full-scale operation throughout the entire range of process types and allows considerable flexibility to the industry in achieving BCT.

A major issue in this rulemaking has been the methodology used to establish BCT limitations and, particularly, the methodology used to determine the POTW comparison figure used in the BCT cost-reasonableness test. EPA is examining BCT options very closely and, among other activities, is evaluating a study by the Council on Wage and Price Stability (CWPS) on

this subject. CWPS suggests a different methodology to determine the POTW comparison figure used in the BCT cost-reasonableness test. We invited comments on the CWPS study in the proposed rule (46 FR 1456, January 6, 1981) and, in addition, commissioned our own study evaluating CWPS' suggestions. On March 5, 1981, we announced that EPA would make its review of the CWPS study available to the public and allow a 60-day period for comment. This comment period will be in addition to the comment period for all other aspects of the rulemaking (46 FR 15287, March 5, 1981).

The proposed NSPS are based on production process controls and end-of-pipe treatment for all subcategories, and use of chemical substitutes for control of toxic pollutants. The proposed PSNS and PSES are based on chemical substitution for control of toxic pollutants.

Summary of Benefits

Sectors Affected: The general public; and manufacturers of pollution abatement equipment.

The major benefit of the proposed rule will be the reduction or elimination of toxic and conventional pollutant discharges from pulp, paper, and paperboard mills. The discharge of 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, and zinc would be virtually eliminated and the discharge of chloroform will be reduced by about 10.6 million pounds per year from raw waste levels, or about 67 percent.

The discharges of BOD and TSS from pulp, paper, and paperboard mills will be substantially reduced by the following amounts:

BOD: 126 million pounds per year (34 percent).

TSS: 245 million pounds per year (40 percent).

The current discharge of 365 million pounds per year of BOD from pulp, paper, and paperboard mills accounts for about 45 percent of the total industrial contribution of BOD. Therefore, these additional reductions represent a significant portion of current conventional pollutant discharge to the Nation's waterways.

Summary of Costs

Sectors Affected: Pulp, paper, and paperboard mills; and users of pulp, paper, and paperboard products.

It is anticipated that chemical substitution will impose a minimal cost burden on manufacturers or formulators. Pulp, paper, and paperboard industry use of zinc hydrosulfite and slimicides containing chlorophenolics has declined substantially in recent years. It is expected that current suppliers of these chemicals will also supply the substitute chemicals.

There is minimal incremental cost ($23,300 per year, 1978 dollars) associated with attainment of proposed BAT, PSES, and PSNS effluent limitations; therefore, they will have an insignificant impact on the pulp, paper, and paperboard industry.

The Agency estimates that the capital and total annual costs (1978 dollars) for all U.S. pulp, paper, and paperboard mills to attain levels of BOD and TSS associated with the BCT effluent limitations will be $918 million and $280 million, respectively. These costs are expected to result in price increases of such products as newsprint, toilet tissue, writing papers, and bleached kraft foldingboard ranging from zero to 3.6 percent.

These regulations should not require additional resources of EPA or State permit authorities.

Related Regulations and Actions

Internal: Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the cost of installation and operation of various wastewater treatment technologies.

External: None.

Active Government Collaboration

The Department of Commerce has provided assistance by reviewing materials.

Timetable

Regulatory Impact Analysis—Available with final rule.
Regulatory Flexibility Analysis—None.
Public Comment Period—Ends June 9, 1981.
Final Rule—August 1982.

Available Documents

NPRM—46 FR 1430, January 6, 1981.

Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pulp, Paper, and Paperboard and the Builders' Paper and Board Mills Point Source Categories, EPA, December 1980 (copies may be obtained from: Distribution Officer, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, Washington DC 20460, (202) 426-2724).

Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Pulp, Paper, and Paperboard Mills Point Source Category, EPA, December 1980 (copies may be obtained from: Robert C. Ellis, Water Economics Branch (WH-586), U.S. Environmental Protection Agency, Washington, DC 20460; (202) 426-2617).

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Unbleached Kraft and Semichemical Pulp Segment of the Pulp, Paper, and Paperboard Mills Point Source Category, EPA, May 1974, National Technical Information Service (NTIS) Number PB-238833.

Development Document for Effluent Limitations Guidelines (BPCTCA) for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink, and Nonintegrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category, EPA, December 1976 (available for review at EPA Headquarters Library, 401 M Street, S.W., Washington, DC 20460).

Preliminary Data Base for Review of BATEA (Best Available Technology Economically Achievable) Effluent Limitations Guidelines, NSPS, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category, prepared for the U.S. Environmental Protection Agency by the Edward C. Jordan Co., Inc., Portland, Maine, June 1970 (available for review at EPA Headquarters and Regional Libraries only).

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EPA-OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works (40 CFR Part 420)

Legal Authority

The Clean Water Act as amended, §§ 301, 304, 306, 307, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, and 1351.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this regulation is important because it will provide control of discharges into the water from the largest metal manufacturing industry in

the United States. It will have an annual effect on the economy of more than $100 million.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to develop technology-based effluent limitations guidelines and standards for discharge of pollutants into navigable waterways and the introduction of pollutants into publicly owned treatment works (POTWs), and to review such guidelines and standards at least once every 5 years. EPA promulgated effluent limitations guildelines reflecting the best practicable control technology currently available (BPT) and the best available technology economically achievable (BAT) and new source performance standards (NSPS) for twelve subcategories of the industry on June 28, 1974 (39 FR 24114, 40 CFR Part 420). EPA promulgated BPT guidelines for 14 remaining subcategories of the industry on March 29, 1976 (41 FR 12990, 40 CFR Part 420). These regulations were remanded (Phase I remanded November 7, 1975; Phase II remanded September 14, 1977) to the Agency by the Third Circuit Court (see below).

The Clean Water Act of 1977 requires industry to achieve, by July 1, 1984, effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under § 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve, by July 1, 1984, "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-conventional" and are subject to regulation under BAT.

The Agency promulgated regulations for the iron and steel manufacturing industry on June 28, 1974 (Phase I or steelmaking operations), and on March 29, 1976 (Phase II or forming, finishing, and specialty steel segments). The U.S. Court of Appeals for the Third Circuit remanded the regulations for several reasons, including procedural errors and the Agency's failure to consider adequately (1) the impact of plant age on the cost or feasibility of retrofitting, (2) site-specific costs, (3) consumptive water use, (4) the economic condition of the industry, and (5) the achievability of certain limitations *(AISI et al.* v. *EPA)* 526 F. 2d 1027 (3d Cir. 1975) and *AISI et al.* v. *EPA)* 568 F. 2d 284 (3d Cir. 1977).

The Agency has developed and proposed (46 FR 1858, January 7, 1981) a regulation to replace the regulations remanded by the court. This regulation reflects new information from industry surveys and sampling and is designed to remedy the deficiencies found by the court. In addition, the proposed regulation includes BCT and BAT regulations to control conventional, non-conventional, and toxic pollutants, as required by the 1977 amendments to the Clean Water Act. The proposed regulation pertains to effluent limitations and standards for the manufacturing operations covered by the 1974 and 1976 regulations.

The iron and steel manufacturing category (Standard Industrial Classification Codes 3312, 3315, 3316, 3317, and parts of 3479) is comprised of approximately 680 manufacturing facilities nationwide. The amount of process water used by these facilities is estimated to be 6.3 million gallons per day. Because of these large flows, the quantity of pollutants discharged is very large, even though the concentration of pollutants in a waste stream sometimes may be relatively small. A Development Document is available which presents the concentration and load data used in the development of this proposed regulation.

During its sampling program, EPA detected, in iron and steel manufacturing wastewaters, significant levels of copper, chromium, cyanide, iron, nickel, lead, zinc, oil and grease, ammonia, sulfide, fluoride, and suspended solids. Additionally, the Agency found a wide variety of organic materials including benzene, phenols, and aromatic compounds in wastewaters from coke manufacturing, from blast furnaces which use the coke, and in cold rolling operations. The heavy metals may produce cumulative toxic effects on the aquatic environment and on humans through impacts on drinking water and foods (particularly fishes), and many of the organic compounds are known or suspected carcinogens. Ammonia, a "non-conventional" pollutant, is proposed for control because of its high aquatic environmental impact at the high concentrations present in wastes from some operations in this industry.

Alternatives Under Consideration

The Agency evaluated the capabilities and costs of various wastewater treatment technologies for controlling pollutant discharges from iron and steel manufacturing facilities. A primary focus of this effort was to promulgate regulations to control the discharge of toxic pollutants by direct (to surface waters) and indirect (to POTW) dischargers.

The technologies for the control of wastewater pollutants include both end-of-pipe treatment and methods to reduce water usage. End-of-pipe treatment, best applied after recyle to reduce wastewater volumes, includes, where appropriate, cyanide oxidation, hexavalent chromium reduction, metals precipitation, oil removal, suspended solids (including precipitated metals) removal, and chemical and biological destruction of ammonia and toxic organic materials. The applicability of these technologies is dependent on the type of waste generated by the subcategory or segment; i.e., not all of the listed technologies are applicable to all sources. However, within each subcategory or subdivision the selected technologies are generally applicable to all iron and steel manufacturing facilities within that segment.

In evaluating options for this regulation the Agency considered several important factors, including: the quantity and type of pollutants generated by each wastewater source; the treatment technologies available for application to that wastewater source; air, solid waste, energy, and other non-water quality environmental aspects of the proposed regulation; and the cost and economic impact of applying each of the several options. The principal technologies selected as the basis for the proposed regulation are: waste volume reduction by recycle, extended biological treatment (by-product coke subdivision), alkaline chlorination and dechlorination (sinter and iron making subcatergories), slag evaporation (iron making subcategory where appropriate), lime precipitation, filtration, process changes (cold rolling subdivision), and cascade rinsing (pickling and hot coating subcategories). Cold rolling is an operation in which unheated steel is passed through rolls or otherwise processed to reduce its thickness, to produce a smooth surface, or to develop controlled mechanical properties in the steel.

Pickling is an operation in which steel products are immersed in acid solutions to chemically remove oxides and scale, and those rinsing operations associated with such immersion.

Hot coating is an operation in which steel products are coated with other metals by immersion of the steel product in a molten bath of the coating metal and the related operations preceding and subsequent to the immersion phase.

The Agency also evaluated additional alternatives including such control and treatment technologies as sulfide

precipitation to reduce toxic metals discharges and the use of multiple effect evaporators to achieve zero discharge. The environmental benefits that could be achieved, beyond those achievable by the regulation as proposed, are very small and the costs in both dollars (capital and annual) and energy are very large. The Agency determined these technologies not to be justifiable.

The Agency is gathering additional information on wastewater characteristics, on costs, and on the availability and effectiveness of technologies, particularly on the hot forming and cold rolling operations and on plants with existing central treatment facilities (i.e., waste treatment facilities which treat wastes from multiple sources). These data will be evaluated to determine (a) the extent to which the hot rolling of carbon steels contributes toxic metal pollutants to wastewaters, (b) the extent to which cold rolling operations contribute toxic organic pollutants to wastewaters, and (c) what central treatment alternatives to BAT might be developed at specific mills.

The Agency will evaluate these data and the comments received in response to the proposal prior to final promulgation.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the proposed regulation will be the reduction of toxic pollutant discharges from iron and steel manufacturing facilities. The quantity of pollutants removed from discharges to the environment under this regulation will be significant. The Agency estimates that through compliance with the BAT regulation the industry will remove approximately 3.8 million pounds per year of toxic organics (88.5 percent of BPT discharges), 5.0 million pounds per year of toxic metals (91.9 percent of BPT discharges), and 260 million pounds per year of suspended solids, oil and grease, ammonia, and other pollutants (92.7 percent of BPT discharges). The proposed regulation would reduce BPT process wastewater volumes from about 2,600 million gallons per day (mgd) to about 300 mgd (89.8 percent of the BPT flow). The Agency will reevaluate these figures as a part of the reanalysis of the proposed regulation, and specifically examine toxic pollutant contributions by hot rolling operations.

The employment effects associated with the installation and operation of the water pollution control facilities required by this regulation will ease the overall employment impacts of the regulation.

In the regulation as proposed, the BCT limitations will be achieved by the BPT and BAT systems in almost all subdivisions, i.e., little additional cost will be incurred specifically to achieve BCT limitations.

For the Iron and Steel industry, 31 organic priority pollutants have been observed in sampling in quantities and under circumstances sufficient to consider for regulation. These toxic organics have been found primarily in the coke making and cold rolling operations wastewaters. These toxic organics are known to be carcinogenic (benzene, benzo(a)pyrene, chrysene, anthracene, phenanthrene, pyrene), eye or skin irritants (ethylbenzene), toxic by ingestion (phenol, toluene, benzene), or toxic by inhalation (trichloroethylene, benzene).

Eleven of the thirteen toxic metals were found in wastes generated by the steel industry in quantities and under circumstances sufficient to consider for regulation. Most steel operations' wastewaters contain one or more of these toxic metals. Toxic effects can be cumulative (long-term) or acute (immediate).

The Agency has determined that 37.3 million tons per year of solid waste (at 30 percent solids) have been and will be generated by the steel industry in complying with the proposed regulation. Of this amount almost all (37.0 million tons) is currently generated by the steel industry in complying with the proposed BPT limitations. This solid waste is comprised almost entirely of treatment plant sludges. EPA recognizes that significant quantities of other solid wastes, such as electric furnace dust and blast furnace slag, are generated by the steel industry. However, those solid wastes are generated by the manufacturing processes and are not associated with this proposed water pollution control regulation. For this reason process solid wastes are not included in this impact analysis.

The data gathered for this study demonstrate that the industry collects and disposes of most sludges currently generated in existing treatment systems. Hence, the industry is presently incurring sludge disposal costs and finding the necessary disposal sites. The Agency believes that the industry will continue to be able to do so. (EPA is unable to estimate accurately the number of disposal sites that are secure, well maintained operations.) The average sludge disposal cost used in this analysis is $5.00 per ton. These costs have been included in the Agency's estimate for costs of compliance with the proposed regulation and the Agency expects the solid waste impacts associated with the proposed regulation to be small.

Summary of Costs

Sectors Affected: Manufacturing of iron and steel products; and users of these products.

The Agency is continuing to refine the cost data for BPT remaining to be installed and the costs to implement the proposed BAT requirements. The proposed regulation, when promulgated, would require capital expenditures for water pollution control equipment and create jobs related to the construction and operation of new equipment and facilities. Process changes may also be required (i.e., to rolling oil compositions) to achieve control of toxic pollutants in the cold rolling subdivisions.

The Agency estimates the capital investment required to achieve compliance (in millions of 1978 dollars) for the BPT remaining to be installed and the BAT proposed, to be as follows:

BPT	417.8
BAT	444.1
NSPS	159.5
Total	1021.4

These costs exclude individual Consent Decree commitments and anticipated shutdowns through July 1, 1984. Consent Decrees are legally binding agreements between the Agency and a specific company to make certain changes (usually installation of specific waste treatment facilities). Those costs will not be costs incurred as a result of promulgation of this regulation.

The Agency projected the economic impact of the proposed rule using:

- A model developed for EPA that is designed to use the costing methodology of the ADL/AISI model. ADL (Arthur D. Little, Inc.) is a consultant to the AISI (American Iron and Steel Institute, an association of steel companies).
- An assessment of the economic impact of the proposed regulation under three scenarios. These three scenarios are based on the following assumptions:

Scenario 1: A continuation, from 1981 to 1990, of the economic environment and governmental policy faced by the steel industry over the last 10 years with two subscenarios: zero passthrough and full passthrough of water pollution control annual costs to the prices for steel industry products.

Scenario 2: A 3-percent growth in steel shipments; higher profitability; and policy changes, including quicker recovery of capital investments, return to "fair value" import prices, and latitude to increase prices.

Scenario 3: Changed economic environment as a result of governmental policies such as increased real economic growth, reinstatement of the U.S. Treasury's trigger price mechanism that was suspended upon U.S. Steel's filing of dumping charges in early 1980, and a 40-percent increase in depreciation cash flows.

The impact of the proposed regulations under the three scenarios are summarized in Tables 1 and 2.

TABLE 1.—*Short-Run Economic Impact of Proposed Water Pollution Control Regulation—1984*

	Domestic shipments (millions of net tons)	Number of employees (thousands)	Market share (percent)
Industry status in 1979	100.3	342.0	84.8
Scenario 1: Baseline	101.3	334.5	82.0
Additional water pollution control costs			
Zero passthrough	101.3	335.8	82.0
Full passthrough	101.3	335.8	82.0
Scenario 2: Baseline	106.7	356.0	82.0
Additional water pollution control costs	106.7	357.3	82.0
Scenario 3: Baseline	106.6	354.8	[1] 85.0
Additional water pollution control costs	106.6	356.1	85.0

[1] Reflects new surge provisions of recently reinstituted Trigger Price Mechanism.

TABLE 2.—*Long-Run Economic Impact of Proposed Water Pollution Control Regulation—1990*

	Domestic shipments (millions of net tons)	Number of employees (thousands)	Market share (percent)
Industry status in 1979	100.3	342.0	84.8
Scenario 1: Baseline	92.4	[2] 271.1	71.5
Additional water pollution control costs			
Zero passthrough	86.1	[2] 254.6	66.6
Full passthrough	89.1	262.9	68.9
Scenario 2: Baseline	126.0	366.4	82.0
Additional water pollution control costs	126.0	368.3	82.0
Scenario 3: Baseline	117.8	341.5	[1] 85.0
Additional water pollution control costs	115.3	336.0	[1] 83.2

[1] Represents recovery from baseline market share of 77.8 percent in 1988 and from market share after additional water pollution control costs of 73.4 percent, also in 1988.

[2] Derivation of Employment Estimates: The effect of the proposed regulations on employment is a combination of two estimates—the loss in production workers due to cut-backs in reworks expenditures due to the regulations, and the additional workers needed to operate the pollution control equipment necessitated by the regulations. This derivation can be seen in Table 2 under the first Scenario. The decline in production workers by 1990 in the zero passthrough scenario, due to the regulations, would be about 17,925 jobs because of foregone reworks expenditures. However, the additional water pollution control requirements will require the addition of 1,360 workers to operate the equipment. Thus, the net job loss is about 16,500—the difference between 271.1 thousand in the 1990 baseline of Scenario 1 and the 254.6 in the zero passthrough case in Scenario 1. The methodology in all three scenarios is the same.

Total additional investment costs are estimated at $1.02 billion (in 1978 dollars) as follows:

BPT: $418 million;

BAT: $444 million;

NSPS: $159 million.

Incremental annual costs are estimated at $264 million in 1984, decreasing to $226 million in 1990, as follows:

BPT: $97 million decreasing to $93 million;

BAT: $150 million decreasing to $93 million; and

NSPS: $17 million increasing to $40 million.

Industry's ability both to finance baseline production and to satisfy capital requirements for water pollution control from 1981 to 1990 depends heavily on governmental policy changes such as those described in Scenarios 2 and 3.

The Agency selected the economic conditions of the industry depicted in the third scenario as the most likely to represent those the steel industry will face in the 1980s. At the time the regulations were under consideration for proposal, the industry, the Congress, the Carter Administration, and then-candidate Reagan were proposing major changes in government economic policy towards steel in particular, and industry in general. These proposals ranged from refundable investment tax credits to complete pricing latitude free from government interference. In the Agency's judgment the conditions embodied in the third scenario represented a reasonable attempt to compromise these proposals into a comprehensive policy that contained common programs being discussed by all parties at the time. Specific changes included a 40 percent increase in depreciation cash flows, a return to the trigger price mechanism for steel, and allowable steel price increases of 10.1 percent through the mid-1980s, in accordance with the wage-price guidelines set forth at the time of proposal. These conditions led to an economic impact less severe than in the first scenario but less optimistic than the second scenario, but recognized that some changes in government industrial economic policy will probably be forthcoming in the early 1980s.

Under this scenario the following impacts may result:

- Temporary net job loss of 14,540 below projected baseline by 1988. However, by 1990 the net job loss will be 5,500 below baseline 1990. (For more detail regarding the derivation of employment effects see Table 2.)
- Decreased current market share of 4.4 percentage points below baseline but rising to only 1.8 percent below baseline in 1990.

Related Regulations and Actions

Internal: The Agency is reviewing the interaction between this regulation and air pollution and solid waste disposal requirements. As an example, we are evaluating the possible disposal of blowdown (approximately 2 percent of the water applied to the scrubber) from blast furnace wastewater recycle systems by evaporation in slag pits (a pit, adjacent to the blast furnace at many installations, provided as a place to cool the molten slag by-product of the blast furnace operation). The Agency is coordinating this evaluation with the EPA's Office of Research and Development and with air programs.

In addition, in evaluating wastewater treatment alternatives, the Agency considered, to the extent possible, the requirements and costs for the management of solid wastes under the Resource Conservation and Recovery Act.

External: This proposed regulation would set minimum requirements on a national level which supersede less stringent State or local regulations. However, all levels of government may require more stringent limitations in specific instances if water quality criteria or other requirements so justify.

Active Government Collaboration

None.

Timetable

Final Rule—December 1981.
Regulatory Flexibility Analysis—Not required.

Available Documents

The applicable documents currently available are:

NPRM—January 7, 1981 (46 FR 1858).

Public Comments—May 8, 1981 (46 FR 20707, April 7, 1981).

All comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear—EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. The transcript of the public hearing on pretreatment held March 6, 1981 is also available.

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Iron and Steel Manufacturing Point Source Category, December 1980, EPA 440/1-80/024b (Volumes 1 through 6).

The Development Document may be obtained from the Agency Contact.

An Economic (Regulatory) Analysis of Proposed Effluent Limitations Guidelines, New Source Performance

Standards, and Pretreatment Standards for the Iron and Steel Manufacturing Point Source Category (December 1980), EPA 440/2–81–009.

The Economic (Regulatory) Analysis document may be obtained by contacting Robert Greene, Office of Planning and Evaluation (PM–220), Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20560, (202) 287–0713.

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EPA—OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants (40 CFR Part 423*)

Legal Authority

The Clean Water Act, §§ 301, 304, 306, 307, 308, and 501, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, 1321, 1364, and 1346.

Reason for Including This Entry

Although the Environmental Protection Agency (EPA) does not believe this regulation will have an annual effect on the economy of $100 million or more, the Agency is including this entry because of the high public interest in these regulations. Further, the affected industry thinks the compliance costs will be over $100 million per year.

Statement of Problem

The Environmental Protection Agency (EPA), in its efforts to control water pollution under the Clean Water Act, is required to develop technology-based effluent limitations guidelines and standards to control pollutant discharges from the steam electric power generating industry, and review these regulations at least once every 5 years. We initially promulgated effluent limitations guidelines for this industry on October 8, 1974 that reflected the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), new source performance standards (NSPS), and pretreatment standards for new sources (PSNS). The U.S. Court of Appeals for the Fourth Circuit remanded parts of the guidelines (*Appalachian Power* v. *Train*, 545 F. 2d 1351 (4th Cir. 1976)). The court found the record insufficient with respect to various technical aspects and non-water quality considerations (especially cost data and ultimate disposal of wastes).

We reviewed the 1974 regulations to incorporate updated information and attempt to remedy the deficiencies pointed out by the Fourth Circuit Court of Appeals. In addition to the pollutants examined in the previous regulations, such as biological oxygen demand (BOD), pH, oil and grease, copper, and iron, we expanded this review to include toxic substances cited in the June 8, 1976 Consent Decree, *Natural Resources Defense Council et al.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), as modified 12 ERC 1833 (D.D.C. 1979), and incorporated into § 307 of the Clean Water Act. The NPRM was published in the **Federal Register** on October 14, 1980 (45 FR 68328). We did not include guidelines for thermal discharges in these regulations. The Agency is still considering various thermal options in light of *Appalachian*.

The steam electric generating industry is composed of approximately 850 generating plants nationwide. Because these plants have extremely large discharge flows, the quantity of pollutants they discharge may be substantial even if the concentration is relatively low. The Agency estimated that the average discharge flow from a steam electric power plant is 210 million gallons per day and that discharges from the steam electric power industry constitute about 15 percent of the total flow in the United States rivers and streams. Major pollutants detected in the wastewaters of steam electric plants during an EPA sampling program were total residual chlorine (TRC), copper, zinc, nickel, chromium, arsenic, and selenium.

These pollutants, especially TRC, are toxic to fish and other aquatic organisms. Their effect on humans is less documented. The attached Table 1 summarizes ambient waste quality criteria levels and effects on organisms due to their presence in water.

TABLE 1.—*Environmental and Health Effects*

Pollutant	Ambient water quality criteria (WQC) (chronic levels, parts per billion (PPB))		Effects
	Fresh water	Salt water	
Total Residual Chlorine	2-10	10	Toxic to fish and other aquatic organisms. No WQC established for human health protection.
Arsenic	NCA	NCA	Toxic to aquatic organisms. Suspected carcinogen in humans (10^{-5} risk—0.022 ppb).
Chromium:			
Trivalent	NCA	NCA	Toxic to fish and invertebrates. Hexavalent chromium is most
Hexavalent	29	18	toxic form and is extremely toxic to aquatic life.
Nickel	[1]1,800	7.1	Toxic to fish and aquatic organism.
Copper	5.6	4.0	Quite toxic to aquatic life. No WQC is established for human health protection.
Zinc	47	58	Toxic to fish and invertebrates. WQC is established for human health protection.
Selenium	35	54	Toxic to fish and aquatic organisms.

[1] Water hardness = 100 mg/l.
NCA = No criteria available.

Alternatives Under Consideration

The Agency considered several wastewater treatment technologies for controlling pollutant discharges from steam electric plants to the Nation's waterways. The primary focus of this effort was to assess the potential control of discharges of toxic substances. In this review of effluent regulations, we focused our efforts on cooling water and ash transport water as the major wastestreams because of their large flows. Over 95 percent of the volume of water used in an average power plant is used as cooling water.

The regulatory options for cooling water and ash transport waste are described below:

Cooling Water—All steam electric power plants circulate large volumes of water through their condensers in order to condense steam in the turbines. About 65 percent of existing plants use a "once-through" cooling system. With such a system, the plant withdraws water from a water body, passes the water through condensers, and then discharges the heated water into a receiving water body. Other plants recirculate part of the cooling water using evaporative cooling towers. Cooling towers do not recirculate all of the water; the portion that is discharged is known as cooling tower "blowdown." For regulatory purposes, the Agency has treated once-through cooling water discharges and cooling tower blowdown as two separate waste streams.

The thermal efficiency of the steam cycle can be greatly reduced if biological growth occurs in the condensers. About 60 percent of the

plants with once-through cooling water add chlorine to control biological growth; such plants have the potential to discharge total residual chlorine (TRC) and chlorinated compounds into the navigable waters. TRC is a pollutant that has been studied extensively and is known to adversely affect aquatic life.

Chlorine is also added to inhibit biological growth in the cooling tower and condensers. In addition to TRC discharges, plants with cooling towers have the potential to discharge toxic pollutants through other chemicals added for maintenance of the cooling tower.

The technologies that the Agency evaluated for control of pollutants from cooling water included (1) chlorine minimization, (2) dechlorination, (3) chemical substitutes, and (4) mechanical antifouling devices.

Chlorine minimization is a program designed to ensure the most efficient use of chlorine and reduce the amount of TRC discharged. Plant personnel conduct a series of tests to determine the minimum amount of chlorine necessary to control biological growth in the condensers. Chlorination practices can then be adjusted in accordance with the test results. EPA believes that many plants undergoing such a program for once-through cooling water will be able to reduce chlorine doses approximately 70 percent; other plants may not need such control at all.

Dechlorination is chemical treatment that removes a significant amount of TRC from the cooling water before it is discharged from the plant. Although dechlorination reduces the amount of TRC to less than 0.14 milligrams per liter (mg/l) at any time, it does not eliminate it.

Alternatives to chlorine were explored for use in both cooling tower blowdown and once-through cooling water discharges. Substitutes for chlorine were often more expensive and, in some cases, had similar adverse environmental effects as chlorine.

Alternatives to the non-chlorine chemicals used in cooling towers to prevent scaling and corrosion in the cooling tower were also evaluated. For example, high levels of chromium and zinc are present in cooling tower blowdown when they are added for cooling tower maintenance. Some chemicals which are not priority pollutants, such as sodium bisulfate, potassium hydroxide, and sodium boro-polyphosphate, were found to be available at no additional cost and their expected use is reflected in EPA's proposal for control of toxic pollutants in cooling water blowdown.

Some plants use mechanical antifouling devices to control biological growth in the condensers. Two types of methods are used. One uses sponge rubber balls that are forced through the tubes under water pressure and then recycled. The second method uses brushes that are installed on the inside of each tube. Although this method eliminates chlorine use, it is expensive to install on existing sources. Furthermore, mechanical antifouling devices are not always adequate substitutes for chlorine.

(a) Once-Through Cooling Water—While a total prohibition against TRC discharges is technologically and economically achievable for many plants with once-through cooling water, this is not the case for all plants. Thus, the Agency has structured the proposed TRC regulation in two parts. First, EPA proposed a general prohibition against TRC discharges. This would be BAT for the many plants that do not need chlorine for biofouling control. Second, plants which must use chlorine to control biofouling would use only the minimum amount demonstrated to be necessary at that plant (chlorine minimization). In no event could a TRC limitation exceed 0.14 mg/l concentration at the point of discharge and generally TRC could not be discharged for more than 2 hours per day. Use of dechlorination in addition to chlorine minimization may be necessary in some cases to achieve this 0.14 mg/l limitation. These limitations would be established by the National Pollutant Discharge Elimination System (NPDES) permit writer on a case-by-case basis after reviewing the chlorine minimization study.

The Agency considered requiring minimization without specifying a maximum TRC concentration level, as well as specifying a maximum TRC level based on dechlorination technology, without first requiring chlorine minimization. Among other reasons, EPA rejected both options because many plants would have the economic and technological capability to achieve lower discharge levels than either of those options would achieve.

(b) Cooling Towers—For plants with cooling towers, the Agency did not require a chlorine minimization program; it would be unduly complex for this waste stream because chlorine may be used for cooling tower maintenance as well as for biological control. Further, the daily flow is commonly less than 1/100th of the once-through cooling water. Thus, for BAT the proposed regulations only limit the discharge of TRC to 0.14 mg/l based on dechlorination technology. For control of toxic pollutants discharged from cooling towers, the Agency has chosen chemical substitutes as the best technology to eliminate toxic pollutant discharges. These alternative chemicals should protect cooling towers from scaling, corrosion, and biological growth.

The proposed new source performance standards for once-through cooling water and cooling tower blowdown are the same as the proposed BAT.

Ash Transport Water—Coal or oil that is burned in a steam electric plant's boiler produces varying amounts of ash that require periodic collection and disposal. The relatively fine and light-weight ash is carried from the boiler with the flue gases and collected with air pollution control equipment. This type of ash is called "fly ash." The relatively bulky and heavy ash that settles at the bottom of the boiler's furnace is called "bottom ash." These two types of ash can be transported wet or dry to their ultimate or temporary disposal sites. (Only those plants that transport their ash using water would be affected by effluent regulations.)

The Agency is concerned about the presence of inorganic toxic substances in ash transport water. Pollutant concentrations in bottom ash transport water are typically lower than those in fly ash transport water. The Agency did not propose any further controls for existing sources of fly ash transport water beyond the current BPT regulation. EPA seriously considered proposing no-discharge of fly ash transport water but concluded that there would be extremely high costs to the industry ($3.2 billion in capital costs for 1980–1985) which were not justified in view of the available data regarding the degree of pollutant reduction. The technology base for achieving this option would have been the use of transport methods that do not require the use of water (dry transport). The Agency is considering further sampling to clarify wastewater characteristics of ash pond discharges.

The Agency proposed a new source performance standard and a pretreatment standard for new sources that would prohibit the discharge of fly ash water for all new plants. EPA proposed the zero discharge limit because the technology to achieve it is clearly demonstrated and available; since about half of the industry already uses dry methods of transport. Moreover, EPA believes that the costs for installing a dry fly ash handling system are not appreciably different than costs to install a wet ash sluicing system in a new plant.

Bottom Ash—The need to control pollutant discharges from bottom ash transport water was not demonstrated by the sampling data, since at most plants sampled, the concentrations of pollutants detected in the bottom ash pond were less than the concentrations detected in the plant's inlet water. In addition, the concentrations of these pollutants were not only lower than those detected in fly ash ponds, but also exhibited a greater variability. Further, while high costs were associated with the various technological options, the data to quantify effluent reduction beyond BPT were inadequate. Thus, we proposed no further control beyond BPT. We also proposed to withdraw the current BAT requirement for partial recycle of bottom ash sluice water for conventional pollutants since this option does not pass the BCT cost-reasonableness test (40 CFR Part 405, August 23, 1978). This test involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of POTWs to the cost and level of reduction of such pollutants from a class or category of industrial sources.

In addition to the regulatory options for cooling water and ash transport water, the Agency also examined the regulations for metal cleaning wastes. Metal cleaning wastes are generated periodically through operational cleaning of the boiler and steam generator tubes to remove scale and corrosion products that accumulate on the metal surfaces.

The 1974 BAT regulations require that all metal cleaning operations meet limits of 1.0 mg/l for copper and iron. In 1975, EPA narrowed the coverage of the rule to apply only to those metal cleaning operations adding chemicals. EPA now proposes to drop this distinction and to regulate all metal cleaning operations as metal cleaning wastes regardless of whether chemicals or water were used to clean the metal.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the proposed rule is the improvement of the aquatic environment through the reduction and/or elimination of discharges from steam electric generating facilities. Benefits to public health are less documented, although arsenic (refer to Table 1) is a suspected carcinogen.

The main effect of this rulemaking is to strengthen the control of chlorine. In addition, discharges of toxic pollutant additives from cooling towers were prohibited. Preliminary estimates indicate that the proposed regulations will result in the following reduction or elimination of pollutants by waste stream types:

(1) Once-Through Cooling Water: 17.4 million pounds per year of total residual chlorine.

(2) Cooling Tower Blowdown: a. 30,000 pounds per year of total residual chlorine; b. 157,000 pounds per year of toxic pollutants (chromium, zinc, chlorinated phenolics, etc.). These discharges are estimated to be between 3 and 5 percent of all chlorine discharged into the Nation's waters. No estimate of the total amount can be made for the toxic pollutants.

Summary of Costs

Sectors Affected: Establishments engaged in the generation, transmission, and/or distribution of electric energy for sale; and users of the electric energy.

On a national basis, EPA estimated that the total capital expenditures required to bring existing plants into compliance with the proposed regulations for the period 1980 to 1985 would be $120 million (1980 dollars). This would represent about 0.05 percent of the total anticipated capital expenditures for the industry during the same period. With the addition of operation and maintenance costs, this means that the average electric bill for consumers would increase by approximately 0.04 percent. The estimated capital expenditures for plants coming on line between 1985 to 1995 are $80 million (1980 dollars).

Commenters have questioned some aspects of EPA's analysis, particularly with respect to the costs of treating metal cleaning wastes. EPA will be examining these comments closely before making any further decisions.

Related Regulations and Actions

Internal: The scrubber systems used to comply with air pollution regulations may discharge contaminated water. The proposed requirements of the new source performance standards under § 111 of the Clean Air Act will increase the number of facilities with scrubber systems in the future.

Section 316(b) of the Clean Water Act authorizes the Agency to require the best available technology in the location, design, construction, and capacity of intake structures for cooling water to minimize adverse environmental impact.

Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the economic and environmental factors associated with various wastewater treatment technologies.

External: The recent emphasis on converting oil-fired power plants to other fuel types and the problems associated with nuclear waste disposal will affect the distribution of generating capacity by fuel types in the industry and, therefore, the amount of pollutants that would be discharged and controlled.

Active Government Collaboration

The Nuclear Regulatory Commission, the Department of the Interior, and the Department of Energy have provided assistance by supplying the Agency with information and/or reviewing materials.

Timetable

Regulatory Impact Analysis—To be determined.
Regulatory Flexibility Analysis—None.
Final Rule—November 1981.

Available Documents

Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA 440/1–80/029-b, September 1980).

NPRM—45 FR 68328, October 14, 1980.

Economic Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA, August 1980).

Copies of the above reports can be obtained from National Technical Information Service (NTIS) (5285 Port Royal Road, Springfield, VA 22151, Telephone Number: (703) 321–8543) or the EPA contacts designated below. Public comments on the NPRM and transcript record of the pretreatment public meeting are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213 (EPA Library), 401 M Street, S.W., Washington, DC 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

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CHAPTER 3—FINANCE AND BANKING

TREAS-OCC

Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements 34067

TREAS-OCC

Lending Limits; Unimpaired Surplus Fund 34069

TREAS-OCC

Use of Data Processing Equipment and Furnishing of Data Processing Services 34071

NCUA

Group Purchasing Activities of Federal Credit Unions 34072

CFTC

Large Trader Reporting to Exchanges and Reporting Open Positions 34074

CFTC

Proposed Dealer Option Regulations 34075

CFTC

Proposed Rules Concerning Foreign Brokers and Traders 34077

CFTC

Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation 34078

SEC

Classification of Issuers for Reducing or Modifying Certain Reporting Requirements 34079

SEC

Proposed Comprehensive Revision to System for Registration of Securities Offerings 34081

SEC

Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports 34083

SEC

Simplification of Investment Company Prospectuses 34085

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Description of Office, Procedures, Public Information (12 CFR Part 4*); Supplemental Application Procedures (12 CFR Part 5*); Assessment of Fees; National Banks; District of Columbia Banks (12 CFR Part 8*); Employee Stock Option and Stock Purchase Plans (12 CFR Part 13*); Changes in Capital Structure (12 CFR Part 14*); Change in Bank Control (12 CFR Part 15*); Federal Branches and Agencies of Foreign Banks (12 CFR Part 28*); Policy Statements (41 FR 47964)

Legal Authority

Authority to issue regulations, 12 U.S.C. § 93a.

Reason for Including This Entry

The Comptroller of the Currency (OCC) is undertaking a comprehensive review of all of its rules, policies, procedures, and forms governing application for charters, branches, mergers, changes in capital, and all other structural and corporate activities of national banks. This review should:

(1) lower costs to the applicants, the OCC and the public;

(2) provide a better understanding of OCC policies;

(3) modify or eliminate OCC rules, regulations, policies, procedures, and forms that are unnecessary or lead to inefficiencies; and

(4) remove barriers to competition.

Statement of Problem

The OCC has authority over the corporate activities of the approximately 4,500 national banks. Each of those banks may file various applications with the OCC at any time. In 1979, for example, OCC received approximately 87 charter applications, 984 branch applications, 100 merger applications, and hundreds of additional applications for changes in capital structure, relocations, operating subsidiaries, title changes, and other matters.

OCC rules, policies, procedures, and forms for the various structural and corporate activities of national banks have not been substantially reviewed or revised since November 1976. Since that time, the banking system has experienced substantial changes and many new laws were enacted which may have altered the appropriateness of existing OCC rules, policies, procedures, and forms covering filings for various structural and corporate activities.

In addition, the OCC believes that its regulations and policies governing the procedures it uses in evaluating those filings should be periodically reviewed, with input from national banks and other members of the public. The OCC also believes that the corporate filing process should not create unnecessary delays and costs. Forms and processing procedures should not require the submission or review of unnecessary information while failing to elicit information vital to an appropriate decision.

Accordingly, the OCC has started a comprehensive review of this area and has labeled this review the Corporate Activities Review and Evaluation (CARE) Program.

The first phase of the CARE Program has been completed. Included in this phase is a reorganization and consolidation of all rules, policies, procedures, and forms for national bank structural and corporate activities, which previously were located in numerous Parts of the Code of Federal Regulations and other documents, into a single regulation—12 CFR Part 5. This action should make it easier for all interested parties to locate and understand present requirements plus enable the OCC to review its policies, the need for additional policies, existing regulations, and methods, and to improve its decision criteria and reduce inappropriate burdens on applicants. Other areas covered in the first phase include:

(1) a policy statement governing OCC evaluation of applications for a national bank charter;

(2) a policy statement governing public disclosure by the OCC of material filed with notices of change in control of a national bank;

(3) final rules to be followed by OCC in determining whether or not a public hearing should be held in connection with an application for any corporate activity (charter, branches, etc.); and

(4) final procedures enabling the OCC to treat expeditiously applications for interim banks.

The areas that are being or will be reviewed include:

(1) policies and forms to be used by banks applying for branches, mergers, stock options, Federal branches and agencies, conversions, location and title changes, changes in capital structure, and subordinated debt;

(2) assessing stock appraisal rights of dissenting shareholders in merger type transactions; and

(3) developing procedures to be employed by the OCC in processing applications.

Alternatives Under Consideration

Although proposed changes will be issued for comment on a subject-by-subject basis (e.g., branches, mergers, etc.), the major alternatives common to each involve the choice between current or lesser levels of government intervention in the business judgments of national banks. OCC's intent is to eliminate unnecessary interference in the business decisions of national banks. For example, OCC will consider whether national banks in sound condition desiring to branch or issue subordinated debt should be permitted to do so with lesser filing requirements and lesser review procedures than are currently in effect.

Summary of Benefits

Sectors Affected: The national banking industry; customers and shareholders of national banks; the general public; and OCC.

A preliminary investigation of these proposals indicates a significant reduction in regulatory burden for a substantial number of small banks.

The benefits of lesser government intervention could include enhanced competition and efficiency in the supply of financial services. Experience has shown that the marketplace normally is the best regulator of economic activity and that competition allows the marketplace to function and promote a sound and more efficient banking system that better serves customers. In addition, OCC and applicants' costs may be reduced by this lesser amount of intervention. Unnecessary requirements should be eliminated, speed of processing corporate filings increased, and the quality of OCC and banker decisions enhanced.

Because OCC will continue to regulate the national banking system where some intervention is necessary to protect the public interest, the revisions to its corporate rules, policies, procedures, and forms will ensure that in general, banks would not implement poor decisions to the detriment of the banks themselves and their customers, shareholders, and communities.

Summary of Costs

Sectors Affected: The national banking industry; customers and shareholders of national banks; and the general public.

The costs of lesser government intervention include possible implementation of poor business decisions by individual banks which could increase operating costs that would be passed on to customers and shareholders, or possible increases in the number of individual banks exiting from the banking system through mergers or failures.

Related Regulations and Actions

Internal: None.

External: Each of the 50 States has rules governing applications for State-chartered banks. Regulations of the Board of Governors of the Federal Reserve System are included in 12 CFR Parts 262, 263, and 265. Federal Deposit Insurance Corporation regulations are included in 12 CFR Parts 303, 304, 306, and 308.

Active Government Collaboration

OCC will send proposals it issues for comment to the banking authorities for each of the 50 States and to the Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

Timetable

NPRM (stock appraisal rights of dissenting shareholders)—September 30, 1981.

NPRM (policy statements on OCC evaluation of applications for branches, changes in title, relocation, and OCC evaluation of employee stock option plans)—June 30, 1981.

NPRM (new forms for charter applications)—June 30, 1981.

Regulatory Impact Analysis—OCC will not prepare. Our initial investigation indicates that suggested costs, if any, to affected parties will be minor.

Regulatory Flexibility Analysis—Not required.

Public Hearing—None planned.

Public Comment Period—We have grouped issues under review topically, with each topic cutting across several regulations, and each having its own comment period. We expect the total period to be September 1980 to December 1981. Comments may be sent to Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

Final Rules—Since we are reviewing a number of issues, several rules are involved. We project publication of final rules over a period of time, probably December 1980 through December 1981.

Available Documents

Policy Statement—41 FR 47964, November 1, 1976.

Semiannual Agenda—46 FR 22112, April 15, 1981.

NPRM—45 FR 68611, Docket No. 80-14, October 15, 1980. (Proposes amendments to OCC's rules governing use of public hearings to acquire additional information prior to evaluating applications for charters, branches, mergers, change in title and location, and changes in capital.)

NRPM—45 FR 08612, Docket No. 80-15, October 15, 1980. (Proposes amendments to OCC rules governing material to be submitted in support of an application to charter an interim bank.)

Final Rule—45 FR 68586, Docket No. 80-11, October 15, 1980. (Consolidates all existing OCC rules, policies, procedures, and forms concerning the review and processing of applications for charters, branches, mergers, changes in title and location, and changes in capital into a single regulation—12 CFR Part 5.)

Final Rule—45 FR 68603, Docket No. 80-12, October 15, 1980. (Codifies OCC chartering policy in 12 CFR Part 5 and describes the analytical framework used by the OCC to determine whether a proposed national bank is likely to be operated in a safe and sound manner, possess reasonable prospects for success, and can be expected to meet the credit needs of its entire community.)

Final Rule—45 FR 68607, Docket No. 80-13, October 15, 1980. (Specifies the circumstances under which the OCC will routinely release basic information contained in notices of change in control required by 12 CFR Part 5.)

Final Rule—46 FR 16656, Docket No. 81-6, March 13, 1981. (Adopts new fee structure for processing applications.)

Final Rule—46 FR 16659, Docket No. 81-7, March 13, 1981. (Adopts revised rules governing written comments and hearings on applications.)

Final Rule—46 FR 16661, Docket No. 81-8, March 13, 1981. (Adopts amendments to OCC rules governing an application to charter an interim bank.)

These documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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TREAS—OCC

Lending Limits (12 CFR 7.1100*); Unimpaired Surplus Fund (12 CFR 7.7545*)

Legal Authority

Authority to issue regulations, 12 U.S.C. § 93a.

Reason for Including This Entry

The Office of the Comptroller of the Currency (OCC) is proposing to change the definition of "capital," thereby affecting the activities of all national banks, State and local governments, and the general public.

Statement of Problem

The OCC charters, examines, regulates, and supervises national (i.e., federally chartered) banks. Maintaining adequate capital in national banks is an important part of OCC's goal to assure a safe and sound national banking system. OCC is considering changes to its policy and procedures for assessing the adequacy of capital of individual banks. In connection with that effort, OCC is reviewing its interpretive rules which define capital for statutory purposes.

Various statutes limit the extent of a national bank's activities based on the amount of its capital. These activities include, among others, holding investment securities, establishing branches, borrowing, lending to a single entity or group of related entities, lending secured by real estate, and lending to affiliated entities. In some cases, the limitation is on the aggregate extent of activity; in others, the limitation is on the magnitude of the activity as it relates to single bank customers. Adoption of OCC's proposal to change the definition of capital would affect all those activities.

Immediate changes in the interpretive rulings which define capital under those statutes would have instant impact on all national banks. Those changes would also have an impact on borrowers from national banks, State and local governments which issue securities, national bank shareholders, and other members of the public.

Capital planning is an integral element in the management of every national bank. Assuring adequate capital in national banks is an important element of bank supervision. Although maintaining adequate capital in the national banking system is a continual task of the OCC, several recent factors present in the financial system have increased the OCC's attention to the subject. These factors include, among others, the effects on bank capital of inflation-generated growth in bank assets and liabilities.

In order to develop and implement a consistent, rational capital adequacy policy, an appropriate definition of capital is necessary. The present OCC definition includes (for most, but not all purposes) all shareholders' equity accounts, subordinated notes and debentures (long-term debt securities whose holders' rights are subordinated to the rights of depositors and other creditors), and 50 percent of the reserve for possible loan losses (a contra-asset account reflecting expected losses in the loan portfolio). That definition is inconsistent with definitions used by the Board of Governors of the Federal Reserve System and by the Federal Deposit Insurance Corporation in their supervision of State-chartered banks. The other Federal bank regulatory agencies do not include subordinated debt in their definitions of capital. While this is not a problem from our supervisory point of view, the inconsistency could be creating some problems for multibank holding companies with both State and nationally chartered banks. OCC is working with those agencies to develop a consistent definition of capital and a more uniform capital adequacy policy. In light of recent economic conditions and uncertainty as to the future, OCC believes that a revised, consistent rational capital adequacy policy (based on an appropriate definition of capital) is necessary at this time to supervise and monitor national banks properly and to assist banks in their own analyses and planning.

Alternatives Under Consideration

OCC is considering alternatives to the statutory definition of capital and alternative implementation programs. One alternative is to make no change. A disadvantage of that approach is that it would inhibit the development of well conceived capital adequacy policies. Implementation costs associated with change would, of course, be avoided.

The OCC had proposed deleting the reserve for possible loan losses from the statutory definition of capital. That contra-asset account reflects the difference between the face amount of all loans outstanding on the books of the bank and the amount the bank anticipates will be repaid. Deleting the reserve would also limit capital to those accounts representing shareholder equity which are available to absorb loan losses, thereby granting the bank sufficient time for earnings to recover while sustaining market confidence. The disadvantage of deleting this account from the definition of capital is that it would reduce the maximum size of certain loans and investments that may presently be made by national banks.

The OCC also had proposed deleting subordinated notes and debentures from the definition of capital. Although those debt instruments reflect some of the characteristics of capital when they have distant maturities, they must be repaid, interest payments are mandatory, and they become increasingly less like capital instruments as maturity dates approach. The advantage of eliminating subordinated debt from the statutory definition is that the entire capital account will be available to absorb unforeseen losses which may be experienced by an otherwise sound institution. A disadvantage of elimination is a curtailment of various bank activities presently subject to limitations based on bank capital.

In order to avoid disruptions in the ongoing conduct of banking operations, the OCC had proposed to implement any changes over time. The delayed impact would enable banks to plan adequately for any necessary changes. Another advantage is that anticipated growth in other components of capital would minimize the reductions in banking activities inherent in the proposals. As such, it is proposed that the reserve for possible loan losses be eliminated as of December 31, 1981, and that subordinated notes and debentures be eliminated at maturity or December 31, 1985, whichever occurs first.

The OCC considered other implementation options including:

(1) eliminating only subordinated notes and debentures with short maturities;

(2) establishing a timetable to reduce, in stages, the percentage of the reserve and subordinated debt which may be included in the definition (i.e., a phase-out over time); and

(3) allowing outstanding long-term subordinated debt to be included until

its maturity, but excluding new debt regardless of its maturity.

OCC solicited comments on specific questions germane to the proposal. These include:

(1) what terms, e.g., length to maturity, or mandatory conversion features might qualify subordinated notes and debentures as capital;

(2) what other forms of capital instruments exhibit sufficient characteristics to qualify as equity; and

(3) whether subordinated notes and debentures issued or outstanding at any time prior to December 31, 1985 should be included.

As a result of comments received on the NPRM of July 24, 1980 (45 FR 49276), OCC will publish a new NPRM in May 1981.

Changes to the July 1980 redefinition of impaired surplus which we may make with our May 1981 reproposal include:

(1) inclusion of 100 percent of the loan loss reserve in the definition of surplus (compared to 0 percent in the July 1980 proposal);

(2) continued inclusion of subordinated debt under certain conditions (minimum initial maturity and subject to amortization over the final 5 years to maturity) (compared to total elimination of subordinated debt from the definition under the July 1980 proposal); and

(3) inclusion of other non-equity instruments (e.g., limited life preferred stock) for statutory and adequacy purposes—this change was not specifically covered in our July 1980 proposal.

Summary of Benefits

Sectors Affected: The national banking industry; customers of national banks; the general public; and OCC.

Adequately capitalized banks permit a broad range of banking services to be offered competitively to the public. Improvements in capital analysis will have nonquantifiable benefits for national banks and their customers by improving the ability of bankers, regulators, and the public to assess capital adequacy and by maintaining public confidence. The consistency in our proposed definition of capital for both statutory and adequacy purposes will simplify matters for everyone. Related OCC decisions to be made, such as the need for OCC review of bank plans to issue debt and equity, may reduce burdens on applicants and OCC, and are expected to result in expanded abilities in national banks to take advantage of market opportunities to issue appropriate securities. The proposal would also establish a more uniform definition of capital, for statutory purposes, among the Federal bank regulatory agencies and eliminate variable, regulatory treatment of banks in more or less similar circumstances.

Summary of Costs

Sectors Affected: The national banking industry, particularly in rural areas; and customers of national banks, including businesses and State and local governments.

Any reduction in capital, as defined, would further limit a variety of national bank activities. For example, current statutes generally permit a national bank to lend to an individual entity no more than 10 percent of its defined capital. Similarly, current statutes generally permit a national bank to invest in a revenue obligation issued by a State or local government in an amount no greater than 10 percent of its defined capital. Reducing the amount of defined capital will decrease the maximum lending and investment limits at every national bank.

OCC has performed a preliminary study based on information otherwise filed by national banks for the period ending March 31, 1980, indicating:

(1) that 999 of the country's approximately 4,500 national banks have subordinated debt outstanding in an aggregate amount approximating $3.3 billion;

(2) that many of those banks have equity capital to asset ratios below the average level for banks of similar size; and

(3) that the average decrease in maximum lending limits for those banks, if subordinated debt were excluded from the definition of capital, would be 12.8 percent. Similarly, the average reduction in maximum lending limits for all national banks, should the reserve for possible loan losses be excluded from the definition of capital, would be approximately 4.5 percent. Our data on the effect of the July 1980 proposal were for national banks as a group and do not distinguish between "large" and "small" banks. However, in their comments banks from both groups indicated that the proposal would reduce their lending limits and create problems.

That analysis, by itself, does not, however, indicate whether the changed limits would affect actual bank performance. For example, the preliminary analysis might indicate that a specific national bank's lending limit to a single borrower would be decreased from $100,000 to $90,000 if the proposals were adopted without a delayed effective date. If that bank has not made and does not intend to make loans to a single borrower in excess of $70,000, the changes would have little impact. Conversely, if that bank has been making loans at its limit and its present and future customers were likely to need loans in amounts approaching the bank's lending limit, the effects of the changes could be more dramatic. However, the anticipated growth in other components of capital between the date of adoption of the changes and the delayed effective dates as proposed would significantly decrease the likelihood of adverse disruptive consequences. Accordingly, in its NPRM, OCC specifically requested input on the extent of adverse effects the proposal would have. Comments received suggest that the proposed changes could have greater adverse consequences for banks, businesses, and local governments in rural areas, compared to other areas, if banks in those rural areas have significant amounts of subordinated debt outstanding. Such banks have access to fewer sources of equity funds and would thus find it difficult to keep total capital at desired levels as the debt portion was phased out.

Related Regulations and Actions

Internal: Section 303 of the *Comptroller's Handbook for National Bank Examiners* describes the present capital adequacy analysis.

External: Each of the 50 States has capital definitions and limitations based on capital applicable to State-chartered banks.

Active Government Collaboration

OCC has been working with the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation to develop a uniform capital adequacy policy and definition of capital. Meetings among staff are, and will continue to be, held frequently.

Timetable

NPRM—May 31, 1981. OCC received almost 800 comment letters in response to an NPRM of July 24, 1980 (45 FR 49276, Docket No. 80-6). The wealth of information provided in those letters is being analyzed and will lead to the publication of a new NPRM.

Public Comment Period—June 1 to August 31, 1981.

Regulatory Impact Analysis—OCC will not prepare. Our initial investigation indicated costs to affected parties will be negligible, with the possible exception of rural banks.

Regulatory Flexibility Analyses are

not required for interpretive rulings.
Public Hearing—None planned.
Final Rule—December 31, 1981.
Final Rule Effective—To be determined.

Available Documents

NPRM—45 FR 49276, Docket No. 80-6, July 24, 1980.
Semiannual Agenda—46 FR 22112, April 15, 1981.
Comptroller's Handbook for National Bank Examiners, Section 3.
Public comments.
These documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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TREAS-OCC

Use of Data Processing Equipment and Furnishing of Data Processing Services (12 CFR 7.3500*)

Legal Authority

Authority to issue regulations, 12 U.S.C. § 93a; Corporate Powers, 12 U.S.C. § 24.

Reason for Including This Entry

The Office of the Comptroller of the Currency (OCC) includes this entry because of the possible significant impact on the activities of all national banks, the data processing industry, and the general public.

Statement of Problem

The OCC regulates and supervises national (i.e., federally-chartered) banks. In addition to certain express activities, the National Bank Act (12 U.S.C. § 24) authorizes national banks to exercise "all such incidental powers as shall be necessary to carry on the business of banking."

OCC Interpretive Ruling 7.3500, last revised in 1974, attempts to define by generic description and by example the data processing services which a national bank may lawfully provide for itself and others pursuant to 12 U.S.C. § 24. That ruling currently permits national banks to perform all data processing services directly or incidentally related to the business of banking. As examples under the existing ruling, a national bank may collect, transcribe, process, analyze, and store, for itself and others, banking, financial, or related economic data, as part of its banking business. Additionally, the ruling notes that a national bank, incidental to its banking business, may market excess time on data processing equipment and sell the by-products of data processing activity under certain defined circumstances. Finally, the ruling emphasizes the Federal prohibitions found in 12 U.S.C. § 1971 against national banks tying other banking services to customer use of data processing facilities.

Since Interpretive Ruling 7.3500 was last revised in 1974, there have been rapid and profound advances in both data processing technology and the application of that technology to the financial industry. Morever, experience with the application and interpretation of the Interpretive Ruling indicates that a more precise delineation of permissible data processing activities by national banks may be needed. Accordingly, the OCC is considering whether the existing ruling accommodates technological advances and provides adequate guidance, or whether the ruling should be revised and, if so, how.

To this end, the OCC issued an ANPRM (45 FR 40613, June 16, 1980) inquiring into a wide range of subjects. We solicited comments on the types of electronic data processing services (EDP) offered by banks; the advantages and disadvantages of banks as providers of data processing; the extent to which the sale of EDP services, software, and excess time is necessary or beneficial to acquisition and maintenance of an adequate EDP capacity by banks; and foreseeable new applications of EDP technology.

Alternatives Under Consideration

The OCC has defined the following alternatives, described more fully in the ANPRM:

(A) OCC could retain the ruling as now written. This alternative would avoid new confusion for those who have accustomed themselves to working with the ruling, but it would not address ambiguities which may currently exist;

(B) OCC could revise the ruling to include a new generic description of permissible data processing activities. This alternative would establish a clearer framework for data processing activities in which national banks are legally entitled to engage, but it could soon become outdated in failing to reflect future technological change;

(C) OCC could revise the ruling to adopt standards similar to those articulated in the present regulation and the interpretive ruling of the Board of Governors of the Federal Reserve System concerning data processing services provided by bank holding companies. This alternative would provide a measure of consistency to a system in which banks and bank holding companies are closely allied, but it might inhibit innovation and improvement as the two perform their distinct financial roles;

(D) OCC could retain its current ruling and provide supplemental aids such as a listing of specific activities found to be permissible under the ruling. This alternative would remove uncertainty surrounding the existing ruling, but it might be interpreted as restricting data processing activities which arguably fall within the purview of the statute; and

(E) OCC is also considering the promulgation of a formal regulation as an alternative, or in addition to, an interpretive ruling. This alternative would convert what is now an opinion into a formal directive to national banks, adding greater certainty to the permissible limits of data processing activities, but relinquishing the flexibility needed to reflect changes in banking and technology.

Summary of Benefits

Sectors Affected: The national banking industry; the data processing industry; customers of national banks; the general public; and OCC.

Until both the form and substance of any revision in the interpretive ruling are known, it is impossible to predict the benefits expected from such a revision. Nevertheless, a more specific interpretive ruling would provide additional guidance concerning the nature of data processing services which may lawfully be offered by national banks. By identifying those data processing services that are incidental to the business of banking, the OCC could eliminate confusion regarding the application of the existing ruling to specific services, which would benefit both the national banking and data processing industries. Greater certainty about national bank data processing activities would result in fewer court challenges for the OCC and would reduce its need to issue a multiplicity of individual interpretive letters. Customers also would benefit from the reduced risk to their banks of engaging in data processing activities which are expressly permissible and which might otherwise invite costly litigation or worrisome supervisory actions. Finally, such a revision would benefit the public because it would provide greater

certainty to banks which may be deterred from offering the public financially related data processing services because of the legal questions raised under the existing ruling.

Summary of Costs

Sectors Affected: The national banking industry; the data processing industry; customers of national banks; the general public; and OCC.

Until both the form and substance of any revision are known, it is impossible to predict the costs expected from such a revision. Nevertheless, specific guidelines in the area of electronic data processing technology might unduly limit the flexibility needed by banks to accommodate technological change. Also, such guidelines could become rapidly outdated, requiring continual modification by the OCC. Thus, a less flexible interpretive ruling might retard the development and financial application of data processing technology by national banks. Such an impediment would adversely affect the data processing industry and the general public which would otherwise benefit from such innovations.

Related Regulations and Actions

Internal: None.

External: The present regulation and interpretive ruling of the Board of Governors of the Federal Reserve System concerning data processing services provided by bank holding companies appears at 12 CFR 225.4(a)(8) and 12 CFR 115.123(e), respectively.

Active Government Collaboration

None at present.

Timetable

NPRM—June 30, 1981.

Regulatory Impact Analysis—We will determine if one is required after reviewing the public comments and determining the precise content of the NPRM.

Regulatory Flexibility Analyses are not required for interpretive rulings.

Public Hearing—None planned.

Public Comment Period—June 30, 1981 to August 31, 1981. Comments may be sent to Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

Final Rule—October 31, 1981.

Final Rule Effective—October 31, 1981.

Available Documents

Interpretive Ruling 12 CFR 7.3500.

ANPRM—45 FR 40613, Docket No. 80-1, June 16, 1980.

Semiannual Agenda—46 FR 22112, April 15, 1981.

Public comments.

These documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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NATIONAL CREDIT UNION ADMINISTRATION

Group Purchasing Activities of Federal Credit Unions (12 CFR 721.1* and 721.2*)

Legal Authority

Federal Credit Union Act, 12 U.S.C. § § 1752(1), 1757(15), and 1766(a).

Reason for Including This Entry

The National Credit Union Administration (NCUA) includes this entry because we have recently discovered that there may have been a number of abuses of the authority now exercised by Federal credit unions under the present regulations. Such abuses may be due in part to a lack of clarity in the present regulations. Our proposed rule will also affect the way insurance companies and consumer product and service vendors market their goods and services.

Statement of Problem

Federal credit unions are financial cooperative associations, chartered by the Federal Government for the purpose of promoting thrift among their members and making loans to their members. The members of Federal credit unions must have a common bond of occupation (such as employees in the same factory) or association (such as members of a local fraternal lodge) or must be within a well-defined neighborhood, community, or rural district.

In addition to specific enumerated powers (such as paying dividends on members' share (savings) accounts and granting loans), a Federal credit union can, according to the Federal Credit Union Act, "exercise such incidental powers as shall be necessary and requisite to enable it to carry on effectively the business for which it has been incorporated" (12 U.S.C. § 1757(15)). NCUA interprets "incidental powers" authority in light of the Federal Credit Union Act definition of a Federal credit union: ". . . . a cooperative association organized . . . . for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes" (12 U.S.C. § 1752(1)). In 1972, NCUA issued 12 CFR 721.1, which permits Federal credit unions to facilitate their members' voluntary purchase of insurance, incidental to the promotion of thrift or to the borrowing of money. NCUA limited credit unions to facilitating their members' voluntary purchase of group disability coverage related to loan obligations, and group insurance related to share (savings) accounts, life savings and loan protection insurance, and group, fire, theft, automobile, life, and disability insurance. Finally, NCUA decided, pursuant to 12 CFR 721.2, that Federal credit unions could promote thrift among their members by informing their members of the availability of group purchasing plans for goods and services other than insurance.

NCUA placed certain limitations on Federal credit unions to make sure that Federal credit unions maintained their identity as financial cooperatives. Federal credit unions can inform their members as to the availability of insurance or group purchasing plans, but cannot endorse the insurance or the purchasing plan. In order to maintain the privacy of their members, Federal credit unions are prohibited by NCUA from making mailing lists available to the insurance company or vendor. Federal credit unions are not permitted to act as an agent for an insurance company. When making credit-related insurance available to its members, Federal credit unions must inform borrowers that they may purchase coverage from another insurance company. Finally, Federal credit unions are permitted to accept reimbursement from the insurance company or vendor, but only for actual costs of administrative tasks performed by the credit union.

A recent study conducted by NCUA indicates that a number of instances exist of possible abuse of this "incidental authority." For example, in some cases, credit unions offer types of insurance, such as cancer insurance, which many studies show to be of dubious value to consumers. Credit unions apparently have provided, in some cases, mailing lists of their members to insurance companies and other vendors. These vendors use the lists for purposes not intended by the credit union. Eighteen of seventy credit

unions surveyed had violated the prohibition against providing mailing lists to vendors. Some credit unions enter into agreements with insurance companies or other vendors that indicate that the credit union is, in effect, serving as an insurance agent by filing applications and processing claims. A number of credit unions surveyed by NCUA are lax in making it clear to their members the loan-related insurance offered through the credit union is voluntary and that members may obtain such insurance from other sources. Finally, many credit unions receive compensation not attributable to their costs in providing informational material (such as brochures) and performing paperwork-related tasks. Instead, insurance companies compensate the credit union based on a percentage of the dollar amount of the insurance purchased by the credit union's members.

NCUA has decided to act on this problem at this time for a number of reasons. First, an NCUA study has indicated that credit unions are involved in the sale of a type of insurance which may be of dubious value to their consumer members. Second, random examinations by NCUA have indicated a number of apparent violations of the existing regulations, some possibly due to a lack of a clear understanding of the requirements of the regulations. Finally, NCUA is reviewing all its existing regulations as required by § 804 of P.L. 96-221, the Financial Regulation Simplification Act of 1980. NCUA is required to review its existing regulations periodically.

If we take no action at this time, the abuses noted above may continue, and perhaps worsen. Federal credit unions may rely more heavily on the income derived from their participation in these sales programs, although compensation above their actual costs is a violation of present regulations. This, in turn, may lead to credit union involvement in other commercial ventures totally unrelated to their identities as financial cooperatives. This may violate the Federal Credit Union Act. Lastly, credit unions may continue to be involved in the sale of insurance or products and services which may be of dubious value to their members. Credit union members rely on their credit unions for advice. If credit unions offer insurance or products that are not worthwhile, this may endanger member loyalty.

Alternatives Under Consideration

NCUA considered a number of alternatives and issued an NPRM (46 FR 22003, April 15, 1981) similar to Alternative (A).

(A) We proposed, in our NPRM, to revise the existing regulations to require credit unions to consider the programs more carefully, to permit mailing lists to be made available to insurance companies and other vendors if credit union members agree, and to prohibit compensation of the credit union, except reimbursement for certain administrative costs. Insurance companies and other vendors would have access to the credit union's mailing list only if the credit union has endorsed the insurance or group purchasing plan and each member listed consents. This alternative would eliminate the problem of compensation in excess of costs by prohibiting compensation. It would also ensure closer examination of products and services by credit unions because this alternative would require that a credit union provide a written justification of the decisions to participate in a group program. The advantage of this alternative would be that credit unions can continue to offer a variety of group plans, while the innovative regulatory technique of economic disincentives would discourage participation in programs that are not especially valuable to the credit union members. Another advantage of this alternative would be that credit union members could protect their privacy by refusing to consent to being included on a mailing list made available to an insurance or group purchasing plan. In addition, by prohibiting compensation, this alternative would eliminate the possible conflict of interest between increasing income for the credit union versus providing credit union members with information on valuable services. The disadvantages are that investigations by credit unions of proposed plans may cost additional time and money. Another risk is that the credit union may place greater emphasis on considering its own costs than on the quality of the plan to be offered to its members. Mailing list abuse may continue.

(B) We considered making no change to the existing regulations, 12 CFR 721.1 and 721.2, but issuing an "Interpretive Ruling and Policy Statement" (IRPS) to clarify ambiguities in the regulation. This may have solved the problem by placing credit unions on notice of NCUA's position and of our intent to take administrative action against violators. This alternative had the advantages of clarifying ambiguities, permitting credit unions to seek compliance with existing regulations, and continuing to permit credit unions to offer a wide range of group purchasing activities. The disadvantages were that the clarification and warning of possible enforcement action may not have prevented all continued violations. Investigation and prosecution of violations could tax NCUA's resources heavily. Lastly, this alternative would not have offered assurance that credit unions would give their members adequate information about the plans offered through their credit union.

(C) We could have, by revising the regulation, permitted only group purchasing activities related to insurance and directly related to loans or savings, and prohibited reimbursement of expenses by vendors. This alternative could have solved the problem of whether Federal credit unions can act as economic cooperatives by limiting their group purchasing activities to those related directly to financial services. It would have eliminated the need for the use of mailing lists because credit unions could have given the information to a prospective borrower or saver when the loan was made or the account was opened. This alternative would have eliminated the problem of calculating costs for determining the amount of reimbursement for administrative tasks performed by the credit union. Other advantages of this alternative would have been the elimination of certain types of insurance which are of dubious value and the elimination of mailing list violations, because information would have been provided directly to the borrower only at the time of the loan application. One disadvantage would have been increased costs to credit unions because this alternative would have prohibited reimbursement. Another disadvantage would have been that the credit unions could choose the insurance plan that was least costly to the credit union although the plan may not have been the most beneficial to its members. Group purchasing plans for products or services other than insurance would have been prohibited and thus the types of services that credit union members could receive would have been limited.

(D) We could have permitted the credit union community to attempt self-regulation. This could have solved the problem by allowing a committee of representatives of credit unions, credit union members, insurance companies, and vendors to develop guidelines to prevent the identified abuses. This committee would have been necessary to ensure that there was a broad base of interests represented in the formulation of voluntary standards. The advantages of this approach would have been the use of voluntary standards, in lieu of binding regulations, through increased

industry cooperation. The disadvantages would have been the administrative problems involved in coordinating an industry committee to develop guidelines. NCUA is uncertain of the effectiveness of any voluntary guidelines. Finally, there may have arisen an appearance of an abdication of NCUA responsibility.

(E) We could have, by revising the regulations, banned all group purchasing plans except those purchased by the credit union for all qualified members. This alternative could have solved the problem by placing the economic risk of involvement in group purchasing plans on the credit union directly. The advantages of this approach were that it would have given the credit union the incentive to obtain the best coverage for the least cost because it would have derived the primary benefit (for example, the credit union would receive payments on loans covered by loan protection insurance that might otherwise go into default) and borne premium cost. This alternative would have allowed the credit union to receive commissions from the sales of its group insurance from the vendor (which the credit union could have used to reduce its own premiums). Credit union members still would have obtained the advantages of group purchasing. The disadvantages were that members who may not want to obtain these services would bear part of the costs to the credit union, because all members might receive lower dividends, higher interest rates on loans, or reduced services. The credit union's investment may act as a disincentive for advising members that they may obtain these services elsewhere. If certain types of insurance were extended to members already covered under their own personal insurance plans, these members may have received no additional benefit if the insurance plan prohibited the insured from collecting twice on the same loss. Finally, this alternative would have eliminated a wide range of group purchasing activities, because the credit union could not afford the initial cost or the economic risk.

Summary of Benefits

Sectors Affected: Federal credit unions and their members; insurance industry; and wholesale and retail trade of consumer products.

Our proposed rule would have the benefit of protecting credit union members' privacy by prohibiting the distribution of mailing lists to insurance companies or vendors without the consent of the members included in the list. While continuing to allow credit unions to offer a wide range of group purchasing plans, this approach may have the advantage of eliminating less valuable plans because the credit union would more carefully select the group purchasing plan. The credit union would, therefore, no longer face the conflict of interest between choosing a plan that compensates the credit union or choosing a plan best suited for its members.

Summary of Costs

Sectors Affected: Federal credit unions and members; insurance industry; and wholesale and retail trade of consumer products.

Our proposed rule may increase costs to the Federal credit union. This, in turn, may harm consumers because credit unions may be reimbursed for their costs by the group plan, which may pass these costs on to the consumers. Also, by permitting credit unions to distribute mailing lists only with the consent of the members included in the list, this proposal places the burden of obtaining consent on the credit union.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Public Comment Period—Comments due on or before June 1, 1981.
Public Hearing—Not anticipated.
Final Rule—July 1, 1981.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—Not required.

Available Documents

Memorandum from Office of Policy Analysis to NCUA Board, dated June 5, 1980, "Evaluation of Federal Credit Union Group Purchase Plans."

Abt Associates, Inc., "Cancer Insurance Costs and Benefits: A Study for the Board of the National Credit Union Administration," May 1980.

ANPRM—45 FR 84811, December 23, 1980.

"Preliminary Review Memorandum for Evaluating Alternative Approaches to a Proposed Rule for Federal Credit Union Insurance and Group Purchasing Activities," March 26, 1981.

Memorandum from Offices of Policy Analysis, Consumer Affairs, Examination and Insurance and General Counsel, to NCUA Board, dated March 20, 1981, "Review of Regulation 721: Federal Credit Union Insurance and Group Purchasing Activities."

NPRM—46 FR 22003, April 15, 1981.

The above documents are available for review in the Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

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COMMODITY FUTURES TRADING COMMISSION

Large Trader Reporting to Exchanges and Reporting Open Positions (17 CFR Parts 15*, 16*, 17*, 18*, and 21*)

Legal Authority

Commodity Exchange Act, §§ 4g, 4i, 5(d), and 8a(5), 7 U.S.C. §§ 6g, 6i, 7(d), and 12a(5).

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) thinks these rules are important because they would shift primary responsibility for the collection of key market surveillance data from the Commission itself to the commodity exchanges. If we adopt these rules, the exchanges will be better equipped to prevent price manipulations, cornering of commodities, and other market disturbances, and the Commission will be able to act more in an oversight role and less as primary regulator. This will set an important precedent.

Statement of Problem

The Commission and the commodity exchanges both have obligations under the Commodity Exchange Act to prevent price manipulation, corners, and other disruptions in the futures markets. In order to detect market disruptions, the Commission and the exchanges both conduct market surveillance activities. The Commission operates an extensive large trader reporting system through which it collects information about traders who control significant futures positions from commodity exchanges, futures commission merchants (FCMs), foreign brokers who carry futures accounts, and individual traders. The various exchanges employ widely differing market surveillance practices and, according to a recent staff review, in some cases apparently collect little data on individual traders' positions for routine use in their surveillance efforts.

As a result of the overlapping responsibility of the Commission and

the exchanges described above, some duplication of effort exists. Additionally, since large trader data, which the Commission considers essential to preventing and detecting price manipulations and other market disturbances, are generally not equally available to the exchanges and the Commission, it may be difficult for the exchanges to fully discharge their market surveillance obligations. If the Commission does not act, these problems are unlikely to be resolved. In order to reduce duplication of effort and to enable the exchanges to discharge their self-regulatory responsibilities, the Commission is considering a general proposal that would require exchanges to collect, process, and forward to the Commission in machine readable form information similar to that which the Commission currently collects under existing regulations from FCMs and brokers. If adopted, this rulemaking approach would improve the market surveillance capability of the exchanges and thus enable the Commission to move toward an oversight, rather than regulatory role.

Alternatives Under Consideration

As described above, the Commission is considering whether, as self-regulatory entities, commodities exchanges should be primarily responsible for collecting and processing large trader data. It has requested public comments on this question and will determine, after studying those comments, whether to publish specific rulemaking proposals to implement this approach.

Shifting primary responsibility for this activity to the exchanges would have several advantages. It would provide the exchanges with the information that is essential to maintaining an effective exchange market surveillance program; it would transfer significant responsibility from government to the private sector; it would reduce some duplicative reporting burdens now imposed on the FCM community; and it would transfer a substantial portion of the cost of market surveillance to entities that are the direct beneficiaries of effective self-regulation—namely the exchanges, their members, and their customers. This innovative compliance reform would reduce government costs as well. The most significant disadvantage to this approach is that, absent coordination by the exchanges, a reduction in reporting burdens may not be achieved.

Alternatively, the Commission is considering whether it would be feasible for the exchanges or a newly created self-regulatory organization to maintain a joint reporting system. This would have all of the advantages of the approach described above and would eliminate the possibility that different exchanges might impose duplicative or inconsistent reporting requirements. The disadvantage of this approach is that it could delay, complicate, or because of start-up costs associated with creating a new self-regulatory organization, render more expensive the transfer of primary responsibility from the Commission to the exchanges.

Summary of Benefits

Sectors Affected: Commodity exchanges; futures commission merchants; foreign brokers; the CFTC; and all market users.

These proposals would directly benefit commodity exchanges by enhancing their surveillance capability and by lessening the degree of government involvement in their operations. They would also benefit FCMs and foreign brokers by eliminating the need for them to report certain information both to the Commission and some commodity exchanges, as they are required to do under existing Commission and exchange rules. Moreover, the CFTC would save time and money if proposals which shifted the primary burden of data collection to the exchanges were adopted.

Less directly but equally importantly, all market users would benefit from the exchanges' improved surveillance capacity and ability to prevent certain market disruptions.

Summary of Costs

Sectors Affected: Commodity exchanges; futures commission merchants; and foreign brokers.

Commodity exchanges which are currently collecting and maintaining less compehensive data than would be required under these proposals are likely to experience increased operating costs. Additionally, unless a joint or coordinated reporting program is developed by the exchanges, futures commission merchants and foreign brokers in some instances might incur the cost of complying with duplicative reporting requirements. It is unlikely, however, that their reporting costs under the new system would exceed present reporting costs once the reporting system has been shifted fully from the Commission to the exchanges.

Related Regulations and Actions

Internal: At the same time that the Commission requested comments on large trader reporting, it also published for comment proposed rules designed to standardize and simplify some of its reporting requirements. These proposals were adopted on March 25, 1981 (46 FR 18528).

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—the CFTC, as an independent agency, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the CFTC prepares much of the same information in its NPRMs and final rules.
Revised NPRM—to be determined.
Public Hearing—None.
Regulatory Flexibility Analysis—None.

Available Documents

NPRM—45 FR 57141, August 27, 1980.
Public Comments on NPRM.
The above documents are available by mail at no charge from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Washington, DC 20581.

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CFTC

Proposed Dealer Option Regulations (17 CFR Parts 1, 3, and 32*)

Legal Authority

Commodity Exchange Act, §§ 4c(b), 4c(d), and 8a(5), 7 U.S.C. §§ 6c(b), 6c(d), and 12a(5) (1976 and Supp. III 1979).

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) includes this entry because the proposed rules would make it possible for more firms to participate in the dealer option business than can presently do so. The growth of the dealer option business could be economically significant.

Statement of Problem

Prior to 1978, certain kinds of commodity options (rights to buy or sell commodities at agreed upon prices within a specific time) could legally be

offered and sold to the public. Unscrupulous promoters engaged in a variety of fraudulent and abusive practices and many options customers were cheated. In response, Congress amended the Commodity Exchange Act in 1978. In its present form, the Act generally prohibits the offer and sale of commodity options to the public. In recognition of commercial practices which existed in 1978, however, Congress exempted options transactions on particular physical commodities from the general ban. Persons domiciled in the United States who, on May 1, 1978, were in the business of granting options on physical commodities and were also "in the business of buying, selling, producing or otherwise using that commodity," were permitted to continue granting these so-called "dealer options" in accordance with the Commission's existing commodity option regulations. Congress directed the Commission to develop a comprehensive program for regulating dealer options.

Because dealer options can only be granted by firms who met this two-pronged statutory test as of May 1, 1978, as well as certain other requirements, only a handful of firms currently grant these options. Nevertheless, in calendar year 1980, more then 2,000 dealer options with a dollar value of $89.6 million were sold. In February 1981, the most recent month for which statistics are available, the dollar value of reported dealer option transactions was over $4 million. We expect that the removal of legal barriers to entry in the dealer option business will cause it to grow substantially.

Pursuant to the direction of Congress, since 1978, the CFTC has been attempting to develop a comprehensive regulatory scheme applicable to dealer options which will adequately protect the public. Unlike futures contracts, which are our primary regulatory responsibility, dealer options are not traded on exchanges. The differences in the way dealer options are priced, marketed, and traded, and the lack of a self regulatory authority responsible for overseeing their offer and sale, present difficult problems for protection of the investing public. We solicited public comments on rules proposed in December 1978 which would have eliminated the requirement that a dealer option grantor have been in the business on May 1, 1978, and would also have instituted a registration requirement for dealer option grantors, established a $5 million capital requirement for dealer option grantors in addition to the $5 million net worth requirement set by Congress, and required certain additional disclosures to be made to prospective dealer option purchasers. After reviewing the public comments on the proposals and the staff's analysis of these comments, the Commission decided to republish modified proposals for further public comment. A failure by the Commission to act may well be inconsistent with our legislative mandate.

Alternatives Under Consideration

If adopted, the rules proposed by the Commission would establish a comprehensive regulatory scheme for offers and sales of dealer options. Registration of dealer option grantors, certain disclosure to prospective customers, and the meeting of various financial requirements by the brokers (futures commission merchants) who sell these options, all would be required. We believe that these rules would protect the investing public by assuring that the persons who grant dealer options are statutorily entitled to do so, by providing investors with material information about dealer options they are considering purchasing, and by attempting to assure the financial responsibility of firms dealing with the public and the safety of public monies in their possession.

If at a future time the Commission believes that, despite the adoption of rules, the public is not being adequately protected, it can, after public notice and opportunity for a hearing on the record, determine whether dealer options are contrary to the public interest. Should we find that they are contrary to the public interest, we have statutory authority to adopt rules which would prohibit the granting or sale of these options. This would have the advantage of fully protecting the public but would outlaw commercial practices that some firms have engaged in since prior to May 1978.

Summary of Benefits

Sectors Affected: Potential grantors of dealer options; and members of the investing public.

If the CFTC adopts the proposed rules, firms which are not able to grant dealer options under existing law may be able to do so. This could make it easier for firms in the business of buying, selling, producing, or using the commodities in which they grant options to manage the risks of their business, and thereby reduce their operating costs. It is also possible that the entry of more firms into the dealer option business will bring with it the benefits normally associated with increased competition.

Members of the investing public would also benefit from the adoption of these rules, which are designed to provide customer protections exceeding those presently provided under CFTC regulations.

Summary of Costs

Sectors Affected: Dealer option grantors; futures commission merchants; and CFTC.

Dealer option grantors and futures commission merchants will incur the costs of complying with registration, recordkeeping, reporting, and information dissemination requirements if the proposals are adopted. CFTC would also incur the costs of administering the new regulations. If expansion of the dealer option business gives rise to abuses, increased amounts of CFTC enforcement resources would have to be expanded.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—the CFTC, as an independent agency, is not required to prepare a Regulatory Impact Analysis. However, the CFTC prepares much of the same information in its NPRMs and final rules.
Final Rule—Late 1981.
Regulatory Flexibility Analysis—None.
Public Hearing—None.

Available Documents

NPRM—46 FR 23469, April 27, 1981.
"Proposed Reissuance of and Amendments to Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities."
"Proposed Dealer Option Regulations," Staff discussion paper, March 16, 1981.
"Proposed Reissuance of and Amendments to Commodity Options Regulations."
NPRM—43 FR 59396, December 20, 1978.
Public comments on the NPRM.
All of the above documents are available by mail at no cost from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Room 806, Washington, DC 20581.

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CFTC

Proposed Rules Concerning Foreign Brokers and Traders (17 CFR 21.03*)

Legal Authority

Commodity Exchange Act, §§ 4g, 4i, 5, 5a, and 8a, 7 U.S.C. §§ 6g, 6i, 7, 7a, and 12a.

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) thinks this rule is important because it will facilitate the Commission's ability to obtain timely information concerning foreign traders. We expect that, if adopted, the rule could substantially improve our market surveillance capability.

Statement of Problem

In recent years, foreign participation in the United States futures markets has become increasingly significant. Although little statistical information is available, it appears that foreign participation may account for 25 percent or more of the activity in some commodities. By engaging in futures trading in the United States, foreigners, like domestic market participants, become subject to the regulatory scheme set forth in the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, and the Commission's regulations thereunder. One aspect of this scheme requires the Commission to perform intensive market surveillance, which involves collecting reports from and communicating with both domestic and foreign market participants.

The CFTC published for comment proposed rules which would make domestic futures commission merchants (FCMs) who are registered with the Commission primarily responsible for ensuring the availability of information needed by the Commission about the foreign brokers and traders whose futures trading accounts they carry. The reason for this action is that, at present, the Commission receives less timely, less complete, and less verifiable information from some foreign brokers and traders than it generally receives from their domestic counterparts, about the size of accounts and the identity of the persons for whose benefit the accounts were established. The Commission has encountered difficulties and delays in trying to identify and communicate with these foreign entities, in part because of foreign secrecy laws and legal restrictions in some countries on direct communications between foreign governments and their citizens. There is apparent widespread noncompliance by foreign brokers and traders with CFTC reporting requirements and it is difficult for the Commission to take effective enforcement action against them. As the markets regulated by the Commission have become increasingly international in character, the need for us to address these problems has become more important. If the agency does not take any action, its market surveillance program will be hampered, and it will be difficult for the Commission to detect and take action to prevent price manipulations, corners, and other market disruptions.

Alternatives Under Consideration

As proposed, the rule would require domestic futures commission merchants who are registered with the Commission and who carry accounts for foreign persons to obtain a list of the persons for whose benefit the accounts were established. If a futures commission merchant could not provide this information to the Commission about an account on request, it would have to liquidate the futures positions in the account.

At a meeting held on November 25, 1980, the Commission approved the rule in principle, subject to some further revisions. It directed the staff to modify the rule to provide a greater role for futures exchanges (contract markets). These exchanges have certain self-regulatory responsibilities under the Commodity Exchange Act and may be better situated than futures commission merchants to oversee liquidations of foreign traders' accounts in an orderly way, without disrupting the market. On the other hand, futures commission merchants who have a contractual relationship with foreign traders or their intermediaries may be the most appropriate persons to collect information about the identity of the beneficial owners of an account. The commission's staff is presently considering what the roles of the various market participants should be.

Summary of Benefits

Sectors Affected: All sectors of the U.S. commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users, and consumers of commodities; persons speculating in the futures markets; and CFTC.

If the CFTC adopts the proposed rule, the information available to the agency about the size of positions held by foreigners and the identity of the persons who are the true owners of the positions will increase. The accounts of foreign persons who refuse to provide requested information will be liquidated by FCMs. This should provide an incentive for greater compliance with our reporting requirements by foreigners. The availability of more complete market information will promote fair dealing and integrity in the markets and improve the CFTC's ability to detect and take action to prevent price manipulations, corners, and other market disruptions. All market users will benefit from more honest markets. The CFTC will benefit from being able to shift the burden from government to industry for obtaining this information.

Summary of Costs

Sectors Affected: Registered domestic futures commission merchants; contract markets; and foreign brokers and traders who participate through domestic agents in the U.S. futures market.

The proposed regulation could impose some administrative costs on registered futures commission merchants in the United States who would be responsible for obtaining required information about foreigners whose accounts they carry. Additionally, if futures commission merchants are required to liquidate customers' accounts to comply with the rule, they may experience some loss of foreign business.

Depending on the nature of the obligations placed on contract markets in assuring orderly liquidations of the positions of uncooperative foreign traders, these entities could also experience some increased administrative costs and a possible loss of trading volume.

Related Regulations and Actions

Internal: On April 1, 1980, CFTC voted to adopt final rules which would require foreign brokers and traders to have an agent for service or delivery of Commission communications ("Designation of a Futures Commission Merchant to be the Agent of Foreign Brokers, Customers of Foreign Brokers and Foreign Traders," 17 CFR 15.05).

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—the CFTC, as an independent agency, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the CFTC prepares much of the same information in its NPRMs and final rules.

Regulatory Flexibility Analysis—
None.
Final Rule—Summer 1981.

Available Documents

NPRM—45 FR 31733, May 14, 1980.
"Futures Commission Merchants—Duties Concerning Accounts Carried For Foreign Brokers and Traders."
"Rules Concerning Foreign Brokers and Traders," Memorandum of the Office of the General Counsel, April 1, 1980.
"Commission Policy on Reporting Requirements for Foreign Brokers and Traders," Memorandum of the Office of the General Counsel, November 17, 1980.
"Foreign Broker and Trader Reporting Requirements," Memorandum of the Division of Economics and Education, November 21, 1980.
Public comments on the NPRM.
All of the above documents are available by mail at no cost from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Room 806, Washington, DC 20581.

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CFTC

Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation (17 CFR Part 5)

Legal Authority

Commodity Exchange Act, §§ 5, 5a, 6, and 8a, 7 U.S.C. §§ 7, 7a, 8, and 12.

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) Guideline No. 1 sets forth the criteria that a board of trade must meet to become and to continue to be a market for a particular commodity futures contract. The CFTC includes this entry because clarification concerning these criteria could have a significant effect on the futures contracts traded on boards of trade.

Statement of Problem

The Commodity Exchange Act requires a board of trade (commodity exchange) seeking to become a market for a particular commodity futures contract to show CFTC that trading in the contract would not be contrary to the public interest. Guideline No. 1 (40 FR 25849 June 19, 1975) sets forth the criteria a contract market must meet in making such a showing. It indicates that the public interest test includes an "economic purpose" test and "to meet the 'economic purpose' test a board of trade is expected to establish that something more than occasional use of the contract for hedging (a method of protecting against price fluctuations) or price basing exists, or can reasonably be expected to exist." It also requires a demonstration, based on the individual terms and conditions of the contract, that the contract will result in adequate deliverable supplies. Further, the guideline requires an affirmation that transactions for future delivery in the commodity will not be contrary to the public interest.

The public interest, hedging, and price-basing standards, as presently contained in Guideline No. 1, are very general. It has been the Commission's experience, in reviewing applications for initial contract market designation, that boards of trade have not uniformly met their statutory burden of demonstrating that their proposed contract markets may reasonably be expected to serve an economic purpose and are not contrary to the public interest. Furthermore, these applications have not consistently shown compliance with all other applicable requirements. As a result, the Commission has expended much time and effort in soliciting additional information from boards of trade and others. There have been concomitant delays in review. Additionally, the Commission is concerned about problems which could result when a previously designated contract becomes completely inactive or otherwise stops serving an economic purpose. The Commission estimates that more than 50 contracts (out of a total of 140) may fall into this category. Further, the Commission is concerned with low volume or lightly traded contracts. The Commission estimates that at least 10 to 13 contracts will fall into this category. In such cases the Commission believes there is increased potential for price manipulation and other market distortions.

The existence of a particular futures market which does not meet a public interest standard could have an adverse impact on markets for the underlying and related commodities, to the detriment of farmers and other producers, processors, fabricators, commercial users, and consumers of the commodity, as well as members of the public who buy and sell futures contracts. Trading in a contract for which an adequate deliverable supply does not exist, for example, could result in price distortion.

The recent enormous growth of the futures markets and the development of futures contracts in many new commodities make this issue particularly important at the present time. At the end of fiscal 1979, U.S. futures exchanges were offering 119 different futures contracts in 59 commodities. There were 3,000 commodity exchange members, more than 300 futures commission merchants, about 37,000 Commission registered futures industry salespeople and 1,660 commodity trading advisors and commodity pool operators. Futures trading in government securities, which was just beginning in 1975 when Guideline No. 1 was promulgated, has become increasingly significant. The market for Treasury bonds, for example, increased from about 3,000 open contracts in 1977 to more than 65,000 in 1979.

If the Agency does not act, it will be difficult for exchanges to be on notice concerning what showing is required by a board of trade seeking designation as a contract market and what standards should be applied for continuation of such designation.

Alternatives Under Consideration

The Commission is considering several alternatives which were published for public comment in November 1980. For futures contracts which we have not yet approved (designated) for trading, the Commission has proposed specific requirements which are intended to clarify the present economic purpose test a board of trade must meet in its application for designation. One approach the Commission has suggested is that a board of trade which seeks designation for a contract which is similar to one already traded by another exchange be required to describe the particular terms or conditions of the proposed contract or the exchange's institutional features which make it reasonable to expect that the proposed contract will meet the standards of the economic purpose test.

The Commission is also considering adopting a requirement which will clarify that a board of trade which is seeking designation as a new contract market first must demonstrate the adequacy of its rule enforcement and surveillance programs for its existing contracts. This proposal reflects the Commission's view that it would be contrary to the public interest to designate boards of trade as additional contract markets, where information available to the Commission

demonstrates significant deficiencies in enforcement programs for currently designated markets.

The Commission is also considering adoption of a rule which would clarify the requirement that boards of trade that seek designation as contract markets for contracts based on securities issued or guaranteed by the United States government must make certain additional showings. For these contracts, boards of trade would have to provide information to the Commission about the effects, if any, such contracts would have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities. The Commission is required, under § 2(a)(B)(ii) of the Commodity Exchange Act, to consider these factors for contracts based on government securities.

With respect to the showing that boards of trade should be required to make to justify continued designation as a contract market, the CFTC has considered several alternatives. Although we initially consider requiring boards of trade to provide us with quantitative standards for assessing whether a contract continues to serve an economic purpose, we have determined not to propose such a rule at this time. Instead, we have proposed a rule which would require boards of trade to evaluate trading in low volume contracts and document that they are used for price basing and commercial participation. Additionally, contract markets would be required to evaluate the extent to which commercial participants used the contract for hedging, a method of protecting against price fluctuations. We believe this approach is more desirable and that it will facilitate our determination as to whether a contract continues to serve an economic purpose, without imposing excessive paperwork burdens on boards of trade.

Additionally, the Commission has proposed for comment a rule preventing an exchange from adding new delivery months to a dormant contract without Commission approval. A related rule proposal would require a contract market to file periodic reports with the Commission containing volume and trading information concerning low volume contracts. This approach would provide the Commission with an indication of whether a contract continues to serve an economic purpose. It would also be useful to boards of trade in fulfilling their self-regulatory responsibilities concerning low volume contracts.

Summary of Benefits

Sectors Affected: All sectors of commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users, and consumers of commodities; persons who speculate in the futures markets; boards of trade; and CFTC.

Codification and clarification of current Commission requirements concerning the economic purpose and public interest tests would help assure the proper functioning of the futures and cash markets by reducing the potential for market abuses such as price manipulations, which would result from initial or continuing designation of a contract which does not serve an economic purpose. It would also decrease the likelihood of adverse effects on other sectors of the economy which would result from artifical commodities prices, and enhance the protections provided to market participants by boards of trade. In addition, clarifying the standards to be applied could make the Commission contract review process more efficient. A reduction of the uncertainty about what the Commission considers an adequate showing that a board of trade meets the requirements for contract market designation should also reduce the effort and resources which boards of trade expend in new contract preparation. Finally, to the extent that the submission of more detailed, relevant information facilitates agency action, the Commission could realize some savings in staff resources.

Summary of Costs

Sectors Affected: Boards of trade.

Boards of trade could incur some additional administrative costs if the submissions accompanying their applications for contract market designation are required to be more detailed. They also would be subject to a new reporting requirement with respect to low volume contracts, which would raise their compliance costs.

Related Regulations and Actions

Internal: On October 21, 1980, CFTC voted to publish for comment proposed rules clarifying the economic and public interest requirements for contract rules market designation, and proposed rules relating to dormant and low volume contracts.

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—CFTC, an independent regulatory agency, is not required to prepare Regulatory Impact Analyses. However, it prepares much of the same information in its NPRMS and final rules.

Final Rule—Winter 1981–1982.

Public Hearing—None.

Regulatory Flexibility Analysis—None.

Available Documents

NPRM—45 FR 73504, November 5, 1980, "Economic and Public Interest Requirements for Contract Market Designation."

NPRM—45 FR 73499, November 5, 1980, "Dormant and Low Volume Contracts."

Public comments on the NPRM.

"Possible Revisions to Commission Guideline No. 1," Staff discussion paper, April 22, 1980.

Guideline 1 Revisions, Staff discussion paper, October 14, 1980.

The above documents are available by mail at no charge from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Washington, DC 20581.

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SECURITIES AND EXCHANGE COMMISSION

Classification of Issuers for Reducing or Modifying Certain Reporting Requirements

Legal Authority

Securities Exchange Act of 1934, §§ 12(h) and 13(c), 15 U.S.C. §§ 78*l*(h) and 78m(c).

Reason for Including This Entry

The Securities and Exchange Commission (Commission) includes this entry because the proposal represents a further initiative to identify and remove impediments to small business to the greatest extent consistent with the public interest and protection of investors. The proposal also raises general questions about the desirability or feasibility of a classification system and the criteria which could be used in grouping companies for the purpose of reducing or modifying certain reporting

requirements for one or more such groups.

Statement of Problem

The registration and reporting provisions of the Securities Exchange Act of 1934 (Exchange Act) were expanded by the Securities Acts Amendments of 1964 (1964 Amendments) (78 Stat. 565, U.S. Code Cong. & Ad. News 2798 (1964)). The registration provisions of § 12 of the Exchange Act were extended to issuers of securities with both total assets in excess of $1 million and a class of equity securities (stocks or similar securities, as opposed to debt-type securities) held of record by 500 or more persons, and pursuant to § 15(d) of the Exchange Act, each issuer that files a registration statement which the Commission declares effective pursuant to the Securities Act of 1933 (Securities Act) must file with the Commission such supplementary, periodic, and current reports as may be required with respect to a security registered pursuant to § 12 of the Exchange Act. Sections 13 and 14 of the Exchange Act require other periodic reports and require compliance with proxy information statement and tender offer disclosure requirements for issuers registered pursuant to § 12. A proxy is a consent or authorization, given to another person by a security holder, to vote on corporate actions, and a tender offer is a general offer made to shareholders of publicly held corporations to acquire all or some specified majority of the outstanding shares.

As a general matter, issuers required to file periodic reports with the Commission are now required to provide essentially the same type and quality of information regardless of their size. Similarly, the present proxy solicitation and information statement provisions do not make distinctions among issuers based on size.

Many critics have noted that the cost of compliance with Exchange Act reporting requirements is not only substantial in absolute amounts but is relatively greater for smaller companies than for larger issuers. Seven percent of reporting companies have under $2 million in assets, according to 1979 statistics. The benefits derived by smaller companies from such reporting requirements may be limited. A survey conducted in 1977 indicates that individual investors rely primarily upon the annual report to shareholders for information about a company rather than on reports filed with the Commission. While there is evidence to indicate that professional analysts are the principal users of Form 10–K (annual) and Form 10–Q (quarterly) reports, securities of smaller issuers are rarely followed by such analysts. The principal reason for analysts' failure to follow these securities is that professional investors lack interest in small companies. Such factors as a lack of liquidity, lack of independent research, price volatility, and the investment restrictions under the Employee Retirement Income Security Act are usually cited by institutions as primary reasons for not investing in these companies. The Commission believes it must balance its concern for the costs of compliance with the possibility that the need by investors for mandated disclosure may be as great as or even greater for small companies than for large ones. On the other hand, to the extent that the reporting requirements are the same for all issuers regardless of size, these requirements impose proportionately higher time and expense burdens on smaller issuers than large ones and the ultimate weight of these burdens falls on the shareholders of such companies.

Alternatives Under Consideration

In its release (Securities Exchange Act of 1934 Release No. 16866, 45 FR 40145, June 13, 1980) on the possibility of classifying small issuers, the Commission published a profile of 8,891 companies that are currently required to file reports with the Commission pursuant to §§ 12 or 15(d) of the Exchange Act and requested responses on a number of questions regarding the possible methods of, and costs and benefits of, reducing disclosure requirements for small issuers pursuant to a classification system. Specifically, the Commission asked commentators whether small companies would benefit from a classification system that would provide for reduced disclosure requirement for small issuers under the Exchange Act. The Commission also asked what criteria it should use in establishing categories of issuers, i.e., asset size, revenues, net worth, number of shareholders, or some combination thereof. The Commission stated that one alternative it is considering is to require a first category of small issuers to file and update some type of basic data document in lieu of the current form. In addition, the Commission is also considering proposing that smaller issuers in the first category be relieved of certain compliance obligations under the proxy solicitation and information statement requirements.

Summary of Benefits

Sectors Affected: Small companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act; shareholders of such companies; persons wishing to purchase shares of such companies; other persons who rely upon or use information filed by such companies with the Commission, or who rely upon or use information contained in informal shareholder reports; and the Commission.

The Commission believes that any amendments to its requirements along the lines suggested in the release on classification of issuers would result in a reduction of costs for small issuers in complying with Exchange Act reporting and other requirements. Such a cost reduction would be anticipated in view of the reduced number and extent of the reports required to be filed by these companies.

The Commission does not believe that there will be any measurable cost savings to shareholders, potential investors, and other users of financial reports and filed information. However, to the extent that corporate costs are reduced, companies may pass on some of the cost reduction to one or more of these groups.

Because of the possible reduction in the total volume and complexity of disclosure documents, registered companies and issuers of securities should realize reduced legal and other professional costs, printing and duplicating charges, and mailing costs. Although the Commission cannot measure the amount of these savings, because of numerous internal variables and the lack of a reporting system, the Commission believes them to be significant. Additionally, the overall volume reductions should decrease the administrative burden to the Commission staff and increase processing speed.

Summary of Costs

Sectors Affected: Small companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act, shareholders of such companies and other persons who rely upon or use information filed by such companies with the Commission, or who rely upon or use information contained in informal shareholder reports.

The Commission does not believe that any significant costs would be incurred by any affected sector as a result of

proposals under consideration by the Commission.

Shareholders, investors, and other users of filed documents, however, may receive less information as a result of these proposals.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—Summer 1981.
Regulatory Flexibility Analysis—With NPRM and final adoption.
Regulatory Impact Analysis—Not required.
Public Hearings—None planned.
Public Comment Period—60 days following publication of NPRM.
Final rule—Fall 1981.

Available Documents

"Consideration of a System of Classifying Smaller Issuers for Purposes of Modifying Certain Reporting and Other Requirements," Securities Exchange Act of 1934 Release No. 16866, 45 FR 40145, June 13, 1980.

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SEC

Proposed Comprehensive Revision to System for Registration of Securities Offerings (17 CFR Part 239*)

Legal Authority

Securities Act of 1933, §§ 6, 7, 10, and 19(a), 15 U.S.C. § 77a *et seq.*

Reason for Including This Entry

The Securities and Exchange Commission (SEC) believes that these new registration forms are important because they will significantly revise the registration statements filed with the SEC under the federal securities acts when securities are offered to the public. The proposed revision potentially would affect all of the approximately 9,000 public companies and other issuers of securities.

Statement of Problem

The Securities Act of 1933 (Securities Act) requires companies which desire to offer securities to the public to file registration statements with the SEC. The Securities Exchange Act of 1934 (Exchange Act) requires companies with publicly traded securities to register with the SEC, to file annual and other periodic reports, and to register additional securities which they may wish to sell to the public. The SEC is proposing to revise its forms for registration statements to establish a single, integrated disclosure system which will permit most registered companies to comply simultaneously with the disclosure provisions of both Acts.

At present, the Securities Act and the Exchange Act have different disclosure requirements. The Securities Act requires that companies registering securities give detailed disclosure concerning their business and financial condition at the time that securities are offered for public sale. Under the Exchange Act, companies whose shares are registered with the SEC, or which have previously sold shares to the public under the Securities Act, must file periodic reports containing detailed disclosure of their affairs. Often major portions of the disclosure required in Securities Act registration statements and in Exchange Act reports overlap to a great degree, but because of differences in the timing of the filings, the disclosure is not word-for-word the same.

In addition to filing registration statements and periodic reports with the SEC, many public companies prepare and deliver to shareholders informal annual reports, portions of which are required by various State laws and SEC rules. Again, the informal annual reports prepared by many public companies tend to contain information which duplicates some of the information contained in Securities Act registration statements in the Exchange Act reports. In the case of informal reports, however, the duplicated information tends to be delivered in a somewhat different format.

The problem faced by the SEC is to reduce or eliminate the duplicative reporting and to reduce thereby both the volume and the cost of the material which companies prepare. Concurrently, the SEC is seeking to maintain the quality of disclosure and to update disclosure obligations to eliminate outmoded or unnecessary requirements.

At least three significant factors suggest that the SEC should act at this time to combine or integrate disclosure under the Securities Act, the Exchange Act, and in informal shareholder reports. First, the report of the SEC's Advisory Committee on Corporate Disclosure, delivered to the SEC in November 1977, examined the possibility of combined reporting and indicated a significant and urgent need for integration. Second, an SEC examination of registration statements, Exchange Act reports, and informal shareholder reports indicates that over the years, the number of significant content differences may have diminished, thereby making an integrated system more feasible. Finally, as the volume of disclosure requirements has increased over the years, the cost to registrants and the burden upon the SEC staff has correspondingly increased. An integrated system will reduce the volume of disclosure documents, and correspondingly reduce both the costs and burdens to reporting companies.

If the SEC does not act now, companies will continue to bear unnecessary costs and burdens. Additionally, from the SEC's point of view, over the past 10 years the SEC staff responsible for the review of filings has been gradually reduced, while the volume of disclosure has increased. At present staffing levels, if the SEC did not eliminate the need to review essentially duplicative filings, the staff would increasingly dilute its ability to review effectively the content and quality of filed documents.

Alternatives Under Consideration

(A) With respect to Exchange Act reports, information is classified into two general categories relating to either an Exchange Act filing or to an informal shareholder report. Companies could avoid duplicating information already contained in their shareholder reports by incorporating such information by reference into their Exchange Act filings. The content of public company registration statements filed under the Securities Act in connection with the sale of additional securities would depend upon the availability of previously documented information in the marketplace or from other sources outside of the Exchange Act. Thus, the SEC would employ a three-tier scheme to classify companies desiring to sell securities. First, companies with widely traded securities could incorporate most disclosure by reference to Exchange Act filings. Second, companies with no record of financial difficulty and 3 years of adequate Exchange Act filings could incorporate some disclosure by reference to Exchange Act filings and to informal reports to shareholders, but the SEC would require the delivery of one or more of those filings or reports to prospective purchasers of securities. Finally, the SEC would require all other companies to prepare extensive registration statements which would

involve some duplication of information previously filed in Exchange Act reports. The SEC staff believes this alternative would result in both a more rational organization of information concerning public companies, and the development of informal reports to shareholders, which could serve as the primary source of descriptive and financial information concerning those companies. Reports to the SEC would supplement, but not duplicate, the informal shareholder report. Although the SEC staff does not expect a reduction in the size or information content in the informal shareholder report, it would expect dramatic decreases in both size and content of formal SEC filings.

(B) This alternative would involve the opportunity for integration of disclosure between Exchange Act filings and informal shareholder reports as outlined in the first alternative, but would keep these filings and reports separate from registration statements. The SEC would make no effort to integrate further these filings and reports with registration statements filed under the Securities Act. Because some duplication of prior disclosure would be required where a registrant decided to sell additional securities to the public, this approach would result in less cost savings to public companies. On the other hand, this approach would accept the existing different structures and, particularly, the existing different liability provisions of the two Acts, thereby avoiding potentially difficult legal issues which arise when a document prepared for filing under the Exchange Act is subsequently used to satisfy a requirement under the Securities Act.

(C) This alternative would integrate disclosure under the official Exchange Act filings and Securities Act registration statements, but would leave informal reports to shareholders outside of the formal disclosure system. This would continue much of the present disclosure system. The SEC would require companies to make changes in Exchange Act reports to make them more readable so that they could be used more effectively in connection with Securities Act registration statements. This approach would maximize a company's ability to communicate in informal reports, but probably would not result in a significant reduction in the volume of disclosure documents.

The SEC currently is pursuing Alternative A, which maximizes the potential for reductions in duplicative disclosure without doing away with informal reports. The SEC believes that informal shareholder reports are currently the most effective means of communicating with shareholders. Alternative C does not appear to be attractive because the advantage in terms of the readability of the informal shareholder report would be lost in the Securities Act registration context, as such reports would not be incorporated by reference into Securities Act registration statements. Finally, the SEC is not pursuing Alternative B because reductions in duplicative disclosures would be minimal and in any event, the SEC may have to address the liability problems which Alternative B avoids.

Summary of Benefits

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; other persons who rely upon or use information filed by such companies with the SEC, or who rely upon or use information contained in informal shareholder reports; and the SEC.

The SEC believes, on the basis of its own informal estimates, that the proposed amendments would reduce the total volume of Exchange Act periodic reports filed by a particular registered company from 0 to 50 percent, and of registration statements filed under the Securities Act from 0 to 75 percent. Approximately 30,000 Exchange Act reports and 2,500 Securities Act registration statements were filed in 1979. The greater reductions would relate to filings by companies with widely traded securities, since those companies incur the largest costs. In this regard, the SEC's Advisory Committee on Corporate Disclosure reported in 1977 that large companies incurred costs averaging more than $45,000 per year to prepare SEC-mandated annual reports. We believe that at least some direct cost savings would be realized by nearly all companies having a reporting or filing obligation.

The SEC does not believe that there will be any measurable cost savings to shareholders, potential investors, and other users of financial reports and filed information. However, to the extent that corporate costs are reduced, companies may pass on some of the cost reduction to one or more of these interests.

Because of the reduction in the total volume and complexity of disclosure documents, registered companies and issuers of securities should realize reduced legal and other professional costs, printing and duplicating charges, and mailing costs. Although the SEC cannot measure the amount of these savings, because of numerous internal variables and the lack of a reporting system, the SEC believes them to be significant. Additionally, the overall volume reductions should decrease the administrative burden to the SEC staff, increase processing speed, improve communications with shareholders and investors, and result in some improved access to capital markets.

Shareholders, investors, and other users of filed information should also benefit because companies will produce more readable and communicative disclosure information.

Summary of Costs

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; and other persons who rely upon or use information filed by such companies with the SEC, or who rely upon or use information contained in informal shareholder reports.

The SEC does not believe that any significant costs would be incurred by any affected sector as a result of the adoption of these proposals, although in some circumstances a limited number of companies filing reports and issuing shares could incur greater auditing costs.

Additionally, if the SEC mandates incorporation by reference into Securities Act registration statements of information in informal reports to shareholders, it may eliminate some flexibility in the manner in which companies disseminate information to shareholders. The imposition of Securities Act liability on portions of these documents could also inhibit their present communicative style, even though the SEC expects the overall communicability of the portions which do become formal filings and reports to improve.

Shareholders, investors, and other users of filed documents will receive slightly less information as a result of these proposals; and to the extent that legal liability makes portions less readable, these sectors could also be detrimentally affected. The SEC believes, however, that these costs will be more than offset by the greater readability of the overall information package.

Related Regulations and Actions

Internal: A series of related rule changes were proposed for comment in Securities Act of 1933 Release No. 6276, 46 FR 78, January 2, 1981. It is expected that such rules will be adopted in final form simultaneously with the new registration forms.

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—None required, as the NPRM was published for notice and comment prior to January 1, 1981.
Public Hearings—None planned.
Final Rule—Early summer.

Available Documents

Public comments. The public comment period was September 2, 1980 to January 1, 1981.

"Proposed Comprehensive Revision to System for Registration of Securities Offerings," Securities Act of 1933 Release No. 6235, 45 FR 63693, September 25, 1980.

"Amendments to Annual Report Form, Related Forms, Rules and Guides; Integration of Securities Acts Disclosure Systems," Securities Act of 1933 Release No. 6231, 45 FR 63630, September 25, 1980.

"Business Combination Transactions—New Short Form for Registration and Related Rule Amendments," Securities Act of 1933 Release No. 6232, 45 FR 63647, September 25, 1980.

"General Revision of Regulation S–X," Securities Act of 1933 Release No. 6233, 45 FR 63660, September 25, 1980.

"Uniform Instructions as to Financial Statements—Regulation S–X," Securities Act of 1933 Release No. 6234, 45 FR 63682, September 25, 1980.

"Proposed Revision of Form 10–Q, Quarterly Report," Securities Act of 1933 Release No. 6236, 45 FR 63724, September 25, 1980.

These releases are available from Publications, Securities and Exchange Commision, 500 N. Capitol Street, Washington, DC 20549, (202) 272–2960. 20 SEC Docket 1059–1239.

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SEC

Proposed Revision of Regulation S–K (17 CFR Part 229*) and Guides for the Preparation and Filing of Registration Statements and Reports

Legal Authority

Securities Act of 1933, §§ 7, 10, and 19(a), 15 U.S.C. §§ 77g, 77j, and 77s(a); Securities Exchange Act of 1934, §§ 13, 14, 15(d), and 23(a), 15 U.S.C. §§ 78m, 78n, 78o(d), and 78w(a); and Investment Company Act of 1940, §§ 20 and 38(a), 15 U.S.C. §§ 80a–20 and 80a–37(a).

Reason for Including This Entry

The Securities and Exchange Commission (SEC) believes that this proposed action to revise the requirements for preparation and filing of registration statements and reports is of major interest to registrants subject to the disclosure provisions of the Federal securities laws. The proposals potentially would affect approximately 9,000 public companies and other issuers.

Statement of Problem

The Securities Act requires companies that desire to offer securities to the public to file registration statements with the SEC. The Exchange Act requires certain companies with publicly traded securities to register such securities with the SEC, to file annual and other periodic reports, and, in connection with the solicitation of proxies or consents from shareholders to elect directors or approve various corporate actions, to file proxy solicitation materials. The registration statements and reports are designed to provide the investing public with complete and accurate information to assist them in making investment decisions, while the proxy solicitation materials are designed to provide adequate information to security holders for voting purposes. Historically, the mandated disclosures in the registration statements, reports, and proxy statements required under the two Acts evolved separately, resulting, in some areas, in different disclosure requirements even though the disclosures are to be used by investors to make the same investment decisions. Moreover, while major portions of the disclosure required under the two Acts may overlap, differences in the timing of the filings and other factors also resulted in varying disclosures on the same subject matter; such varying disclosures serve no purpose under the Acts.

In addition, many public companies prepare and deliver to security holders informal annual and other periodic reports, portions of which are regulated by State law and SEC and stock exchange regulations. These informal reports may contain much of the information also required in formal filings, but because of differences in State regulatory requirements and the purposes of such reports, the disclosures may vary substantially in form and context of presentation.

Thus, as a result of the separate historical evolution of disclosure requirements under the two Acts and the differences in informal disclosure documents, registrants had to prepare, in many instances, and the SEC staff had to review, three separate sets of disclosure documents that were all addressed to the same general subject matters and served the same statutory purpose, that is, to provide investors the information necessary to make informed investment decisions. The SEC, recognizing the problems and inefficiencies of subjecting registrants to several disclosure systems, both from the standpoint of registrants themselves and that of the reviewing staff of the SEC, began an effort in the mid-1960s to integrate the various disclosure systems.

The problem faced by the SEC is to reduce or eliminate the duplicative reporting and to reduce thereby both the volume and the cost of the material which companies prepare. Concurrently, the SEC is seeking to maintain the quality of disclosure and to update disclosure obligations to eliminate outmoded or unnecessary requirements.

At least three significant factors suggest that the SEC combine or integrate disclosure under the Securities Act and the Exchange Act, and in informal shareholder reports. First, the report of the SEC's Advisory Committee on Corporate Disclosure, delivered to the SEC in November 1977, examined the possibility of combined reporting and indicated a significant and urgent need for integration. Second, an SEC examination of registration statements, Exchange Act reports, and informal shareholder reports indicated that over the years, the number of significant content differences may have diminished, thereby making an integrated system more feasible. Finally, as the volume of disclosure requirements has increased over the years, the cost to registrants and the burden upon the SEC staff correspondingly has increased. An integrated system would reduce the volume of disclosure documents and the number of varying rules, and thus

reduce both the costs and burdens to reporting companies.

Prior to the adoption in December 1977 of Regulation S–K, a regulation which contains the specific disclosure requirements that are incorporated by reference into registration statement and report forms of the SEC (17 CFR 229.20), there were disparate informational requirements between Securities Act registration forms and Exchange Act reporting forms. Regulations S–K reflects the SEC's judgment that information necessary for investment or voting decisions (other than that relating to the transaction itself) should be the same for the trading markets and for primary distributions. Having made such determination, the Commission was in a position to decide what information is important to such investment decisions, and thus should be standardized for use under both Acts.

The SEC designed Regulation S–K as the repository for the Commission's standardized disclosure requirements to be incorporated by reference into the provisions of the various forms that specify the content of registration statement, reports, and proxy statements. In December 1977, the Commission adopted Items 1 and 2 of Regulation S–K, outlining the required descriptions of a registrant's business and properties, respectively, to be included in both registration statements and periodic reports filed pursuant to the Securities Act and Exchange Act.

Over the past 3 years, the SEC has added 10 more standardized disclosure items to Regulation S–K, specifying the disclosure requirements with respect to registrants' directors and executive officers, remuneration, legal proceedings, security ownership, market for and dividends on common stock, selected financial data, management's discussion and analysis of the financial condition and results of operations of the registrant, and certain supplementary financial information.

The revisions presently proposed to Regulation S–K will complete the SEC's consolidation into a single regulation of the standardized disclosure requirements for most registration statements and periodic reports filed under the two Acts. The proposed revisions also implement a recommendation of the Advisory Committee that the Commission undertake a "sunset" review of existing rules and regulations in order to eliminate "duplicative, unnecessary, or impractical reporting requirements."

The principal factors indicating that the SEC should act at this time to revise Regulation S–K and the Guides for the Preparation and Filing of Registration Statements and Reports, a compendium of policies and practices of the Division of Corporation Finance of the SEC in applying the Federal securities laws in its review of disclosure documents, include (1) the SEC's concurrrent proposal to revise the system for registration of securities offerings under the Securities Act, (2) the need to complete the SEC's efforts to consolidate and to standardize disclosure requirements in Regulation S–K, and (3) in view of costs to registrants of compliance with disclosure requirements and the burden such requirements also place on the SEC staff in its review procedures, the need to facilitate the integration of the disclosure systems to achieve the efficiencies and cost advantages such integration will provide.

If the SEC does not act to fully implement an integrated disclosure system at this time, companies will continue to bear unnecessary disclosure costs and burdens.

Alternatives Under Consideration

(A) With respect to the "sunset" review and revision of the Guides, there are two alternatives to that presented in the proposals, neither of which appear viable. The first is to have the Guides stand as presently in effect. The consequences of such inaction would be to diminish the usefulness of Regulation S–K to the integrated disclosure system, to continue a system in which disclosure requirements applicable to a filing are dispersed throughout the rules and regulations of the SEC rather than centralized in a single place, and to fail to eliminate those requirements that have become outmoded, unnecessary, or inordinately burdensome. If the proposed revisions to the Guides are adopted, over 30 percent of the existing Guides would be withdrawn as being out of date. Moreover, to leave certain of the Guides in their present form as Guides, a type of disclosure requirement whose legal status is not clear (i.e., on adoption it is specifically noted that they are "not to be rules of the Commission nor are they published as bearing the Commission's official approval"), would perpetuate the practice of formalizing staff practices that have not been adopted by the Commission as rules. The SEC believes this practice is no longer appropriate except in the area of specific industry guides where, in many instances, formal, inflexible rules would not serve the public interest. The SEC believes it is important to clarify the legal status of the other Guides by codifying their substantive and procedural provisions in rules and regulations of the SEC. This clarification is particularly important at this time due to the Commission's recent initiation of a system whereby only selected disclosure documents are reviewed, as under these procedures more and more disclosure will not be subject to the staff review and comment which in the past have been relied upon to assure general compliance with the Guides.

The second alternative is to withdraw the Guides altogether, without incorporating their substance into other Commission rules and regulations. The SEC originally adopted the Guides to clarify existing staff construction of its rules and regulations and to make public its staff practices and policies in applying various disclosure and procedural requirements. To eliminate completely this source of clarification and public information may lead to the problems the Guides originally were designed to eliminate.

(B) With respect to the proposed revision of Regulation S–K, in order to incorporate the disclosure requirements presently included in the Guides and used in proposed Securities Act Registration Forms A, B, and C, the principal alternatives are either to repeat disclosure requirements in each form or to adopt the proposed system under which the Regulation S–K items will be incorporated into the various Securities Act and Exchange Act forms.

The SEC believes that there is sufficient commonality of disclosure whichever major registration form is being used to justify the standardization of such disclosure requirements and their inclusion in Regulation S–K. To leave these requirements in each separate form would again lead to dispersion of disclosure requirements and the inefficiency such dispersion produces. Moreover, Regulation S–K, with its uniform requirements for both the Acts, encourages the uniformity which reduces duplicative disclosure and hence reporting burdens.

Summary of Benefits

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; persons soliciting proxies with respect to securities of registered investment companies or securities registered under § 12 of the Exchange Act; security holders of such companies; persons wishing to purchase securities of such companies; other persons who rely upon or use information filed by such companies with the SEC, or who

rely upon or use information contained in informal security holder reports; and the SEC.

The SEC does not believe that its proposed revisions of the Guides or Regulation S–K, by themselves, will result in any measurable cost savings to issuers, security holders, potential investors, and other users of financial reports and filed information, as they largely involve simply a change in formation and the relocation of existing or proposed disclosure items, and the proposed revision of some of the Guides should have at most a minor impact as the proposals generally would codify existing practice.

The proposed revisions, however, would make the integrated disclosure system more workable and therefore would indirectly help to achieve the cost savings which the Commission believes will result from such an integrated system. The Commission believes that with integration at least some direct cost savings would be realized by nearly all of the approximately 9,000 companies having a reporting or filing obligation. Although the SEC cannot measure the amount of these savings, because of numerous internal variables and the lack of a reporting system, it believes them to be significant. Additionally, the overall volume reductions should decrease the administrative burden to the SEC staff, increase processing speed, improve communications with shareholders and investors, and result in some improved access to capital markets.

That part of the proposal which may result in the total withdrawal of outmoded Guides will, however, have a benefit as it will lessen the reporting burden of registrants. Again, however, the cost saving is very difficult to quantify. In addition, the proposals contain a new rule derived from an existing Guide that would, under certain circumstances, permit the registration of securities that are intended to be offered for sale on a delayed or continuous basis in the future. The procedures proposed in the rule are intended to reduce registration costs and the burdens on capital formation by permitting an issuer (or another person) to take immediate advantage of favorable market conditions.

The SEC does not believe that there will be any measurable cost savings to shareholders, potential investors, and other users of financial reports and filed information. However, to the extent that corporate costs are reduced, companies may pass on some of the cost reduction to one or more of these interests.

Summary of Costs

Sectors Affected: None.

The SEC does not believe that any significant costs would be incurred by any affected sector as a result of the adoption of these proposals.

Related Regulations and Actions

Internal: "Proposed Comprehensive Revision to System for Registration of Securities Offerings," Securities Act of 1933 Release No. 6235, 45 FR 63693, September 25, 1980.

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—With reproposal (June 1981) and final adoption.
Public Hearing—None planned.
Reproposal Comment—June 14, 1981 to August 14, 1981.
Final Rule—Fall 1981.

Available Documents

"Review of Guides for the Preparation and Filing of Registration Statement and Reports," Securities Act of 1933 Release No. 6163, 44 FR 72604, December 14, 1979.

"Proposed Revision of Regulation S–K and Guides for the Preparation and Filing of Registration Statements and Reports," Securities Act of 1933 Release No. 6276, 46 FR 78, January 2, 1981.

"Proposed Comprehensive Revision to System for Registration of Securities Offerings," Securities Act of 1933 Release No. 6235, 45 FR 63693, September 25, 1980.

Public comments for period ending March 6, 1981.

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SEC

Simplification of Investment Company Prospectuses (17 CFR 239.15*, 17 CFR 274.11*)

Legal Authority

Securities Act of 1933, 15 U.S.C. § 77a *et seq.*, and Investment Company Act of 1940, 15 U.S.C. § 80a–1 *et seq.*

Reason for Including This Entry

The Securities and Exchange Commission (Commission) believes that its effort to simplify investment company prospectuses is precedent-setting and of great public interest because it represents the first time the Commission has studied the information contained in investment company prospectuses, and the way that information is presented, with the express aim of making the prospectus more useful to investors in understanding the essential features of an investment in an investment company.

Statement of Problem

The Securities Act of 1933 requires investment companies, like other companies, to file a registration statement with the Commission before they may offer their securities for sale to the public. The registration statement form on which securities are registered includes a prospectus, which must contain the information about the investment company and its operations that the Commission considers necessary to an investor wishing to make an informed investment decision. The Securities Act requires that a company deliver its prospectus to an investor no later than the time of the delivery of the securities or confirmation of the sale, if the securities themselves are not delivered to the investor. However, an investment company that uses sales literature as part of its sales effort cannot deliver such literature unless it is accompanied or preceded by a prospectus so that many prospective investors in investment companies receive a prospectus before they make an investment decision. As a result, the prospectus is the principal selling document for issuers of securities.

The prospectus is also a significant means of communication to existing shareholders for many investment companies, namely open-end management investment companies. Because these companies engage in a continuous offering of their securities, they must bring their prospectuses up to date each year. Many of these companies (the types commonly known as "mutual funds") send a prospectus to their existing shareholders every year, whether or not these shareholders are making further investments in the company.

Under current rules of the Commission (17 CFR 239.15, 17 CFR 274.11), the prospectus includes information about the following aspects of an investment company's operations:

(1) its investment objectives (e.g., current income or long-term growth of capital) and policies;

(2) its investment adviser (including its experience and the fee it charges for administration and portfolio management);

(3) purchase of the company's securities (including whether it charges a sales load or whether there are minimum amounts for initial and subsequent investments;

(4) redemption of the company's securities (including any redemption charges and the proper procedure for redemption); and

(5) its financial condition (presented both as a per share table covering the 10 most recent years of its operation, and in statements of income, changes in net assets, and assets and liabilities for shorter time periods).

In addition, the prospectus contains a great deal of additional disclosure about an investment company, including identification of the company's officers and directors, a discussion of how it chooses broker-dealers to execute its portfolio transactions, and a discussion of special investment options that it may make available, including whether it offers its securities through retirement plans.

The Commission has required all of this information to be included in investment companies' prospectuses because it considered the information to be material to investors: that is, information that an average prudent investor ought reasonably to have before purchasing the security. Nonetheless, while the Commission has added new disclosure requirements over the years as a response to changes in investment company operations, it has rarely reviewed existing requirements to remove those that have become outmoded. In addition, because the Securities Act imposes heavy standards of liability upon companies for omissions or misstatements in prospectuses, there has been a growing tendency on the part of issuers to include more disclosure, and in greater detail, than that actually required by the Commission, in order to avoid that liability. As a result of these forces, the prospectus has grown more and more cumbersome, so that it is not as effective as it should be as a source of information for prospective investors. The prospectus has become so long and complex that an investor may be discouraged from reading it at all, much less from learning about the significant features of the investment.

The Commission has attempted in the past to improve the utility of prospectuses to prospective and existing investors. For example, in 1978 the Commission introduced a new item, called the synopsis, to investment company prospectuses, in an effort to highlight the significant features of the offering. The synopsis and a table describing the income and capital changes of a share of stock over the previous 10 years are required to appear within the first five pages of the prospectus, so that an investor is fully informed if he or she reads only that part of the prospectus. Additionally, the Commission is currently considering a separate proposal to eliminate the differences in financial statements between prospectuses, which are sent to purchasers and prospective purchasers (including purchasers who are also already shareholders), and reports to all current shareholders. However, it would appear that more basic changes in the form and content of investment company prospectuses are necessary in order for those documents to be useful to investors.

If the Commission does not revise the disclosure requirements for investment company prospectuses, such prospectuses will continue to be documents that, by their length and complexity, often defeat the Commission's goal of facilitating informed investment decisions.

Alternatives Under Consideration

The Commission is considering the following possible alternatives regarding disclosure in prospectuses of open-end management investment companies:

(A) Reducing the number of items of required disclosure—The types of disclosure requirements that might be deleted altogether from the prospectus include: disclosure of "negative" investment policies (such as "the registrant does not invest in real estate") that the Investment Company Act requires to appear in the company's registration statement but not necessarily in the prospectus; disclosure of practices that are common to most investment companies (such as the company's status under the Internal Revenue Code); and disclosure of those aspects of an investment company's operations which require detailed description to be legally sufficient but which do not appear to be material to most investors (such as a description of a company's valuation practices). Reducing the number of required items of disclosure would allow companies to shorten prospectuses, so that they would not be as daunting to a prospective investor. A problem with this alternative, however, is that all of the information currently required to be in the prospectus is there because it is considered significant at least to some investors. Deleting disclosure requirements could conceivably result in the loss of information that is material to an investment decision.

(B) Changing the format of prospectuses—Another alternative would be to require companies to describe their fundamental characteristics at the beginning of the prospectus. Generally, those features of an investment company that are considered most significant to investors are the following: its fundamental investment policies; its investment adviser; its financial condition; and the method of purchase and redemption of shares. All other disclosure items would be required to follow this introductory portion, which might look like an expanded version of the synopsis that is currently required. This proposal would have the advantage of making it easier for a prospective investor in a mutual fund to find out the most significant things about an investment without reading detailed disclosure that may be directed only to certain groups of investors (such as disclosure concerning the fund's offering of its securities through retirment plans). One disadvantage of a required format, however, would be the cost to investment companies in accommodating themselves to a new disclosure format. Depending on whether the change in format included specific requirements as to the placement of information within the prospectus, investment companies might find that they have less flexibility in arranging disclosure within the prospectus than they find desirable.

(C) Developing a "core prospectus" for investment company complexes—Under this alternative, complexes of investment companies (i.e., investment companies that are managed by the same investment adviser or affiliated advisers) could send one prospectus covering all the companies in the complex, describing their common features, with a separate prospectus for each company describing its fundamental characteristics and other information specific to the fund. This proposal would allow investment company complexes to save printing and mailing costs by allowing them to make disclosure about complex-wide operations in only one document, rather than five or ten (or more, in some complexes), and by eliminating duplicative information to prospective investors who request a prospectus for more than one company in a complex. However, a two-part prospectus could confuse investors.

(D) Developing a separate prospectus for current shareholders—An investment company could send a current shareholder who makes an additional investment in the company a prospectus shorter than the one it delivers to prospective investors. The prospectus for current investors could incorporate the company's annual report to shareholders and describe any recent material changes in the company's operations without repeating information that was provided to the investor as of the time of his or her initial investment and that has not changed. This proposal could allow an investment company to save on printing and mailing costs and allow current shareholders to receive a more concise and readable prospectus. Any such savings, however, could be offset by the necessity of developing two separate prospectuses.

These proposals are not mutually exclusive. For example, the elimination of certain disclosure requirements from the prospectus might be accomplished in combination with the development of a core prospectus for investment company complexes. Alternatively, the elimination of certain disclosure requirements could be effected in conjunction with a change in prospectus format that would highlight the essential features of the investment.

Summary of Benefits

Sectors Affected: Registered investment companies; current holders of shares in registered investment companies; and prospective investors.

Prospective investors in investment companies will benefit from the elimination of certain disclosure requirements or from a change in the format of the prospectus by receiving a more readable prospectus. Because a prospectus with fewer items of required disclosure could be a significantly shorter document, investment companies might be more likely to send the prospectus before the delivery (or confirmation of the purchase) of the security. Earlier delivery of the prospectus would allow a prospective investor to have more time to study the prospectus before making an investment decision. Even if the prospectus were not delivered earlier, a prospective investor would benefit from the removal of certain disclosure requirements if the resulting prospectus were shorter and less complex. A prospective investor receiving a prospectus with disclosure about the essential features of the investment highlighted in the first few pages would find it easier to locate essential information. A change in format would also benefit prospective investors, because the format change would make the prospectus more readable by requiring a company to highlight its essential features at the beginning of the prospectus and to disclose information that is useful to sophisticated investors or investors with special interest in the back of the prospectus where they could find it, but where it would not be likely to confuse other investors.

Investment companies would benefit from the removal of certain disclosure requirements or the development of a separate prospectus for current shareholders because the resulting shorter prospectuses would be cheaper for them to print and mail. Investment companies would also benefit from the development of a core prospectus for investment company complexes. A complex would save money whenever a prospective investor requested information about more than one fund in the complex because the complex would only be required to send one prospectus for the complex, with separate, shorter prospectuses for each of the funds about which the investor inquired. Investment companies that are not part of complexes, roughly 40 percent of the industry, would not receive any benefits from this alternative, however.

Current shareholders would benefit from the removal of certain disclosure requirements, a change in the prospectus format, or the development of a separate prospectus for current shareholders. Many investment companies send current shareholders copies of their most recent prospectus whether or not the shareholder invests additional money in the fund. Therefore, any improvement in the readability of the prospectus would benefit those current shareholders who receive copies of the prospectus. Also, because the removal of certain disclosure requirements and the development of a separate prospectus for current shareholders would lead to shorter, less expensive prospectuses, more investment companies might send prospectuses annually to their current shareholders, who would then receive more information about the company than is currently required to appear in reports to shareholders. Finally, the development of a separate prospectus for current shareholders would allow a company to send a current shareholder a prospectus that is more closely tailored to his or her needs.

Summary of Costs

Sectors Affected: Registered investment companies; and prospective investors.

Because all of the information currently required to be disclosed in the prospectus is useful at least to some investors, the removal of some disclosure requirements could be harmful to those investors who would no longer receive information they believe is useful to an informed investment decision. Prospective investors could also be harmed by the development of a core prospectus for investment company complexes, with shorter, separate prospectuses for each fund, if they found the two-part prospectus format to be confusing. However, this cost could be minimized if the Commission required companies to explain clearly the importance of each part of the prospectus on the cover of each part.

Investment companies could be expected to incur higher expenses as a result of any change in the prospectus format. These increased costs would not be expected to continue, however, after companies have changed their current prospectuses to meet the new disclosure requirements.

Related Regulations and Actions

Internal: The proposed revision of the disclosure requirements for the prospectuses of investment companies is part of the Commission's ongoing review of the disclosure process as it applies to investment companies. On December 15, 1980, the Commission proposed to standarize the financial statement requirements in prospectuses and shareholder reports of management investment companies (Investment Company Act Release No. 11490; 45 FR 83517, December 19, 1980; File No. S7–865). The comment period on that proposal expired March 16, 1981.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—July 1, 1981.
Regulatory Flexibility Analysis—With NPRM and final adoption.
Regulatory Impact Analysis—Not required.
Public Hearing—None planned.
Public Comment Period—90 days following publication of NPRM.
Final Rule—Late 1981.
Final Rule Effective—For companies with fiscal years ending after March 1, 1982.

Available Documents

None.

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CHAPTER 4—HEALTH AND SAFETY

HHS–FDA

Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use 34089

HHS–FDA

Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues 34091

HHS–FDA

New Drug and Antibiotic Drug Regulations; Revision of Regulations Governing Approval for Marketing 34093

HHS–HCFA

Uniform Reporting Systems for Health Services Facilities and Organizations 34094

DOT–FAA

Flammability Standards for Crewmember Uniforms 34096

DOT–FHWA

Hours of Service of Drivers 34098

DOT–NHTSA

Bumper Standard 34100

DOT–NHTSA

Crashworthiness Ratings 34100

DOT–NHTSA

Heavy-Duty Vehicle Brake Systems 34102

DOT–NHTSA

Occupant Crash Protection 34103

DOT–USCG

Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases 34104

EPA–OANR

Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes 34105

EPA–OANR

Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer 34107

EPA–OANR–OMSAPC

Fuels and Fuel Additives Protocols 34109

EPA–OANR–ORP

Remedial Action Standards for Inactive Uranium Processing Sites 34110

EPA–OPTS

Pesticide Registration Guidelines 34113

EPA–OPTS

Premanufacture Notification Requirements and Review Procedures 34115

EPA–OPTS

Rules Restricting the Commercial and Industrial Use of Asbestos Fibers 34116

EPA–OPTS

Toxic Substances Control Act (TSCA) Section 4 Test Rules 34118

EPA–OWWM

Control of Organic Chemicals in Drinking Water 34121

EPA–OWWM

Hazardous Waste Regulations: Phase II–C Regulations Applicable to Hazardous Waste Disposal Facilities 34122

EPA–OWWM

Sewage Sludge Disposal Regulations 34125

FEMA

Review and Approval of State and Local Radiological Emergency Plans and Preparedness 34126

CPSC

Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products 34128

CPSC

Consumer Products Containing Asbestos 34130

CPSC

Omnidirectional Citizens Band Base Station Antenna Standard 34131

CPSC

Safety Requirements for Chain Saws 34133

CPSC

Upholstered Furniture Cigarette Flammability Standard 34136

CPSC

Urea Formaldehyde Foam (UFF) Insulation 34137

NRC–RES

Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation 34142

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use (21 CFR Part 314*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 321(p), 352, 355, and 371(a).

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because it represents a change in Federal policy with significant implications for competition for prices in prescription drug markets.

Statement of Problem

Under § 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355), no person (sponsor) may market a new drug for human use in interstate commerce without prior approval from FDA in the form of an approved new drug application (NDA). An approved NDA permits marketing of the product only under the conditions approved and only by the person named in the NDA. Other persons who want to manufacture and market the same product must have their own approved NDAs.

The statute also requires that an NDA contain the information essential for FDA to determine whether a new drug is approvable. FDA regulations (21 CFR Part 314) explain the application requirements in detail. These regulations also describe the contents of abbreviated new drug applications (ANDA) (21 CFR 314.1(f)). An ANDA must contain all the information essential for FDA to determine the approvability of a drug product that is identical or closely related to a drug

product that has previously satisfied the NDA requirements. However, an ANDA need not contain evidence of safety and effectiveness of the drug product because that information already is available to FDA. (Safety and effectiveness evidence, gathered from studies of the drug when used in animals and humans, account for the largest costs to a firm that seeks approval of an NDA.)

On October 10, 1962, the Federal Food, Drug, and Cosmetic Act was amended to require that new drugs be proven to be effective as well as safe before marketing. Prior to that date, the statute required only evidence of safety. FDA regulations (21 CFR Part 314) and policy now in effect make many drug products first approved for marketing prior to October 10, 1962 eligible for approval on the basis of an ANDA rather than an NDA. The proposed rule would extend the applicability of ANDAs to certain drug products introduced after this date.

It is not in the public interest for FDA to continue to require full NDAs for all new drug products introduced into commerce after October 10, 1962. Because FDA now requires an NDA for all post-1962 drug products, prospective marketers of a "duplicate" drug product (i.e., a product identical in active ingredient(s), dosage form and strength, and route of administration to one that has an approved NDA) either must conduct their own clinical studies or they must reference published studies to support claims of safety and effectiveness that already had been documented in the NDA of the first sponsor ("pioneer") of the drug. If published studies do not exist, prospective marketers of duplicate drug products cannot obtain NDA approval without incurring the costs of clinical trials. This situation acts as a barrier to the marketing of duplicate drug products, thus dampening competition and causing higher drug prices. Moreover, conducting duplicate clinical studies for the purpose of obtaining safety and effectiveness data consumes clinical resources unnecessarily and causes FDA to use its resources unnecessarily in reviewing the reports of the studies.

FDA will attempt, in its draft Regulatory Impact Analysis, to estimate the effects of its policy on competition, drug prices, and use of resources.

Alternatives Under Consideration

The agency is considering several alternatives in developing its proposed rule:

(A) No change. The Agency does not permit ANDAs for duplicates of drug products that FDA approved after October 10, 1962. However, FDA has allowed the submission of "paper" NDAs, i.e., NDAs that rely on published reports of clinical studies showing safety and effectiveness. Thus, a paper NDA policy would achieve many of the same objectives sought by an extended ANDA policy. However, this informal paper NDA policy would necessarily be restricted to drugs for which adequate published literature is available, and published data are known to exist for less than one-third of the pioneer drugs whose patents have expired. No change in policy would perpetuate the existing restrictions on competition in prescription drug markets. Such a policy benefits sponsors of pioneer drug products to the extent that market exclusivity sometimes continues beyond the patent expiration.

(B) Full extension of ANDA applicability. This alternative would allow ANDAs for appropriate drugs introduced after October 10, 1962, regardless of date of approval. Although this alternative would maximize the potential competition in prescription drugs by reducing the costs associated with marketing new drugs, ANDA activity would be constrained (just as NDA activity is now constrained) by the existence of patents in many cases, particularly for more recently approved pioneer drugs. (Although NDA and ANDA approvals are independent of patent issues, marketers of duplicate drugs risk civil suits of patent infringement when a patent has not expired.)

(C) Limited extension of ANDA applicability. The Agency could limit the extension of applicability of the post-1962 ANDA policy in two general ways. First, FDA could extend ANDA availability to duplicates or drugs very similiar to "older" drugs introduced during a fixed period of time (e.g., 1962–1967). Second, FDA could extend ANDA availability initially to duplicates of drugs introduced before a certain date (e.g., December 31, 1970) and provide annually for successive 1-year extensions, thereby increasing each year the total number of products for which FDA would accept ANDAs. This alternative is a means to balance the tradeoff to society. On the one hand, society benefits from enhanced competition (i.e., the expectation of subsequent lower prices on generic drugs to consumers). On the other hand, society derives benefits from a policy that fosters research and development of previously unmarketed drugs, which in turn is dependent on adequate revenues that result from an exclusive marketing period for a producer of drugs.

Summary of Benefits

Sectors Affected: Consumers of prescription drugs (pharmaceutical preparations); taxpayer, manufacturers of generic drugs (generic pharmaceutical preparations); certain drug test populations; and Federal and State drug purchasing programs.

The proposal would be favorable to increased competition in post-1962 drugs, potentially leading to reduced prices in many cases through increased direct competition or through anticipatory price decreases to reduce the threat of such competition. Consumers would benefit from savings on purchases of affected drugs, as would taxpayers through Federal and State drug purchasing and reimbursement programs.

Prospective marketers (e.g., generic drug manufacturers) could submit ANDAs for approval without conducting new safety and effectiveness testing. Subsequently, they would benefit from the profit they receive after their drug products are marketed. Additionally, the proposal would eliminate the use of human subjects and clinical investigators in unnecessary testing of drugs with known characteristics. FDA resources would not be used unnecessarily for the review of duplicative research.

Summary of Costs

Sectors Affected: Manufacturers of drugs (pharmaceutical preparations); consumers; and FDA.

None of the alternatives imposes any direct costs on the economy. Extension of the ANDA policy would reduce from present levels the requirements on firms who must now submit an NDA to obtain approval to market duplicate drug products. Nevertheless, insofar as an action (i.e., any alternative except no change) results in activities that promote the concomitant goals of increased competition and reduced societal expenditures for prescription drugs, certain costs may incurred by various sectors of the ecomony.

Drug manufacturers as a group would incur costs for the preparation of increased numbers of ANDAs. The costs per ANDA are modest as compared to costs of an NDA. However, as the proposed rule became fully implemented, the number of ANDAs submitted could generate aggregate application costs that exceed those costs that likely would have been

generated by the submission of a smaller number of duplicate NDAs.

Drug firms that develop innovative drug products could receive less revenues from such products as a consequence of increased competition in certain markets. Conceivably, the impact on total revenues of such firms or on the expected revenues from newly developed drugs could affect unfavorably the economic capacity or incentives for drug development. Should this be translated into a reduction in the future rate of drug development, it could represent a future indirect cost to consumers in the form of delayed introduction of new or improved therapies.

Processing the increased volume of ANDAs could produce a net increase in FDA's total drug approval workload and resource requirements.

Related Regulations and Actions

Internal: 21 CFR Part 314.
External: None.

Active Government Collaboration

None.

Timetable

NPRM—October 1981.
Public Comment Period—To be determined.
Public Hearing(s)—To be determined.
Final Rule—To be determined.
Draft Regulatory Impact Analysis—Available at time of NPRM.
Regulatory Flexibility Analysis—To be determined.

Available Documents

None.

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HHS—FDA

Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues (21 CFR Parts 70*, 500*, 514*, and 571*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 409(c)(3)(A), 512(d)(1)(H), 706(b)(5)(B), and 701(a).

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because the proposed rule could have an annual effect of $100 million or more on the economy.

Statement of Problem

The Federal Food, Drug, and Cosmetic Act (§§ 409(c)(3)(A), 512(d)(1)(H), and 706(b)(5)(B)) allows FDA to approve a carcinogenic new animal drug, food additive, or color additive for use in food-producing animals, provided the compound will not adversely affect the animals for which it is intended, and no residue of such compound will be found (by methods of examination prescribed or approved by FDA regulation) in any edible portion of such animals after slaughter, or in any food yielded by or derived from the living animals. This exception to the general statutory prohibition (Delaney clause) against the addition of carcinogenic substances to the food supply has come to be known as the "DES Proviso."

The enactment, in 1962, of the DES Proviso to the Delaney clause of the Act has been a source of continuing controversy stemming from the phrase "no residue will be found." This phrase can be interpreted either in an absolute or an operational sense. There are two important facts bearing on this controversy. First, the introduction of a compound, whether or not carcinogenic, into the system of a food-producing animal is likely to leave in the animal's edible tissues minute residues that cannot be detected or measured by any known or likely to be developed method of analysis. Second, for any test developed to measure the concentration of a residue in an edible tissue, there is some level of residue in that tissue below which the test will show no interpretable result. In view of these facts, FDA could not permit any use of carcinogenic drugs in animals if the Agency adopted the absolute interpretation of the phrase "no residue will be found." The effect of that interpretation would be to deny the DES Proviso any effect whatever. The second possible interpretation is to assume that Congress intended to require FDA to give an operational and more realistic definition to the phrase "no residue" and to proceed accordingly.

As a matter of policy, to implement the DES Proviso, the Agency has adopted the second interpretation as a more likely reflection of congressional intent, for two reasons. First, by its nature, the absolute interpretation constitutes a negation of the DES Proviso to the Delaney clause and leads to the conclusion that the Congress introduced the Proviso intending it to have no effect. Second, the critical term in the Proviso is that no residue will be "found"—not that none will exist. Therefore, application of the Delaney clause to animal drugs, food additives, or color additives hinges on the availability of appropriate analytical methods that determine whether residues are present in edible tissues from animals treated with carcinogenic drugs. Although FDA has adopted the second interpretation, it has never specified by regulation the criteria and procedures that apply in the process of approving methods for analyzing animal tissues for carcinogenic residues. The proposed regulation would specify such criteria and procedures.

Alternatives Under Consideration

The Agency considered several alternatives in developing its proposed rule published in the **Federal Register** of March 20, 1979 (44 FR 17070).

(A) No change. The current method for approval of suspect carcinogenic compounds for veterinary use relies on an FDA/sponsor-negotiated ("sponsor" means the person seeking approval to market the compound) residue level, which attempts to weigh in balance the known or perceived human risk of cancer, the availability of a reliable regulatory test method, and the agricultural importance of the compound. The Agency has rejected this approach, because it is difficult to adminster fairly and rationally.

(B) State-of-the-art. This alternative, which the Agency has considered inappropriate from the start, defines the phrase "no residue" as the lowest limit of measurement or detection by the best analytical method that is capable of measuring the residues of a compound in edible tissues of animals, and that is available at the time FDA approves the compound. The Agency has rejected this approach. Different compounds have differing carcinogenic potencies. These differences are not in any way related to the availability or lack of sensitive analytical methods that measure residues in edible tissues from food-producing animals that have been administered a compound. For instance, depending on the relative sensitivity of the available methods, this alternative would permit public consumption of meat contaminated with very large levels of some potently carcinogenic residues while it would require that meat be essentially free from other carcinogenic residues of low potency. The Agency has rejected this alternative because the degree of public risk associated with the use of a compound would become a function solely of the capability of available analytical technology.

(C) Practical zero. This approach would have one advantage over alternative (B): it would provide a well-defined criterion for the lowest limit of measurement that a regulatory assay method would have to satisfy. This approach would not, however, take into account differences in carcinogenic "potency" among various carcinogens. Therefore, it is unacceptable for the same reason as alternative (B). Unless the "practical zero" were set at the level appropriate for the most potent carcinogen, it would not provide sufficient protection; but if it were set at that level, it might be unnecessarily stringent for carcinogens that produce a response that is of a lower magnitude. In sum, no one "practical zero" is appropriate for all carcinogens.

(D) Sensitivity of Method (SOM). A third approach is to establish procedures to define "no residue" operationally, on the basis of quantitative carcinogenicity testing of residues, and extrapolation of test data (using one of a number of available procedures). The extrapolation procedure would estimate the residue levels that are safe in the total diet of test animals and that would, it they occurred, be considered safe in the total diet of man. This approach (SOM procedures) would account for differing carcinogenic potencies of each compound, but is feasible only if there is a regulatory assay method to reliably measure the safe level in edible tissue. Under this approach, the Agency accepts a very low level of increased risk of cancer (one case in one million lifetimes).

FDA proposed to adopt this alternative.

Summary of Benefits

Sectors Affected: Veterinary pharmaceutical manufacturing; livestock production; consumers of meat and poultry; and FDA.

The proposal would provide uniform criteria and procedures for evaluating the carcinogenic risk presented by residues of sponsored compounds for use in food-producing animals. FDA, industry, and consumers would benefit from uniformity in regulation of such compounds.

Veterinary pharmaceutical manufacturers would know in advance the procedures on which FDA would rely to approve or reaffirm prior approval of applications, if the compound is a suspect carcinogen. FDA would apply a screening mechanism known as "threshold assessment" to make the determination of potential carcinogenicity. If, under the criteria provided in the threshold assessment, no such potential exists, the compound need not be subject to the SOM data collection procedures. This should benefit sponsors of future applications because they would be able to determine the kinds and extent of evidence the FDA require would evaluate carcinogenic potential. For some compounds, such evidence already exists, and the manufacturer would avoid unnecessary costs. In other cases, manufacturers could elect to initiate SOM procedures if it appears that the stepwise SOM procedures would identify a safe, feasible residue level and a suitable analytical method for its detection. Finally, there could be cases where manufacturers would avoid the expense of conducting tests for compounds that are unlikely to be approved because their safe residue levels cannot be measured by existing technology.

Consumers of meat and poultry derived from the animals to whom the compounds were administered (either as a drug or a feed additive) would be assured a virtually risk-free supply of these products.

FDA would benefit because the standardized requirements would permit more efficient review of applications, fewer negotiating sessions with industry, and reduced likelihood of legal challenges to its decisions.

Summary of Costs

Sectors Affected: Veterinary pharmaceutical manufacturing; livestock production; and consumers.

The sponsor of a compound subject to SOM procedures would bear the costs to complete the prescribed procedures. The aggregate cost estimate would depend on the outcome of the Agency's application of the "threshold assessment" to individual compounds sponsored for approval. If the safety of an already approved compound is called into question, the agency in all likelihood would evaluate the compound first by applying the threshold assessment in order to determine if studies under the SOM procedures are necessary to resolve the safety concerns. FDA plans to publish the guideline for conducting threshold assessments in May 1981.

Veterinary pharmaceutical manufacturers who sponsor or have sponsored a compound that is subject to SOM procedures (that is, a compound that the threshold assessment finds has a carcinogenic potential) would bear the costs to conduct the prescribed testing procedures. These costs could be passed on to livestock and poultry producers who later purchase the products to control diseases and stimulate animal growth. Ultimately, consumers could pay higher prices for meat and poultry.

The draft Regulatory Analysis estimated that the average one-time costs of compliance with SOM procedures for an exogenous substance (a synthetic- or natural-origin substance that is not produced in the body of the food-producing animal) would not exceed $2.8 million (1979 dollars) for each combination of target species and route of administration. There is a corresponding estimate of $0.5 million for endogenous substances (a substance normally produced in the body of the food-producing animal). The aggregate cost would depend on the carcinogenic potential as identified by the threshold assessment. Thus, the greater the number of compounds that are identified, the greater the aggregate cost. If, after conducting SOM procedures and determining the approvable residue level for a specific compound, the manufacturer were unable to develop a residue-testing method of the required sensitivity (and such a method is otherwise unavailable), FDA would deny approval of the product and perhaps, where the FDA has applied procedures to re-evaluate the safety of an already approved product, withdraw approval. It is difficult, if not impossible, to predict which products would be affected in this way. The ultimate effect on feedlot operations and on the supply of meat and poultry is in turn subject to speculation about which products might lose market approval. If few products are affected in this way and there were an adequate array of substitute products, the impacts could be small and limited to the substitution costs and some loss of total output of slaughtered animals. Conceivably, however, a number of unique products could be affected and the impact correspondingly higher. The annual effect on the economy could exceed $100 million. FDA's final Regulatory Impact Analysis will address these questions.

Related Regulations and Actions

Internal: FDA may develop procedures and priorities for a review of previously-approved animal drugs.

External: None.

Active Government Collaboration

We are keeping the Department of Agriculture (USDA) informed of our action and they are reviewing the analytical methodology that we require.

Timetable

Reproposal or Tentative Final Regulation—November 1981.

Draft Regulatory Impact Analysis—Available with reproposal or tentative final regulation.
Regulatary Flexibility Analysis—Will accompany Regulatory Impact Analysis.

Available Documents

NPRM—44 FR 17070, March 20, 1979.
Data and information supporting the NPRM.
Comments received during public comment periods.
Transcript of the public hearing on June 21–22, 1979.
Draft Regulatory Analysis.
Food and Drug Administration Docket No. 77N–0026.
The above documents are available for review in the Dockets Management Branch, Food and Drug Administration, 5600 Fishers Lane, Room 4–62, Rockville, MD 20857.

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HHS—FDA

New Drug and Antibiotic Drug Regulations; Revision of Regulations Governing Approval for Marketing (21 CFR Parts 310, 314, and 431*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 321(p), 352(1), 355, 357, and 371(a).

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because it represents a comprehensive revision of current regulations governing the agency's review and approval processes for new drugs and antibiotic drugs and it will have significant implications for applicants seeking marketing approval of human drug products.

Statement of Problem

The Federal Food, Drug, and Cosmetic Act (the Act) provides in § 505 (21 U.S.C. 355) that a new drug for human use may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has approved a new drug application (NDA) for it. FDA approves an NDA if the sponsor of the application shows by scientific evidence that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product's proposed labeling.

The drug approval process begins with extensive preclinical and clinical tests of an investigational drug by the sponsor. This phase of drug approval is subject to a comprehensive regulatory scheme (21 CFR Part 312), whose revision is contemplated as a future objective of this entry. It is commonly referred to as the IND or "investigational new drug" phase.

When a sponsor believes the investigational studies on a drug have shown that the drug is safe and effective for specific therapeutic conditions, the sponsor submits an NDA to FDA to obtain the agency's approval under the Act to market the drug in the United States. The Act requires FDA to approve the application before the new drug may be marketed. By the time an application is submitted, the drug usually has been studied in several thousand patients. The application, which often consists of thousands of pages of material, is reviewed by FDA physicians, pharmacologists, chemists, statisticians, and other professionals who are experienced in evaluating new drugs. Their recommendations receive further review by FDA management before the agency approves the application. The regulations governing this part of the approval process are the subject of the current entry, and are found at 21 CFR Part 314.

The statutory standards for approval are stated in the Act, but only generally. Accordingly, FDA has established general regulations, applicable to all "new drugs," that implement the statutory requirements. Although the Agency's review of new drug applications has incorporated new scientific and technological developments as they have become known, its regulations have been revised infrequently, and then primarily to deal with specific, discrete problems.

The infrequent revisions of the regulations and the evolutionary changes in the Agency's review practices have resulted in regulations that no longer adequately reflect the Agency's approval practices. For the same reasons, they fail to promote expeditious Agency review of applications. In some cases they are outdated, requiring information often found unnecessary. The regulations also do not reflect well the Agency's "bookkeeping" practices regarding the filing of applications; nor the significance of certain administrative actions taken on applications, such as the issuance of "approvable" or "nonapprovable" letters. These latter failures have contributed to communications problems with sponsors, and have generated a perception that Agency review of applications is unjustifiably long and not uniform. By providing the regulated industry with requirements that accurately reflect the Agency's informational needs, that improve the organization of applications, and that explain the mechanics of the approval process, FDA hopes both to improve the quality and speed of the review process and to enhance the Agency's credibility with the industry and the Agency's other critics.

Requirements for the approval of antibiotic drugs will also be revised. Under special statutory requirements not applicable to other new drugs, antibiotics are required to be "batch certified," that is, manufactured batches are subject to laboratory testing by the Agency before marketing. Standards for these tests are embodied in regulations issued through informal rulemaking. The regulations for batch certification are drug-specific, and are frequently issued without a need for prior public comment. Although the approval of each new antibiotic requires the issuance of a new regulation, the standards for approval (safety and effectiveness) of an antibiotic are very much like those for non-antibiotic drugs. Current regulations, however, still differ in some respects: for example, sponsors of new drug applications may make many changes in manufacturing processes or labeling without FDA's prior approval, but sponsors of antibiotic drugs must obtain FDA approval before making almost any change. Apart from certification, the Agency intends in the revision to conform the requirements for antibiotics to the more liberal ones for other new drugs.

Alternatives Under Consideration

The Agency is considering the following alternatives in developing its proposed rule:

(A) No change. FDA rejects this alternative because the Agency believes changes in the regulations are essential.

(B) Retain current requirements but restate them in "plain English." This alternative would help applicants understand existing NDA regulations. It would not, however, provide any refinement of the regulations to improve the approval process, for example, the elimination of requirements for submitting unnecessary information.

(C) Revise the regulations. FDA would revise the existing regulations to improve the efficiency of FDA's review processes, and to improve the Agency's

dealings with applicants for marketing approval. The Agency would articulate general requirements in regulations, containing performance standards, and would complement them through detailed guidelines that would better address the intricate scientific issues involved. Although the guidelines do not establish regulatory requirements, persons may rely upon them with confidence that action taken under a guideline is acceptable to the Agency.

Summary of Benefits

Sectors Affected: Consumers of drugs (pharmaceutical preparations); and manufacturers of drugs (pharmaceutical preparations).

The changes in the regulation are intended to improve the approval process and the accompanying dialogue between FDA and sponsors of new drug applications. The improvements will enable sponsors to prepare and submit higher quality applications, ones which FDA can review more efficiently and with fewer delays. This will benefit sponsors, by accelerating the receipt of revenues for marketed products. It also will benefit consumers through earlier availability of new drugs.

Summary of Costs

Sectors Affected: Manufacturers of drugs (pharmaceutical preparations).

Sponsors of applications may bear additional costs in preparing summaries, analyses, and tabulations in submissions to meet some of the revised FDA requirements. It is expected that such costs will be offset by indirect cost savings and by the sponsor benefits described above. The degree to which these costs may be offset is not yet well established.

Related Regulations and Actions

Internal: New drug and antibiotic regulations, 21 CFR Parts 310 (new drugs), 312 (investigational new drugs), 314 (new drug applications), and 431 (certification of antibiotic drugs).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—By October 31, 1981.
Public Comment Period—To be determined.
Final Rule—To be determined.
Draft Regulatory Impact Analysis—Available at time of NPRM.
Regulatory Flexibility Analysis—Will accompany Regulatory Impact Analysis.

Available Documents

Notice of Public Meeting, October 12, 1979 (44 FR 58919).

Transcript of the public meeting on November 7, 1979.

Concept Document—Investigational and New Drug Regulations—Revisions—HHS/FDA—October 1979.

The above documents are available for review in the Dockets Management Branch (Docket No. 79N-0388), Food and Drug Administration, 5600 Fishers Lane, Rm. 4-62, Rockville, MD 20857.

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HHS—Health Care Financing Administration

Uniform Reporting Systems for Health Services Facilities and Organizations (42 CFR Part 402)

Legal Authority

Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, § 19, 42 U.S.C. § 1121.

Reason for Including This Entry

The Department of Health and Human Services (HHS) includes these regulations because they set a precedent for changing the Medicare/Medicaid reporting methodologies currently employed. The systems we propose will enable the Department to obtain uniform, comparable data necessary for Federal reimbursement of health services facilities, effective cost containment and policy analysis, assessment of alternative reimbursement mechanisms, and health planning.

In FY 1981 the Health Care Financing Administration (HCFA) will pay more than $50 billion for services delivered under the Medicare and Medicaid programs. HCFA's ability to manage these publicly funded health care programs has been impeded by current cost-reporting methods, which make it difficult to judge the efficiency of institutional providers and to accurately compare the costs of services furnished within institutions or among institutions.

Statement of Problem

Section 19 of P.L. 95-142 requires improved financial and statistical data from institutional providers of Medicare and Medicaid services to accurately identify costs and to aid in the control of the escalating inflation rate in health care costs. It requires the Secretary of Health and Human Services to establish a uniform reporting system for institutional health care providers.

With the beginning of the Medicare program in 1966, the Federal Government reimbursed providers of health services on the basis of costs they incurred. The Government made reimbursement under a relatively unsophisticated mechanism compatible with the individual provider accounting systems of the time. Since then, health care costs have risen dramatically. For the year ending September 30, 1980, health care expenditures were $235.1 billion, up 14.1 percent from the previous 12-month period. Health expenditures claimed 9.2 percent of the GNP, up from 8.7 percent in the prior 12-month period and 8.8 percent for calendar year 1979. During 1978 and 1979, hospital costs rose at an annual rate of 12.5 percent. Because of their need to furnish accountings to the Government and private insurance companies and a growing awareness of the value of cost control, health care providers began to upgrade the complexity and sophistication of their accounting systems. However, each provider continued to report costs on the basis of its unique location, age of physical plant, and management philosophy. The unsophisticated reimbursement methods employed by the Federal Government also permitted providers to legitimately maximize the amount of reimbursement by the way in which they chose to report their costs.

With the continued rise in health care costs, efforts at cost containment were initiated on several occasions. However, lacking means to effectively compare costs of services delivered by different institutions, the Government has been compelled to reimburse on the basis of costs incurred—there has been no means of determining whether a provider was furnishing health care services in an efficient and cost-effective manner. Recognizing this problem, Congress enacted the Medicare-Medicaid Anti-Fraud and Abuse Amendments in 1977.

The regulations we propose would establish uniform reporting systems for all health services facilities and organizations that participate in the Medicare and Medicaid programs, including hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, and health maintenance organizations.

The law requires promulgation of regulations to establish a uniform

system of reporting for the following types of information for each type of health services facility or organization:

(1) the aggregate cost of operations and the aggregate volume of services;

(2) the cost and volume of services by functional account (a group of activities involved in providing a particular health care service);

(3) rates by category of patient and class of purchaser;

(4) capital assets, as defined by the Secretary of Health and Human Services, including (as appropriate) capital funds, debt services, lease agreements used in lieu of capital funds and the value of land, facilities, and equipment, and;

(5) discharge and bill data.

We will implement uniform reporting through several different regulations, since the different types of facilities and different types of data required involve diverse issues and approaches.

When in place, these systems will enable the Department to obtain uniform, comparable data necessary for reimbursement, effective cost containment and policy analysis, assessment of alternative reimbursement mechanisms, and health planning. Adequate and comparable data are not presently available to support these objectives.

If we fail to regulate in this area, we would fail to follow the legislative mandate of the Congress and have no effective means of securing data to permit inter-institutional comparisons of health care costs. Without such comparisons, we cannot judge relative efficiency in health care delivery and we are hampered in our own efforts at health care cost containment.

Alternatives Under Consideration

Within the legislative mandate, certain options are available. The major goal of the Department in developing the rules that will affect the scope of the regulations is to minimize reporting burden and eliminate duplicative and overlapping data requirements placed on the provider, while meeting the intent of the legislation.

For the regulation implementing reporting of data on cost, use, and capital assets for hospitals, the major options we have chosen in rules published to date are:

(1) To merge, to the extent possible, Departmental data collection activities (e.g., Medicare and Medicaid cost reporting, hospital facilities components of the Cooperative Health Statistics Systems funded by the Public Health Service) to coordinate reporting requirements and minimize the burden on the providers. (This will shift some of the burden to HCFA, since it will have to pass the information on to the Public Health Service.)

(2) To reduce cost reporting requirements for small facilities (less than 4,000 admissions annually) in order to minimize the burden on such facilities. (This will have only a slight effect on the comparability of the data obtained through the system.)

(3) To limit, to the extent possible, the level of detail required to ascertain the cost of services provided (e.g., sub-classification of salaries, employee benefits, supplies) for specified cost centers, in an effort to decrease the reporting burden. This will also reduce the accuracy of the data derived, but we are unable to directly correlate the loss of accuracy with the significant savings that will result from limiting the degree of detail in these areas.

For the regulation implementing the collection of hospital bill and discharge data, the major issues under consideration are:

(1) Confidentiality considerations regarding data collected on non-federally financed patients and the physicians treating them. In order to assure the adequacy of sampled data, such data must be collected on a random basis from the entire patient population, without distinction as to source of payment. Of necessity, this will mean that some of the discharge and billing data obtained will pertain to non-Federal patients and their physicians. The data collected on Federal patients are required in order to verify the accuracy of charges made, but in the case of non-Federal patients no such consideration exists. Appropriate safeguards will be required to avoid inappropriate disclosure and to assure that data collected are not identified with a patient or practitioner to any greater degree than required for completion of the study.

(2) Method of collecting and processing the bill and discharge data.

(3) Appropriate areas of reporting for industries with differing methods of patient care, such as home health agencies and skilled nursing facilities.

(4) Appropriate "discharge data" from such institutions as health maintenance organizations which primarily treat ambulatory patients.

Summary of Benefits

Sectors Affected: All hospitals, skilled nursing facilities, intermediate care facilities (nursing and personal care facilities), home health agencies, health maintenance organizations and other types of health services facilities and organizations participating in the Medicare and Medicaid program; patients in these facilities or those being treated by them; physicians and other health care practitioners reimbursed through Medicare and/or Medicaid programs; and the Department of Health and Human Services.

In 1979, the Nation spent an estimated $212.2 billion, or $943 per person, for health care. This expenditure included $54.4 billion in premiums to private health insurance, $60.9 billion in Federal payments, and $30.5 billion in State and local government funds. For the 12-month period ending September 30, 1980, the Nation spent $235.1 billion, or $911 per person. Of this amount, 29 percent, or $60.2 billion, was spent by the Federal Government and 40 percent by State and local governments. (These are only estimates, since many programs are still completing their records for fiscal year 1980.)

Since 1965, health care costs have averaged a 12.2 percent increase annually, while the Gross National Product (GNP) increased an average 9.2 percent annually over the same period. The result has been that health care costs, which accounted for 6.1 percent of the GNP in 1965, now account for 9.0 percent. This cost spiral has affected the entire economy. Better management practices and health care cost containment are expected to decrease the health care portion of the GNP and expand the resources available for other sectors of the economy. The Department of Health and Human Services will also benefit through a reduction in the rate of cost increase and improved data for comparability and health planning. Providers will benefit through improved management techniques potentially resulting from comparisons of data from their institution and others across the Nation.

It is HCFA's judgment that cost savings will be realized by the health care industry and the general public by implementation of uniform bill and discharge reporting systems. Most patients at health care facilities today have their treatment costs defrayed in whole or part by a third party (Federal, State, and local government, private insurance, employer, etc.) and most of these payors require billing data to be presented in their own specified formats. If a format can be devised that gains universal acceptance, health care providers are expected to save considerable staff time with consequent reductions in the costs of administering health care facilities. In addition to bill data, numerous Federal and State agencies as well as other organizations require discharge information to be

reported separately from the billing process. As with bill data, providers are required to report discharge data according to the specifications of the data user. Most discharge data sets duplicate over 60 percent of the data reported on the bill. HCFA is working toward improving the collection and management of these two data sets. Alternative reporting mechanisms are now being investigated.

We are designing uniform reporting systems with the intent of reducing and eliminating costly multiple collection and processing of duplicate data and with the intent of improving the utility of the data through consistent and compatible definitions and codes. It is anticipated that providers will prepare a single data set instead of the several reports for multiple State and Federal agencies required in the past. We expect the data collected through these systems to result in further cost savings because they will provide the basis for reimbursement reform, better health policy analysis, improved health planning, and better control over expenditures by providers for supplies, services, and capital. Cost savings should also be realized by individuals, since promotion of greater efficiency and less staff time for furnishing discharge and bill reports data should aid in curbing the increases in health care costs.

Summary of Costs

Sectors Affected: All hospitals, skilled nursing facilities, intermediate care facilities (nursing and personal care facilities), home health agencies, health maintenance organizations, and other types of health services facilities and organizations participating in the Medicare and Medicaid programs; patients in these facilities and those being treated by them; and HHS.

Based upon an initial Regulatory Analysis of costs of implementing a uniform cost reporting system for the hospitals of the Nation, alternatives available range in cost from $218 million to $0 in 1979 dollars. The former figure represents costs of conversion to uniform accounting and reporting systems, a situation not required by the Congress or HCFA. The latter figure represents no revision of any sort, which is contrary to legislative mandate. In proposed rules published March 19, 1980 (45 FR 17894), we chose an alternative that we estimated would cost $56 million to implement, or approximately $8,000 for each of the 7,000 hospitals in the Nation. This figure includes a $19 million ($2,700 per hospital) start-up cost, and an annual cost of $37 million ($5,300 per hospital) thereafter. Of these figures, HCFA would share approximately 40 percent of the cost through normal reimbursement mechanisms. We are now reassessing this proposal to determine what additional revisions can be made to minimize cost and burden. A preliminary cost study for implementing uniform reporting for home health agencies has recently been completed for HCFA by the firm of Morris, Davis and Company, certified public accountants. First year implementation cost, projected on the basis of generally accepted statistical principles, was estimated at $2.9 million for the year-end conversion to furnish required data or $11.4 million if the industry elected to convert its accounting systems to furnish the data required. The average reporting effort was estimated at 196 hours per year in the first case and 747 hours for the second. For the average agency, this translates into a cost of $1,011 to give a year-end report or $4,270 to convert its accounting system. We will undertake similar studies in conjunction with development of other uniform reporting systems.

Related Regulations and Actions

Internal: Medicare and Medicaid cost reporting requirements. Professional Standards Review Organization reporting requirements, and National Center for Health Statistics Cooperative Health Statistics Systems reporting requirements are in effect now. We will incorporate these in the uniform reporting systems.

External: None.

Active Government Collaboration

The Public Health Service has cooperated with HCFA to merge their hospital facilities' data collection requirements into the proposed uniform cost and utilization reporting systems.

Timetable

NPRM, Uniform Cost Reporting for Skilled Nursing Facilities and Intermediate Care Facilities—To be determined.
NPRM, Hospital Discharge and Billing Data—To be determined.
NPRM, Skilled Nursing Facility/Intermediate Care Facility Discharge and Billing Data—To be determined.
NPRM, Home Health Agency Cost and Utilization—To be determined.
Draft Cost and Regulatory Impact Analysis—To be determined.
NPRM, Home Health Agency Discharge and Billing—To be determined.
NPRM, Health Maintenance Organization Cost and Utilization—To be determined.
NPRM, Health Maintenance Organization Discharge and Billing—To be determined.
Final Rule, Hospital Cost and Utilization Reporting—To be determined.
Final Cost and Regulatory Impact Analysis—January 1981.
Regulatory Flexibility Analysis—None.

Available Documents

Uniform Reporting Systems for Health Services Facilities and Organizations, NPRM—44 FR 4741, January 23, 1979.

Public Comments Responding to NPRM.

A Guide to Hospitals for Planning and Producing the Reports for the System for Hospital Reporting (SHUR)—September 30, 1979.

Annual Hospital Report (Manual and Forms)—February 20, 1980.

NPRM and Draft Regulatory Analysis—45 FR 17894, March 19, 1980.

Public Comments Responding to NPRM.

Copies of these documents may be reviewed in the Department's offices at Room 309G, Humphrey Building, 200 Independence Avenue, S.W., Washington, DC, (202) 245-7890.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flammability Standards for Crewmember Uniforms (14 CFR Parts 121*, 123*, 127*, and 135*)

Legal Authority

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

Reason for Including This Entry

The Federal Aviation Administration (FAA) thinks these proposed rules are important because they will impose a major increase in costs on the airline industry.

Statement of Problem

The FAA has found that many uniform items worn by flight crewmembers are highly flammable when exposed to fire and other sources of ignition. Tests performed by the National Bureau of Standards of the Department of Commerce under contract to FAA established that fabrics presently used in making uniforms for crewmembers would not resist the effects of flame and heat flux in survivable cabin fires and could prevent crewmembers from helping passengers in such situations. Among other actions, the FAA is considering establishing standards of flammability and resistance to heat flux for materials used in crewmember uniforms.

Alternatives Under Consideration

Possible alternatives to establishing flammability standards for crewmembers are:

(A) No regulation; do not require uniforms worn by crewmembers to meet any flammability standard. Current materials used to make uniforms provide maximum comfort, a range of styling, and are easily cleaned. However, they are constructed of conventional fabric that is flammable and may provide inadequate protective clothing. Without protective clothing, crewmembers may be incapable of performing necessary functions in certain emergencies.

(B) Require crewmembers to put on special garments such as firemen wear in case of a fire. This option was fully explored and reported in FAA Report No. FAA–RD–77–18. Although the garment provides maximum protection from flame and radiant heat, it is very expensive and difficult to put on.

(C) Require that crewmember uniforms meet a standard similar to the current children's sleepwear standards. This is a performance standard that requires that materials used for children's sleepwear resist ignition when exposed to flame, and self-extinguish rapidly. Materials which satisfy the children's sleepwear standard must be flame-resistant, but need not protect the wearer from radiant heat transferred through clothing.

(D) Require crewmember uniforms to meet a test measuring resistance to ignition and ability to self-extinguish as well as a standard designed to protect the wearer from injury from the transfer of radiant heat through clothing.

(E) Withdraw Advance Notice of Proposed Rulemaking No. 75–13 (40 FR 11737, March 13, 1975) and publish an Advisory Circular (AC) containing the degree of protection provided by various types of materials that could be used for crewmember uniforms. This AC should also discuss the characteristics of these materials such as comfort, serviceability, color-fastness, type of protection provided, ease of tailoring, method of cleaning, etc. This would provide the information necessary for an operator voluntarily to select the material best suited for its type of operation, climatic conditions in its area of operation, length of flights, uniform design requirements, and crewmember preference. The selection could balance the amount of protection wanted with the cost, comfort, serviceability, and style the operator and its crewmembers desire. This approach would also give the FAA an opportunity to study the suitability of these materials in actual use without imposing an unacceptable economic burden on all operators. A disadvantage of using an AC would be that it contains voluntary guidelines. There would be no guarantee that operators would comply, although many carriers already meet similar standards as a result of labor-management agreements.

We have not completed our review and analysis of the numerous public comments received in response to Notice Nos. 75–13, 75–13A, and 75–13B and in response to a public hearing held in May 1980. Until we complete this analysis, we will be unable to state which of the five alternatives is the most desirable. However, in view of the regulatory action we already have taken, the next action will be to issue either an NPRM or a notice of withdrawal of the ANPRM. We will decide which action we will take by July 1981.

Currently, technology in the textile industry permits the establishment of a standard that protects wearers from both flame and radiant heat. Most fabrics can be treated to increase their protective qualities. In addition, fire-retardant wool and cotton are available in a wide range of colors and weights. These fire-retardant fabrics are woven of both natural and synthetic fire-retardant fibers to maximize wearability and protection. Synthetic fabrics such as Nomex are available in a variety of weights. Although these synthetics provide the greatest protection to the wearer, their range is somewhat limited due to problems with colorfastness. In the past, Nomex has been used primarily by fire and police agencies, and color choice was not a problem. If demand for more variety increases, a wider range of colors may be developed.

Although certain fabrics such as polyester have limited fire-retardant qualities, other fabrics of similar weight and purpose may be substituted. Fire-retardant fabrics are available that are comparable to conventional fabrics with respect to durability, color choice, style and tailoring capability, and fabric weight range. The fire retardant properties of some fabrics can be retained through the useful life of the garment. For other fabrics, it could last through at least 50 wash/cleaning cycles.

Summary of Benefits

Sectors Affected: Air carrier flight crewmembers; and air passengers.

Until the type of material to be used has been established, it is difficult to determine the benefit to the clothing manufacturers. However, from the public meeting, the manufacturers indicated that the manufacture of crewmember uniforms is a small part of the industry's overall output. If this is so, the impact on industry would be negligible.

The benefit expected from the proposed flammability standards would be increased safety for crewmembers and passengers. Flightcrews would be safer in case of fire, which would increase safety for the traveling public.

Summary of Costs

Sectors Affected: Manufacturers of textile mill products and apparel, and other textile products; the air transportation industry; and air passengers.

The cost per uniform would increase, causing an economic impact on the user or purchaser. The U.S. textile and clothing industry would be affected by the economic impact of producing new materials and clothing made from these materials. The air carrier industry would bear the cost, possibly through increased airfare, which would directly affect air passengers. No specific cost information is available at this time. We will include it in the Regulatory Impact Analysis.

While using more wool and wool-blend fabrics would provide some increase in protection, the textile, fabric, and uniform manufacturers at the public meeting did not appear to be too interested in producing uniforms from the kind of space-age fabrics that would result in a substantial increase in fire protection. While no precise cost figures were presented, designing and producing uniforms to the current fashion demands of the airline industry could significantly increase the per-item cost for this small segment of the clothing industry. In addition, care costs to the crewmember may increase for

these kinds of fabric, as is already the case for all-wool fabrics.

Related Regulations and Actions

Internal: Part 121 of the Federal Aviation Regulations and FAA Report Nos. FAA–RD–75–176 and FAA–RD–77–18.

External: Federal Rule, Flammability Standard for Children's Sleepwear, 16 CFR 1616.5(a)(b)(c)(i)(ii). State and local governments have established clothing standards for some hazardous professions, such as those for fireman.

Active Government Collaboration

The National Transportation Safety Board's comments on Notices 75.13 and 75–13A recommended that the scope be expanded to include clothing of all crewmembers to give them the same protection as flight attendants. The National Bureau of Standards developed the technical basis for the flammability standards.

Timetable

The FAA is proposing standards to be listed in appendices to 14 CFR Parts 121, 123, 127, and 135. The following are future action dates:

NPRM or Notice of Withdrawal—July 1981.

If an NPRM is issued, the Timetable will be:

NPRM—July 1981.

Public Comment Period—For NPRM, 90 to 120 days after issuance.

Preliminary Regulatory Impact Analysis—Will accompany NPRM.

Final Rule—Pending.

Final Rule Effective—36 months after we issue final rule.

Regulatory Flexibility Analysis—Not required.

Available Documents

ANPRM 75–13 (40 FR 11737), published March 13, 1975; Notice 75–13A (45 FR 2775) published April 24, 1980 reopening the comment period; and Notice 75–13B (45 FR 55760) published August 21, 1980 extending the comment period, are available from the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rule Docket (AGC–24), Docket No. 14451, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, DC 20591.

You can get copies of FAA reports entitled "Development of a Proposed Flammability Standard for Commercial Transport Flight Attendant Uniforms," Report No. FAA–RD–75–176, and "Development of a Fire Protective Overgarment for Use by Air Carrier Flight Attendants," Report No. FAA–RD–77–18, from the National Technical Information Service, Springfield, VA 22161.

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DOT—Federal Highway Administration

Hours of Service of Drivers (49 CFR Part 395*)

Legal Authority

The Motor Carrier Act of 1935 (Part II of the Interstate Commerce Act), 49 U.S.C. § 304; Department of Transportation Act, § 3, 49 U.S.C. § 1655.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because any change in the hours of service regulations that restricts when a driver may work could have a major economic impact on both the trucking industry and consumers, causing considerable controversy.

Statement of Problem

The FHWA is considering revising the regulations that limit the driving hours and prescribe rest periods for drivers of vehicles engaged in interstate or foreign commerce. It is taking this action in response to:

- Numerous requests from public interest groups, labor organizations, motor carriers, and individual drivers.
- Research studies showing driver fatigue to be a cause in commercial motor vehicle accidents.
- A 1974 decision of a Federal District Court involving a suit brought by PROD, Inc., an interest group representing some commercial truck drivers who sought judicial review of FHWA's failure to initiate rulemaking proceedings on the hours of service regulations (*PROD, Inc., et al.* v. *Claude S. Brinegar,* U.S. District Court for the District of Columbia, Civil Action No. 2098–73). The suit was dismissed by the Court to allow FHWA to begin rulemaking. The dismissal allowed PROD to reinstate the suit in 18 months if FHWA had failed to initiate rulemaking.

PROD initiated another lawsuit on December 8, 1980, requesting the Court to direct DOT to publish an NPRM revising the hours of service regulations and asking that the Court establish a reasonable timetable for completion of the rulemaking proceeding. (*PROD, Inc., et al.* v. *Drew Lewis,* U.S. District Court for the District of Columbia, Civil Action No. 80–3118.)

The objective of this regulation is to increase the overall safety of the Nation's highways through the revision of current regulations governing the hours of service for drivers of commercial trucks and buses engaged in interstate or foreign commerce.

The FHWA currently limits, by regulation, the hours of service for drivers, as part of its overall responsibility for the safe operation of motor carriers.

Studies have been attempted to determine the impact of the hours of service for commercial motor vehicle drivers on the incidence of traffic accidents. In 1977, a study was done on over 5,000 accidents where it was suspected that driver fatigue was a factor in the accident. There were no consistent patterns in the data to imply the number of driving hours alone were related to the frequency or severity of the truck accidents.

Studies of the effects of prolonged driving show increased risks as measured by physiological decreases and performance data, and therefore the argument could be made that there is an increased risk in driving longer hours. These risks are not supported in the accident data, which indicate the number of driving hours alone was not related to the frequency or severity of accidents; however, research studies dating from the mid-1930s have indicated that fatigue causes narrowing of vision and inattention, which make drivers miss signs and signals, and result in highway accidents. In 1978, more than 34,000 commercial motor vehicle accidents were reported to the Bureau of Motor Carrier Safety; many of these were single-vehicle accidents and other accidents that involved running off of the road without apparent cause. The FHWA suspects that fatigue was a factor in many of these cases.

In the absence of regulatory limits on hours of service for drivers we may be unable to prevent fatigued drivers from traveling the Nation's highways, thereby allowing a potentially dangerous situation to continue.

Under Executive Order 12291, Federal Regulations, we have identified this regulation as costly and/or controversial, and therefore deserving of a priority review. As part of this review, FHWA will reexamine the costs and benefits of the entire regulatory program for hours of service to determine whether the regulation in its present form is necessary to ensure the safety of commercial vehicle operations.

Alternatives Under Consideration

The present regulations as defined by Title 49, Part 395 of the Federal Motor Carrier Safety Regulations, stipulate:

- no motor carrier shall permit or require any driver to drive more than 10 hours following 8 consecutive hours off duty;
- no motor carrier shall permit or require any driver to drive for any period after having been on duty 15 hours following 8 consecutive hours off duty;
- no motor carrier shall permit or require any driver to be on duty more than 60 hours in any 7 consecutive days, except if a carrier operates every day of the week—then it may be extended to 70 hours in 8 consecutive days;
- drivers using sleeper-berth equipment may accumulate the 8 hours off-duty in two periods of at least 2 hours each resting in the sleeper berth.

Some of the alternatives to current regulations that FHWA is studying include: requiring 10 consecutive hours off duty at home terminal and 8 consecutive hours off duty away from home terminal, a 24-hour off-duty period following 6 consecutive days on duty, a one-half hour meal stop during a tour of duty of 7 hours or more, and a one-half hour relief period following 4 consecutive hours of driving; allowing a maximum of 15 consecutive hours in any duty tour, and a maximum of 8 consecutive hours of driving following a required off-duty period; prohibiting driving after being on duty for 12 consecutive hours; computing as on duty all time spent in a sleeper berth for less than 8 hours; and prohibiting driving between midnight and 6:00 a.m.

DOT is also considering requirements that would simplify methods for recording hours of service. Such requirements would eliminate the industry-wide complaints about the drivers' logs, and may increase compliance. The other proposed regulatory actions would provide stricter controls over drivers' work habits, but they would not necessarily increase compliance.

Summary of Benefits

Sectors Affected: Users of highways, including bus drivers, truckers, and the general public; the interstate trucking industry; interstate bus lines and bus charter srvices; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

FHWA believes that revising the regulations to tighten limits on the hours of service for drivers could help reduce driver fatigue and ensure alertness, thereby reducing the risk of fatigue-related accidents. This, in turn, would increase the overall safety of the Nation's highways. In addition, both the driver and carrier may benefit if DOT authorizes the use of a simplified alternative method of recording a driver's activities in lieu of a daily log.

The FHWA expects that such a revision of the regulation could have economic benefits, because there may be fewer fatalities and injuries and less property damage caused by highway accidents. In addition, motor carriers' operating expenses would be reduced because of fewer accidents, lower insurance premiums, and reduced compensation payments. The economic benefits of reduced operating costs due to fewer accidents could provide cost savings that could be passed on to consumers of bus services and goods shipped by truck.

FHWA does not at this time have an estimate of the savings that would occur as a result ot these regulations. Many factors impair drivers' alertness. The Agency cannot distinguish between those accidents that would be prevented by changing these regulations and those that would be prevented by taking other actions.

If the hours of service limits are expanded, and there are no additional accidents, there could be savings to consumers resulting from more efficient vehicle usage, increased energy savings, and other productivity factors.

Summary of Costs

Sectors Affected: Interstate trucking industry; interstate bus lines and bus charter services; interstate truckers and bus drivers; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

FHWA expects that the costs resulting from these regulations may be high. Revising the hours of service regulations to restrict the hours that a driver may work could increase payroll expenses for motor carriers because they may need additional drivers. This could increase other operating expenses for motor carriers, resulting in increased costs to passengers and shippers for truck and bus transportation and, eventually, for goods consumed. The increased expenses to motor carriers would, however, be offset by such items as reduced vehicle downtime, minimized delays in cargo delivery, and lower insurance premiums that could result from fewer accidents.

Longer off-duty periods and fewer driving hours could reduce a driver's take-home pay.

Related Regulations and Actions

Internal: Current FHWA regulations restrict hours of service of drivers (49 CFR Part 395).

FHWA has initiated a test program, which began May 1, 1980, to evaluate alternatives to drivers' daily logs.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—September 1981.
Regulatory Impact Analysis/
Regulatory Flexibility Analysis—Will accompany NPRM.
Public Hearing—None planned.
Public Comment Period—120 days following NPRM.
Final Rule—to be determined.

Available Documents

ANPRM—41 FR 6275, February 12, 1976.

Second ANPRM—43 FR 21905, May 22, 1978.

Bureau of Motor Carrier Safety Docket MC–70–1.

Sixteen reports of professional journal articles are referenced in the second ANPRM, 43 FR 21905, May 22, 1978.

PROD, Inc., et al. v. *Brinegar*, U.S. District Court, District of Columbia, Civil Action 2098–73 (May 20, 1974). This is a decision in which the District Court dismissed, without prejudice to renew in 18 months, a suit brought against DOT by PROD, Inc., a group representing professional drivers. The suit sought judicial review of the FHWA's failure to institute rulemaking proceedings on hours of service.

PROD, Inc. et al. v. *Drew Lewis*, U.S. District Court, District of Columbia, Civil Action No. 80–3118 (December 8, 1980). This is a suit requesting the Court to direct DOT to publish an NPRM revising the hours of service regulation and asking the Court to establish a reasonable timetable for the completion of the rulemaking proceeding.

"Effects of Hours of Service, Regularity of Schedules, and Cargo Loading on Truck and Bus Driver Fatigue," October 1978, available through the National Technical Information Service, Springfield, VA 22161 (DOT HS—803799).

Bureau of Motor Carrier Safety dockets are available at the Federal Highway Administration, Room 3402, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—National Highway Traffic Safety Administration

Bumper Standard (49 CFR Part 581*)

Legal Authority

Motor Vehicle Information and Cost Savings Act, § 102, 15 U.S.C. § 1912; National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) believes this proposed rule is important because of its possible effect on manufacturers of motor vehicles and components; the interest the motor vehicle and insurance industries, Congress, and the public have shown in the proposed rule; and the potentially significant effect of the rule on costs to consumers.

Statement of Problem

In passing the Motor Vehicle Information and Cost Savings Act of 1972, Congress sought to reduce the economic losses resulting from motor vehicle accidents by providing for the promulgation of standards for bumper performance. Congress directed the Secretary of Transportation to promulgate bumper standards, taking into account the costs and benefits of the proposed standard and other factors. To fulfill this mandate, NHTSA issued the 49 CFR Part 581 "Bumper Standard" (41 FR 9346, March 4, 1976). The standard incorporates the safety features of former Federal Motor Vehicle Safety Standard 215, "Exterior Protection," and adds requirements for damage resistance for front and rear vehicle exterior surfaces in general.

In light of changing economic conditions (e.g., increasing fuel costs), the Senate Appropriations Committee, in June 1978, directed NHTSA to conduct studies and analyses to reevaluate the costs and benefits of the bumper standard. This led NHTSA to reassess the standard. In June 1979, NHTSA issued a report that concluded that the current Part 581 bumper standard provides greater net benefits to consumers than the alternatives considered. However, since that report was completed, manufacturers, insurance companies, and others have continued to supply information to the Agency on this subject. In addition, NHTSA has developed additional relevant data of its own.

Taking into account the information now available, the Agency is at the point of completing a new evaluation of the costs and benefits of the current bumper regulation. Preliminary results of that analysis support initiation of a rulemaking proceeding to modify the Part 581 standard, making it less stringent.

Alternatives Under Consideration

NHTSA is currently studying several ways to modify the present damage resistance requirements of the bumper standard to determine the difference in net benefits provided by various possible levels of damage resistance. Specific alternatives currently being considered are retaining the uniform bumper height requirements, eliminating the rear bumper requirements, and either reducing the front bumper requirements to 2.5 mph or eliminating them altogether.

Summary of Benefits

Sectors Affected: Manufacturing of passenger cars; insurance companies; and consumers.

NHTSA is developing an evaluation of the benefits of the bumper standard in terms of the value of damage the requirements would prevent. If the Agency takes no action (i.e., maintains the current standard), the chief benefit of the regulation would continue to be the damage repair cost saving provided to consumers. The standard also provides benefits by reducing insurance costs resulting from low-speed collisions and by saving consumers time and inconvenience in inspecting and repairing minor collision damage. No estimates of the precise savings are available at this time.

If the requirements of the Part 581 standard are found to be more stringent than necessary to maximize net benefits, then an easing of the requirements would reduce manufacturers' production costs and likely reduce new car costs to consumers. Consumers would also benefit from increased fuel savings due to reduced bumper weight and from the reduced repair and replacement costs of lighter weight, less complex bumper systems.

Summary of Costs

Sectors Affected: Manufacturing of passenger cars; insurance companies; and consumers.

NHTSA is developing an evaluation of the costs of the current Part 581 bumper standard for manufacturers and consumers. Damage resistance requirements add significantly to manufacturers' and consumers' costs for new vehicles due to the additional materials and complexity built into the improved bumper system. In addition, consumer operating costs could increase due to the added weight of the upgraded bumper system. If the standards requirements are lowered, the frequency of damage-producing accidents would increase, resulting in some losses for consumers in terms of time and inconvenience, as well as possible increased insurance rates.

Related Regulations and Actions

Internal: Passenger Automobile Average Fuel Economy Standards (49 CFR Part 531); Insurance Cost Information Regulation (49 CFR Part 582).

External: None.

Active Government Collaboration

None.

Timetable

Completion of Evaluation—April 1981.
NPRM—To be determined.
Regulatory Impact Analysis—Will accompany NPRM.
Regulatory Flexibility Analysis—Will accompany NPRM.
Public Hearing—None planned.
Public Comment Period—To be determined.
Final Rule—To be determined.

Available Documents

NHTSA's 1979 bumper analysis, together with all comments and data received in connection with that analysis, is available for review in Docket No. 73-19, Notices 25 and 26. These documents are located in the Docket Section, NHTSA, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. The results of NHTSA's pending evaluation will be made available when completed.

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DOT—NHTSA

Crashworthiness Ratings (49 CFR Chapter 5)

Legal Authority

Motor Vehicle Information and Cost Savings Act, 15 U.S.C. § 1941; National Traffic and Motor Vehicle Safety Act, 15 U.S.C. § 1401.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks that this rulemaking is important because of the possible impact on manufacturers, the interest shown by consumers, and the potentially significant effect of the rule on the automotive marketplace.

Statement of Problem

Consumers do not have objective, comprehensive information available to them on the comparative ability of cars to protect them in a crash. Such information would help consumers make informed decisions about buying cars and would foster competition among manufacturers to produce safer cars.

To help consumers make informed purchasing decisions, Congress enacted the Motor Vehicle Information and Cost Savings Act of 1972. Title II of the Act directs NHTSA to develop ways to assess the ability of a car to protect its occupants in a crash (crashworthiness), the susceptibility of a car to property damage in a crash (damageability), and the ease of diagnosing and repairing vehicle systems that fail in use or are damaged in a crash (repairability).

The Act further directs NHTSA to develop methods of providing information on crashworthiness, damageability, and repairability to the public in a simple and readily understandable form to facilitate comparisons among various makes and models of cars.

The Act also directs the Agency to require car dealers to distribute information to prospective purchasers that compares differences in insurance costs for different makes and models of cars based upon differences in damageability and crashworthiness.

NHTSA has conducted an experimental program to assess the crashworthiness of cars in representative, standardized crash tests. The Agency's testing of 1979, 1980, and 1981 makes and models has demonstrated that there are significant differences in the ability of cars to protect their occupants in a crash.

Alternatives Under Consideration

The Agency is currently considering several alternative ways of carrying out its statutory mandate to provide consumers with comparative information rating the crashworthiness of cars. This information program would supplement the command and control regulatory program under the National Traffic and Motor Vehicle Safety Act.

NHTSA issued an NPRM on January 22, 1981 (46 FR 7025) to solicit public comments on ways to assess the crashworthiness of passenger cars and how to distribute this data to consumers to help them make more informed purchasing decisions.

(A) Alternative (A), proposed in the Agency's NPRM, would require manufacturers to develop the crashworthiness data and distribute it to consumers. Manufacturers already conduct crash testing to determine if their cars comply with the Federal Motor Vehicle Safety Standards. By conducting those tests at higher speeds (e.g., 35 mph rather than 30 mph as set in the current safety standards), manufacturers would be able to determine if their vehicles comply with the Federal Safety Standards. They would also be able to rate the crashworthiness of their cars. As a practical matter, the compliance crash testing must be completed before the cars are produced and offered for sale to enable manufacturers to have the crashworthiness ratings available for prospective purchasers at the beginning of the model year.

(B) Under Alternative (B), also discussed in the NPRM, the Agency would conduct all the crash tests needed to rate the cars and provide the information to manufacturers for dissemination to prospective purchasers. Although this approach would place all the testing under the full, direct control of the Agency, it would require an expensive test program. More importantly, the Agency would have to obtain the cars for testing after they have been publicly offered for sale to ensure that they are representative of cars available to the public rather than pre-production prototypes. Thus, the comparative ratings could not be distributed at the beginning of the model year to help consumers make their buying decisions.

Other issues discussed in the NPRM include: (1) developing an indexing procedure that would combine head, chest, and femur (leg) injury readings developed in frontal crash tests into a composite measure of crashworthiness; and (2) rating cars on a continuum of crash test speeds.

The NPRM proposes disseminating information to consumers by using a window sticker containing information on the particular model and distributing a booklet containing comparative information. NHTSA would publish this booklet and make it available through automobile dealerships. The NPRM requests comments on alternatives to this approach, including elimination of the window sticker requirement.

Summary of Benefits

Sectors Affected: Purchasers of new cars.

NHTSA has developed an analysis of the benefits for the proposed rulemaking. One of the chief benefits would be to provide prospective purchasers of new cars with objective information about the crashworthiness of different makes and models to enable them to make informed buying decisions. The crashworthiness rating should foster competition among manufacturers to produce cars that provide increased levels of protection in a crash. To the extent that consumers and manufacturers respond to this program by demanding and building safer vehicles, there will be a corresponding reduction in highway deaths and injuries.

Summary of Costs

Sectors Affected: Manufacturers of cars; purchasers of new cars.

NHTSA has developed an analysis of the expected costs of the proposed rulemaking. If manufacturers are required to develop the crashworthiness data, they would have to conduct crash tests to rate the ability of their cars to protect occupants in a crash. Manufacturers could combine that crash testing with the testing they already do to certify compliance with Federal Safety Standards. Thus, the additional crash test costs for all manufacturers should be limited, particularly for manufacturers who design their cars to provide more than the 30 mph level of protection required by the current Federal Safety Standards.

Under the system proposed in the NPRM, the first-year cost to the industry for developing the ratings would be approximately $3 million (in 1980 dollars) for model year 1983 vehicles. The annual cost for each successive year would be $240,000. It would cost the Government less than $1 million (annually) to compile, print, and disseminate the ratings booklet and to perform new car verification testing for enforcement purposes.

No direct costs to automobile purchasers are associated with the crash testing and information dissemination program. Manufacturers, however, may raise prices on their vehicles if they design them with new, more costly safety features.

Related Regulations and Actions

Internal: Insurance Cost Information Regulation (49 CFR Part 582).

External: None.

Active Government Collaboration

None.

Timetable

Public Comment Period—Ends October 22, 1981. Comments should refer to Docket No. 79–19, Notice 1, and be submitted to the Docket Section, NHTSA, Room 5109, 400 Seventh Street S.W., Washington, DC 20590.
Public Hearing—None scheduled.
Final Rule—To be determined.

Available Documents

NPRM—46 FR 7025, January 22, 1981.
Preliminary Regulatory Analysis.
Regulatory Flexibility Analysis.
Results of the Agency's series of tests rating the crashworthiness of 1979 and 1980 model cars.
Public comments on the NPRM.
These documents are in Docket No. 79–1, Notice 1, and are available for public inspection along with all public comments received on the NPRM. All documents are available for review in the Docket Section at the address given above in the "Timetable" section.

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DOT—NHTSA

Heavy-Duty Vehicle Brake Systems (49 CFR Parts 571.105*, 571.121*)

Legal Authority

National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because of the level of public and Congressional interest.

Statement of Problem

Various Federal safety standards issued by NHTSA apply to truck, bus, and trailer brake systems (Federal Motor Vehicle Safety Standards No. 106, "Brake Hoses;" No. 116, "Brake Fluids;" and No. 121, "Air Brake Systems").

In addition, the requirements of Safety Standard No. 105, "Hydraulic Brake Systems," were recently extended to trucks, buses, and multipurpose passenger vehicles with a gross vehicle weight (GVWR) of 10,000 pounds or less. Some portions of the standard were also extended on a more limited basis to those types of vehicles with a GVWR greater than 10,000 pounds. (The effective date of the amendment is September 1, 1983.)

Although these standards have improved heavy truck braking performance considerably, problems with braking systems remain, and heavy truck accident rates are increasing. NHTSA is examining the long-range issues related to braking systems for trucks, buses, and tractor-trailers.

The number of persons killed while riding in heavy trucks increased from 847 in 1975 to 1,248 in 1978—an increase of 47 percent. In addition, the number of deaths involving automobiles and heavy trucks increased from 2,086 in 1975 to 2,959 in 1978. Roadside inspections, which the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration (FHWA) conducted, indicate an unacceptably high number of poorly maintained trucks.

For example, 9,671 of 23,838 vehicles (or 41 percent) that were inspected in 1979 were found to have one or more serious mechanical defects, which resulted in the vehicles' being declared out-of-service. Thirty-five percent of the vehicles that were inspected in 1976 were declared out-of-service. Of all out-of-service defects found on vehicles inspected in 1979, the largest number (48 percent) concerned the vehicles' primary brake system (as opposed to its emergency brake system).

If the Agency does not take any action, the number of deaths resulting from accidents involving heavy trucks is likely to continue.

Alternatives Under Consideration

NHTSA has issued an ANPRM to solicit comments on the Agency's long-range course of action regarding medium- and heavy-duty truck braking performance. Although it is too early in the regulatory process to identify specific alternatives and their advantages and disadvantages, general areas of consideration include:

(A) Establishing performance requirements in one or more of the following areas: (1) brake adjustment; (2) stability of the vehicle during stopping; (3) fade resistance, or stopping power for brakes exposed to high brake temperatures caused by prolonged or severe use; (4) contamination of brake systems by road dust, water, etc.; and (5) reliability and maintainability.

(B) Other possible approaches include: (1) issuing a public advisory notice on ways to improve fade resistance; (2) establishing criteria for total brake system performance and stopping distance capability; (3) increasing State vehicle inspection programs; (4) teaching drivers how to avoid accidents; and (5) requiring vehicle manufacturers to improve the design of vehicles to enhance the driver's visibility and ability to brake rapidly.

Summary of Benefits

Sectors Affected: Users of highways, including the trucking industry, truckers, bus charter services, bus drivers, and the general public.

The benefits this rulemaking would achieve depend on specific performance requirements, which have not yet been determined. The chief benefit would be a reduction in the number of accidents related to the braking systems in heavy trucks. The purpose of the ANPRM is to make the public aware of NHTSA's concerns, to outline our research plans, and to solicit relevant comments from the trucking industry.

Summary of Costs

Sectors Affected: Manufacturers of trucks, buses, tractor-trailers, and braking systems; purchasers of buses, trucks, and tractor trailers; and the general public.

Generally, the manufacturers would incur costs for designing new brake systems or components. Ultimately, such costs would be passed on to the consumer public through higher prices. For example, if requirements were set on brake adjustment, manufacturers would possibly have to use automatic adjusters in their brake systems. Automatic adjusters would cost truck buyers about $50 to $75 per axle more than manual adjusters. The initial cost of automatic adjusters would be more than offset by the savings in brake system maintenance and tire wear. However, until the regulatory requirements are defined, it is not possible to specify the overall economic impact.

Related Regulations and Actions

Internal: NHTSA issued a related ANPRM (44 FR 9783) on February 15, 1979. The ANPRM proposed establishing a new Air Brake Standard (No. 130) for trucks, buses, and trailers over 10,000 pounds gross vehicle weight rating (GVWR) to replace Air Brake Standard No. 121. The new Air Brake Standard would reinstate a stopping distance requirement to replace the one invalidated by the decision of the U.S. Court of Appeals for the Ninth Circuit in *PACCAR* v. *NHTSA and Department of Transportation*, 573 F. 2d 632 (9th Cir. 1978), cert denied, 439 U.S. 862 (October 2, 1978). The standard would also

include requirements for heavy trucks and buses equipped with hydraulic brakes.

NHTSA issued a final rule on June 2, 1980 (45 FR 38380) that amends existing Standard No. 121. That amendment requires all vehicles with a GVWR over 10,000 pounds to have service brakes on all wheels. On June 13, 1980, the Agency granted a California Highway Patrol petition (45 FR 41468) asking the Agency to begin rulemaking to amend the parking brake requirements of Standard No. 121.

As noted above, the Agency extended the requirements of Safety Standard No. 105 on a limited basis to heavy trucks in a final rule (46 FR 55) published January 2, 1981.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—To be determined.
Preliminary Regulatory Impact Analysis—Will accompany NPRM.
Regulatory Flexibility Analysis—Will accompany NPRM.
Public Hearing—None planned at this date.
Public Comment Period—To be determined.
Final Rule—To be determined.

Available Documents

ANPRM—45 FR 13155, February 28, 1980.

NHTSA Docket No. 79-03, Notice 03.

All documents available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—NHTSA

Occupant Crash Protection (49 CFR 571.208*)

Legal Authority

National Traffic and Motor Vehicle Safety Act, as amended, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) recently issued an NPRM to amend the automatic restraint requirements of Federal Motor Vehicle Safety Standard No. 208, "Occupant Crash Protection" (46 FR 21205, April 9, 1981). The notice included three proposed alternatives. NHTSA believes that any of these alternatives would qualify as a major rule under Executive Order 12291, Federal Regulation. For this reason, the Agency believes this rulemaking is important to vehicle manufacturers, insurance companies, Congress, and the public.

Statement of Problem

The Department of Transportation (DOT) issued the automatic restraint requirements of Safety Standard No. 208 in July 1977 (42 FR 34289, July 5, 1977). DOT took that action because of the substantial safety problem posed by the approximately 25,000 occupants killed annually in the front seat of passenger cars. Although the cars were equipped with manual safety belts under Safety Standard No. 208, relatively few people were being protected since most did not use manual belts.

To provide a solution to the problem of a high death rate and injury toll and of a low manual belt use rate, DOT turned to requiring automatic restraints. Automatic restraints are systems that require no action by vehicle occupants, such as buckling a seat belt, to be effective. Two existing systems that qualify as automatic restraints are air cushion restraint systems (air bags) and automatic seat belts (belts that automatically move into place when an occupant enters a vehicle and closes the door).

As issued in 1977, the automatic restraint requirements were to become effective in three phases: September 1, 1981, for large cars; September 1, 1982, for mid-size cars; and September 1, 1983, for small cars.

On April 6, 1981, DOT issued a final rule (46 FR 21172) that delayed the effective date of the first phase of the automatic restraint requirements of Safety Standard No. 208 until September 1, 1982. The rule provided that the automatic restraint requirements for large and mid-size cars would become effective on the same date—September 1, 1982.

In addition, on April 6, 1981, DOT issued an NPRM that proposed amending Safety Standard No. 208 to ensure that it reflects the changes in circumstances since the automatic restraint provisions were issued in 1977. DOT wants to make certain that it is taking the most effective, reasonable approach to addressing the serious safety problem posed by both the low rate of manual safety belt use in all cars and the steadily decreasing average size of new cars sold in this country. (Studies show that small cars are less safe than larger models.)

Developments since the automatic restraint requirements were first issued include the following:

- In 1977, the Department thought that manufacturers would comply with those requirements by equipping a majority of vehicles with air bags. However, manufacturers now indicate they will install air bags in only about 1 percent of the total fleet of new cars. Automatic belts will be installed in the other 99 percent.
- The original implementation schedule (large cars, mid-size cars, then small cars) was established because manufacturers had more experience using air bags in large cars than they had with smaller models. Because air bags will now be installed in relatively fewer vehicles, this factor is no longer important. Manufacturers' experience with automatic belts is more relevant. They now have had more experience using automatic belts in small cars than in large models.
- The switch to smaller, more fuel-efficient cars is occurring much more rapidly than DOT anticipated in 1977. As noted earlier, these cars are less safe than large cars, yet under the current standard they are scheduled to have automatic restraints after the larger models.
- In 1977, NHTSA thought that automatic belts would cost only $34 more per vehicle than manual belts would, and that air bags would cost about $154 more per vehicle than manual belts. The comparable figures (per vehicle) are $108 for the incremental cost of automatic belts and about $400 (in 1981 dollars) for air bags produced in large quantities (e.g., approximately 300,000 vehicles annually) and as much as $1,100 for air bags produced in lower quantities.
- Public acceptance is a major consideration in determining what action to take on a Safety Standard. DOT believes that the public may not be able to choose between automatic belts and air bags because manufacturers plan to install automatic belts in most vehicles as standard equipment. In addition, DOT is concerned about the potential lack of public acceptance of the specific automatic belt designs currently planned by automobile manufacturers.

The above factors have led DOT to conclude that the entire automatic restraint standard should be reconsidered to determine if it is still reasonable and practicable.

Alternatives Under Consideration

The recently issued NPRM included three alternatives:

(A) The implementation schedule of automatic restraints would be changed so that small cars would be required to comply by September 1, 1982, mid-size cars by September 1, 1983, and large cars by September 1, 1984.

(B) All car sizes would be required to comply with the automatic restraint requirements by March 1, 1983.

(C) The automatic restraint requirements would be rescinded altogether.

Summary of Benefits

Sectors Affected: Manufacturing of passenger cars; insurance companies; and consumers.

Alternative (A), the reversal proposal, would ensure that automatic restraints are first placed in the car size class which represents the greatest safety risk. The reversed schedule could produce greater net benefits (in terms of lives saved and injuries prevented) than the original implementation schedule because small cars are not as safe as large cars, and more small cars are being produced. To the extent injuries and deaths are prevented, the number of insurance claims should also decrease. This alternative would also largely avoid the necessity and extra cost of redesigning and equipping large cars with automatic restraints for the few years that these cars will continue to be produced.

Alternative (B), the simultaneous compliance proposal, would require manufacturers to install automatic restraints in all car sizes by the same date. This means that the implementation schedule would shift so that large and mid-size cars would comply 6 months later and small cars would comply 6 months earlier than the current standard provides. This alternative could also be more beneficial than the original schedule because it would accelerate the date by which all cars must be equipped with automatic restraints. The alternative would be more equitable than either the existing standard or Alternative (A) because all manufacturers would have to comply at the same time. The impact on individual company sales should be minimized by Alternative (B), since competitive effects among manufacturers and different car size classes would be eliminated.

Alternative (C), the rescission proposal, would save millions of dollars in costs for manufacturers, who would not have to redesign and retool to install the more expensive automatic restraints in their vehicles. Similarly, rescission would save consumers millions of dollars.

Summary of Costs

Sectors Affected: Manufacturing of passenger cars; insurance companies; and consumers.

The costs of the reversal and simultaneous compliance alternatives would be mixed. For example, Alternative (A), the reversal proposal, would delay the costs manufacturers would incur for installing automatic restraints in model year 1983 mid-size and large cars. The costs consumers would incur because of installing automatic restraints would also be delayed. There could be some slight loss in sales or deferral of purchases of model year 1983 small cars as well as model year 1984 mid-size cars. However, the market forces pushing consumers toward smaller, more fuel-efficient cars could minimize such effects.

The costs of Alternative (B), the simultaneous compliance proposal, would depend on how near the manufacturers come to beginning compliance on March 1, 1983. If they begin precisely on that date, then the manufacturer and consumer costs would not increase for the mid-size and large cars produced between the current effective date of September 1, 1982 and the proposed March 1, 1983 effective date. Costs would increase for the small cars produced between the proposed March 1, 1983 effective date and the currently scheduled September 1, 1983 effective date.

The possible adverse safety impacts of Alternative (C), rescinding the standard, and the associated costs to society, are difficult to quantify at this time. The safety impact would depend greatly on whether automatic restraints are acceptable to and used by the public. If consumers will not use automatic seat belts, the results of a rescission could be minimal. Moreover, the Department is embarking on an extensive educational campaign to increase the use of existing manual belts. The success of this campaign would also reduce the ultimate impact upon the public and insurance companies of a rescission of the automatic restraint standard.

Related Regulations and Actions

None.

Active Government Collaboration

On April 27 and 30, 1981, the Subcommittee on Telecommunications, Consumer Protection, and Finance of the House Committee on Energy and Commerce held hearings on the subject of Safety Standard 208.

Timetable

Final Rule—To be determined.
Public Hearing—None.

Available Documents

Final rule delaying the first phase of the automatic restraint requirements—46 FR 21172, April 9, 1981.

Regulatory Impact Analysis for the April 9, 1981, final rule.

NPRM—46 FR 21205, April 9, 1981.

Preliminary Regulatory Impact Analysis and Regulatory Flexibility Analysis for the April 9, 1981 NPRM.

All documents and all the comments and data received in response to the revisions and proposed revisions of Standard No. 208 can be found in Docket 74–14; Notices 20, 21, and 22, and are available for review in the NHTSA Docket Section, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—U.S. Coast Guard

Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (46 CFR 31*, 34*, 38*, 40*, 54*, 98*, and 154*)

Legal Authority

Port and Tanker Safety Act of 1978, 33 U.S.C. § 1221, 46 U.S.C. § 391a.

Reason for Including This Entry

This proposal concerns the safe shipping of bulk liquefied gas in existing ships that have been designed for this purpose. The Coast Guard has included this entry because the safety of this cargo and class of vessels has been a general public concern for several years.

Statement of Problem

Existing U.S. ships for carrying liquefied gas, which are called gas ships, were designed and constructed in accordance with current Coast Guard standards. The Coast Guard developed these standards as the need for ships capable of carrying extremely cold liquefied gas grew. However, there has never been an internationally accepted set of design, equipment, and construction standards, and virtually every nation uses its own unique standards. This has created problems because not all countries recognize each other's standards. Therefore, an

individual ship must comply with the standards of each country with which it wants to trade. This has the effect of restricting free international trade. To alleviate this situation, the international community agreed upon two uniform sets of standards for gas ships, developed by the International Maritime Consultative Organization (IMCO).One set of standards was for new ships. The Coast Guard adopted these standards on May 3, 1979 (44 FR 25986). There was not much controversy about the standards for new ships because they represented only small incremental additional construction costs.

The second set of standards was for existing vessels. A very careful evaluation of the economic impact of implementing the Existing Gas Ship Code is needed because it may involve costly retrofit of vessels that are presently in operation. Therefore, the Coast Guard has issued an ANPRM for public comment (42 FR 33353, June 30, 1977).

Alternatives Under Consideration

The Coast Guard has considered four alternatives:

(A) Adopt the IMCO Existing Ship Gas Code.

(B) Issue no regulations.

(C) Require existing gas ships to comply with the IMCO new gas ship standards.

(D) Treat all affected vessels on a case-by-case basis.

The proposal in the ANPRM—adoption of the IMCO Existing Ship Gas Code—would affect 19 U.S. flag vessels and approximately 150 foreign flag vessels. Most U.S. vessels and those foreign vessels currently trading with the United States come close to complying with the IMCO Existing Ship Gas Code. Adoption of the code would establish a uniform level of safety at an acceptable cost, and would allow U.S. flag ships to trade in countries that have adopted the IMCO standard. Consequently, the Coast Guard favors Alternative (A). Comments received in response to the ANPRM indicate that there would be minimal difficulty for U.S. vessels to comply with this alternative. Alternatives (B), (C), and (D) have serious drawbacks, such as perpetuating inconsistencies, imposing heavy economic burdens on the industry, and restricting free trade.

Summary of Benefits

Sectors Affected: The general public; the marine environment; water transportation of bulk liquefied gas; and construction of liquid cargo vessels.

The Coast Guard expects that any proposed regulation would benefit the public because it would ensure the safe transportation of bulk liquefied gases aboard existing vessels entering the United States by upgrading the mimimum standards for their equipment, material, and construction. However, development of the IMCO standards has been going on for a long time, and most U.S. vessels come close to meeting these standards. In addition, the Coast Guard has been issuing Letters of Compliance to foreign vessels for years. This means that although the IMCO rules would upgrade some safety standards, there would be no radical changes. The major benefit derived from the adoption of these rules would be to have an internationally uniform set of regulations. This would help the industry and the Nation by eliminating confusing conflicts between various standards accepted in different parts of the world. In other words, along with increased safety, an even greater benefit would be promotion of free trade between countries that adopt the IMCO standards.

Summary of Costs

Sectors Affected: Water transportation of bulk liquefied gas; users of this product; and manufacturing of liquid cargo vessels.

Any regulatory action would directly affect owners and operators of gas ships, who probably would pass costs on to the general consumer. The comments received in response to the ANPRM, although incomplete in many respects, indicate that costs would be well below the levels required for a Regulatory Impact Analysis in the Department of Transportation's guidelines. In any case, the present market for this type of ship is at a minimum. Therefore, in most cases, owners and operators would have the flexibility to perform modifications without interrupting their delivery schedules.

This eliminates one of the most costly aspects of laying up a ship that has a busy delivery schedule. In some cases the cost of pulling a ship out of service can be more than the cost of actual modifications. A slack market eliminates this cost, or at least reduces it to a minimum. Administrative costs to the Government would be minimal.

Related Regulations and Actions

Internal: On May 3, 1979, the Coast Guard published rules for new self-propelled vessels carrying bulk liquefied gases, which are based on the IMCO Gas Code for new ships. The rules were effective on May 31, 1979.

External: IMCO Existing Gas Ship Code.

Active Government Collaboration

None.

Timetable

NPRM—December 1981. This project has been delayed because other regulatory proposals have had priority over the limited USCG resources available for drafting.
Regulatory Impact Analysis—No Regulatory Impact Analysis will be done.
Regulatory Flexibility Analysis—Not needed.
Public Hearings—To be determined.
Public Comment Period—90 days following publication of NPRM.

Available Documents

ANPRM—42 FR 33353, June 30, 1977.
Documents, including comments responding to the ANPRM, are available from the Agency Contact. Fees will be charged for duplicating the material.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes (40 CFR Part 191)

Legal Authority

Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(b).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because it is a critical step towards developing disposal methods for high-level and other long-lived radioactive wastes which could pose serious health problems to current and future generations of people. In addition, we estimate that the annual cost for implementing these standards could exceed $100 million (1978 dollars).

Statement of Problem

It is important to ensure proper management and disposal of high-level radioactive wastes; otherwise, they

could cause excessive radiation exposures to the population of the United States which, in turn, could result in some premature cancer deaths. Large quantities of these wastes already exist, and national defense programs, commercial nuclear power plants, and research reactors are producing more. At present, the Department of Energy (DOE) stores 70 million gallons of high-level defense wastes in various liquid and solid forms on three Federal reservations in the States of Idaho, South Carolina, and Washington. Owners of commercial nuclear power plants are temporarily storing about 6,000 tons of spent fuel (i.e., fuel removed from a reactor after it has generated electrical power) in holding ponds at the various plant sites. Over the next few years, reactors currently licensed to operate are expected to produce an additional 600 tons a year of spent fuel. EPA estimates that these proposed standards will limit cancer deaths resulting from disposal of these wastes to less than 10 per 100 years over the first 10,000 years after disposal. We made this estimate by considering possible releases of waste from a repository and by using present risk versus radiation exposure estimates to arrive at the number of premature cancer deaths.

Our program to develop these standards began in 1976 as part of an interagency effort to speed up development and demonstration of a high-level waste repository. President Ford announced this program as part of his Nuclear Waste Management Plan on October 27, 1976. President Carter established an Interagency Review Group (IRG) on Waste Management in March 1978 to review existing programs and recommend new policies where necessary. After holding several public hearings on its draft report, the IRG prepared a final report to the President in March 1979. This report recommended that EPA accelerate its programs to set standards for nuclear waste management and disposal activities. President Carter approved this recommendation as part of his Program on Radioactive Waste Management, which he announced on February 12, 1980.

If EPA took no action, this would further delay the Federal waste management program and could have significant environmental consequences. Delay in developing disposal methods results in longer storage of existing wastes in surface facilities requiring human control. Such storage is not necessarily a danger under normal conditions. The wastes, however, are more vulnerable to accidental release in surface storage than they would be in disposal facilities. The chances for environmental damage are greater the longer the wastes are stored in existing sites. Furthermore, the lack of a solution to this problem has caused serious uncertainty about the future use of nuclear energy in the United States. This uncertainty makes both national and local energy policy more difficult to develop and has many indirect adverse economic and environmental effects.

Alternatives Under Consideration

The disposal system for high-level radioactive waste has yet to be designed and demonstrated by DOE. As a result, we are evaluating two basic types of environmental protection standards, and a third alternative which combines certain aspects of both.

Alternative (A)—We could develop a standard establishing general principles to govern disposal methods without setting quantitative standards. These principles would specify broad design requirements for disposal systems such as: (1) designing multiple manmade barriers and using natural barriers to prevent release of the wastes, (2) disposing of the wastes so that future generations could recover and relocate them, if necessary, and (3) designing disposal systems to reduce potential releases to the lowest levels reasonably achievable. Such requirements would reduce some of the uncertainties of the disposal systems to be developed which must work for very long times. However, they would not place any clear limit on expected environmental effects.

Alternative (B)—We could set numerical performance requirements for disposal systems without using general principles like those discussed in Alternative (A). These environmental protection standards would then be compared by the Nuclear Regulatory Commission (NRC) against the predicted performance of a proposed disposal system to determine whether the system should be approved. Such an approach would allow complete flexibility in meeting the objectives; however, it would rely upon predictions over very long time periods and such predictions involve many uncertainties.

Alternative (C)—Combine both types of standards discussed above. This will require long-term predictions of disposal system performance to determine if environmental protection objectives are met. The general principles will require conservative design approaches which will protect the environment as much as possible even if these long-term predictions are wrong.

We believe that Alternative (C) provides the most reliable protection of the general population and the environment.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of these standards is the protection of human health. Because the Federal Government has yet to design and demonstrate the disposal system, we are unable to accurately determine the health impact resulting from these standards. We estimate that the number of premature cancer deaths that would be caused by disposal in compliance with our standards would not exceed 1,000 over the first 10,000 years after disposal of the wastes. This is an average of one death every 10 years. Because our estimates are conservative, there is a good chance that actual disposal systems would result in fewer cancer deaths than we estimate.

Many sectors of society, especially environmental groups, State governments, and Members of Congress, have stated that nuclear power should not continue to be used while the problem of high-level radioactive waste disposal remains unsolved. Nuclear power now provides approximately 13 percent of the Nation's power supply. While EPA is neither for nor against nuclear power, we believe that these standards are the first step towards solving the problem of disposing of high-level radioactive wastes, so that the Nation can decide whether or not nuclear power will continue to be part of our energy system.

Summary of Costs

Sectors Affected: Commercial nuclear power plants; consumers of electricity supplied by nuclear power; Federal defense waste management programs; and NRC.

The high-level radioactive waste disposal program will initially be financed by the Federal Government. According to the provisions of President Carter's spent fuel policy, utilities will pay a one-time full cost recovery charge to the Federal Government for the transfer of spent fuel. This charge will cover all the costs of storage (away-from-reactor, if any), encapsulation, disposal, research and development, and government overhead involved in the management of spent fuel. Military-produced wastes are to be managed and disposed of by the Federal Government.

We calculated the cost impact of these standards by estimating the cost of the additional steps the Federal Government would have to take to be in

compliance. Based largely on data and analyses performed by DOE, we estimate that in the year 1990 these standards will result in an incremental annual cost of commercial waste management of about $100 to $600 million (1978 dollars). It is also possible that the incremental cost will be zero. The maximum cost impact amounts to less than a 1-percent increase in national average electricity rates.

We also estimated that the standards would cause an increase of $0.9 billion to $1.7 billion (1978 dollars) over the total cost of the reference defense waste management program (assuming on-site disposal of high-level waste in geological repositories as the reference program), which is estimated to cost about $3.7 billion (1978 dollars).

The details of our cost estimates are contained in the report "Economic Impacts of 40 CFR 191" (see Available Documents, below).

The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards, and therefore will incur administrative costs.

Related Regulations and Actions

Internal: We have coordinated the part of these standards that covers normal waste management operations with our Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR Part 190) to provide consistent exposure standards for all uranium fuel cycle operations.

External: The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards. To accomplish this, NRC is currently developing regulations for Disposal of High-Level Radioactive Wastes in Geologic Repositories (10 CFR Part 60); NRC describes these proposed regulations in this edition of the **Calendar.**

Active Government Collaboration

We established an interagency working group to help us develop these standards. The agencies represented are the Nuclear Regulatory Commission, the Department of Energy, and the United States Geological Survey.

Timetable

NPRM—July 1981.
Regulatory Impact Analysis and Environmental Impact Statement—July 1981 (under preparation).
Public Hearings—Several public hearings will be conducted during the public comment period, at times and places that we will announce in the **Federal Register.**
Public Comment Period—180 days following publication of NPRM.
Final Rule—July 1982.
Final Rule Effective—July 1982.
Regulatory Flexibility Analysis—Not required.

Available Documents

ANPRM—41 FR 235, December 6, 1976.

"Economic Impact of 40 CFR 191," available from Criteria & Standards Division (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, DC 20460.

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EPA—OANR

Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer (40 CFR Part 61)

Legal Authority

The Clean Air Act, as amended. §§ 111, 112, and 301(a), 42 U.S.C. §§ 7411, 7412, and 7601(a).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this policy is important because it will set a precedent in establishing how EPA will regulate airborne carcinogens under the Clean Air Act, and include risk assessment and economic analysis in the regulatory process.

Statement of Problem

Cancer is the second leading cause of death in the United States. One American in four is expected to contract some form of cancer in his or her lifetime, and one in five is expected to die from the disease. The most recent statistics show a continued increase in the total incidence of cancer, resulting principally from increases in lung cancer.

Studies of human cancer rates and their worldwide geographical variations, and observations of incidence rates in migrant populations, have revealed that factors in the human environment are probably responsible for a large proportion of cancers. "Environmental factors" in the broad sense include chemical exposures from smoking, diet, occupation, drinking water, and air pollution; various forms of radiation, including sunlight; and some forms of severe physical irritation. Although the uncertainties are great, estimates by the World Health Organization, other prominent institutions, and individual experts suggest that these factors may cause 60 to 90 percent of all human cancers.

Although airborne carcinogens may induce cancer at a number of areas in the body, lung cancer is thought to be the principal form of cancer related to air pollution. While cigarette smoking is probably the most important cause of lung cancer in the United States, many scientists believe that various air pollutants increase the risk of cancer from smoking and other carcinogenic insults. Available estimates also indicate that occupational exposures to chemicals are responsible for a significant portion of the incidence of lung cancer in the United States.

Through preliminary examination of industries producing chemicals and radioactive materials, and of air sampling results, EPA has identified over 50 known or potential chemical carcinogens and numerous radioactive materials which may be emitted into the atmosphere. Many of these substances are synthetic organic chemicals that have been in commercial use only since the 1930s. Because cancer induced by exposures to small amounts of airborne carcinogens may not appear for 15 to 40 years after exposure, it is still too early to detect the full effects of these chemicals on human health. Thus, it is both prudent and, in view of the large number of people potentially affected, important to reduce or contain emissions of known or suspected atmospheric carcinogens in order to prevent future problems before we actually observe them.

We have, since 1971, listed five airborne carcinogens (asbestos, vinyl chloride, benzene, radionuclides, and arsenic) as hazardous pollutants under § 112, National Emission Standards for Hazardous Air Pollutants, of the Clean Air Act. As required by § 112, we have developed and are continuing to develop emission standards for significant sources of these pollutants. In addition, we are evaluating a number of other potentially carcinogenic substances to determine whether action under § 112 is appropriate. We have found our actions on airborne carcinogens to be hampered by the lack of a policy, developed with public participation, that would guide our use of § 112 to control airborne carcinogens.

Specifically, we need publicly stated, legally binding policies and regulatory mechanisms to: (1) determine the

carcinogenicity and carcinogenic risks of air pollutants for regulatory purposes, (2) establish priorities for evaluating the need for and implementing additional regulatory action, (3) specify the degree of source control required in general under § 112 and indicate how we will determine that level of control in setting individual standards, and (4) provide more extensive public involvement in the Agency's decisionmaking on the regulation of airborne carcinogens.

Alternatives Under Consideration

We describe a number of alternatives in the proposal document (44 FR 58642, October 10, 1979):

(1) approaches leading to a zero-emission level;

(2) predetermined decision rules (e.g., specification of a fixed target (numeric) carcinogenic risk or incidence level; cost-per-life goals; best available technology); and

(3) special approaches for new sources.

Beyond that, the principal alternative is to have no formal policy. Under this alternative, EPA would continue with a case-by-case approach for regulating airborne carcinogens under § 112 of the Clean Air Act. This strategy would allow the Agency maximum regulatory flexibility, but would not give either the general public or the regulated industry sufficient information to enable them to participate fully in the rulemaking process. In addition, the alternative of no policy would not resolve the difficulties which EPA has encountered in the listing of airborne carcinogens and in the subsequent development of emissions regulations. It also does not recognize the need for procedures to ensure that available resources are allocated to the most important or tractable problems on a priority basis.

Under the policy, we will list under § 112 those airborne substances identified as high probability human carcinogens which present a significant carcinogenic risk to public health as a result of air emissions from one or more categories of stationary sources. Where applicable, we will propose generic standards (low-cost, good housekeeping-type standards for the control of fugitive emissions) for control of fugitive emissions from industrial sources. We will submit these standards concurrently with the listing to expedite reduction in emissions which can be achieved through good housekeeping practices in the manufacturing, handling, or use of hazardous materials. We will use risk assessments to determine priorities for further regulation of significant source catagories and in the evaluation of residual risk (the risk remaining after the application of best available technology).

At a minimum, the policy requires new and existing sources which present or would present significant cancer risks to apply best available technology (BAT) to control emissions of listed airborne carcinogens. BAT for new sources represents the most advanced level of control adequately demonstrated, considering economic, energy, and environmental effects. For existing sources, the determination of BAT also considers the impacts and technological problems associated with the retrofitting of control equipment. Controls more stringent than BAT may be imposed if the risk remaining after the application of BAT is unreasonable, or, for new sources, if EPA's criteria for risk avoidance associated with plant siting cannot be met.

Our proposed policy contains no reporting requirements.

In most cases, emission standards we establish pursuant to our proposed policy will be in the form of performance standards, rather than specific design standards. Design, operating, or equipment standards will be used only when performance standards are not practical.

In addition, the new source-siting provisions of the policy allow a new source owner to use an emission offset mechanism to locate a new source of airborne carcinogens in an area where other such sources exist or where the owner has difficulty in meeting emission requirements for the new source. An emission offset is an emission reduction at an existing source which compensates for emissions from a new source.

Summary of Benefits

Sectors Affected: The general public, particularly people living and working in densely populated urban areas and areas with a high concentration of chemical manufacturing industries; EPA; and State and local regulatory authorities.

Generic and emission standards that we develop for sources of airborne carcinogens under the proposed policy will reduce cancer risks for large segments of the U.S. population exposed to airborne carcinogens in the ambient air. The greatest benefits will be to individuals who live in the immediate vicinity of characteristic source types.

While low levels of potentially carcinogenic substances have been detected in many parts of the country, the areas of greatest concern are densely populated urban centers and areas with a high concentration of chemical manufacturing industries. In the latter case, the proposal would benefit populations in the Gulf Coast (Louisiana and Texas), the Kanawha Valley (West Virginia), and Northern New Jersey.

The proposed policy will significantly improve EPA's regulatory effort in identifying and controlling airborne carcinogens. Proposing generic standards for certain categories or sources concurrent with listing under § 112 will provide significant reduction in emissions pending development of final § 112 standards.

A mechanism for establishing regulatory priorities will ensure that we address the most important or tractable problems first. The policy also provides for increased public understanding of and participation in EPA's actions and allows EPA to give earlier notice of its findings and regulatory intent to State and local regulatory authorities and to industries.

Summary of Costs

Sectors Affected: Source types emitting carcinogenic substances into the atmosphere, including petroleum refining and establishments which mine or manufacture minerals, inorganic chemicals, radioactive substances and byproducts, and synthetic organic chemicals; and users of these products.

Our preliminary analyses have identified a number of source types which may emit carcinogenic substances into the atmosphere. Most of these types fall into one of the following six broad groups: (1) mining, smelting, refining, manufacture, and end-use of minerals and other inorganic chemicals; (2) combustion processes, coke ovens, incinerators, power plants, etc.; (3) petroleum refining, distribution, and storage; (4) synthetic organic chemical industries and end-use applications and waste disposal; (5) mining, processing, use, and disposal of radioactive substances and radioactive byproducts; and (6) sources of noncarcinogenic emissions which are chemically transformed into carcinogens in the atmosphere.

All emissions standards will include capital costs, some increase in operating costs, and possibly some administrative reporting costs or research and development costs for industry to comply with the various regulations we develop pursuant to this policy.

We intend the proposed rule only to guide the Agency in identifying and controlling airborne carcinogens. In its present form, we cannot assess its regulatory effects quantitatively. This policy will, however, provide a basis for

impact assessments in subsequent regulatory actions that are taken in accord with its provisions.

Related Regulations and Actions

Internal: Other offices within EPA which are also in the process of developing carcinogen control programs include the Office of Pesticides and Toxic Substances, the Office of Water and Waste Management, and the Office of Mobile Source Air Pollution Control. A program is also underway to develop an agencywide cancer policy.

External: Related external efforts include the development of a national cancer policy by the member agencies of the U.S. Regulatory Council (44 FR 39858); the recent report by the Risk Assessment Work Group of the Interagency Regulatory Liaison Group (IRLG) on the identification of carcinogens and the quantitative assessment of risks; a staff paper by the White House Office of Science and Technology Policy on the identification, characterization, and control of potential human carcinogens; and a report to President Carter by the Interagency Toxic Substances Strategy Committee ("Toxic Chemicals and Public Protection," May 1980).

Other regulatory agencies that are involved in this area include the Occupational Safety and Health Administration, which published a final policy for regulating occupational exposure to carcinogens on January 2, 1980 (45 FR 5002), the Food and Drug Administration, and the Consumer Product Safety Commission. Nongovernmental groups which have expressed interest in or made recommendations on the control of carcinogens include the Environmental Defense Fund, the American Industrial Health Council, and the Natural Resources Defense Council.

Active Government Collaboration

The Agency has presented testimony at the public hearings held after the Occupational Safety and Health Administration proposed its carcinogen policy. We have also provided information briefings for the Interagency Regulatory Liaison Group and members of the President's Council on Environmental Quality, the Council on Wage and Price Stability, Congressional staff, and interested State air pollution agencies. We have participated in the proposed policy regulating chemical carcinogens issued by the Regulatory Council on October 17, 1979 (44 FR 60038).

Timetable

Final Rule—December 1981.

Regulatory Impact Analysis—None.
Regulatory Flexibility Analysis—None.

Available Documents

"Policy and Procedures for Identifying, Assesssing, and Regulating Airborne Substances Posing a Risk of Cancer," NPRM, October 10, 1979, 44 FR 58642.

"National Emission Standards for Hazardous Air Pollutants—Generic Standards," ANPRM, October 10, 1979, 44 FR 58682.

"Summary of Responses and Proposals—Testimony and Written Submissions," EPA Public Hearings on Regulation of Carcinogenic Air Pollutants, Washington, DC, March 23, 1978.

Testimony presented at public hearings in Washington, DC, Boston, MA, and Houston, TX the week of March 10, 1980 as well as the written comments received.

Copies of written comments received during the public comment period.

These documents as well as others referenced in the proposed policy are available in public rulemaking docket number OAQPS 79-14. The docket is open for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at: Central Docket Section, Gallery 3, West Tower, Waterside Mall, 401 M Street, S.W., Washington, DC 20460.

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EPA-OANR—Office of Mobile Source Air Pollution Control

Fuels and Fuel Additives Protocols (40 CFR Part 79*)

Legal Authority

The Clean Air Act, as amended, § 211, 42 U.S.C. § 7545.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have a marked effect on the way private industry develops and markets fuels and fuel additives, and because of its potentially beneficial public health effects. While this rule may not have an annual impact of $100 million or more, the potential growth in the use of synthetic fuels and fuel additives in the future, as the Nation attempts to lessen its dependence on foreign oil, makes it a rulemaking worthy of attention.

Statement of Problem

In 1977, Congress amended the Clean Air Act, adding § 211(e), which requires EPA to develop regulations to test the environmental and health effects of fuels and fuel additives (including, but not limited to, the carcinogenic or mutagenic effects resulting from respiration). Section 211(e)(2) of the Act itself establishes deadlines by which the manufacturer must provide the requisite information to the EPA Administrator. Section 211(e)(3) authorizes the Administrator to: (1) exempt small businesses from the regulations, (2) provide for sharing of testing costs among manufacturers who desire to register identical compounds, and (3) exempt businesses from duplicative testing requirements.

The present registration regulation requires that manufacturers submit certain information on the chemical composition and the toxicity of fuels and fuel additives to the extent this information is known by the manufacturer as the result of testing conducted for reasons other than fuel registration (40 CFR 79.31(c)).

The proposed action may require the manufacturer to perform certain physical, chemical, and biological testings of fuels and fuel additives before registration.

On August 29, 1978, EPA published an ANPRM in the **Federal Register** (43 FR 38607) requesting comments on the types of health effects and emissions test methods to be used, small business criteria, and cost sharing provisions. In response to this request, the Agency received over 22 submittals of comments from the interested public. These regulations will consider all comments received from the interested individuals and organizations.

Alternatives Under Consideration

Our preferred alternative is to require health effects and emissions testing by manufacturers on a tier basis. This approach would require manufacturers to report the chemical composition of all candidate fuels and fuel additives. If, based on chemical composition, EPA can make a determination that the environmental and health impacts are insignificant, further testing may not be required. However, if the initial and subsequent data present a cause for concern, further testing will be required until the concern is alleviated.

The second alternative would require full testing by manufacturers for all fuels and fuel additives with no exemptions. Approximately 2,000 fuels and fuel additives could require full environmental and health testing by their current manufacturers. This alternative would be unnecessarily costly, as many fuels and fuel additives whose environmental impact we can predict to be small or negligible will have to be tested.

The third alternative would provide for full testing for all fuels and fuel additives, except that firms producing a small amount of a fuel or fuel additive could be exempted from testing requirements. (This small business exemption would not apply to chemicals that are believed by EPA to have a potentially hazardous environmental effect.) Testing costs may be prohibitively expensive for small businesses, and EPA believes that this alternative would provide an incentive for small businesses to produce and test fuels and fuel additives. The disadvantage of this alternative is that it would be difficult for EPA to determine criteria for exempting small businesses. Therefore, the Agency is planning further study of this alternative.

The fourth alternative would permit companies to share the costs of producing and testing fuels and fuel additives. For example, EPA could allow two companies that are making essentially the same additive to test and register the chemical jointly. This alternative could reduce costs for individual firms and also eliminate duplication. In addition, it might provide some incentive for a company to be first in producing and testing new fuels. By sharing the costs with another firm, the entrepreneurial firm could protect its investment. EPA has not determined specifically how such a cost sharing plan would work; therefore, this alternative is being studied further.

The final alternative would be to require manufacturers to submit test data demonstrating the effect of their fuel or fuel additive on regulated pollutants only (oxides of nitrogen, carbon dioxide, hydrocarbons) before registration, but not to require health or environmental testing. This is the present system as required by 40 CFR Part 79, but which the Congress required be improved via these regulations.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas where the concentration of vehicles is greatest; and those people who live near or work in plants which produce fuels or fuel additives.

The benefit we expect from this regulation is the protection of public health. Those fuels and fuel additives and the products of their combustion, which may be harmful to public health, will be identified and eliminated from the marketplace, where appropriate. A particular concern is that certain combustion products of fuels and fuel additives are believed to be carcinogenic or mutagenic.

We cannot estimate the economic benefits, in terms of reduction in respiratory and other diseases, at this time. However, because of the current cost of medical services and because of the generally accepted view that prevention is preferable to treatment of diseases, the expected economic and social benefits, although they are not quantifiable at this time, should be significant.

Summary of Costs

Sectors Affected: Petroleum refining; and users of motor vehicles or their services.

There are over 2,000 fuels and fuel additives currently registered under § 211 of the Clean Air Act. We roughly estimate that approximately 200 of these will require some degree of testing by the manufacturers. The cost to the industry of implementing these tests could total as high as $99 million to $132 million (1980 dollars). These costs will be incurred over the first 3 years of regulation, because by law, all fuels and fuel additives must meet the testing requirements within 3 years of the date of promulgation of this regulation. Small businesses would be exempt from the most costly tests. Users of motor vehicles will share these costs to the extent they are passed on by the petroleum refiners.

Related Regulations and Actions

Internal: Fuels and Fuel Additives Registration, 40 CFR Part 79.

Proposed Guidelines for Registration of Pesticides, 40 CFR Parts 161, 162, and 163.

Toxic Substances Control Act, § 4, Carcinogen Protocols and Chronic Toxicity Protocols, 40 CFR Part 772.

Ambient Air Quality Standards, 40 CFR Part 50.

External: None.

Active Government Collaboration

Health-testing protocols will be submitted to the Interagency Regulatory Liaison Group (IRLG) for screening before the regulation is promulgated.

Timetable

ANPRM—June 1982.
NPRM—June 1983.
Regulatory Impact Analysis—June 1983.
Public Hearing—60 days after publication of NPRM.
Public Comment Period—90 days following publication of NPRM. Comments may be sent to Charles L. Gray, Jr., Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105.
Final Rule—June 1984.
Final Rule Effective—Three years after promulgation of regulation.
Regulatory Flexibility Analysis—In conjunction with NPRM.

Available Documents

Gause, et al., Testing for Health Effects on Fuels and Fuel Additives, Environmental Monitoring Systems Laboratory, Research Triangle Park, NC 27711.

Test Plan to Study the Effect of MMT on Emissions Control Performance (unpublished draft); Protocol to Characterize Gaseous Emissions as a Function of Fuel and Additive Composition, EPA-600/2-750048, September 1975.

ANPRM—43 FR 38607, August 29, 1978, EPA Docket ORD-78-1.

All documents available for review at the EPA, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 5:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA-OANR—Office of Radiation Programs

Remedial Action Standards for Inactive Uranium Processing Sites (40 CFR Part 192*)

Legal Authority

Uranium Mill Tailings Radiation Control Act of 1978, § 206, 42 U.S.C. § 2022.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks these standards are important because the Federal and State governments cannot undertake the remedial actions Congress authorized until we have promulgated standards for them. People who live or work near tailings areas, primarily in the Rocky Mountain States and Pennsylvania, are very interested in all aspects of the remedial action program.

Statement of Problem

The soils and rocks which make up the earth's crust contain radioactive uranium and thorium isotopes (radionuclides). Almost all human activities that involve removing and processing materials from the earth's crust can result in the release of some of these radioactive materials into the atmosphere. These releases can become potentially hazardous when:

(1) the activity involves handling materials that contain concentrations of these radionuclides significantly above the average concentrations in soil;

(2) these radionuclides are concentrated during processing to a level significantly above the average concentrations in soil; or

(3) the radioactive material is redistributed from its place in nature into a pathway where humans can be exposed to it.

Uranium mining operations involve removing large quantities of ore containing uranium and its radioactive decay products in concentrations up to 1,000 times greater than are normally found in the natural terrestrial environment. After mining, the ores are shipped to uranium mills for separation of the uranium from the other materials in the ore. After the mill crushes and grinds the ore, the uranium is dissolved, precipitated, dried, and packaged as "yellow cake" (U_3O_4). The residues of the process, normally in the form of a wet sand (tailings), are discharged to a disposal area where the liquids are evaporated or partially recycled.

The tailings disposal area consists of a pond and a dry beach area. The size of each component depends on the amount of water that is recycled, the rate of evaporation, and the amount of raw ore being milled. In areas of high evaporation, large dry beach areas are exposed. Radioactive emissions from these areas result from wind erosion of the tailings and diffusion of radioactive radon gas out of the tailings. In addition, radioisotopes and other toxic substances may seep into ground water.

The release of radon gas from piles of uranium mill tailings exposes people in the immediate vicinity of the tailings site to radioactivity and, to a lesser extent, exposes more distant populations. Windblown radioactive particulates from tailings sites and direct gamma radiation constitute secondary sources of radiation exposure. If the tailings are uncontrolled, EPA estimates that approximately 200 premature deaths per century could occur in the national population from radiation-inducing lung cancer resulting from radon emissions from the tailings piles. These effects would be divided approximately equally between people who live within 5 miles of the inactive tailings piles and those in the rest of the country. Health effects from tailings that have blown off the piles and potential contamination of ground water resources are not included in this estimate. The radioactive components in the tailings will remain hazardous for hundreds of thousands of years.

In addition to the hazards posed by tailings piles are those of tailings which have been removed from the piles. In source areas, tailings have been used in construction, often as fill under buildings. Radioactive gas from the tailings may then enter the buildings and raise indoor radioactivity well above normal levels.

Congress recognized that unless it acted, tailings from inactive processing sites might pose a continuing health hazard. Therefore, with the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Congress authorized a joint Federal and State program to perform remedial actions for inactive uranium processing sites according to standards EPA would set. Under the terms of UMTRCA, the Department of Energy (DOE) has designated 25 eligible inactive processing sites. Tailings piles at these sites contain more than 26 million tons of residual radioactive materials on more than 1,030 acres of land. In addition, DOE is working to designate additional lands and buildings that are affected by tailings from these sites. However, UMTRCA also provides that no remedial actions may be undertaken until EPA has promulgated standards.

Alternatives Under Consideration

EPA's standards for uranium mill tailings will apply to all the inactive sites designated under P.L. 95-604. They are standards which define environmental radiation conditions that must not be exceeded, but they do not specify the means of remedying existing excesses. UMTRCA requires DOE to conduct the remedial action program. We are developing the standards based on currently available knowledge of the potential harmful effects of uranium mill tailings and the technology and costs of avoiding them. With regard to the form and content of the standards, we have considered the following alternatives:

(A) Disposal Standards—EPA has considered an entire range of options from no control to virtually complete control of releases of radioactivity and of nonradioactive toxic substances from tailings. We find that means of providing long-term control of radon releases are available. We have also examined the health benefits and costs of controlling these releases to alternative levels that are (a) significantly above the radon release rates characteristic of undisturbed land areas, (b) within the normal range of release from undisturbed lands, or (c) significantly below average rates from such lands.

We have proposed standards corresponding to alternative (b) because it avoids nearly all the harmful effects of radon releases and appears to be technically and economically feasible to achieve. Alternative (c) is neither needed nor is it clear that it is reasonably achievable.

We have also considered whether we should prohibit releases of radioactive and nonradioactive toxic substances from tailings to water or should limit releases to levels that preserve water quality for potential uses, including drinking and agriculture. Although information is very limited, we currently believe that a standard prohibiting any releases may be very difficult to implement, and is not clearly needed. Therefore, we have proposed standards for uranium mill tailings disposal that prohibit degrading the existing quality of underground and surface water bodies.

The health protection the disposal system ultimately affords depends on the control levels and the time over which they are maintained. We have examined the technical and economic reasonability of requiring effective control for (a) several hundred years, (b) hundreds to thousands of years, and (c) longer than tens of thousands of years. Because we currently believe it reasonable, we proposed to apply the disposal standards for at least 1,000 years. Applying them for very much longer periods would be impractical for general application.

(B) Cleanup Standards for Contaminated Open Land—We have considered alternative standards for cleanup of contaminated open land as follows:

(a) Standards that would reduce residual radiation levels to local natural background levels.

(b) Standards that would limit the residual radioactivity to levels that may be above local background, but are still within a common natural range of values.

(c) Standards that limit residual radiation to levels significantly above normal background.

Alternative (a) would be unreasonalble because the measurements required to distinguish small elevations above background radioactivity would be unproductively expensive. Our proposed standards follow alternative (b), which we believe is technically and economically reasonable, with a very small residual risk in practice. We feel alternative (c) is not warranted.

(C) Cleanup Standards for Buildings—Tailings have sometimes been used as construction materials for buildings. This can cause elevated indoor radioactivity and increased risk of lung cancer for occupants who breathe radioactive particles in the air. In developing remedial action standards for this condition, we have considered earlier recommendations by the U.S. Surgeon General for a similar situation at Grand Junction, Colorado, and guidance provided by EPA to the State of Florida regarding indoor radioactivity. We have also considered alternative standards which take account of this earlier guidance, and which reflect current assessments of the health effects of the indoor radioactivity. The proposed standards take the form of "action levels," i.e., specifications that, if exceeded, will require remedial action.

We could set action levels in terms of the total indoor radioactivity concentrations, or as an increment above average natural background levels. We prefer to express the indoor radon decay product action level in terms of total radon decay concentration, because background levels cannot be determined separately in practice. Indoor gamma radiation levels are much more easily determined, however, so we prefer to express the gamma radiation standard as an increment above background. In all cases, the standards will apply to radiation that may reasonably be attributed to tailings, not to other causes.

Summary of Benefits

Sectors Affected: People living or working near inactive uranium mill tailings sites designated by DOE for remedial actions under UMTRCA which are located in Arizona, Colorado, Idaho, New Mexico, North Dakota, Oregon, Texas, Pennsylvania, Utah, and Wyoming; individuals who live or work in contaminated buildings; and the general public.

The proposed disposal standards provide a reasonable expectation of avoiding virtually all detrimental effects of uranium mill tailings from the 25 designated inactive sites for at least 1,000 years. Based on current population distributions, we estimate about 200 lung cancer deaths per century due to radon emissions from tailings piles will be avoided. The number may be larger if populations increase, or if population centers develop near piles that are now remote from people. About 500,000 people live within 6 miles of these tailings piles. Furthermore, surface and ground water will be protected from degradation by the tailings. Individuals who live or work in perhaps hundreds of contaminated buildings will benefit from application of the cleanup standards. Finally, applying the cleanup standards for open land will result in conditions that do not require further control. This could make several thousand acres of land available for use, and avoid a potential future administrative burden for the Government.

Local economies could benefit from decreased unemployment and increased business activity associated with performing the remedial actions to comply with the standards. The remedial actions would also virtually eliminate the inequitable distribution of risk associated with the tailings, which is now greater for people who live or work very near the piles or in contaminated buildings than for the general population. After disposal, the radiation risk for such people will be within the normal range of natural background values.

Summary of Costs

Sectors Affected: The Federal Government; affected States; and people living near inactive uranium mill tailings sites designated by DOE for remedial action.

The Federal Government will bear 90 percent of the costs of the remedial action program and the 10 affected States will bear 10 percent. The Federal Government will bear all the costs of remedial actions on Indian lands.

The costs of meeting the disposal standards at all the tailings piles eligible under UMTRCA are difficult to estimate, primarily because methods should be chosen on a site-specific basis. We estimate the average one-time cost of meeting the standards we have proposed to be about $1 million to $6 million (1978 dollars) per site if the existing site is suitable, and $6 million to $13 million (1978 dollars) per site otherwise. Total disposal costs for all sites, spread over the 7 years Congress authorized for the remedial action program, would therefore be about $21 million to $273 million, and most likely nearer the high end of this range. More restrictive standards, which would limit radon releases from tailings to well below release rates from normal soils, could require much costlier methods of disposal.

A DOE contractor (Ford, Bacon, and Davis, Utah Inc.), using interim cleanup criteria, previously estimated that cleanup costs for open lands and buildings would be about $10 million (1978 dollars). Even allowing for increased costs under the cleanup standards we now prefer, which are very difficult to estimate, tailings disposal is still by far the largest cost component of the remedial action program.

During the performance of the remedial actions, localities will be subjected to increased traffic, dust, and other side-effects of earth-moving and construction operations. Disposal operations may require large quantities of clay and soil for covering the tailings. Contaminated open land will be subjected to scraping and digging by the cleanup operations. The environmental effects of these land disturbances will vary with the site.

Related Regulations and Actions

Internal: Radiation protection guidance for remedial actions on residences on Florida phosphate lands (44 FR 38664, July 2, 1979).

Draft proposed standard for high-level radioactive waste (in development).

Regulations for treatment, storage, and disposal of hazardous wastes under the Resource Conservation and Recovery Act (40 CFR Parts 260–267).

Proposed Environmental Protection Criteria for Radioactive Wastes (43 FR 53262, November 15, 1978), and applicable Federal Radiation Protection Guidance.

Clean Water Act regulations (40 CFR Subchapter D, Part 100 *et seq.*).

National Interim Primary Drinking Water standards (40 CFR Part 141).

EPA Air Carcinogen Policy (44 FR 58642, October 10, 1979).

Resource Conservation and Recovery Act (42 U.S.C. §§ 6905, 6912(a), 6921–27, 6930, and 6974).

External: Under UMTRCA, the responsibility for selecting and performing remedial actions that satisfy EPA's standards is given to the Department of Energy. Any States that share the cost must fully participate, and

the Nuclear Regulatory Commission must concur. Any affected Indian tribe and the Department of Interior must be consulted when Indian lands are involved. In addition, the Department of Justice has responsibilities related to determining the responsibility, if any, of any private parties for remedial actions.

Active Government Collaboration

President Carter's Energy Coordinating Committee formed a subcommittee to oversee Federal implementation of UMTRCA. The subcommittee is chaired by the Administrator of the Environmental Protection Agency. Other participating agencies are the Nuclear Regulatory Commission and the Departments of Energy, Justice, and Interior. These agencies, which all have responsibilities under UMTRCA, have formed a staff level working group that plans necessary interagency coordination and reviews draft documents as appropriate.

Timetable

Final Rule—Cleanup Standards—September 1981.
Final Rule—Disposal Standards—September 1981.
Final Rules Effective—60 days after promulgation.
Regulatory Impact Analysis—EPA will not develop an analysis, because we expect the cost of implementing the standard in any calendar year will be less than the $100 million criterion established for requiring an analysis.
Regulatory Flexibility Analysis—EPA will not develop an analysis. The standards do not apply to small entities and would have no effect on them. In any case, EPA proposed the standards before the Regulatory Flexibility Act took effect.

Available Documents

From the Congress—House Document Room, H–226 Capitol, Washington, DC 20515. P.L. 95–604, Uranium Mill Tailings Radiation Control Act (UMTRCA); House Report No. 95–2480, Pt. I, Committee on Interior and Insular Affairs; House Report No. 95–1480, Pt. II, Committee on Interstate and Foreign Commerce.

From DOE—Technical Library, Bendix Field Engineering Corp., P.O. Box 1569, Grand Junction, CO 81502—"Phase II, Title I, Engineering Assessment of Inactive Uranium Mill Tailings Sites" by Ford, Bacon, and Davis, Utah Inc. (microfiche copy only, nominal charge per report).

From EPA/OANR–ORP—"EPA Development of Standards for Uranium Mill Tailings and Report on Uranium Mining Wastes—Call for Information and Data," **Federal Register** notice, 44 FR 33433, June 11, 1979.

"EPA Indoor Radiation Exposure Due to Radium-226 in Florida Phosphate Lands—Radiation Protection Recommendations and Request for Comment," **Federal Register** notice, 44 FR 38664, July 2, 1979.

"Interim Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27366, April 22, 1980.

"Proposed Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27370, April 22, 1980.

"Proposed Disposal Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 46 FR 2556, January 9, 1981.

"Draft Environmental Impact Statement for Remedial Action Standards for Inactive Uranium Processing Sites," EPA Report 520/4–80–011, December 1980.

EPA documents listed above are available at 401 M Street, S.W., Washington, DC 20460.

Comments on the proposed standards and transcripts and other material from public hearings have been placed in Docket No. A–79–25, which is located in the EPA, Central Docket Section, West Tower Lobby, 401 M Street, S.W., Washington, DC 20460. Additional documents, when they become available, will also be placed in this Docket.

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EPA—Office of Pesticides and Toxic Substances

Pesticide Registration Guidelines (40 CFR Part 163, Subparts A–P)

Legal Authority

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136a(c)(2)(A), 136f, and 136w.

Reason for Including This Entry

The Environmental Protection Agency (EPA) estimates that the cost to chemical companies and other registrants whose products are registered with EPA or who apply for registration of their products to meet the Guidelines' requirements will total $70 million to $100 million annually over the next 10-year period.

Statement of Problem

With certain limited exceptions, EPA must, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), register all pesticides before legal sale and distribution by manufacturers and formulators can occur in the United States. The purpose of requiring registration of a pesticide is to permit EPA to determine if: (A) the composition of the pesticide is such as to warrant the proposed claims for it; (B) the labeling and other material required to be submitted comply with the requirements of the Act; (C) the pesticide will perform its intended function without unreasonable adverse effects on the environment; and (D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

In the absence of the Guidelines, manufacturers and formulators must develop, and EPA must review, health and safety data on a case-by-case basis. Such a procedure causes confusion, inefficiency, and inconsistency. Experience has shown that, when guidelines have not existed, registration applications often have been incomplete or inadequate; applicants have spent unnecessary time and money because requirements were not clearly delineated, and EPA could not perform registration reviews efficiently. With some 35,000 currently registered pesticide products to be reregistered, and many new ones to be registered each year, the Congress recognized the need for guidelines and called for their preparation and publication at FIFRA § 3(c)(2)(A).

The Guidelines specify the kinds of information required to support a registration application. Such information encompasses data required for evaluation of health and safety hazards to humans, domestic animals, wildlife, aquatic organisms, and nontarget plants and insects. It also includes data concerning chemical characteristics of the ingredients of the pesticide products, the food and feed crop residues resulting from the use of pesticides, and the environmental fate of pesticides. In addition, information on labeling, product efficacy, exposure analysis, and product disposal is required. The Guidelines also specify the kinds of information of each type mentioned above that are required for pesticides to be tested under an

experimental use permit, and for pesticides categorized as biorational pesticides (pheromones, bacteria, viruses, etc.).

Prospective registrants (primarily pesticide manufacturers and formulators) are responsible for both testing and submittal of test results to the Agency to support their applications for new registrations. In addition, FIFRA requires that currently registered pesticides be *reregistered* expeditiously. In many cases, the registrants of these pesticides will have to submit health and safety data to meet FIFRA requirements during the next several years, either because they had not previously submitted the data or because they had submitted inadequate data.

Alternatives Under Consideration

Section 3(c)(2)(A) of FIFRA requires that "The Administrator shall publish guidelines specifying the kinds of information required to support the registration of a pesticide and shall revise such guidelines from time to time." Therefore, EPA is not considering alternatives to publication of the Guidelines. The Agency is analyzing public comments on the portions already proposed (see "Available Documents") and is considering these comments to improve the nature and clarity of the proposed data and testing requirements. The comments consist principally of suggestions for improving technical aspects of test standards and reporting requirements, and for defining more clearly the intent and scientific rationales supporting the standards and requirements.

Summary of Benefits

Sectors Affected: Pesticide chemical manufacturing and formulating; chemical/ biological testing laboratories; EPA; and people who use or are exposed to pesticides, including farmers and the general public.

The Guidelines will give prospective registrants the benefit of knowing precisely what kinds of data the Agency requires (though there are provisions for waiving or modifying some requirements under some circumstances, such as certain use- or product-related situations where specific kinds of exposure are precluded, or where certain kinds of data, such as efficacy results, are no longer needed under Agency policy). Manufacturers and formulators therefore will be able to plan their research and development programs with greater certainty and thereby save money and time. The chemical/ biological testing industry (comprising 90 to 100 businesses at present, but still expanding) will also benefit from increased business due to some additional requirements now in the Guidelines and due to the standardized requirements that improve planning and efficiency. The Guidelines will benefit the Agency by improving the quality of data available for making decisions, and by allowing for more efficient processing of applications. Farmers and other major users will benefit generally from having registered pesticides made available sooner.

Summary of Costs

Sectors Affected: Pesticide chemical manufacturing and formulating; and users of pesticides, including farmers and the general public.

To meet the guidelines requirements over the next 10 years, EPA estimates that the cost (in 1981 dollars) to registrants would range between $250 million and $750 million (most likely to be less than $500 million) to fill data gaps for chemicals already registered. These chemicals already registered would generate about $30 billion in sales during the 10-year time period. About $300 million to $450 million in expenditures for data would be needed to support new registrations. The cost ranges stated above cover all Guidelines subparts as now drafted.

On an annual basis, the cost would be highest (averaging $100 million) during the first 5 years and would then decline (to about $70 million per year) during the latter 5 years. Current (1981) pesticide industry research and development expenditures are estimated to be $365 million annually; of this total, approximately $100 million are used to meet registration requirements. Thus, the costs imposed by these Guidelines, as applied to reregistration and new registrations, would add about 20 percent to 30 percent to total research and development expenditures. In relation to sales, the costs attributable to the Guidelines would amount to 2 percent to 3 percent of the income at the basic producer level ($3 billion), or 1 percent to 1.5 percent of the income at the retail level ($5.8 billion).

The projected cost of the Guidelines represents expenditures for conducting laboratory and field testing and developing the reports of such tests. While registrants will initially bear the cost, we expect that it will be passed on to pesticide users. The per-farm pesticide expenditure was estimated in 1980 to be $63 to $70 per year, including $21 due to costs of new requirements in the Guidelines.

We do not expect these Guidelines to have any significant effect on employment in the pesticide industry, or to have any other nationally significant economic effects. We do expect producers of some currently registered pesticides of small economic significance to withdraw their products from the market rather than go to the expense of developing the data required for reregistration. In this situation, we expect consumers to choose other available pesticides.

Related Regulations and Actions

Internal: EPA is also developing testing standards for chemical substances and mixtures under the Toxic Substances Control Act (TSCA). As far as possible, EPA will make the TSCA and FIFRA testing standards consistent with each other. The Good Laboratory Practice standards we are developing under TSCA and FIFRA, which prescribe standards of performance for toxicological testing, will also be consistent.

External: Under the aegis of the Interagency Regulatory Liaison Group, four Federal agencies (EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission) are jointly developing guidelines describing test methods and standards that will meet all four agencies' needs.

The Agency is also working with the Organization for Economic Cooperation and Development (OECD). This group is developing international testing standards, and has the cooperative input of 24 other countries besides the United States. In published form, our toxicology guidelines (Subpart F) will be consistent with the international standards. As additional international standards in other areas are developed the Agency will seek to achieve as much consistency as possible.

Active Government Collaboration

FIFRA §§ 25 (a) and (d) requires the Administrator of EPA to provide copies of draft proposed and final regulations to the Department of Agriculture, the Committee on Agriculture in the House of Representatives, the Committee on Agriculture and Forestry in the Senate, and the FIFRA Scientific Advisory Panel. These groups provide technical, legal, and scientific oversight.

Agencies and other government groups that EPA has consulted or that have provided assistance in Guidelines development include members of the Interagency Regulatory Liaision Group, the National Cancer Institute, the Department of the Interior, and the Department of Agriculture.

Timetable

The current rulemaking process began in 1973 and is expected to continue until 1982–1983. There are a number of subparts to these regulations that will have separate NPRMs, public hearings, and requests for public comments. An overall Regulatory Impact Analysis will be published for the entire Guidelines in July 1981. This analysis will also include the impacts cited in the Regulatory Flexibility Act and Executive Order 12291.

We intend to publish the following subparts as NPRMs by fall 1981:

Subpart D—Chemistry Requirements: Product Chemistry (sections dealing with a bioassay to detect toxic product components that must be chemically identified and quantified).

Subpart G—Product Performance.

Subpart H—Label Development.

Subpart I—Experimental Use Permits.

Subpart K—Exposure Data Requirements: Reentry Protection.

Subpart L—Hazard Evaluation: Nontarget Insects.

Subpart M—Data Requirements for Biorational Pesticides.

We intend to publish the following portions as final rules by fall 1981:

Subpart A—Introduction.

Subpart D—Chemistry Requirements: Product Chemistry.

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms.

Subpart F—Hazard Evaluation: Humans and Domestic Animals.

Subpart J—Hazard Evaluation: Nontarget Plants.

Subpart N—Chemistry Requirements: Environmental Fate.

Subpart Q—Good Laboratory Practices.

Available Documents

An economic impact analysis was prepared for public comment on September 6, 1978 (43 FR 39644). Its title is "Economic Impact Analysis of Guidelines for Registering Pesticides in the U.S." This analysis covered the cost of Subparts B, D, E, and F, which would be responsible for 90 percent of the total cost of the Guidelines.

We have published the following portions of the Guidelines as NPRMs:

Subpart B—Introduction, 43 FR 29606, July 10, 1978. This subpart will become Subpart A when published final.

Subpart D—Chemistry Requirements, 43 FR 29696, July 10, 1078. This subpart has now been divided into five subparts: D—Chemistry Requirements: Product Chemistry; K—Exposure Data Requirements: Reentry Protection; N—Chemistry Requirements: Environmental Fate; O—Chemistry Requirements: Residue Chemistry (scheduled for NPRM in 1982); and P—Data to Support Disposal Instructions (scheduled for NPRM in 1982).

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms, 43 FR 29696, July 10, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals, 43 FR 37336, August 22, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals (two additional general sections on good laboratory practices for toxicology testing), 45 FR 26373, April 18, 1980. (This proposal will be separated from Subpart F when developed into a final rule; it will be Subpart Q—Good Laboratory Practices.)

Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms, 45 FR 72948, November 3, 1980.

We have published the following portion of the Guidelines as an interim final rule:

Subpart C—Registration Procedures, 40 FR 41788, September 9, 1975.

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EPA—OPTS

Premanufacture Notification Requirements and Review Procedures (40 CFR Part 720)

Legal Authority

Toxic Substances Control Act (TSCA), § 5, 15 U.S.C. § 2604.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because the regulations may have a substantial impact on the chemical industry.

Statement of Problem

To prevent public health risks and environmental contamination before potentially toxic substances are widely used and dispersed, Congress included a section on premanufacture notification in the Toxic Substances Control Act (TSCA). This section requires a manufacturer to notify EPA of his intent to manufacture or import a new chemical substance, and to submit information concerning that substance which the Agency can use to assess the risks associated with its manufacture, processing, distribution in commerce, use, or disposal. On the basis of this assessment and evaluation of economic considerations and other relevant factors, EPA will make decisions concerning the reasonableness of any risk, and will take appropriate action to obtain more information or data; regulate production or use; or require reporting by manufacturers, processors, or distributors of chemicals once the substance is in commerce. If EPA does not regulate the substance during the premanufacture notification period, the manufacturer may begin production (subject to regulation under any other laws).

To implement the notification process, EPA proposed a set of premanufacture notification rules and forms for public comment on January 10, 1979. In October 1979, EPA reproposed the forms and certain portions of the rule. While the statute generally described the notice requirements, the rules, when final, will clarify the statutory obligations of manufacturers and importers of new chemical substances to provide information on the substances, and will also clarify the Agency's procedures for reviewing the information. Without knowledge of the Agency's review procedures, the chemical industry may have difficulty in providing information to the Agency, in planning commercialization of new chemical substances, or in understanding the reasons for regulatory actions taken by the Agency. The forms will provide a detailed specification of the information they must submit and the formats in which they should supply the information. The manufacturers are responsible for assembling the information. EPA must decide, generally within 90 days of receiving the information, whether the substance in question presents an unreasonable risk to human health or the environment, and if so, what action to take.

Alternatives Under Consideration

There are several significant issues to be resolved in this rulemaking. Among them are the scope and the level of detail of information it should require; the identification of chemical substances for which industry must submit premanufacture notification to EPA; policies regarding the confidentiality of information submitted; the extent to which the submitter must contact prospective customers to obtain relevant data; supplemental reporting; and whether and how EPA determines that submissions meet its requirements. A detailed discussion of the proposal and other regulatory options the Agency is considering is included in the draft

Regulatory Analysis and proposed Economic Impact Analysis (see "Available Documents," Proposed Economic Impact and Draft Regulatory Analysis of November 13, 1980 (45 FR 74945)).

Summary of Benefits

Sectors Affected: Establishments and employees in the chemical industry; importing of chemical products; the general public; and the environment.

The premanufacture review process will benefit public health and the environment by preventing the production, use, or disposal of new chemicals which present unreasonable risks. By preventing potential hazards at an early stage, EPA can minimize economic dislocation, especially that which would result if a chemical is in full production and use is withdrawn. The rules will benefit manufacturers and importers of chemical products by clarifying statutory obligations for providing information. Adverse employment effects and the obsolescence of plant equipment will be substantially reduced by early regulation. Preventing toxic chemicals from entering the environment also will decrease lost work days and hospitalization costs that result from worker exposure to toxic chemicals.

Summary of Costs

Sectors Affected: The chemical industry; and importing of chemical products.

EPA is conducting an in-depth study of the premanufacture notification requirements to determine with a greater degree of confidence the nature of the costs and economic effects of this rulemaking. These effects will include the effect on research and development programs; industry sales, growth, and profitability; and the structure of the chemical industry. EPA will use the results of this study in making final decisions on how to implement the premanufacture notification program. Preliminary results of this analysis estimated that the notice form proposed on January 10, 1979 would impose a one-time cost between $2,500 and $22,500 to complete for each submitter, in 1980 dollars. Estimates for the October 16, 1979 reproposed shortened form indicated that completion of the revised form would impose a one-time cost between $1,155 and $8,925, in 1980 dollars. It has also been estimated that approximately 400 notices would be submitted per year. Therefore, the total cost of providing the notice forms in a typical year would be between $462,000 and $3,570,000, in 1980 dollars. October 16 cost estimates also included costs of between $0 and $6,400 for asserting and substantiating claims of confidential business information in connection with the notice submission.

The previous estimate did not include confidentiality costs, although there would be some cost for confidentiality imposed by the statute as well as any implementing regulation.

The fiscal year 1981 EPA operating plan for implementing the premanufacture notification program is $5,720,000.

Related Regulations and Actions

None.

Active Government Collaboration

Other Federal agencies that have been involved in this rulemaking include the Consumer Product Safety Commission, the Occupational Safety and Health Administration, the Food and Drug Administration, the Department of Transportation, and the Bureau of the Census.

Timetable

Final Rule—August 1981.
Final Rule Effective—30 days following publication of the final rule.
Regulatory Flexibility Analysis—Not required.

Available Documents

Public comments.

NPRM for Premanufacture Notification Requirements and Review Procedures—44 FR 2242, January 10, 1979 (Docket Number OTS 050002).

Discussion of Premanufacture Testing Policy and Technical Issues—44 FR 16240, March 16, 1979 (Docket Number OTS 050002).

Interim Policy Statement—44 FR 28558, May 15, 1979 (Docket Number OTS 050002).

NPRM for Proposed Processor Requirements, Premanufacture Review Program—45 FR 54642, August 15, 1980 (Docket Number OTS 050002). Proposed Economic Impact and Draft Regulatory Analysis—45 FR 74945, November 13, 1980.

Extension of Comment Period—45 FR 81615, December 11, 1980.

These documents are available from the Agency Contact listed below.

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EPA—OPTS

Rules Restricting the Commercial and Industrial Use of Asbestos Fibers (40 CFR Part 763)

Legal Authority

Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 and 2605.

Reason for Including This Entry

The Environmental Protection Agency (EPA) has included this action because of its potential economic impact on the asbestos industry. The economic cost of the rule may exceed $100 million. We may prohibit a large portion of the domestic production and importation of asbestos-containing products into the United States.

Statement of Problem

Epidemiological studies have established that exposure to asbestos fibers can contribute to increased risk of lung damage (asbestosis) and human cancer of several kinds.

EPA is concerned that in spite of past governmental regulation of asbestos, millions of Americans may be exposed to levels of asbestos that significantly increase the risk of contracting asbestos-related diseases. (Past regulations are cited below under Related Regulations and Actions.) Currently, more than 2 million workers are exposed to asbestos fibers (at levels higher than background) in their places of employment. In addition, the 159 million Americans who live in urban areas may be exposed to asbestos fiber levels that significantly increase the risk of contracting asbestos-related diseases. EPA is concerned that asbestos fiber emissions from the mining, milling, processing, or distribution of asbestos or from the use, misuse, or disposal of asbestos-containing products might cause significant pollution of urban air.

It is difficult to estimate the number of people who will contract asbestos-related diseases at current exposure levels. Data on mortality rates are available for workers who are exposed to asbestos fiber levels considerably higher than general population exposures. EPA will extrapolate to predict risks for the general population.

EPA is conducting this regulatory program because the Agency is not convinced that existing regulations have adequately protected the public. These regulations have focused on limited aspects of the asbestos exposure problem, such as worker exposures, air emissions from manufacturing facilities,

and some consumer products. Regulation under the Toxic Substances Control Act (TSCA) would eliminate unreasonable human health risks from all asbestos-related activities. The comprehensive mandate of TSCA enables EPA to reduce health risks from sources that are difficult to control through medium-specific or source-specific regulation authorized under other Federal authorities. Under TSCA, EPA is currently investigating the cumulative effects of exposure to asbestos throughout its life cycle in commercial and industrial products from mining and milling through processing, product manufacturing, use, and disposal. Our preliminary studies indicate substantial continuing exposure of millions of people to the ever-growing inventory of asbestos sources. As a result of this study, the Agency expects to promulgate rules to prevent and reduce any unreasonable risks that are identified.

Alternatives Under Consideration

EPA is considering the following alternative actions: (A) prohibiting the manufacture, processing, distribution in commerce, and importation of asbestos for all nonessential asbestos uses; (B) instituting a quota system restricting the quantity of fibers that could be mined and imported, or processed annually in the United States, thus allowing the marketplace to determine which products and uses to eliminate; (C) developing other marketplace regulatory strategies; (D) requiring labeling of asbestos-containing products; (E) regulating under laws other than TSCA; and (F) taking no regulatory action.

EPA choice of a regulatory program will depend on the seriousness of the risks and the identification of the major sources of exposure. EPA suspects that much of the asbestos to which the public is exposed comes form emissions caused by mining, milling, and processing asbestos fibers; emissions resulting from the use of asbestos-containing products may not be as significant. In that case, EPA would want to reduce risks from mining, milling, and processing as much as possible (Alternative A). A disadvantage of Alternative A would be that both the affected industry and EPA would be involved in extensive exemption proceedings.

At this time it is not clear that the economic impact of a quota approach (Alternative B) would be any less than Alternative A. The major advantage of Alternative B over Alternative A is that the marketplace would decide which uses of asbestos should continue.

Alternative C involves developing other marketplace strategies, such as emission fees for asbestos release, performance bonding, and a bubble policy where a plant's total asbestos release would be limited. A disadvantage of both Alternatives B and C is that since they have never been attempted before, the implementation problems are unknown. Also, there would be no guarantee of eliminating products that present a particularly high health risk. For example, if a product with fibers that are easily released commands a relatively high price, it might remain in the marketplace much longer than if it were regulated specifically. However, if necessary, a market strategy could be modified to eliminate this problem.

EPA is considering imposing a labeling requirement (Alternative D) either in addition to or in lieu of other requirements. A labeling rule would have considerably less economic impact than Alternatives A, B, or C, and it would also provides less direct protection to public health. Alternative D, if implemented alone, would increase awareness of the hazards of asbestos and would increase recognition of products that can cause these health risks. However, it would not force any reduction in exposure to asbestos fibers. EPA is considering either regulating under other Federal laws adminstered by EPA or not regulating in deference to other Federal agencies (Alternative E). Several comments on the ANPRM (44 FR 60056, October 17, 1979) indicated that industry does not consider TSCA to be appropriate authority for regulating asbestos and that further Federal regulation, if needed, should be implemented under other laws, particularly the Occupational Safety and Health Act (OSH Act). Although the Occupational Safety and Health Administration (OSHA) has announced its intention to lower its workplace standard to 0.1 fiber per cubic centimeter, OSHA lacks the legislative mandate to address the problem of asbestos exposure outside of the workplace. EPA action to restrict production and importation of products containing asbestos may be necessary to complement the OSHA workplace standard for airborne asbestos.

Any action by the Consumer Product Safety Commission (CPSC) would not affect production of industrial asbestos-containing products, and these production processes may cause significant fiber emissions.

A combination of EPA actions under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, and other laws might significantly reduce asbestos-related risks. However, the EPA Administrator might find that it is in the public's interest to regulate under TSCA because the limited mandate of these other laws results in continued risk from asbestos.

Alternative F, taking no regulatory action, would benefit the asbestos industry since it would incur no costs. However, there would also be no reduction in the exposure to asbestos in the United States.

Summary of Benefits

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturing); the general public; and establishments that manufacture asbestos substitutes.

At this early stage of development of EPA's rule, it is difficult to estimate benefits in quantitative terms. Regulation will decrease the incidence of asbestosis and lung cancer in the United States, thereby decreasing the number of worker-days lost due to worker sickness, increasing space available in hospitals, and decreasing costs due to illness and premature death.

EPA regulation of asbestos should increase demand for substitutes such as fiberglass, ceramic fibers, polyvinylchloride, and ductile iron pipe. Therefore, manufacturers and distributors of substitutes should benefit from regulation.

Summary of Costs

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturers) and their suppliers; importers of asbestos and asbestos products; and users of asbestos products.

Because EPA has not completed its analysis of economic effects, cost estimates are not available.

Although costs to industry clearly depend on the option chosen, and that has not been determined at this time, costs may exceed $100 million annually. Asbestos mines and asbestos processors may be forced to reduce production, and many processors may be forced out of the asbestos business. EPA plans to regulate in a manner that will allow asbestos processors time to convert to substitutes. Small businesses may seek aid from the Small Business Administration to obtain capital to convert. It is too early to predict the effect of regulation on employment. EPA hopes that jobs lost from the asbestos

industry will be offset by jobs gained in the substitutes industries. Substitute products generally cost more than asbestos-containing products, and these costs will be passed on to consumers.

Related Regulations and Actions

Internal: EPA has established National Emission Standards for Hazardous Air Pollutants for several asbestos sources under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* EPA is developing effluent guidelines regulating wastewater discharges of asbestos under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, as amended in 1972 and 1977. It is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. § 3006 *et seq.*

The Agency is developing a rule to require surveys to determine whether asbestos hazards are present in public schools because of deteriorating insulation. EPA is also considering requiring appropriate corrective measures where it finds hazards (see 44 FR 54676, September 20, 1979). Other existing asbestos sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships where asbestos is widely used as insulation.

EPA regulations directed specifically to asbestos are found in 40 CFR Part 61 (air) and Parts 129 and 427 (water).

External: EPA and CPSC both published ANPRMs on October 17, 1979 in the **Federal Register** (44 FR 60053). These ANPRMs were prefaced by a Joint Statement of Cooperation signed by the EPA Administrator and the CPSC Chairman. The statement indicated how the two agencies will cooperate and direct their regulatory efforts to minimize reporting requirements and other burdens on industry, and to improve overall public health. EPA is planning to promulgate a rule under § 8(a) of TSCA to require manufacturers and processors of asbestos fibers to submit economic and exposure information. EPA has proposed a rule under § 8(d) of TSCA requiring industry to submit unpublished health and safety studies relating to asbestos. CPSC is planning to issue a general order requiring manufacturers and private labelers of some categories of consumer products to submit information on the use of asbestos in those products. CPSC will not require the submission of information already submitted to EPA.

OSHA plans to lower its workplace standard for asbestos exposure (8-hour time-weighted average) from 2 f/cc (fibers per cubic centimeter) to 0.1 f/cc. This action is in response to a recommendation in April 1980 by the joint National Institute for Occupational Safety and Health (NIOSH)–OSHA Asbestos Work Group that "a new occupational standard be promulgated which is designed to eliminate nonessential asbestos exposures, and which requires the substitution of less hazardous and suitable alternatives where they exist."

Asbestos regulations promulgated in the past by other agencies are as follows:

CPSC—16 CFR Parts 1145, 1304, and 1305; OSHA—29 CFR Part 1910; FDA—21 CFR Parts 121, 128, 133, and 191; DOT—49 CFR Parts 170–189; MSHA—30 CFR Parts 55, 57, and 71.

Active Government Collaboration

To maximize the effectiveness of this proposed rule, EPA is coordinating either directly or through the Interagency Regulatory Liaison Group (IRLG) with the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), the Mine Safety and Health Administration (MSHA), and the Department of Transportation (DOT).

In July 1980, EPA and the Consumer Product Safety Commission cooperated in sponsoring and organizing a 3-day workshop on substitutes for various uses of asbestos in commercial and industrial products. About 500 persons attended the workshop, which was designed to increase industry's awareness of substitutes for asbestos and to expand EPA's and CPSC's data base. EPA was the lead agency in coordinating the workshop.

Timetable

NPRM—Spring 1982.
Regulatory Impact Analysis—Draft Regulatory Impact Analysis, spring 1982; final version, spring 1983.
Public Hearing—Summer 1982, Washington, DC.
Public Comment Period—Spring 1982.
Final Rule—Spring 1983.
Final Rule Effective—Summer 1983.
Regulatory Flexibility Analysis—To be determined.

Available Documents

ANPRM for Asbestos-Containing Materials in School Buildings—44 FR 54676, September 20, 1979.

ANPRM for Commercial and Industrial Use of Asbestos Fibers—44 FR 60056, October 17, 1979.

Comment period extended—44 FR 73127, December 17, 1979.

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EPA—OPTS

Toxic Substances Control Act (TSCA) Section 4 Test Rules (40 CFR Part 773)

Legal Authority

Toxic Substances Control Act, §§ 4 and 26, 15 U.S.C. §§ 2603 and 2625.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks these rules are important because we need data to assess the risk of injury to human health and the environment caused by exposure to chemicals in commercial production and use.

Statement of Problem

Section 4 of the Toxic Substances Control Act (TSCA) gives the Environmental Protection Agency the authority to require that manufacturers and/or processors of chemicals test these chemicals for possible adverse effects on human health or the environment. To implement § 4, we are in the process of developing, proposing, and promulgating test standards and test rules. A test standard is a description of the scientific methodology and analysis to be used in testing for an effect. A test rule is a regulation requiring manufacturers and processors of specific chemicals to test these substances for certain effects according to appropriate test standards. The Agency established a reasonable timetable in which industry must complete the development of the test data.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to make recommendations to the EPA Administrator, in the form of a list, regarding chemical substances that should receive priority consideration in the Agency's development of test rules. For the most part, chemicals to be included in test rules come from the semiannual recommendations made by the ITC. The Committee's eight members represent the Council on Environmental Quality, the Department of Commerce, the Environmental Protection Agency, the National Science Foundation, the National Institute of Environmental Health Sciences, the National Institute

for Occupational Safety and Health, the National Cancer Institute, and the Occupational Safety and Health Administration (OSHA).

In its Initial Report (42 FR 55026, October 12, 1977), The ITC recommended that chloromethane be tested for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects and emphasized its concern about chloromethane's effects on the central nervous system, liver, kidney, bone marrow, and the cardiovascular system.

Monochlorobenzene and dichlorobenzene were also contained in the ITC's initial report. The ITC recommended the development of rules that would require industry to test these chlorinated benzenes for potential to cause cancer, gene mutation and chromosomal aberration, structural birth defects, other chronic effects, and environmental effects and also recommended requiring an epidemiological study. The ITC's third report (43 FR 50830, October 30, 1978) added the higher chlorinated benzenes, (tri-, tetra-, and penta-) to the priority list and recommended testing requirements for the same effects. To date, the ITC has completed reports designating 43 chemicals and groups of chemicals as priority for EPA test rule development.

On July 18, 1980, EPA proposed that chloromethane be tested for its potential to cause cancer and structural birth defects, and that chlorinated benzenes be tested for their potential to cause cancer, birth defects, reproductive effects and organ-specific effects (45 FR 48524). Approximately 300 million to 500 million pounds of chloromethane are manufactured annually in the United States. Almost all chloromethane is used as a chemical intermediate in the manufacture of materials such as silicones and tetramethyl lead. Because of chloromethane's almost exclusive use in chemical and allied product manufacture and processing, the greatest potential for human exposure during its life cycle occurs for workers engaged in the manufacture, processing, and use of the chemical.

The annual domestic production volume of chlorinated benzenes ranges from over 1 million pounds of pentachlorobenzene to 325 million pounds of monochlorobenzene. Exposure to the liquid chlorobenzenes is due to their use as a functional fluid in transformers, process solvents, solvents in formulated products, and synthetic intermediates, while exposure to the solid forms results from their use as synthetic intermediates and pesticides. Workers are exposed to chlorinated benzenes during manufacture, processing, and use; consumers are exposed to certain chlorobenzenes in the use of formulated products such as toilet bowl cleaners, drain cleaners, space deodorants, and moth control agents; and the general population may be exposed from environmental concentrations resulting from manufacture, processing, use, and disposal of the substances.

Simultaneously, with the publication of this first proposed test rule, we published a proposed Statement of Exemption Policy and Procedure relating to the granting of exemptions from § 4 testing (45 FR 45812). EPA's exemption policy will implement § 4(c) of TSCA, which provides that manufacturers and processors can be exempted from the testing requirements of § 4 if EPA finds that the chemical they manufacture or process is equivalent to a chemical already being tested and that testing of both chemicals would produce data that are duplicative. EPA proposed that in most cases the Agency will consider one test substance to be representative of all forms of the substance subject to the test rule.

We also announced on July 18, 1980 our tentative decision not to require health effects testing for acrylamide, a compound suspected of entering surface water and ground water through its use as a chemical grout, a wastewater treatment chemical, and other industrial applications (45 FR 48510). This decision was made on the judgment that exposure to acrylamide could be controlled on the basis of its neurotoxicity and Agency resources could best be used on more pressing testing needs. Final rulemaking on these actions is scheduled for November 1981.

We plan to propose our second test rule in May 1981. This rule would propose testing of dichloromethane (DCM), 1,1,1-trichloroethane (TCE), and nitrobenzene for both health and environmental effects. In its Initial Report, the Interagency Testing Committee recommended that nitrobenzene be tested for its potential to cause cancer, genetic damage, and environmental effects. In its Second Report, the ITC recommended that DCM and TCE be tested for their potential to cause cancer, genetic damage, birth defects, chronic toxicity, and environmental effects and that epidemiology studies be performed.

EPA's third § 4 test rule is scheduled for proposal in December 1981. We plan to include alkyl phthalates, antimony, antimony sulfide, and antimony trioxide and the chloroparaffins in this proposal. The ITC recommended the alkyl phthalates and chloroparaffins for testing in its Initial Report and antimony, antimony sulfide, and antimony trioxide in its Fourth Report. Alkyl phthalates were recommended for environmental effects testing; the chloroparaffins, for potential to cause cancer, genetic damage, birth defects, chronic toxicity, and environmental effects. The ITC recommended testing antimony and its oxide and sulfide for potential to cause cancer, genetic damage, birth defects, chronic toxicity, and environmental effects and that epidemiology studies be performed.

We also plan to publish a notice stating our reasons for not requiring testing on the benzidine dyes, o-dianisidine dyes, o-tolidine dyes, polychlorinated terphenyls, and chlorinated napthalenes. These chemicals were recommended for testing by the ITC in its Fourth and Fifth Reports. The notice of our decision not to require testing is scheduled for July 1981.

Other test rules covering the remainder of the 43 ITC-designated priority chemicals will follow.

Alternatives Under Consideration

The alternatives available to us are quite limited. Under TSCA, if EPA finds that (1) a chemical may present an unreasonable risk of injury to human health or the environment or a chemical may enter the environment in substantial quantities or result in significant human exposure, and (2) there are insufficient data or experience to characterize its effects on health or the environment, and (3) testing is necessary to develop such data, we must require industry to conduct testing and there is no alternative to issuing a test rule. However, we will encourage industry to begin testing of a chemical before a test rule is proposed. If such testing is satisfactory, it could obviate the need for a test rule.

Another alternative is to conduct testing in govenmental facilities or under contract to the Government. We may take this approach where it would be inappropriate or infeasible to require testing by the chemical industry, such as when testing is of high priority but cannot be funded by the manufacturers and processors of the chemical or when no test standard exists and EPA's sponsorship of testing would aid the development of the test standard. Heavy reliance on this approach would be in direct conflict with TSCA, which states that the development of data on health and environmental effects "should be the responsibility of those who manufacture and those who process chemical substances and mixtures."

EPA also considered an alternative approach to the reporting deadlines. This approach would have established dates only for the beginning of the testing period rather than dates for reporting during and at the end of the testing period. This alternative was rejected because § 4(b)(1)(C) of TSCA requires EPA to specify the time period within which persons subject to a test rule must submit test data. In addition, EPA believes that it is not necessary to consider size or production capacity of the manufacturers or processors subject to the rule when establishing reporting deadlines because this is not specifically required in the Act, because it is difficult to predict exactly who will bear the testing responsibility, and because EPA expects manufacturers and processors to coordinate their testing efforts.

Summary of Benefits

Sectors Affected: Workers in establishments manufacturing industrial chemicals and products produced with these chemicals, and workers otherwise exposed to these chemicals; consumers of formulated products containing the chemicals; the environment; the general public; EPA; OSHA; and State and local governments.

The data generated from the testing required by this rule would permit EPA to assess the risk to humans and the environment of manufacturing, processing, distribution in commerce, use, and disposal of chemicals subject to a test rule. If the Agency finds this risk to be unreasonable, it may take action to reduce human exposure under one of its authorities or recommend regulation by another agency, such as OSHA.

The testing required by these rules could potentially benefit individuals who may be exposed to these chemicals. In the case of the first rule, this would include potentially 50,000 workers who may be exposed to chloromethane and potentially 3 to 4 million workers who may be exposed to the chlorinated benzenes. In addition, consumers exposed to products containing the chlorinated benzenes and the general population exposed to any of these chemical via dissemination throughout the environment may also derive benefits from the test rule on these chemicals. The benefits from future regulations which are based on data obtained through test rules would include reduced illnesses among workers, consumers, or the general population; this would potentially result in reductions of absenteeism at work, higher productivity levels, and savings of health costs.

The data generated by this test rule will also result in benefits to Federal agencies such as EPA and OSHA and State and local governments. These data will serve to alert government agencies to potential risk from these chemicals and will also obviate the need for these agencies to expend resources to search for data on these chemicals when assessing their risks.

Summary of Costs

Sectors Affected: Manufacturing and processing of designated chemicals, including some manufacturers and processors of industrial solvents, dyes, organic intermediates, pesticides, and solvent-carrying chemicals; and processors of some silicone products, chlorinated hydrocarbons, butyl rubber products, herbicides, and lubricating greases and oils; and consumers of products produced with these chemicals.

EPA estimates the annualized costs of complying with the first proposed rule to be $144,000 to $287,000 (1979 dollars) for manufacturers and processors of chloromethane and $371,000 to $1,016,000 for manufacturers and processors of the chlorinated benzenes. These costs might conceivably be passed on to processors of these chemicals who have not contributed money towards the cost of testing through reimbursement procedures (i.e., manufacturers using these chemicals in their manufacturing processes), or to consumers of products produced with these chemicals.

In general, for future rules, EPA expects that manufacturers will bear the costs of testing directly, but that processors will pay for testing indirectly through small increases in the price of chemicals. For instance, price increases on dichloromethane, 1,1,1-trichloroethane, and nitrobenzene, chemicals in EPA's second rule, are predicted to be less than 0.1¢ per pound.

Related Regulations and Actions

Internal: We proposed health effects test standards for various effects on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) and standards for Good Laboratory Practices for Health Effects on May 9, 1979 (44 FR 27362). We also proposed environmental fate test standards and Good Laboratory Practices for Environmental Effects testing on November 21, 1980 (45 FR 77332).

EPA will publish final health effects standards later this year. EPA also plans to propose standards for various ecological toxicology tests and standards for additional environmental fate later this year.

We also published a proposed rule under TSCA § 8(d) that would require persons to submit all unpublished health and safety studies concerning all chemicals recommended for testing by the Interagency Testing Committee (44 FR 77470, December 31, 1979).

External: The EPA has been a full and regular partner in extensive international consultations and negotiations in the Organization for Economic Cooperation and Development (OECD) during the development of its chemical testing and other requirements under TSCA. The Agency places a high priority on these activities because of benefits both for international chemical trade and for more effective health and environmental protection.

U.S. experts, along with those of other OECD member states, have worked since 1977 to develop agreed chemical testing guidelines and good laboratory practices, as well as an agreed set of data that should be developed for new chemicals prior to marketing. The United States strongly endorsed the work of the expert groups at a meeting of high level national regulatory officials in May 1980 and firmly committed the United States to domestic implementation of the guidelines and practices.

Active Government Collaboration

Other Federal agencies that have been or will be consulted include the Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, National Cancer Institute, and National Institute of Environmental Health Sciences.

Timetable

Proposed Test Rule for Dichloromethane; 1,1,1-Trichloromethane, and Nitrobenzene—May 1981.

Explanation of Decision Not to Test Benzidine dyes, o-Dianisidine dyes, o-Tolidine dyes, Polychlorinated terphenyls, and Chlorinated naphthalenes—July 1981.

Final Test Rule on Chloromethane and Chlorinated benzenes or Decisions Not to Require Testing—November 1981.

Explanation of Decision Not to Test Acrylamide—November 1981.

Proposed Test Rule or Decision Not to Require Testing for Antimony, Antimony sulfide, Antimony trioxide, Alkyl phthalates, and Chloroparaffins—December 1981.

Regulatory Impact Analysis—Not required. Economic Impact Analysis

and Regulatory Flexibility Analysis for all test rules available at proposal.

Available Documents

Chloromethane and Chlorinated Benzenes Proposed Test Rule, Proposed Health Effects Standards Amended, 45 FR 48524, July 18, 1980.

Acrylamide: Response to the Interagency Testing Committee, 45 FR 48510, July 18, 1980.

Exemptions from Test Rules: Proposed Statement of Policy and Procedures, 45 FR 48512, July 18, 1980.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules: Proposed Good Laboratory Practice Standards for Health Effects, 44 FR 44054, July 26, 1979.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules, 44 FR 27334, May 9, 1979.

The Interagency Testing Committee established under TSCA has issued six reports making recommendations on chemicals to be covered by TSCA testing rules:

First Report—42 FR 55026, October 12, 1977.
Second Report—43 FR 16884, April 19, 1978. OTS Docket 040004.
Third Report—43 FR 50630, October 30, 1978. OTS Docket 04005.
Fourth Report—44 FR 31886, June 1, 1979. OTS Docket 41001.
Fifth Report—44 FR 70664, December 7, 1979. OTS Docket 41001.
Sixth Report—45 FR 35897, May 28, 1980. OPTS Docket 41002A.
Seventh Rule—46 FR 12317, November 25, 1980.

Public comments on the first test rule received during the comment period, which ended October 31, 1980, are available for inspection in the OPTS Reading Room (Room 407 East Tower, 401 M Street, S.W., Washington, DC 20460) between the hours of 8:00 a.m. and 4:00 p.m. on working days.

Transcripts of public meetings held on October 15, October 21, October 24, October 30, and October 31, 1980, are also available for inspection in the OPTS Reading Room.

The following Proposed Support Documents are also available in the OPTS Reading Room: 1) Chloromethane Support Document, 2) Chlorinated Benzenes Support Document, 3) Exposure Support Document, and 4) Economic Analysis Support Document.

Agency Contact

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EPA—Office of Water and Waste Management

Control of Organic Chemicals in Drinking Water (40 CFR Part 141)

Legal Authority

The Safe Drinking Water Act, as amended, § 412, 42 U.S.C. § 300(f) *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) includes this regulation because it could impose compliance costs of over $100 million.

Statement of Problem

Recent technological developments in sophisticated analytical measurement techniques have resulted in the identification of numerous organic contaminants in drinking water, particularly in some ground water supplies that have been contaminated by improper waste disposal practices, that may pose a health risk to consumers. For example, choloroform, a suspected human carcinogen, is only one of many synthetic organic chemicals known to be present in drinking water. Chloroform is representative of a class of chemicals known as trihalomethanes (THMs), whose presence in drinking water were controlled by rules finalized at 44 FR 68624 on November 29, 1979. Future measures to control organic chemicals in drinking water are proceeding through an approach involving control of volatile organics in drinking water, which we will describe in an ANPRM in June 1981.

The ANPRM will set forth current considerations in the development of maximum contaminant levels (MCLs) for certain volatile organic chemicals in the Revised Primary Drinking Water Regulations, which EPA is developing to apply to all public water systems in the United States. At this time, contamination of drinking water by volatile organics has most often been found in ground waters in urbanized and industrial areas. The levels of occurence, coupled with the suspected carcinogenicity and toxicity of several identified compounds, appear to support the setting of MCLs for some of the following compounds:

- Trichloroethylene
- Carbon tetrachloride
- Tetrachloroethylene
- 1,2-Dichloroethane
- 1,1,1-Trichloroethane
- cis-1,2-Dichloroethylene
- trans-1, 2-Dichloroethylene
- 1, 1-Dichloroethylene
- Methylene chloride
- Vinyl chloride
- Benzene
- Chlorobenzene
- Dichlorobenzene
- Trichlorobenzene

If EPA takes no action with regard to the above chemicals, a possible health risk to the public will continue to exist and the overall quality of drinking water will be suspect in those ground water areas. As a class, most of these chemicals are suspected carcinogens based upon animal tests while certain of them are considered mutagens and/or teratogens.

Alternatives Under Consideration

Specific options are being developed and alternatives will be separately evaluated for each contaminant. MCLs will be proposed only after careful evaluation of the best available evidence in the areas of epidemiology, toxicology, analytical methods, quality assurance, monitoring requirements, feasibility, and efficiency of competing treatment methods and economic impacts.

Summary of Benefits

Sectors Affected: The general public in locations with contaminated ground water supplies; municipally and privately owned public water supply systems; and consulting sanitary engineers, analytical chemists, and equipment manufacturers and suppliers.

In general, these MCLs will have their greatest impact on small water supply systems which currently employ little or no treatment. Of a total of 61,500 public water systems, approximately 45,000 use ground water exclusively as their source of supply. The vast majority of these systems are considered small water systems serving fewer than 10,000 people. Preliminary data suggest that 1 to 5 percent of these supplies may have contaminated sources of water and thereby be impacted by these regulations. The public served by such systems will, in particular, realize the benefits of this proposal. Consulting sanitary engineers, analytical chemists, and suppliers and manufacturers of anti-pollution equipment will benefit from increased business.

It is impossible at this time to assign direct monetary values to the benefits to be realized under this proposal. Such benefits include a lessening of public exposure to toxic substances including carcinogens in drinking water and a

consequential safeguarding of public health.

Summary of Costs

Sectors Affected: The general public, State and local governments, and public water systems (both privately and publicly owned).

The public in general will be the principal group affected by this proposal, since the users will undoubtedly bear the costs of any necessary modifications to their water supply systems. This will particularly be true of small water supply systems that currently employ little or no treatment. Impact upon State and local governments will be in the administrative aspects of implementing the regulation.

No estimates of the economic impact are available at this time.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contaminants of water are directly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, Water Quality Criteria, Hazardous Waste Disposal Controls, and Underground Injection Control.

External: State programs would be expected to deal with decisions on variances and exemptions from the regulations and to provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of any regulations requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Product Safety Commission, and Food and Drug Administration. In addition, the National Academy of Sciences and the National Drinking Water Advisory Council will be consulted during the development of MCLs.

Timetable

ANPRM—June 1981.
Public Technical Seminar (to be announced)—Summer 1981.
NPRM—Late fall 1981.
Final Rule—Fall 1982.
Public Hearings—To be determined.
Public Comment Period—Will be 90 days following ANPRM publication.
Regulatory Impact Analysis—To be determined.
Regulatory Flexibility Analysis—To be determined.

Available Documents

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.

"National Organics Monitoring Survey," EPA, Office of Drinking Water.

"Interim Treatment Guide for Controlling Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, January 1978.

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EPA—OWWM

Hazardous Waste Regulations: Phase II-C Regulations Applicable to Hazardous Waste Disposal Facilities (40 CFR Parts 260, 264, and 122*)

Legal Authority

Resource Conservation and Recovery Act of 1976 (RCRA), as amended, §§ 3004 and 3005, 42 U.S.C. §§ 6924 and 6925.

Reason for Including This Entry

These regulations are important because they initiate, for the first time on a national level, management of the disposal on land of hazardous waste. The Environmental Protection Agency (EPA) includes them in the **Calendar** to inform the general public of EPA's continuing actions to implement a comprehensive national program to manage hazardous wastes from generation through transportation, storage, and treatment to final disposal. In addition, this qualifies as a "major rule" in accordance with Executive Order 12291. EPA projects that associated costs to industries that generate waste could be $100 million or more per year.

Statement of Problem

Because of the enormity and complexity of the regulatory task, EPA elected to issue its hazardous waste regulations in phases. The Phase I regulations became effective November 19, 1980. These regulations identify hazardous wastes; establish standards for generators and transporters of hazardous wastes; govern the issuance of facility permits by EPA and the States and authorization of States to implement a hazardous waste program; and set both interim status standards for existing treatment, storage, and treatment facilities and administrative non-technical standards for use in issuing permits.

The Phase II regulations providing the technical standards for use in issuing permits to hazardous waste management facilities (as well as companion requirements pertaining to permit applications) were partially promulgated on January 12, 1981 (46 FR 2802). That promulgation included additional general facility standards and standards for closure and postclosure and financial responsibility of facilities; permitting of storage of hazardous wastes in containers; permitting of storage and treatment in tanks, surface impoundments, and waste piles; and permitting of incinerators. Missing from the promulgation were standards for land disposal facilities—surface impoundments and waste piles in which hazardous wastes are disposed in lieu of or in addition to their storage or treatment; land treatment facilities; landfills; underground injection facilities; and underground seepage facilities. EPA is not ready to promulgate these land disposal standards (Phase II-C) and instead is reproposing them.

At least 27 million wet metric tons per year of hazardous wastes are currently sent to land disposal facilities where they are intended to remain forever. This prevailing method for disposal of hazardous waste presents two major problems: (1) the waste and its hazardous constituents may remain hazardous for a long period of time and in some cases forever, and (2) the waste or its constituents and byproducts may migrate from the confines of the land disposal facility into the broader environment.

There are data and theoretical evidence that in most cases, hazardous constituents placed in land disposal facilities, even with the application of best available technology, will eventually migrate beyond the facility. Natural water from precipitation or groundwater, or liquids in the wastes, will inevitably infiltrate the land disposal facility and generate leachate which, in turn, leaks out into the underlying soils and groundwater. Watertight containment systems (impermeable liner and cover) and leachate collection systems to interrupt migration are limited in the length of time they can operate effectively. However, many hazardous wastes placed in hazardous waste facilities, such as toxic heavy metals or organic constituents, do not degrade or will do so only very slowly, or leave toxic

degradation products, thereby remaining a potential hazard to human health and the environment for 100 years or more. Currently, EPA does not know the degradation periods for most hazardous wastes, but they exceed the lifetimes of most containment and collection systems.

Long-term migration of hazardous wastes into the broader environment beyond the land disposal facility is not only due to leachate; migration of volatile constituents into the atmosphere is possible in many cases. In the Love Canal area in New York, for example, volatile carcinogens migrated into the basements of homes. Toxic or explosive gases from degradation of organic wastes, or untreated ignitable or reactive wastes can present long-term fire or explosion threats to facilities.

Finally, hazardous wastes remaining in or on the land can pose a direct health problem in the event that future land uses or activities serve to expose the public to them, such as also occurred at Love Canal when the former dumpsite area was converted into public school grounds.

EPA believes that the problem of eventual leachate and volatiles generation and migration, and the technical and institutional limits on preventing or perpetually controlling such occurrences, should be dealt with in the development of land disposal standards. EPA is not confident that the originally proposed standards assure sufficiently secure land disposal facilities to protect human health or the environment. The reproposed standards offer another approach for public review.

Alternatives Under Consideration

Drafting standards for landfills, surface impoundments, land treatment facilities, and underground injection wells is the most difficult task EPA faces in developing its hazardous waste management regulatory program. The Agency first proposed standards for permitting land disposal facilities on December 18, 1978 (43 FR 58982). EPA received hundreds of comments on these standards, which were basically design and operating standards, criticizing them for their reliance on design criteria and their lack of flexibility. In response, EPA examined several other regulatory approaches and decided to develop revised regulations combining features of four approaches: (A) facility design and operating standards, (B) containment standards, (C) specific (numerical) health and environmental performance standards, and (D) non-specific (non-numerical) health and environmental performance standards.

(A) A major advantage of detailed requirements for liners, leachate collection systems, and final covers, such as design and operating standards contain, is that the regulated community and regulating agencies clearly know land disposal facility requirements. The drawbacks are their inability to reflect site-specific or waste-specific conditions, their tendency to inhibit application of emerging technology or improved operating procedures, and the finiteness of the time period for which they guarantee protection to human health and the environment.

(B) Containment standards EPA considered specified some amount of time, e.g., 100 years, that hazardous wastes had to be contained within the land disposal facility. Although similar in effect to design and operating standards, this approach differs in that it specifies the ultimate performances that land disposal methods will achieve. Thus, the permit applicant would have the flexibility of tailoring the design and operating methods of the facility to its waste or site conditions. Because this approach also will not provide protection beyond a set containment period, EPA is not reproposing such standards.

(C) Specific health and environmental performance standards involve establishing specific, often numerical, ambient quality standards which could not be exceeded for ground and surface waters and eventually for air and soils. Such standards would apply at points of current or potential use of the environment, such as points of groundwater withdrawal. This approach allows the permit applicant wide flexibility in designing and operating a land disposal facility. The application of this type of standard would require a considerable amount of site study and prediction by the permit applicant to demonstrate that migration of hazardous wastes beyond the facility would never cause the established ambient standards to be exceeded. Ambient quality standards have not, however, been established for most of the constituents or wastes EPA has designated as hazardous. Consequently, exclusive use of this approach is not currently possible.

(D) Non-specific health and environmental performance standards establish (1) the type of assessments and predictions to be performed by a permit applicant to show the environmental effect of the land disposal facility's operation, and (2) the broad environmental objectives to be used by the agencies issuing permits to judge the acceptability of the facility's effects. The broad narrative environmental objectives substitute for ambient quality levels contained in specific standards as the basis for judging whether or not the future health and environmental effects can be accepted.

EPA's newest proposed standards for land disposal facilities are drawn primarily from alternatives C and D, above, supplemented with certain design and operating standards where EPA concludes these can be fashioned. The newest proposal provides for full consideration of the serious implications that land disposal facilities might have for the long-term public health and welfare.

The practical result of EPA's reproposal is to postpone issuance of final standards until at least 1982, which means no land disposal facilities could be issued permits to operate until mid-1982. Such a long delay in beginning the permit program would slow down the upgrading of existing facilities. This is a concern because most of the existing land disposal facilities are capable of presenting potential hazards. To address this need, EPA is considering employing an interim permit process based on a combination of design and operating standards and containment-type performance standards that are quite specific and can be readily applied to facilities. The purpose of these would be to require full containment for a finite period, such as 50 years, to assure environmental protection and allow remedial measures to be taken, during the period preceding the issuance (or denial) of a full Resource Conservation and Recovery Act (RCRA) permit to an existing land disposal facility.

The delay in promulgation of final land disposal regulations also creates a serious problem for new facilities, since RCRA prohibits a new facility from commencing operations until a full RCRA permit is issued. There are strong reasons of public policy why permitting of new hazardous waste land disposal facilities should begin as soon as possible: to reduce pressures for improper disposal, provide a reserve of disposal capacity to make it easier to upgrade or close down inadequate existing facilities, and to assure new investment in energy and other productive facilities is not delayed because a national hazardous waste control program is not fully in place. Consequently, EPA promulgated temporary standards (46 FR 12414, February 13, 1981) for new hazardous waste land disposal facilities. These will be replaced by the more detailed standards of the reproposal. These

interim regulations for new facilities allow their permitting, as of August 13, 1981, on much more general performance standards than are featured in the reproposal.

Summary of Benefits

Sectors Affected: The general public; all industries generating hazardous wastes, especially manufacturing; and the hazardous waste management industry.

EPA deems it necessary to take additional time to develop appropriate final land disposal standards in order to avoid erring in promulgating standards with adverse long-term public health and environmental consequences. As entries in previous **Calendars** indicated, these regulations will contribute to a framework for control of wastes which would otherwise contaminate ground and surface waters, poison humans and animals, and cause air pollution, fires, and explosions. These regulations, when final, will reduce the incidence of health and environmental damages in the vicinity of land disposal sites and save hundreds of millions of dollars in clean-up, emergency response, and damages costs. Improved regulatory controls over land disposal may also help reduce opposition to the siting of land disposal facilities at environmentally secure locations.

Advancements in the state-of-the-art and technical capabilities will be encouraged by land disposal facilities' implementation of the reproposed facility requirements, as will the use of alternative methods of managing hazardous wastes, such as incineration, treatment, and recycling. In EPA's view, these are not undesirable results since land disposal generally remains the least desirable method of hazardous waste management in terms of long-term protection of human health and the environment.

However, EPA contends there are suitable sites, adequate facility designs and practices, and reliable operators for land disposal of hazardous wastes that cannot be handled by other management alternatives. The temporary standards applicable to new facilities will, EPA also believes, assure that secure commercial land disposal capacity will be available.

Summary of Costs

Sectors Affected: All industries generating hazardous waste, especially manufacturing; public and private waste management industry; consumers of goods produced by waste generating industries; and EPA and State governments.

At the time of the original proposal of the set of RCRA hazardous waste regulations, EPA estimated the annual costs of the § 3004 standards, to industries that generate and must dispose of waste, including the technical requirements for land disposal facilities, to be $570 million (in 1977 dollars). Two-hundred and sixty million dollars were attributed to building and operating waste management facilities in compliance with all portions of the technical § 3004 standards. EPA has not yet prepared the overall impact analysis for this revised rulemaking limited to land disposal. However, EPA plans to complete one and make it available for public review prior to promulgation of the final rule.

EPA realizes the assessments of long-term health and environmental impacts of individual land disposal facilities will require gathering considerable, detailed information and performing difficult and complex demonstrations. This will be difficult for facility operators and time-consuming for EPA and State permitting officials to review. The extensive information and demonstration requirements proposed may be sufficiently great to deter some land disposal facilities with limited resources or technical capabilities from seeking permits. This will probably reduce the number of such facilities, significantly limit the location of these facilities, and limit the types of wastes allowed to be accepted by these facilities. Clearly, the reproposed standards will create economic and feasibility constraints that will limit, but not preclude, land disposal practices and will increase costs both to waste generators and consumers of some products.

Related Regulations and Actions

Internal: Regulations constituting "Phase I" of EPA's phased hazardous waste regulatory program were issued on February 26, 1980 and May 19, 1980. Several proposed, final, and interim final amendments to these have been published on or since May 19, 1980. The Phase I regulations require generators to identify their hazardous wastes; transporters to meet specific requirements for off-site shipment of hazardous wastes; and owners and operators of existing treatment, storage, and disposal facilities to comply with administrative and interim status standards. The interim status standards continue to apply to land disposal facilities until final rules are promulgated.

EPA promulgated the non-land disposal portions of "Phase II" technical standards on January 12, 1981 (46 FR 2802) to enable EPA to begin processing permits for facilities that store hazardous wastes in containers, and treat or store in tanks, surface impoundments, or piles, and for treatment of hazardous wastes in incinerators, on January 23, 1981 (46 FR 7666).

External: In many cases, more stringent State standards, including standards for issuing State permits, will apply to existing land disposal facilities.

Active Government Collaboration

The Department of Interior, Soil Conservation Service, Water Resources Council, and U.S. Geological Survey cooperated with EPA during development of the proposed regulations.

Timetable

Regulatory Impact Analysis and Regulatory Flexibility Analysis—These analyses will be prepared and allow for public comment before promulgation of a final rule. EPA expressly invites the public to address the impacts of the reproposed rule on small entities and the specific elements of the regulatory approaches considered in their comments to EPA on the reproposal.

Public Hearings—June 8–9, 1981, Chicago, IL; June 11–12, 1981, Washington, DC; June 13–16, 1981, Houston, TX; June 18–19, 1981, San Francisco, CA. Details on participation in these hearings are available in 46 FR 20706.

Public Comment Period—Comments on the reproposal are due on or before August 3, 1981 (180 days after publication). Comments should be addressed to Deborah Villari, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Comments should be identified for the "Section 3004 Permitting Standards for Land Disposal Facilities" regulatory docket.

Final Rule—Early 1982.

Final Rule Effective—Six months after promulgation.

Available Documents

NPRM—43 FR 58946, December 18, 1978.

Supplemental Notice of Proposed Rulemaking—45 FR 66816, October 8, 1980.

Reproposal of Proposed Rule and Proposed Amendments to Rule—46 FR 11126, February 5, 1981.

Interim Final Rule and Request for Comments—46 FR 12414, February 13, 1981.

Draft Technical Resource Documents—Limited copies of the following are available from Ed Cox, Solid Waste Information, U.S. EPA, 20 West St. Clair Street, Cincinnati, OH 45268:

- Evaluating Cover Systems for Solid and Hazardous Waste (SW–867).
- Hydrologic Simulations on Solid Waste Disposal Sites (SW–868).
- Landfill and Surface Impoundment Performance Evaluation (SW–869).
- Lining of Waste Impoundment and Disposal Facilities (SW–870).

Background Documents—Copies of the following nine Background Documents, which include summaries and responses to public comments, are available for review in all EPA Regional Offices' and headquarters' libraries:

- Surface Impoundments
- Waste Piles
- Land Treatment
- Landfills
- Underground Injection and Underground Seepage
- Information Requirements for Permitting Discharges from Land Disposal Facilities
- Ground Water Protection Standard
- Groundwater and Air Emission Monitoring
- Performance Standards for Land Disposal Facilities

Copies of all of the above documents are also available for public review in the regulatory docket, "Section 3004 Permitting Standards for Land Disposal Facilities," Room 2711, U.S. EPA, 401 M Street, S.W., Washington, DC 20460.

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EPA—OWWM

Sewage Sludge Disposal Regulations (40 CFR Part 258)

Legal Authority

Clean Water Act, § 405(d), 33 U.S.C. § 1345

Reason for Including This Entry

Increasingly, sludge left as residue from wastewater treatment plants is being disposed of by landspreading, or is distributed and marketed as a fertilizer or soil conditioner. Therefore we feel it could be important to issue comprehensive guidance for the disposal and use of sludge.

Statement of Problem

The Environmental Protection Agency (EPA) estimates that approximately 8.6 million dry tons of municipal sewage sludge are generated annually from publicly owned treatment works (POTWs). Sewaqe sludge is a broad term for the solids removed from wastewater as it goes through a municipal treatment plant and is cleaned up for discharge. Sludge can be disposed of—or used—in a liquid form or it can be concentrated by dewatering processes. These can be mechanical, heat drying, or outdoor drying beds or lagoons. The end product can be a liquid, a thick slurry, a wet cake, a dry cake, a compost product, or a dried powder.

Sludge volume is expected to increase in the next 10 years due to an increase in the volume of sewage to be treated by POTWs. Currently, the major disposal methods for sewage sludge are landspreading (29 percent), landfilling (13 percent), thermal processing (23 percent), and ocean disposal (4 percent). Approximately 21 percent of POTW sludge, composted and in other forms, is distributed free or marketed. Composted sludge is produced by adding wood chips or other organic refuse to dewatered sludge to produce a humus-like material with soil-conditioning and nutrient value. When composted properly, this material is essentially odorless and pathogen-free.

Over the years, EPA has issued several regulations protecting single environmental media, such as air, water, or land, from degradation. In the area of sludge disposal, this sequential, rather than comprehensive approach, has often resulted in shifting the problem from one environmental medium to another (e.g., from the ocean to land). A comprehensive approach to sludge management will enable risk assessment to be conducted across all environmental media, rather than transferring risk from one medium to another.

Alternatives Under Consideration

EPA is considering a new approach to sludge regulation incorporating all standards affecting sewage sludge disposal into a comprehensive sludge management guideline. The most important beneficial result of this approach would be to encourage a complete environmental and economic assessment of management alternatives by the governments of the localities where sludge is generated and disposed. Other benefits will include an easier understanding of sludge disposal requirements by the public and better coordination of sludge management programs at the State and local levels.

Since complete issuance of comprehensive sewage sludge guidelines would take several years, EPA intends to develop a phased program. This allows the Agency both to address the various methods of sewage sludge disposal according to perceived priorities and to expand the scientific data base.

All land disposal of non-hazardous sludges, which includes landfilling, disposal in surface impoundments, and landspreading on food-chain crop land and non-food-chain land (food-chain crop land is used for growing crops for direct human consumption or for feeding animals whose products will be used for direct human consumption; non-food-chain land is that land used for other purposes and which does not contribute to the human food chain) is currently regulated by the requirements of the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 44 FR 53438, issued on September 13, 1979 (the Criteria). These regulations were issued by EPA under authority of the Resource Conservation and Recovery Act (RCRA), Subtitle D, and the Clean Water Act (CWA) § 405.

Summary of Benefits

Sectors Affected: Public and privately owned sewage treatment systems; State and local governments; manufacturers and distributors of fertilizers and soil conditioners derived from sludge; and the general public.

Benefits include aiding the State and local governments in the selection of the most effective sludge management approach for their individual situations, promoting better coordination of sludge management programs among jurisdictions within a regional area (such as would be needed for the Potomac River, which travels through Maryland, Virginia, and the District of Columbia), and providing the public and the sludge disposal organizations (both private and public) with advice on the safe and proper methods for disposing of sewage sludge.

Summary of Costs

Sectors Affected: EPA; State and local governments; and public and privately owned sewage treatment systems.

The Agency will prepare a Regulatory Impact Analysis accompanying the

NPRM that will discuss the costs that the regulation could cause.

Related Regulations and Actions

Internal: Incineration methods of sewage sludge disposal are regulated by the Clean Air Act (CAA). Polychlorinated biphenyls (PCBs) are regulated by the Toxic Substances Control Act (TSCA), and hazardous wastes by RCRA Subtitle C. Ocean dumping is regulated by the Marine Protection, Research, and Sanctuaries Act (MPRSA).

External: None.

Active Government Collaboration

EPA is working with the Food and Drug Administration, the Consumer Product Safety Commission, and the U.S. Department of Agriculture on guidelines for distribution and marketing of sewage sludge.

Timetable

NPRM or revised ANPRM—Late 1981.
Regulatory Impact Analysis—Will accompany NPRM.
Regulatory Flexibility Analysis—Will accompany NPRM.
Public Hearing—To be determined.

Available Documents

Final Rule for air emissions and hazardous pollutants is in 40 FR 46259, October 6, 1975 and 40 FR 48302, October 14, 1975.

Final Rule for ocean dumping is in 42 FR 2462, January 11, 1977.

Final, Interim Final, and Proposed Rules for the Criteria for classification of solid waste disposal facilities and practices are in 44 FR 53438, September 13, 1979.

Final Rule for polychlorinated bipenyls is in 44 FR 31514, May 31, 1979.

Final, Interim Final, and Proposed Rules for hazardous waste are in 45 FR 33066, May 19, 1980.

Pre-proposal draft of the distribution and marketing of sewage sludge, May 6, 1980. Available free from the Public Information & Participation Branch, U.S. EPA, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, DC 20460.

Public comments concerning sludge requirements contained in the Criteria and the pre-proposal draft of the distribution and marketing of sewage sludge are available for review in the Solid Waste Docket, Room 2711A, U.S. EPA, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, DC 20460.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Review and Approval of State and Local Radiological Emergency Plans and Preparedness (44 CFR Part 350)

Legal Authority

Disaster Relief Act of 1974, as amended, 42 U.S.C. § 5121; Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. § 2251 *et seq.*, Executive Order 12148 of July 20, 1979, as amended 44 FR 43239.

Reason for Including This Entry

The Federal Emergency Management Agency (FEMA) includes these regulations because of the great interest of the public in planning for safety around nuclear power plants. These procedures describe how State and local governments can obtain FEMA evaluation, assessment, findings, and determinations as to the adequacy of State and local plans and preparedness to cope with the offsite effects of a radiological emergency at nuclear power plants.

Statement of Problem

President Carter's Commission on the Accident at Three Mile Island (known as the Kemeny Commission), the General Accounting Office, Congressional Committees, and others have all concluded that State and local plans and preparedness are inadequate to cope with the offsite effects of an emergency resulting from accidental emission of radiation at a nuclear power plant.

Forty States have populations within 10 miles of the 73 nuclear power plants that are licensed to operate, the 88 under construction, and the 66 planned. While a significant number of States have either completed or will shortly complete their plans, considerably more needs to be done to achieve the proper preparedness. For example, a large number of local jurisdictions have not completed their plans. The plans need to be exercised before FEMA deems them adequate, and public hearings need to be held by FEMA, State, and/or local authorites.

The Federal Emergency Management Agency is responsible for offsite emergency planning and response. This means planning for action taken outside the plant to deal with consequences affecting the public away from the plant. FEMA also reviews State plans in those States with nuclear power facilities either in operation or scheduled for operation in the near future. FEMA, in order to implement this assignment, entered into a Memorandum of Understanding with the Nuclear Regulatory Commission (NRC), which has the responsibility for licensing nuclear power plants. NRC, however, has no authority to specify the emergency planning responsibilities of State and local governments. Under the Memorandum, FEMA has agreed to make findings and determinations as to whether State and local plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels, and qualifications and equipment adequacy).

The NRC recently issued new emergency planning regulations which became effective November 3, 1980. These were published August 19, 1980 (45 FR 55402). Under the NRC rule, in order for a plant to continue operations or to receive an operating license, the plant will be required to submit its emergency plans, as well as State and local government emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the emergency plans for the nuclear plant itself are adequate and capable of being implemented. These issues may be raised in NRC operating license hearings, but a FEMA finding will constitute a rebuttable presumption on the question of adequacy.

Alternatives Under Consideration

The FEMA-proposed rule provides for a formal process for evaluation, review, and approval by FEMA of State plans and the local plans which are submitted to FEMA as annexes to the State plan and considered jointly with it. FEMA would also evaluate and assess the capabilities of State and local governments to implement the plans. The process is voluntary; that is, there is no requirement in law that a State submit a plan to FEMA for review and approval. There is no FEMA sanction for failure to submit a plan. FEMA, which offers grants to State and local agencies

to support civil defense and disaster preparedness planning, has not made submission of radiological emergency plans and preparedness a condition for making these other grants.

The FEMA-proposed rule also calls for a public meeting at which the State, utility, and FEMA would explain the plan and for an exercise at which the plan is tested. Both of these requirements are conditions for approval. The findings and determinations are based on performance standards rather than adherence to detailed criteria.

Alternatives would include deletion of one or all of the above features. For example, as one Governor suggested, the review process could be established without a rule, without an exercise or public meeting, and without public involvement at all. A number of commentators on the proposed rule believe the public meeting is unnecessary. FEMA believes such a meeting is extremely important in informing the public and thus obtaining its support for whatever decisions may be made.

Summary of Benefits

Sectors Affected: State and local governments; NRC; nuclear power facilities; and the general public.

The benefits to be obtained from these procedures are those of an orderly process by which States can obtain evaluation and review of their plans and preparedness to cope with the away-from-the-plant consequences of a radiological accident at a nuclear power plant. The Nuclear Regulatory Commission is conditioning licensing of nuclear power plants on, among other things, the adequacy of State or local measures to be taken offsite in event of a radiological emergency. The NRC does not have jurisdiction to require a State or locality to develop or submit a plan. It does have jurisdiction to require a nuclear power plant licensed by NRC to submit, as data, information (the State and local plans) about the adequacy of State and local preparedness to cope with the effects of an accident. NRC, by its rules, will rely in its licensing proceedings on FEMA findings and determinations on the adequacy for health and safety purposes of the plans and preparedness. FEMA is the expert Federal agency on State and local plans and preparedness to respond to emergencies of all types.

The FEMA procedure is justified on its own terms as a process for review and approval of State and local plans to cope with a special type of emergency, and the procedure thus exists independent of NRC licensing hearings and is usable even if not tied to a licensing hearing.

The State and local governments benefit because the procedure is related to other emergency preparedness response plans and allows them to deal with a single Federal agency on this subject rather than dealing with many agencies. It further assures an independent, carefully considered review and evaluation of their plans.

Nuclear power facilities also benefit because they will know that FEMA's findings and determinations are the product of a comprehensive, impartial, and independent review process.

The general public also benefits because it knows that the process calls for review and approval of plans and preparedness, based on established performance standards; and it can directly participate by attending the public meeting where it can comment. The various notices and the meeting keep the public informed. Advance planning may result in reduced public expenditures in dealing with emergencies.

Summary of Costs

Sectors Affected: FEMA; State and local governments; nuclear power plants; and users of electricity produced by nuclear power.

We have not prepared a Regulatory Impact Analysis. The procedure itself does not require any expenditure of large amounts of funds. That is to say, submission of a plan is voluntary and the process by which FEMA determines whether or not it can approve the plan involves staff time on the part of Federal agencies, such as the Departments of Energy, Health and Human Services, Commerce, and Agriculture, and the Environmental Protection Agency, State and local governments, and the utilities. The conduct of an exercise and the holding of a public hearing do have cost impact on the aforementioned agencies.

What may have a small cost impact are actions which a State or local government may need to take in order that its plans and preparedness can be found adequate. According to studies, typical costs to a State or local government to prepare a plan for a single facility can be approximately $360,000 initially and $74,000 yearly to update plans. It may well be that these costs can be passed to the utilities, and perhaps to the consumer. Costs might include communications equipment, radiation monitoring equipment, exercises, training, etc. However, the total cost is going to be minute when compared to a total investment in a nuclear plant, which will be in the hundreds of millions of dollars. Who bears the cost is a matter of State and local law. In some cases, the utilities are charged for State and local costs. In some, the utilities may volunteer to pay.

Related Regulations and Actions

Internal: FEMA has developed, pursuant to a Presidential assignment, interagency assignments which replace a description of assignments set out in a Notice published in the **Federal Register** on December 24, 1975 (40 FR 59494). These new assignments were published on October 22, 1980 (45 FR 69904). See also the discussion under External actions.

External: FEMA and the Nuclear Regulatory Commission (NRC) have jointly issued "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," NUREG–0654/FEMA–REP–1, Rev. I. These guidance and acceptance criteria provide a basis for NRC licensees and State and local governments to develop radiological emergency plans and improve emergency preparedness associated with nuclear power facilities. The document combines guidance to State and local governments with guidance to the NRC and supersedes previous guidance and criteria published by FEMA and NRC. It is intended for use by Federal officials in reviewing and assessing the adequacy of State, local, and nuclear power facility operator emergency plans and preparedness. FEMA–REP–1/NUREG 0654 contains a series of planning standards which will be a part of the FEMA rule. It lists specific criteria for the planning and preparedness activities of State and local governments as well as the licensees of NRC. Notice of this publication was given December 30, 1980 in the **Federal Register** (45 FR 85862). We intend that the FEMA rule will set the same standards and criteria as the new NRC rule discussed in "Statement of Problem." Thus, both FEMA reviewers and NRC reviewers will be using the same criteria and standards.

Active Government Collaboration

We are closely coordinating this rulemaking with the Nuclear Regulatory Commission (NRC), which has formally commented on it. We furnish the findings and determinations with respect to adequacy of State plans and preparedness, which are a product of this procedure, to NRC.

FEMA will use the expertise of the Department of Energy, the

Environmental Protection Agency, the Department of Commerce, and others in making its findings and determinations. The manner in which we will accomplish this is set out at 45 FR 69904, which was prepared in collaboration with other agencies.

Timetable

Public Hearing—None.
Final Rule—Not yet scheduled.
Final Rule Effective—30 days after adoption.
Regulatory Impact Analysis—None.
Regulatory Flexibility Analysis—None.

Available Documents

NPRM—45 FR 42341, June 24, 1980.

Memorandum of Understanding between NRC and FEMA to accomplish a prompt improvement in radiological emergency planning and preparedness, 45 FR 82713, November 8, 1980.

FEMA–REP–1, NUREG–0654, Rev. I: Criteria for Preparation and Evaluation of Radiological Emergency Plans and Preparedness in Support of Nuclear Power Plants (now under revision jointly with NRC).

Copies of the above documents are available from the Agency Contact listed below.

Public Comments: Copies are available for review at FEMA, Rules Docket Clerk, Room 801, 1725 I Street, N.W., Washington, DC 20472.

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CONSUMER PRODUCT SAFETY COMMISSION

Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products

Legal Authority

Consumer Product Safety Act 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

The Consumer Product Safety Commission (CPSC) believes this is an issue of considerable public interest due to the possibility of adverse health effects which can result from consumer exposure to benzidine dyes, o-tolidine dyes, and o-dianisidine dyes and the significant number of consumers that may be exposed to them.

Statement of Problem

Benzidine and two related chemicals (congeners), o-tolidine and o-dianisidine, constitute a family of synthetic aromatic amines used as intermediates in the synthesis of more than four hundred direct benzidine congener dyes.

In 1972, the International Agency for Research on Cancer (IARC) concluded that benzidine is carcinogenic in several species of animals, and that "epidemiologic studies showed that occupational exposure to commercial benzidine alone was strongly associated with bladder cancer." Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) have issued regulations for benzidine based on the determination of its carcinogencity. In 1978, the National Cancer Institute (NCI) reported that three benzidine dyes produced tumors in rats. Although it has not been conclusively shown that o-tolidine and o-dianisidine are human carcinogens, there is animal evidence demonstrating carcinogenicity. In addition, evidence indicates that dyes based on benzidine, o-tolidine, and o-dianisidine may be metabolically converted to their respective parent compounds in the body. These studies cause the staff of the CPSC to believe that benzidine dyes, o-tolidine dyes and o-dianisidine dyes may present substantial health hazards to consumers.

Consumer exposure to these dyes may occur from the use of packaged consumer dyes in homes, schools, and arts and crafts processes. In addition to the consumer market, benzidine dyes, o-tolidine dyes, and o-dianisidine dyes are used industrially in the manufacture of consumer products. For example, it is estimated that 40 percent of all benzidine dyes produced are used to dye paper goods such as tissues, paper towels, and stationery; 25 percent are applied to textiles; and 15 percent are used in dyeing leather products.

The consumer dyes market can be divided into two segments: the mass-merchandised dye market, consisting of consumer dye products sold at various retail outlets to the general public for home dyeing applications, and the market for specialty dye products sold as arts and crafts materials. Consumer dyes are purchased by the general public from retail stores; their major use is in home fabric dyeing because these dye products are specifically formulated for ease of application and affinity for cotton and rayon fibers. Artists use the consumer dyes for home crafts, teaching workshops, textile printing, and in the production of craft items for resale on a limited basis. Children may be exposed to benzidine congener dyes during arts and crafts applications in school projects.

A danger to consumers arises from the possibility that benzidine congener dyes or their decomposition products may enter the human system by skin absorption. In addition, dry dust powders may enter the human system by inhalation and ingestion. It is possible, despite precautions, for even an experienced artist to contact dye solution on some part of the body during dyeing operations.

Sources estimate that about 30 million packages of consumer dye products are sold annually. Using 65 cents as an average unit price, it is estimated that the retail market for home dyes falls between $15 million and $18 million.

The three major home dye manufacturers have indicated that since 1978, they have not used benzidine dyes in consumer dye products. However, field studies conducted by the CPSC have demonstrated that general retail outlets still sell older dye packages, manufactured at a time when industry used benzidine dyes.

Although benzidine dyes no longer may be produced for sale to the general public, arts and crafts people are able to purchase them directly from manufacturers or retail dye outlets. Often these dyes are industrial dyes which have been repackaged for arts and crafts use. It is estimated that 100 to 500 pounds of benzidine dyes are sold annually to between 1,000 and 4,000 consumers for arts and crafts applications.

Substitutes used for benzidine dyes in consumer dye products may be based on o-tolidine or o-dianisidine. About nine different o-tolidine dyes and o-dianisidine dyes are currently used in consumer dye products. Of approximately 30 million packages sold annually, estimates place the range of packaged dye products containing o-dianisidine dyes or o-tolidine dyes between 15 and 21 million, encompassing as much as 60 to 70 percent of the home dye market.

In response to a petition jointly submitted in October 1978 by the Center for Occupational Hazards, the Artist-Craftsmen of New York, the Foundation for the Community Artists, and the Surface Design Association the CPSC is considering the need to take regulatory action with respect to benzidine congener dyes in consumer dye products.

Alternatives Under Consideration

The Commission considered the following three regulatory alternatives in response to a petition requesting a ban of benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. The staff recommended alternative A to the Commission.

(A) Commence a proceeding to ban benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. This action would eliminate the risk of consumer exposure to benzidine congener dyes in consumer dye products. Considering the estimate that o-tolidine dyes and o-dianisidine dyes may be represented in 60 to 70 percent of the formulations presently used by the consumer dye industry, the economic impact of a ban on these dyes may be considerable.

(B) Commence a proceeding to ban benzidine dyes in consumer dye products and do not take immediate action on o-tolidine dyes and o-dianisidine dyes.

The economic impact of a ban on benzidine dyes on the consumer dye industry is expected to be minimal. Deferred action on o-tolidine dyes and o-dianisidine dyes pending further study of substitutes and reformulation may cause less market disruption.

Although the consumer dye industry has indicated that benzidine dyes are no longer being used, a Commission survey revealed that consumer dye products containing benzidine dyes are still available at retail stores. Therefore, if this alternative is chosen, a recall of consumer dye products containing benzidine dyes may also be considered. CPSC staff plans to gather information from consumer dye manufacturers concerning the feasibility of a recall.

(C) Deny the petition. The Commission may decide to take no action with respect to benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. This alternative would permit continued consumer exposure to benzidine congener dyes.

To date, the CPSC staff's primary concern has been with home dye packages containing benzidine dyes, o-tolidine dyes, or o-dianisidine dyes sold directly to consumers. The Commission staff plans to investigate the commercial use of benzidine congener dyes in textiles. There is a possibility that the staff will recommend to the Commission further action in the future with respect to those products that have been dyed commercially with benzidine congener dyes.

On November 12, 1980, the Commission voted to grant the petition in part, that is, to ban consumer dye products containing benzidine dyes, o-tolidine dyes, and o-dianisidine dyes, and instructed the staff to prepare an appropriate proposal under § 8 of the Consumer Product Safety Act. The staff was directed to examine the economic effects of alternative effective dates of any proposed ban and to prepare a recommendation addressing the feasibility of any recall action.

Summary of Benefits

Sectors Affected: Consumers of benzidine congener dyes, including home dyes; craftspeople and hobbyists.

Benzidine congener dyes are used in packaged consumer dye products. Evidence indicates that these dyes may be potential carcinogens. Consumers may be exposed to these dyes by inhalation, skin absorption, or ingestion during the home dyeing process. Regulation of benzidine congener dyes in consumer dye products would reduce consumer exposure to potential carcinogens.

Summary of Costs

Sectors Affected: Craftspeople and hobbyists who use benzidine congener dyes; and consumer dye product manufacturers.

The consideration of substitute dyes to replace benzidine congener dyes is of great concern to the Commission staff; substitution of noncarcinogenic dyes for those that present chronic health effects is essential. Current information indicates that substitutes for o-tolidine dyes and o-dianisidine dyes are generally available with the possible exception of a few colors.

If substitutes for these few colors cannot be readily identified or developed for consumer dye products, a search for substitutes not based on benzidine or its congeners could involve virtually hundreds of other organic compounds and, because the entire dye formulation may need to be adjusted, there could be substantial costs to industry. Reformulations have not yet been developed and therefore no overall estimates of substitution costs are available. However, information currently available to the CPSC staff suggests that the cost of dye ingredients may not be the predominant cost element that determines the retail price of consumer dyes. If substitution were to occur, costs for labor, packaging, distribution, and advertising, which may be the primary price determinants, may not vary greatly from present costs.

If a recall were to occur of products containing benzidine dyes, the lack of ingredient listing on dye containers may make it difficult for retailers to identify which dye products contain benzidine dyes.

Should the price of commercial dyes increase, an indirect cost may be felt by artists and craftspeople. If manufacturers pay higher prices for raw materials, greater overhead costs and possible smaller profit margins could result for artists.

The CPSC staff is considering, at the present time, only the need for controls of consumer dye products; however, if later action is considered against the other uses of benzidine congener dyes in consumer products, the Commission will investigate the potential economic impacts on those products that have been colored with benzidine dyes, o-tolidine dyes, and o-dianisidine dyes.

Related Regulations and Actions

Internal: At the present time the CPSC is supporting research on the breakdown of benzidine congener dyes in the body and on the long and short term economic effects of various regulatory alternatives on consumers and the consumer dye industry. A hazard assessment for textile and non-textile uses of benzidine dyes, o-tolidine dyes, and o-dianisidine dyes is planned for FY 1982.

External: The Occupational Safety and Health Administration (OSHA) recently released a field directive on the carcinogenicity of three benzidine dyes which recommends that other benzidine dyes also be handled as carcinogens.

The National Institute for Occupational Safety and Health (NIOSH) published the "Special Hazard Review of Benzidine Based Dyes," which recommends that these dyes should be recognized as potential human carcinogens and that the benzidine congener dyes be handled with extreme care.

OSHA and NIOSH jointly released a Health Hazard Alert for benzidine dyes, o-tolidine dyes, and o-dianisidine dyes which concludes that benzidine dyes are carcinogenic, and states that o-tolidine dyes and o-dianisidine dyes may present a cancer risk to workers and should be handled with care.

The Environmental Protection Agency (EPA) has proposed a Toxic Substances Control Act (TSCA) section 8(a) rule, and is developing a TSCA section 8(d) rule to require manufacturers to submit specific information and health and safety studies for a variety of chemicals, including benzidine dyes.

Active Government Collaboration

The CPSC is working closely with the Interagency Regulatory Liaison Group (IRLG) Benzidine Congener Dyes

Workgroup in determining the most effective statutes for possible controls on the use of benzidine dyes and benzidine congener dyes, and is investigating regulatory options.

The National Cancer Institute (NCI), National Institute of Occupational Safety and Health (NIOSH), the Stanford Research Institute, Consumer Product Safety Commission (CPSC), Occupational Safety and Health Administration (OSHA), and the Environmental Protection Agency (EPA), plan to meet periodically with the Dyes Environmental and Toxicology Organization (DETO) to perform a systematic study of dyes and to recommend dyes to the National Toxicology Program (NTP) for carcinogenicity testing.

Timetable

The Commissioners granted a petition and directed the staff to prepare a proposed ban. The proposed ban will be completed in fall 1981.

NPRM—Fall 1981.

Public Hearing—Fall 1981.

Public Comment Period—Fall 1981.

Commission Decision/Order—Fall 1981.

Regulatory Flexibility Analysis—Fall 1981.

Regulatory Impact Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

"CPSC Staff Briefing Packages" dated February 26, 1979 and September 24, 1980 are available from the Office of the Secretary, 1111 18th St., N.W., U.S. Consumer Product Safety Commission, Washington, DC 20207.

Agency Contact

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CPSC

Consumer Products Containing Asbestos

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*; Federal Hazardous Substance Act, 15 U.S.C. § 1261 *et seq.*

Reason for Including This Entry

Asbestos is a known human carcinogen used in a variety of products. The Consumer Product Safety Commission (CPSC) believes this to be an issue of great interest to the public because of serious potential health hazards that may be involved when consumers are exposed to inhalable asbestos fibers.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers. CPSC could act to protect the public from exposure to asbestos fibers in consumer products by issuing a standard or ban concerning asbestos-containing products, requiring labeling of consumer products containing asbestos, encouraging some form of voluntary action by industry, or taking other action.

The CPSC staff has completed a review of the health effects of asbestos which causes the staff to believe that, under certain conditions, the presence of asbestos in consumer products may present a risk of cancer and respiratory disease. The health hazard occurs when asbestos fibers are released into the air and people inhale them. Inhaled asbestos fibers may become embedded in lung tissue and once embedded they may remain there indefinitely. Asbestos fibers that are released from consumer products can remain in household air for long periods of time and may subject household members to a continuous risk of fiber inhalation.

Consumer products are one source of exposure to asbestos fibers; there are also a number of environmental sources. Therefore, consumer products must be viewed as part of a cumulative burden of asbestos exposure.

Asbestos released from consumer products poses several problems in the household. First, young children and infants are exposed. Second, asbestos fibers that consumer products release into the living space can remain there over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace, where engineering control systems and protective clothing are available to minimize worker's exposure to asbestos, the home provides household members with little or no protection from exposure to asbestos fibers released from consumer products.

In a **Calender of Federal Regulations** entry published November 24, 1980 (45 FR 77883) the Commission stated its concern about consumer exposure to asbestos fibers. This **Calendar** statement on asbestos described an ANPRM we issued in October 1979 (44 FR 60057). The purpose of the ANPRM was to inform the public of the Commission's concern and to announce the initiation of a Commission investigation of asbestos in consumer products. The Commission is considering comments and information received in response to the ANPRM in determining regulatory options we might pursue.

One example of CPSC action on products containing asbestos is hairdryers. As a result of information indicating that certain hairdryers released asbestos fibers during use, CPSC asked the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare (now the Departments of Education and Health and Human Services) to conduct tests. The results showed that some hairdryers released asbestos fibers into the air stream and directly on the user's head during ordinary use; thus, any fibers the hairdryers emitted could potentially be inhaled.

As a result of negotiation between the Commission's staff and firms which share approximately 50 percent of the consumer hairdryer market, the firms agreed to cease production and distribution of hairdryers containing asbestos and to offer consumers some form of repair, replacement, or refund for hairdryers they currently own.

We do not know exactly how many asbestos-containing products are available to the consumer. CPSC has initiated a program to test various products for asbestos fiber release and issued a General Order (December 22, 1980, 45 FR 84384) to manufacturers (including importers) of certain categories of consumer products to submit information on the use of asbestos in their products. CPSC staff will examine the information received in response to the order to help identify specific products containing asbestos, to determine how the asbestos is used in the products, and to analyze the use of possible substitute materials in a variety of applications. The CPSC staff review of this information will also aid in evaluating the impact of possible regulation on the cost, availability, and utility of the products.

The staff is concentrating its evaluation on certain types of products. We will focus initial action on products which show definite fiber release. We

may make subsequent efforts to investigate other products which contain asbestos.

Alternatives Under Consideration

On the basis of health research and economic studies, the Commission may consider remedial options which would reduce risks to consumers from asbestos-containing consumer products from which asbestos fibers may be released.

In making its determination of whether or not to take action, the CPSC will consider detailed risk and economic findings. The CPSC will also take into account the function performed by the asbestos in the product, the cost to industry and consumers of the regulations and the availability of substitutes for the asbestos and the safety of such substitutes.

In cases in which we do not know the asbestos content and whether there is any fiber release, the staff will continue to test products for any asbestos fiber emission.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of asbestos regulations is to reduce consumer exposure to a known human carcinogen.

Asbestos fiber inhalation has been linked with lung cancer, asbestosis and mesothelioma (cancer of the pleura—the membranes surrounding the lung). These diseases can inflict pain and are often fatal. They may cause large financial burdens due to medical expenses that result. The CPSC believes that by reducing the release of asbestos from consumer products it will help alleviate some of these unfortunate consequences.

Summary of Costs

Sectors Affected: Asbestos mining industry; and all manufacturers, wholesale and retail traders, and users of products containing asbestos.

The CPSC estimates that some economic impact may occur on industry in those cases where a mandatory regulation concerning asbestos-containing products occurs. Currently, studies are being made to determine potential costs to industry in developing substitutes for asbestos in consumer products.

Related Regulations and Actions

Internal: In 1979, the Consumer Product Safety Commission issued an ANPRM. The purpose of the ANPRM was to inform the public of the Commission's concern and to announce the initiation of a Commission investigation of asbestos in consumer products. In April 1980, the Commission granted a petition to ban asbestos paper and in July of 1980, the Commission cosponsored with EPA a workshop on asbestos substitutes. The Commission issued a general order (45 FR 84384) in December 1980 seeking information on asbestos in certain products. The Commission has initiated a testing program for the purpose of testing certain products for asbestos fibers released under typical use conditions.

External: The Environmental Protection Agency (EPA) issued on January 26, 1981 (46 FR 8200) a proposal for comment on a life-cycle reporting and recordkeeping requirement on asbestos. In September 1980, EPA published a corrective action program for school buildings containing asbestos.

The Occupational Safety and Health Administration (OSHA), during spring 1980, published for comments a proposal for reducing occupational exposure to asbestos from 2 fibers per cubic centimeter to 100,000 fibers per cubic meter.

Active Government Collaboration

We have worked closely with the Environmental Protection Agency to ensure that our efforts to investigate and possibly regulate the use of asbestos will be coordinated, compatible, and nonduplicative. EPA simultaneously published an ANPRM in October 1979 which describes that Agency's systematic effort to gather information on groups of asbestos products, and to evaluate risk from these products based on the "life-cycle" concept. In the life-cycle analysis, the Agency examines cumulative risk from human exposure to asbestos from primary processing through end use and disposal. The CPSC's ANPRM describes an approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives. The first is to reduce significantly, through complementary actions, unreasonable human health risk from exposure to asbestos. The second is to reduce potential reporting burdens on industry by coordinating information-gathering activities. Third, to avoid inconsistent or needlessly burdensome regulations, we will develop regulatory actions that may result from these investigations in close consultation with each other.

CPSC published, jointly with EPA, an ANPRM on consumer products containing asbestos in the **Federal Register** of October 17, 1979 (44 FR 60057). Comments on that ANPRM have been received and reviewed.

Timetable

Regulatory Impact Anaylsis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information on its own rulemaking proceedings.

Development of Future Regulatory Actions—To be determined.

Available Documents

CPSC—Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking—44 FR 60057, October 17, 1979.

Briefing Package of Comments on Advance Notice of Proposed Rulemaking, September 1980, and briefing package on Petition to Ban Asbestos Paper, April 1980.

Asbestos: General Order for Submission of Information, December 22, 1980 (45 FR 84384).

Proceedings of the Workshop on Asbestos Substitutes, February 1981.

16 CFR Parts 1304 and 1305: Ban on asbestos-containing patching compounds and emberizing materials, January 1977.

Copies are available from the Office of the Secretary, 1111 18th St., N.W., U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Omnidirectional Citizens Band Base Station Antenna Standard (16 CFR Part 1402)

Legal Authority

Consumer Product Safety Act §§ 7 and 14, 15 U.S.C. §§ 2056 and 2063.

Reason for Including This Entry

This standard may impose a major increase in costs or prices for antenna manufacturers, distributors, retailers, and purchasers.

Statement of Problem

One hundred thousand omnidirectional Citizens Band (CB) base station antennas are sold annually in the United States. The Consumer

Product Safety Commission (CPSC) estimates that 220 persons in 1977, 105 persons in 1978, 105 in 1979, and 95 in 1980 were electrocuted in incidents involving communications antennas. The vast majority of these deaths occurred when people were putting up or taking down the antennas which in the process contacted electric power lines. Typically, these incidents occur when the antenna contacts the power line while people are transporting it to the erection site or when it falls into a power line because it gets out of the control of the people who are putting it up or taking it down. The Commission estimates that over 55 percent of the antennas involved in these accidents are omnidirectional Citizens Band (CB) base station (other than mobile) antennas.

On June 29, 1978, the Commission issued a rule under § 27(e) of the Consumer Product Safety Act which requires manufacturers and importers of (1) outdoor Citizens Band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna supporting structures to provide purchasers with (a) instructions on how to avoid the hazard of contacting electric power lines with the antenna or supporting structure while putting it up or taking it down, (b) labels on the antennas and supporting structures warning of this hazard and referring the reader to the instructions, and (c) statements on the packaging or parts container, and at the beginning of the instructions, warning of this hazard and referring the reader to the instructions. We intend this rule to help prevent injuries and death from electric power lines when people put up or take down antennas or antenna-supporting structures. The Commission reasoned that if consumers know of the danger and how to avoid it, they will be better able to take the necessary steps to protect themselves.

While the Commission believes that the present information and labeling rule will reduce the deaths that occur because of the contact of television and CB base station antennas with electric power lines, the Commission also believes that a standard which would help ensure that the antenna would not transmit a harmful amount of electricity to the installer if the antenna did contact a power line may address the risk of electrocution more effectively, and thereby cause a greater reduction in deaths.

In 1979, the Commission contracted to evaluate the impact of its § 27(e) information and labeling rule, which became effective September 26, 1978. The contractor surveyed consumers who had purchased CB base station antennas and outdoor TV antenna components before and after the effective date of the labeling rule.

The hypothesis that many consumers do not recognize nor accurately gauge the potential for electrical shock death or injury associated with antenna installation and removal is firmly supported by the findings of this study. Only one respondent in ten knew that power lines often are not insulated, and a substantial minority failed to recognize the strong likelihood of death or severe injury should direct contact be made with power lines. These findings support the rationale for requiring manufacturers to include hazard avoidance instructions and warning labels with new communications antenna equipment, and also indicate that warning labels and instructions are less effective than safety standard requirements.

The Commission is presently developing a standard directed only at non-directional CB antennas because they account for the largest number of reported injuries. Moreover, they can be insulated more readily than TV and directional CB antennas because they have fewer joints and element parts.

Alternatives Under Consideration

One possible alternative to pursuing a mandatory standard was a voluntary approach through the electronics Industries Association (EIA). The EIA had formed an ad hoc committee to develop a voluntary standard for CB omnidirectional base station antennas. However, the EIA effort was dropped on October 6, 1980. This action was taken after the committee reached the determination that the conclusions contained in a contractor's final report to the Commission on research in support of the standard development formed a "de facto" standard.

Under the Consumer Product Safety Act, CPSC may develop a proposed consumer product safety standard in the following ways: (1) we may invite people or organizations outside the Commission to develop a recommended standard (those who submit such offers are referred to as "offerors" and the development of recommended standards in this manner is called the "offeror process"); (2) the Commission may invite people or organizations outside the Commission to submit to the Commission an existing standard which it could propose as a consumer product safety standard; (3) the Commission may publish an existing standard as a proposed consumer product safety standard; or (4) the Commission may develop the standard itself.

The standard under development is a performance standard, and is expected to apply to importers, as well as U.S. manufacturers.

In the case of the electrocution hazard associated with CB base station antennas, the Commission is not aware that any Federal department or agency or other qualified agency, organization, or institution has issued, adopted, or proposed any standard that would adequately reduce the risk and that the Commission could publish as a proposed standard. The Commission has determined that it would be more expeditious to develop this standard itself than for interested parties outside the Commission to develop the standard. The Commission started the proceeding by publishing an ANPRM in the **Federal Register** on September 14, 1979 (45 FR 53676).

The Commission believes the development of this standard is the best alternative to address hazards associated with CB antennas because industry has not developed a voluntary standard for these antennas. Moreover, surveys have shown that warning labels and instructions are less effective than safety standard requirements.

Summary of Benefits

Sectors Affected: Users, installers, manufacturers, and importers of CB base station omnidirectional antennas.

The benefits from this proceeding are related to the injury and death information we cited in "Statement of Problem." The staff estimates that the standard could prevent many of the deaths associated with outdoor communications antennas (all outdoor antennas) by addressing omnidirectional (reception and transmission essentially uniform in all directions) CB antennas only. These antennas are involved in about one-half or 50 deaths each year.

We estimate that in the first year of the standard, deaths associated with CB antennas would be reduced by 20 percent, since the standard would only affect new antennas. In subsequent years, a greater percentage of deaths would be prevented because more insulated antennas would be in use and would have replaced old antennas that are involved in accidents when they are taken down or moved.

In addition to the reduction in deaths associated with the standard, we anticipate that the present § 27(e) rule will reduce other deaths: (a) some deaths that would otherwise be associated with antennas manufactured between October 1978, the effective date

of the § 27(e) rule, and the date when the new standard will take effect; (b) some deaths otherwise associated with antennas or voltages that the standard will not cover, and (c) some deaths where contact would be between the power line and the mast or other support structures, rather than the antenna itself.

We estimate that the standard would prevent up to ten deaths in the first year of compliance. If ten deaths were averted, and the cost of the standard to consumers each year were about $1 million (in 1981 dollars), then the standard could cost about $100,000 per life saved. The cost per life saved would be greater if fewer deaths were averted in the first year. In any case, consumers would incur a higher product price from the cost of the standard passed on to them.

The draft standard could also prevent ten or more injuries in the first year of compliance. Using a conservative range of average costs from the Commission's Injury Cost Model (excluding cost components for pain and suffering and long-term disability), the estimated injury-reduction savings attributable to the standard in the first year of compliance may be about $26,000 to $46,000 (in 1981 dollars). Using a range of average costs which includes the less readily quantifiable components for pain and suffering and long-term disability, first-year injury-reduction benefits could be about $360,000 to $2,100,000 (in 1981 dollars).

Certain provisions of the standard may also benefit consumers in the form of increased useful life of the product.

Manufacturers and importers of these antennas may also benefit from a decrease in product liability suits to the extent the standard reduces accidents.

Summary of Costs

Sectors Affected: Manufacturing, importers, wholesale and retail trade, and purchasers of CB base station omnidirectional antennas.

The price of a typical CB antenna, which retails for about $50.00, may rise to about $60.00; the price of some antennas may rise by nearly 50 percent as a result of the standard. The Commission staff estimates that the standard may cost consumers $1 million dollars a year (in 1981 dollars).

We anticipate that manufacturers may meet the standard by coating or covering the antenna with a nonconductive material, by constructing antennas of a nonconductive material with an embedded conductor, or by electrically separating the antenna from the antenna mast or antenna support structure by a nonconductive material.

Current retail prices for omidirectional CB antennas range from $20.00 to over $150.00. The price of some antennas may not increase at all because of the standard. Some manufacturers have claimed that depending on provisions of the standard, price increases for some antennas may range up to 50 percent or more. The standard may lead to an annual cost to the industry of up to $300,000. Certain producers, particularly the smaller companies in the industry, may leave the omnidirectional CB antenna market if they cannot develop the capability to produce complying antennas at a reasonable cost.

Related Regulations and Actions

Internal: "CB Base Station Antennas, TV Antennas and Supporting Structures: Warning and Instructions Requirements," 16 CFR Part 1402 (43 FR 28392).

External: Electronics Industry Association (EIA) development of a Voluntary Standard for CB Antennas.

Active Government Collaboration

We encourage Federal agencies and State governments to participate in developing the standard by submitting comments.

Timetable

NPRM—July 30, 1981.

Public Comment Period—August and September 1981.

Final Rule—January 31, 1982.

Regulatory Impact Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

Comments from public meeting held November 17, 1980, in Washington, DC.

"CSPC Staff Briefing Packages," dated January 23, 1979 and August 1, 1979.

ANPRM—"Omnidirectional Citizens Band Base Station Antennas—Proceeding to Develop a Consumer Product Safety Standard by the Commission," 44 FR 53676, September 14, 1979.

"Accident Factors Relevant to the Development of a Safety Standard for Omnidirectional Citizens Band Base Station Antennas," June 1980.

"Research and Technical Service for Safety Standard Development for CB Based Station Antennas Final Report," June 1980.

Transcripts of four public meetings from November 1, 1979 to November 17, 1980.

Six progress reports from August 4, 1979 to January 19, 1981.

Eight evaluation reports on standard development from September 25, 1980 to January 26, 1981.

"CB Antennas: Initial Regulatory Flexibility Analysis," March 25, 1981.

These documents are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Safety Requirements for Chain Saws

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

The Commission estimates that there were over 100,000 chain saw injuries requiring medical attention in 1979, an increase from an estimated 77,000 injuries in 1976. This rulemaking proceeding aims to reduce many of the 23,000 injuries that are specifically related to kickback problems, and is of public interest to those concerned about consumer safety and well being.

Statement of Problem

In recent years, the increased use of wood-burning stoves and fireplaces in this country has brought about the increased use of chain saws by consumers. It is estimated that industry shipped 3.8 million professional and home use chain saws for sale in 1979, compared to 2.3 million in 1976. Unfortunately, the increase in the use of chain saws has been accompanied by an increase in injuries associated with them. The Commission estimates that there were over 100,000 chain saw injuries requiring medical attention in 1979, which is up from an estimated 77,000 injuries in 1976. It further estimates that about 23 percent of the injuries associated with chain saws resulted from a phenomenon known as "kickback." The other injuries result from loss of control of the saw or from loss of balance of the operator. They also result from the saw bouncing, from

following through after the cut, or from falling material.

Kickback is the sudden and potentially violent rearward and/or upward movement of the chain saw that can be caused by sudden interference with the movement of the chain. This interference can be caused by the chain binding in the cut, or by the chain hitting an unusually hard portion or obstruction in the wood being cut, or by the chain striking the wood or another object on the top quadrant of the tip of the bar. This interference with the movement of the chain transfers the energy that is driving the chain into a movement of the entire saw, causing the bar tip to move back and/or up so fast that the operator may be struck by the moving chain, frequently in the face, neck, or throat area.

Manufacturers have developed a number of devices in attempts to reduce the risk of kickback occurring or to reduce the likelihood of injury if it occurs. One way to help prevent kickback is to provide a guard to cover the chain at the upper quadrant of the tip of the blade, thereby preventing contact with the chain in the chain area. Another way is to provide a chain brake intended to stop the chain before contact with the operator can occur. The chain brake is generally operated by contact of the operator's hand with a hand guard as the saw moves back, although some types of chain brakes are automatic and do not depend upon the user's hand. These automatic brakes are actuated by an inertial sensing device. A hand guard alone can also provide significant protection against kickback and other injuries. Manufacturers have also designed "low-kick" guide bars and chains which are intended to reduce the energy generated when the chain at the bar tip contacts an object.

By a letter dated March 21, 1977, John Purtle, Esq., of Batesville, Arkansas, petitioned the Commission (Petition CP 77-10) to begin proceedings under § 7 of the Consumer Product Safety Act (CPSA) to develop a mandatory consumer product safety standard to minimize and prevent chain saw kickback. Mr Purtle suggested that every chain saw incorporate a safety device such as ". . . a chain saw brake, a nose-tip guard, a kill switch or other safety device."

Alternatives Under Consideration

While the Commission's staff was evaluating this petition in 1977, the Chain Saw Manufacturers Association (CSMA) met with the staff. CSMA recommended that the petition be denied on the grounds that a mandatory standard was not needed because the industry was taking significant voluntary steps to address the chain saw kickback hazard. CSMA estimated that 50 to 60 percent of the saws being sold at that time already contained some type of kickback protection. The industry expected the American National Standards Institute (ANSI) to approve an interim design standard by February 1978. The interim voluntary design standard (ANSI B 175.1, published in April 1980) would require gasoline chain saws to incorporate such protection as a nose-tip guard, a chain brake, a low kick chain, or a low kick guide bar. The technology to define kickback in terms of a performance standard did not exist, but CSMA estimated at that meeting that a test method could be developed and performance requirements drafted in approximately 2½ years.

In December 1977, CSMA proposed a joint 18-month effort with the Commission to develop a voluntary performance standard. The Commission directed the staff to study the proposal to determine whether it provided an acceptable approach. In March 1978, the staff recommended the voluntary effort as the most expeditious and cost effective strategy for reducing chain saw kickback injuries.

Subsequently, the Commission denied the petition to establish a mandatory standard (43 FR 26103, June 16, 1978) and in June 1978, formally agreed to participate with CSMA in a joint effort to develop a voluntary performance standard to reduce chain saw kickback injuries. The joint process involved the active participation of consumer, industry, and government representatives in the development of testing equipment and procedures, study of operator interaction with the saw, and analysis of injury data. The agreement specified that work on the standard was to be completed by December 31, 1979.

On December 21, 1979, CSMA submitted to the Commission draft performance requirements for chain saws and backup documentation. CSMA considered the draft to be both "a final standard and rationale" containing sufficient information for CPSC to write a supportable performance standard proposal, although additional work on correlation between the standard and rationale was needed.

The draft standard submitted by CSMA calls for manufacturers to use a specified test apparatus to measure the maximum energy generated at the tip of the chain bar at the initial moment of kickback. A computer model then translates the maximum energy measurement into the angle that the saw would rotate toward an operator. In making this translation, the model uses (1) the energy measurement, (2) information describing key characteristics of the saw being tested, (3) an equation for converting the measured energy into horizontal, vertical, and rotational energy, and (4) formulas intended to describe the influence of the operator's hands on the handle during kickback. The result is a "Derived Angle of Rotation," which manufacturers compare to acceptance criteria to determine whether the saw meets or fails the requirements.

The staff's evaluation of CSMA's draft standard and rationale has left serious doubts that the standard as submitted would reduce injuries associated with chain saws. Staff identified the following specific deficiencies:

(1) The portion of the computer model that attempts to account for the action of the operator's hands on the saw is based on an unproved equation. Furthermore, the study did not establish that the hand-held tests that were performed by CSMA related to the situation where kickback occurs with an unsuspecting user.

(2) The lack of a method to determine the angle at which the chain would stop, and the inability of the model to predict the angle at which the chain stops, prevent use of the acceptance criteria applicable to chain brakes.

(3) There is no analysis of the sensitivity of the computer model to variations in input data.

(4) The draft standard would apply only to saws with an engine displacement of 3 cubic inches (CID) and less, whereas the Commission has data indicating that saws up to 4.5 CID are used regularly by consumers.

These deficiencies, and the failure of CSMA to perform the development process in the manner specified in the agreement with the CPSC, caused the Commission to conclude preliminarily that it cannot rely on the voluntary process being conducted by CSMA to adequately protect the public from the risk of injury associated with the kickback of chain saws. Furthermore, the Commission preliminarily concludes that the risk of kickback injuries associated with chain saws is unreasonable and that a consumer product safety standard is necessary to reduce or eliminate this unreasonable risk.

In starting the effort to develop a standard addressing chain saw kickback, the Commission expects the standard to apply to both gasoline-powered and electric chain saws. The standard that we develop could be a

performance standard that would, for example, specify allowable levels of kickback energy or allowable kickback angles under specified test conditions. However, if the Commission concludes that a performance standard is not feasible, the standard could require the incorporation of specified design features to reduce the risk of kickback injuries. Or, the standard might incorporate both design and performance requirements. In addition, we have not determined whether the standard should apply only to the assembled chain saw, only to components of the saw such as saw chain, or both; or whether replacement parts such as saw chains should be subject to requirements of the standard. These questions will be considered by the Commission during the development of the standard. For the time being, however, where the term "chain saw" is used in this regulatory development it also refers to the components and replacement parts of chain saws.

In the case of the kickback hazard associated with chain saws, the Commission is not now aware of any standard issued, adopted, or proposed by any Federal department or agency or by any other qualified agency, organization, or institution that could be published as a proposed standard by the Commission. CPSC is undertaking further analysis of foreign standards.

The voluntary standard presently in effect in the United States (ANSI B 175.1, Safety Specification for Gasoline Powered Chain Saws, published in April 1980), while requiring at least some features designed to reduced the hazard, does not go far enough and still permits the marketing of consumer chain saws which present an unreasonable risk of injury. ANSI is developing a similar standard, ANSI B 175.2, for electric chain saws. There are also a number of standards in effect in foreign countries that may be effective in reducing the unreasonable risks of kickback, but the requirements of these standards have not been developed or analyzed to the point that we could propose them as a consumer product safety standard at this time.

If a valid voluntary standard applicable to a sufficient number of consumer saws is developed and implemented in the future, the Commission could reconsider the need to continue the development of a mandatory standard at that time.

Summary of Benefits

Sectors Affected: Users of chain saws, especially working age males and their dependents; and manufacturing of chain saws.

The benefits we expect from this proceeding are improved public health and safety through the prevention of accidents and injuries associated with chain saws. We estimate that over 100,000 injuries occur annually requiring medical treatment. There are also an increasing number of deaths associated with this product.

The purpose of these proceedings would be to reduce injuries and deaths and the costs associated with them. These costs can be considerable.

For example, assuming kickback injuries are a fairly constant proportion of total chain saw injuries, the Commission estimates that the cost (in 1978 dollars) of chain saw kickback injuries, not including pain and suffering, was $12 million in 1976, $17 million in 1977, $22 million in 1978, and $24 million in 1979. We estimate injury costs (in 1978 dollars), including pain and suffering, at $28 million in 1976, $40 million in 1977, $51 million in 1978, and $54 million in 1979. These cost estimates include hospital costs, follow-up medical treatment costs, foregone earnings, health insurance costs, product liability insurance, litigation cost, transportation cost, patients' visitors' foregone earnings, and transportation costs.

A reduction in any of these costs would be a sizable benefit to the accident victims and their families.

Furthermore, many manufacturers may benefit from a decrease in product liability suits to the extent safety requirements reduce accidents.

Summary of Costs

Sectors Affected: Professionals who use consumer chain saws; and manufacturing of consumer chain saws.

Professional users of consumer chain saws may find that low kick bar and chain safety requirements may decrease cutting speed of the saws. They may also find saws with chain brakes more expensive and heavier. Increased cost for a chain saw could be up to $10.00, or less than 10 percent of the total cost of the saw, depending on the requirements of the final standard and the changes needed to comply with it.

Economic costs of these safety requirements for manufacturers, suppliers, and purchasers would be minimal, and would depend in part on the need to retool and redesign to comply with the standard. Many manufacturers now offer safety features on their saws. Additional costs would also vary depending on whether or not specific parts suppliers have already retooled for options now available.

Related Regulations and Actions

Internal: None.

External: In spring of 1980, the State of Washington proposed safety standards for chain saws including requirements for chain brakes and low kick chains.

Active Government Collaboration

The National Bureau of Standards (NBS) of the Department of Commerce has provided some technical analysis concerning the Commission's safety activities on chain saws. We will ask NBS to continue to do so in this regulatory development.

Timetable

NPRM—To be determined.
Public Hearing—August 1981, Washington, DC.
Public Comment Period—To be determined.
Regulatory Impact Analysis—the Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information as a part of its rulemaking proceedings.
Regulatory Flexibility Analysis—To be determined.
Final Rule—To be determined.
Final Rule Effective—To be determined.

Available Documents

ANPRM, "Chain Saws and Their Components and Replacement Parts; Proceedings to Develop a Consumer Product Safety Standard"—46 FR 26262, May 11, 1981.

Notice of Intent to Develop Standard for Chain Saws, 45 FR 62392, September 19, 1980.

"CPSC Staff Briefing Packages," dated November 1977, March 1978, April 15, May 28, 1980, and January 1981, are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

Denial of Petition from John Purtle, 43 FR 26103, June 16, 1978.

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CPSC

Upholstered Furniture Cigarette Flammability Standard

Legal Authority

Flammable Fabrics Act, § 4, 15 U.S.C. § 1193.

Reason for Including This Entry

One of the major causes of death, injuries, and property damage in the United States each year is from fires in upholstered furniture started by burning cigarettes. Appropriate remedial action is needed to address these problems.

Mandatory or voluntary upholstered furniture cigarette flammability standards could reduce this death, injury, and property damage toll. Standards could increase costs for upholstered furniture manufacturers, and these cost increases are likely to be passed on to distributors, retailers, and purchasers.

Statement of Problem

The staff of the Consumer Product Safety Commission (CPSC) estimates that 39,000 upholstered furniture fires occur each year in residences in the United States, 25,000 of which are associated with cigarettes. Our current estimates indicate that 1,500 deaths occur annually because of those fires. Cigarette ignition of residential upholstered furniture causes 1,200 of the deaths. Among other actions, the Commission is considering both mandatory and voluntary cigarette-ignition resistant flammability standards for upholstered furniture.

The Commission staff estimates that the annual losses associated with cigarette ignition of upholstered furniture exceeded $1.3 billion (in 1978 dollars).

Alternatives Under Consideration

The major alternative under consideration is the Upholstered Furniture Action Council's (UFAC) Voluntary Action Program. UFAC believes that manufacturers who agree to build furniture according to the provisions of the UFAC program will produce furniture that can resist ignition by cigarettes. This program provides for the classification of upholstered fabrics into two categories based on their performance in a cigarette-ignition test that UFAC developed. For furniture covered with Class I fabrics (those that are more resistant to cigarette-ignition), this voluntary program requires elimination of ignition-prone welt cord (heavy yarn enclosed by fabric around the edges of furniture cushions) and untreated cotton beneath the decking fabric (the material on which a loose seat cushion rests) and in immediate contact with the covering of inside vertical furniture walls. The requirements for furniture covered with Class II fabrics (those that are less resistant to cigarette-ignition) are the same as for Class I, with the addition that furniture using Class II fabrics must also avoid contact between conventional polyurethane foam cushions and horizontal seating surfaces. The UFAC voluntary program provides test methods to determine acceptable filling materials (such as treated cotton batting, polyester batting, etc.) for use in furniture.

Tests carried out by CPSC and UFAC during 1979 indicated that the UFAC Voluntary Action Program had a strong potential for significantly increasing the safety (cigarette ignition resistance) of upholstered furniture. Therefore, the program might substantially reduce the annual loss of life and property damage attributed to cigarette ignition of upholstered furniture. Late in 1979, the Commission voted to defer any regulatory action on the flammability of upholstered furniture for 1 year in order to determine the effectiveness of UFAC's voluntary program in reducing the ignition of upholstered furniture by cigarettes. This 1-year evaluation is now complete and the Commission staff is analyzing the results of the program.

When this analysis is complete, the Commission will decide the appropriate future activity. One alternative is the proposal of a mandatory performance standard which is now in draft form. Under this draft proposed mandatory standard, firms would test upholstery fabrics and place them into one of four classes—A through D—on the basis of their resistance to ignition from cigarettes burned on the fabric. Fabric manufacturers would label fabrics according to these classes to show their flammability classification.

Furniture manufacturers would determine furniture constructions suitable for use with the fabric classes by testing mockups of the furniture to demonstrate their resistance to cigarette ignition. The standard would require annual testing, and permit manufacturers to use only the combinations of fabric and filling material that did not ignite when the applicable mockup was tested.

Summary of Benefits

Sectors Affected: Users of upholstered furniture.

The benefits we expect from the proceeding are related to the loss statistics we cite in "Statement of Problem." The staff previously estimated that the draft proposed mandatory standard could prevent more than about 86 percent of the losses.

Other benefits that may be related to the cigarette-ignition standard are a reduction in losses associated with pain and suffering from burn injuries, a possible reduction in losses due to ignition sources other than cigarettes, and a possible increase in the durability of upholstered furniture fabrics as thermoplastics replace cellulosic fibers.

Summary of Costs

Sectors Affected: Upholstered furniture manufacturing; textile mill products manufacturing (particularly cotton and other cellulosic fibers); upholstery shops that sell reupholstered furniture to non-original owners, particularly small establishments in these industries; wholesale and retail trade of upholstered furniture; and users of upholstered furniture.

In 1978 the CPSC staff estimated that the annual retail cost increase to the consuming public as a result of the mandatory standard which it is considering would range from $114 million to $174 million (in 1978 dollars). However, the preliminary results for the one year evaluation of the UFAC program have indicated that many of the technological assumptions upon which these estimates were based need to be modified.

Related Regulations and Actions

Internal: None.

External: The State of California has flammability regulations, parts of which the CPSC standard may preempt. Other States may have similar regulations.

Active Government Collaboration

The National Bureau of Standards of the Department of Commerce developed the technical basis for the standard.

Timetable

ANPRM—To be determined.
NPRM—To be determined.
Regulatory Impact Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information in its rulemaking proceedings.
Public Hearing—To be determined.
Public Comment Period—To be determined.
Final Rule—To be determined.
Final Rule Effective—To be determined.
Regulatory Flexibility Analysis—To

be determined.

Available Documents

"CPSC Staff Briefing Packages," November 15, 1978 and September 27, 1979, and other applicable material related to upholstered furniture flammability are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Urea Formaldehyde Foam (UFF) Insulation (16 CFR Part 1306)

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

This investigation is of great public interest because of possible adverse health and safety effects of urea formaldehyde foam (UFF) insulation. It is of special interest to consumers with homes containing the insulation, to consumers considering the purchase of it, and to those who manufacture, distribute, sell, and install it.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned about adverse safety and health effects that may be associated with UFF insulation. This type of home insulation, which is also referred to as urea-based foam insulation or foamed in-place insulation, is manufactured at the job-site. Workers drill holes in existing wall cavities and pump in the resin and a foaming agent through pressurized hoses. There are an estimated 500,000 installations of UFF insulation. The Commission has received nearly 1,600 complaints involving an estimated 4,100 people concerning adverse health effects associated with the release of formaldehyde from UFF insulation. Over one-half of these complaints were reported directly to the Commission, and the remainder were referred, mainly by various State agencies. The Commission has complaints from 47 States, and has received 10 or more complaints from 21 States. Most of these complaints involve installations of UFF insulation that occurred after 1977, although a small proportion of installations occurred in 1976 and earlier. In some cases the reactions to formaldehyde gas do not appear for months after installation. Also, any connection between the symptoms and the insulation may be delayed or never recognized by the consumer. As a result, the Commission does not know the exact number of health problems from UFF insulation.

Based on current information, the Commission believes interested persons should be aware of the following reports concerning the possible carcinogenic potential of formaldehyde. Preliminary test results from the Chemical Industry Institute of Toxicology (CIIT), a scientific organization supported by 36 U.S. chemical corporations, show that rats and mice exposed to formaldehyde gas (15 parts per million (ppm)) and rats exposed to 6 ppm formaldehyde gas developed squamous cell carcinomas of the nose. To date no tumors have been reported in rats or mice exposed to the lower concentrations.

The Commission, under the auspices of the National Toxicology Program, convened a panel of eminent scientists from within the Federal Government. This Federal panel assessed the human health implications of this study and the health implications of exposure to formaldehyde. The panel concluded that formaldehyde should be presumed to pose a carcinogenic risk to humans.

The potential for UFF insulation to release formaldehyde may be dependent on the following factors: (a) quality of ingredients in the insulation; (b) age or shelf life of ingredients; (c) viscosities of ingredients; (d) ratios of ingredients; (e) temperatures at which foaming occurs; and (f) mixing of ingredients. Additional factors that may increase the likelihood of liberating formaldehyde are: (a) excess formaldehyde in the resin; (b) excess catalyst in the foaming agent; (c) excess foaming agent; (d) improper ratio of resin to foaming agent; (e) foaming at high humidities; (f) foaming with cold chemicals; (g) dry density of foam exceeding the manufacturer's specifications; (h) application against recommended practice; and (i) improper use or lack of vapor barriers.

The Commission staff has conducted in-depth investigations for over 400 of the consumer complaints and has reviewed over 350 of these investigations. The in-depth investigations reviewed so far have confirmed the presence of UFF insulation and the involvement of a human health problem for over 90 percent of the consumer complaints investigated. Thirty-one persons were hospitalized, primarily for respiratory distress, after UFF insulation was installed. In over one-fourth of the investigated cases, involving nearly 100 families, there were reports that some or all of the occupants either vacated, or planned to vacate, all or a portion of the building for various periods of time, or had to delay their move into a home insulated with UFF insulation. Some of these families were advised to leave their homes by their physicians. In about half of the households involved in the consumer complaints, someone sought medical treatment. The health-related symptoms were linked to formaldehyde by a doctor or someone in the medical profession in about 50 of the investigation reports. Non-specific allergic reactions were diagnosed in an additional 30 families. About 40 percent of the reports state that the symptoms improve when the victim leaves the insulated environment and reappear after the victim returns to the environment.

Current information suggests that the most common reactions of consumers exposed to formaldehyde gas released from UFF insulation are: (1) eye, nose, and throat irritation; (2) coughing and shortness of breath; (3) skin irritation; (4) headaches and dizziness; and (5) nausea. Persons with respiratory problems or allergies, and especially persons who are allergic to formaldehyde, can suffer more serious reactions.

Although some consumers' reactions to formaldehyde may be so severe that they seek medical attention, many others may experience a less specific but persistent discomfort that may be mistaken for a cold, allergy, or general rundown feeling.

In addition to the above effects, current information indicates that formaldehyde is a strong sensitizer, so that certain exposed individuals may become allergic and experience progressively more severe reactions to formaldehyde at very low levels of exposure. Sensitized individuals may find it increasingly difficult to stay in their homes. In some cases, the individual's sensitization to formaldehyde is so severe that even after leaving the home, the consumer may be adversely affected by exposure to very low levels of formaldehyde from other sources. Since there are many souces of formaldehyde exposure, complete avoidance of this exposure may be nearly impossible.

After the UFF insulation is in place it may begin to release formaldehyde, either immediately or after a delay, and may continue to release formaldehyde indefinitely. Available information indicates that heat and humidity may

increase formaldehyde emissions. Because of these factors, the Commission believes that some consumers who insulate their homes in the winter months may not experience adverse health and safety effects until the summer months.

Alternatives Under Consideration

On January 13, 1981 the Commission proposed a ban on UFF insulation (46 FR 11188, February 5, 1981). The comment period ended on April 6, 1981 and the Commission, after analyzing the comments received, will decide whether or not to make the ban final. The proposed regulation would ban UFF insulation in order to prevent the risk of injury from cancer as well as acute illnesses caused by the release of formaldehyde gas from the product. After the effective date of the final regulation, persons would be prohibited from manufacturing or selling UFF insulation. The ban would not apply to UFF insulation that had been installed before the effective date.

The proposal defines the product that is banned as any cellular plastic thermal insulation material which contains, as a component chemical, formaldehyde, formaldehyde polymers, formaldehyde derivatives, or any other chemical from which formaldehyde can be released.

The definition does not include urethane or styrene foam insulation. These insulation materials are rigid in form and are not foamed-in-place or manufactured at the site of installation.

The proposed ban applies to UFF insulation for use as a consumer product, including UFF insulation that is intended for installation in new homes or residences as well as retrofit applications in existing homes. As proposed, the ban would also apply to UFF insulation that is installed in commercial buildings, recreational facilities, schools, and other public buildings. The Commission included non-residential applications within the scope of the proposal since (1) there is no information showing that the product that is installed in non-residences is different than the product installed in residences, (2) there are some reports of acute health problems associated with non-residences, and (3) there could be some degree of risk to persons exposed to formaldehyde gas released in non-residential applications.

The Commission proposed this ban under the authority provided by § 8 of the Consumer Product Safety Act (CPSA) (15 U.S.C. § 2057).

The Commission staff learned of possible health problems associated with UFF insulation as early as 1976. In October 1976, the Metropolitan Denver District Attorney's Consumer Office filled a petition (CP 77–1) under § 10 of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2059, requesting the Commission to develop a safety standard under § 7 of the CPSA, 15 U.S.C. § 2065, for certain types of home insulation products, including UFF insulation. The petitioner claimed that there is an unreasonable risk of injury of irritation and poisoning associated with UFF insulation. After considering information compiled by the Commission staff, the Commission decided, on March 5, 1979, to defer a decision on the part of the petition relating to UFF insulation and instructed the Commission staff to evaluate additional information on possible means of addressing this alleged unreasonable risk of injury (44 FR 12080).

After gathering additional information, the Commission held public hearings on UFF insulation in Portland, Oregon; Atlanta, Georgia; Minneapolis, Minnesota; and Hartford, Connecticut from December 1979 through February 1980 (44 FR 69578, December 3, 1979).

From April 9–11, 1980, the Commission staff held a technical workshop on formaldehyde at the National Bureau of Standards. At this workshop, experts from the United States and eight foreign countries presented information on UFF insulation, formaldehyde chemistry, product applications and properties, and measurement and sampling of formaldehyde.

On June 10, 1980, the Commission published a proposed notice to purchasers concerning the potential adverse acute health effects associated with the release of formaldehyde gas from UFF insulation (45 FR 39434). The proposal would have required manufacturers of UFF insulation to give specified technical and performance information to prospective purchasers to assist them in making an informed choice in purchasing the product. The proposal included information concerning the release of formaldehyde gas, symptoms of the acute illness associated with its release, and certain conditions under which the release of formaldehyde gas is more likely. The Commission solicited comments on the proposal and received 63 comments from interested persons.

Also during its 2-year investigation of UFF insulation and consideration of regulatory options, CPSC staff and Commissioners have met with representatives of the Formaldehyde Institute and other industry representatives including UFF insulation installers on numerous occasions, including a lengthy public meeting to assess industry data and viewpoints on December 5, 1980.

The CPSC staff recommendation to propose the ban also relied on two advisory reports on the chronic and acute health effects posed by formaldehyde prepared for the Commission by two prestigious bodies of outside experts and a panel ("Federal Panel on Formaldehyde") of 16 Federal experts in health science and cancer research established under the auspices of the National Toxicological Program. The panel's recommendation was based in part on a chemical industry cancer study conducted for 2 years on laboratory animals. The study showed that two different species (rats and mice) developed nasal cancer when exposed to inhalation doses of formaldehyde gas within an order of magnitude of the exposure in residences where UFF insulation has been installed.

CPSC also recently received a report from the Franklin Research Center of Philadelphia which tested nine separate installations of UF foam under conditions considered by installers to be ideal for minimizing release of formaldehyde gas. The Franklin Research Center discovered that significant amounts of formaldehyde gas were released by all the products that were tested.

The Commission has carefully examined existing standards and manufacturer's specifications for the product, as well as draft standards that recently have been submitted to the Commission. Those standards examined were: Department of Energy standard (1980); HUD Use of Materials Bulletin No. 74 (1977); Dutch Quality Requirements for UFF Insulation (1976); British Standards 5617 and 5618 (1978); German Standard DIN 18–159 (Part 2)(1977); and Canadian Standards, 51–CP–24M (1977), and 51–CP–22 MP (1978). Those standards recently submitted to the Commission were: the National Insulation Certification Institute Voluntary Standard and the Formaldehyde Institute Draft Standard. The Commission preliminarily has concluded that none of these standards or specifications have been shown to adequately address the release of formaldehyde from the product and the chronic and acute risk of injury associated with that release. The Commission also concludes at this time that the provisions purporting to reduce formaldehyde emissions are not supported by either a technical rationale or by documentation and experimentation demonstrating their effectiveness. Instead, the ability of

manufacturers to avoid complaints of acute illness after the product has been installed is at the present time largely dependent on the skill of the individual installer, and is not something which can be codified in a standard or predictably and reliably duplicated by others. Moreover, even those installations which do not result in complaints of acute illness pose a risk of injury from cancer to consumers exposed to the formaldehyde.

Based on present information, the Commission believes that the technology and support for a standard that would adequately limit the release of formaldehyde from the product to a predictable level is not presently at hand has not been shown to be readily available in the future.

The Commission has also considered other regulatory alternatives, such as labeling and information disclosure to consumers. However, because of (1) the nature of the product—the fact that it is manufactured at the site of installation and is essentially a nonreturnable product, or one that is removable only at great expense—and (2) the inability to provide notification to subsequent purchasers of the building where the insulation is installed, labeling or disclosures would not adequately address the problem.

The Commission recognizes that banning a product is a serious action. If UFF insulation is banned, the economic consequences to that industry, which is composed of many small businesses, are likely to be severe. At the same time, however, given the unreasonable risk of injury presented by the product, the availability of substitute forms of insulation for nearly all applications, and the fact that there is no feasible standard, including labeling or information disclosure, that would eliminate or adequately reduce the risk, the Commission preliminarily concludes that a ban is necessary and is in the public interest. The Commission has included in the proposed rule a procedure for interested persons to apply for an exemption from the ban, based on evidence showing that they have developed a product that will not present an unreasonable risk of injury from the release of formaldehyde gas.

Summary of Benefits

Sectors Affected: Consumers of UFF insulation, especially persons with respiratory problems and allergies and those sensitized to formaldehyde; and manufacturers, wholesale and retail traders, and installers of UFF insulation.

The benefits we expect from this proceeding are improved public health and safety resulting from the reduction of consumer exposure to formaldehyde released from UFF insulation.

The Commission staff estimates the lifetime risk of injury from cancer to consumers resulting from the release of formaldehyde gas from UFF insulation is that up to 150 people may develop cancer among the population of 1.75 million persons exposed to formaldehyde in residences that have been insulated with UFF insulation from 1975 to 1980. Although this estimate reflects the limitations and uncertainties of data, it does provide a measure of the magnitude of the problem associated with the levels of formaldehyde to which consumers are exposed from UFF insulation.

In preparing the risk assessment for UFF insulation, the Commission staff relied upon the model used by the Federal panel to assess the risk of nasal tumors in rats caused by the inhalation of formaldehyde insulation.

In considering the potential benefits of a ban in reducing the future incidence of cancer, the Commission has relied upon a risk assessment concerning the degree of the risk of injury for chronic hazards. Based on a projection of 75,000 installations of UFF insulation in 1980 as well as the information in the risk assessment, approximately 262,500 persons would be at risk from the projected 1980 residential installations of UFF insulation. Based on the upper estimation of risk (.000086), approximately 23 of these persons may develop cancer as a result of their exposure.

If the estimated value of foregone energy savings (discussed in the "Summary of Cost" section) is compared to the estimated risk of 23 cases of cancer that might eventually result from these installations each year, based on the upper value of the estimated range of risk, the calculated cost of foregone energy savings per cancer avoided would range from $70,000 to $226,000 per year.

This range compares only the benefits of avoided incidences of cancer to estimated foregone energy savings. Although additional benefits cannot be reliably quantified, a ban would also benefit society in the following ways: (1) avoidance of the cost of lives lost and the medical and social costs for treatment of cancer; (2) reducing the costs of adverse acute health effects caused by formaldehyde; (3) avoidance of the costs of remedial measures to attempt to correct problems in future installations, including the costs of removing foam from residences; and (4) avoidance of costs incurred due to time lost from work, rental of other residences, and costs of litigation involving installations.

When the benfits of avoided incidences of cancer and the additional benefits described above are considered in relationship to the facts that the ban is likely to result in a relatively minor impact to the economy as a whole, and will result in minimal energy losses because of the ready availability of substitute types of insulation for most applications, the Commission has preliminarily concluded that the benefits of the ban do bear a reasonable relationship to, and do in fact justify, the costs of the regulatory action.

The Commission staff believes that there are substitutes for most, but not all, uses of UFF insulation. Each of the UFF-insulated homes is a potential source of formaldehyde exposure. The Commission is not aware of a practical solution that has been demonstrated to be effective in all instances to the problems from release of formaldehyde gas from UFF insulation. Some of the remedial measures that have been suggested by industry representatives include ventilation by opening windows and doors and turning on air conditioners, the use of ammonia or other chemicals to neutralize formaldehyde gas, painting interior walls with an oil-base paint to keep formaldehyde gas out of the living areas of the home, and the use of chemically treated air filters to absorb formaldehyde gas. These remedies have not been successful in all cases. In some instances, persons have successfully eliminated problems by removing the UFF insulation after it has hardened. However, since this remedy requires removal of the interior walls of the home, it can be a very expensive solution. The Commission has also received reports that in some instances, formaldehyde gas problems have continucd even after the UFF insulation has been removed. Also the proposed ban may result in or cause some firms a decrease in the number of complaints, costs of remedial meaure to correct installations involving complaints, law suits involving adverse health effects, and unfavorable publicity.

Summary of Costs

Sectors Affected: Manufacturers, importers, wholesale and retail traders, installers, and consumers of UFF insulation; and the general public.

The economic effects of a ban of UFF insulation would fall on: (1) UFF chemical manufacturers and suppliers of imported UFF chemicals; (2) UFF insulation contractors who manufacture

the product at the site of installation; and (3) consumers and the public at large, in the direct effect of foregone energy savings, and the indirect effect of reduced real estate values.

The major anticipated economic impacts of a ban for manufacturers and importers of urea formaldehyde foam component materials are in lost revenues and unemployment. If the total number of residential installations of urea formaldehyde foam per year in the absence of a ban is 60,000 to 80,000, suppliers of the materials used to make UFF insulation would have a loss in sales that corresponds to the value of the materials in these installations. If the lost revenues are calculated by multiplying the estimated value of the chemicals used by the number of installations, the lost sales would be $12 million to $20 million per year (in 1980 dollars). If the lost revenues are calculated as percentage of the retail value of the installed product, then the estimated lost sales would be from $11 million to $40 million per year.

When the Commission staff prepared its preliminary economic assessment, available information indicated that 30, and possibly more, companies in the United States either manufactured urea formaldehyde foam chemicals or distributed imported urea formaldehyde foam chemicals. Information available in preparing the assessment showed that the ten largest companies may supply 85 to 90 percent of the resin used for UFF insulation. More recent estimates by industry representatives indicate that there are nine U.S. firms manufacturing component materials for UFF insulation, and that there are ten U.S. firms that are either private labelers of component materials or distributors of materials produced by domestic or foreign firms. Information gathered by Dun and Bradstreet shows that nearly all of these companies have fewer than 20 employees, and some have fewer than 10 employees. Only one company has more than one plant. Although some of these companies may be able to produce UFF foam resins for other uses, such as adhesives for the production of plywood and particle board, or may be involved in marketing other energy conservation related products, many of the suppliers of UFF chemicals would face a substantial reduction in their total revenues if UFF insulation were banned. Many of the remaining suppliers of UFF insulation materials are likely to go out of business, unless they can diversify their operations. Some major manufacturers and suppliers of urea formaldehyde foam chemicals have gone out of business because of reduced demand for UFF insulation or anticipated problems in marketing the product in the future. The maximum impact of a ban for manufacturers and distributors of the component materials used to make UFF insulation may be the exodus of 19 firms from the industry, with a loss in employment of approximately 250 to 350 persons.

The major anticipated economic impacts of a ban for persons installing UFF insulation will be in the form of a loss of revenues and reduced employment.

Available information indicates that there has been a substantial decline in the number of installers in the last several years. As of April 1980, the best available estimates were that there were approximately 1,500 to 2,000 active installers, and that approximately an equal number of persons had the necessary equipment to install the product but were not installing UFF insulation. A recent submission to the Commission, however, states that the number of active installers is only 600 to 800. Based on information provided by Battelle Columbus Laboratories and an informal survey conducted by the CPSC staff, most of these installers are likely to have other sources of income, such as from the installation of siding, roofing, and storm windows, as well as from other types of insulation. Seventy-eight percent of insulation contractors surveyed by *Roofing/Siding/Insulation* magazine in 1980 reportedly installed at least one energy conservation product other than insulation.

Based on an estimated total annual retail value of $43 million to $120 million (in 1980 dollars) for 60,000 to 80,000 UFF insulation installations per year and on the assumption that 1,500 to 2,000 installers would be active in the absence of a ban, the average number of annual installations per firm would range from 30 to 50. The average gross revenues per firm would range from $30,000 to $80,000 per year (in 1980 dollars). The actual gross revenues may be greater or less than this amount for individual installers. The overall impact of a ban on each installer would depend on the extent to which total revenues are derived from UFF insulation jobs, and the extent to which lost revenues may be compensated by increased installation of other types of insulation materials or other home improvement operations. (As noted above, the number of active installers of UFF insulation may now range from 600 to 800. However, the Commission does not have current information on UFF insulation activity that would allow precise estimates of average installation rates of revenues for these firms.)

Information provided by insulation contractors indicates that there may be from 3 to 15 employees per firm who install UFF insulation. The number of employees who would lose their jobs as a result of a ban would vary depending on whether these employees could be used in other activities. Some of the contractors contacted by the staff who are no longer installing UFF insulation indicated that they were able to use these employees in other activities and were not forced to lay them off when they discontinued use of UFF insulation. However, where UFF insulation represents a substantial portion of the firm's revenue, layoffs are more likely to result.

Based on a projection of 75,000 installations in 1980, the estimated total energy savings for UFF insulation ranges from 2.7 trillion to 3.4 trillion Btu's annually. These savings have an estimated value between $16 million and $20 million of 1980 energy prices. This may be less than .005 percent of national energy use.

Present information indicates that the walls of most residences now being insulated with urea formaldehyde foam could be insulated with alternative insulating materials. In approximately 5 to 10 percent of the residences, the wall cavities may be so narrow that alternative materials are inadequate. However, because these homes have narrow wall cavities, the energy savings from UFF insulation in these homes would probably be less than in homes with deeper wall cavities. The Commission staff estimates that the total annual energy savings for UFF insulation in these residences in 1980 could range from 35 to 87 billion Btu's, with a value of $204,000 to $518,000 at 1980 energy prices. These foregone energy savings would be repeated for each year that insulation is not installed.

A ban could also have the indirect result of discouraging installation of alternative types of wall insulation in some homes in which the alternative types of insulation are suitable, because of a decline in the solicitation of insulation jobs or a decision by consumers not to have other types of insulation installed. However, where other types of insulation are suitable, the energy losses are less likely to be continued in later years, since consumers are able to insulate and are more likely to do so as they consider their energy losses. For this reason, and because the failure to insulate these residences would be an indirect result of a ban, the foregone energy savings in

those homes where alternative types of insulation are less suitable should be given greater emphasis.

The cumulative foregone energy savings after the ban becomes effective cannot be precisely determined because of uncertainty about: (1) the number of UFF insulation installations in future years in the absence of a ban; (2) the total number of uninsulated residences; and (3) the development of new alternative wall cavity insulating materials in the future that may also be suitable for the small percentage of installation for which urea formaldehyde foam is now reportedly the only available insulating material.

A ban of UFF insulation could have an adverse effect on the resale value of residences or other buildings that have been insulated with UFF insulation. Since the ban is not retroactive and does not directly affect products that have already been installed, this impact would be a secondary, rather than a primary impact of the ban. A decline in real estate values of homes insulated with UFF insulation could also occur in the absence of a ban, though to the extent that it does, such losses in value would not be attributable to the ban. At the present time, there is insufficient information to accurately estimate the magnitude of these effects, if any.

If the Commission bans UFF insulation, consumers who have already had the product installed may increase their efforts to have the insulation removed. This increase in efforts may lead to greater costs incurred by urea formaldehyde foam chemical manufacturers and installers in litigation or in taking remedial measures. Although these costs could be a significant factor in the overall economic impact of a ban, at the present time there is insufficient information to estimate their magnitude, if any.

Related Regulations and Actions

Internal: None.

External: The Commission is aware of the following actions taken by State and Federal agencies concerning UFF insulation.

(1) Based on the risk of acute illness presented by the product, the State of Massachusetts has declared UFF insulation to be a banned hazardous substance and has required the removal of UFF insulation from commerce in that State. The Massachusetts ban became effective November 14, 1979. The Massachusetts regulations are currently in litigation, although the ban itself is in effect during this litigation. The State has issued repurchase provisions for the ban, effective November 20, 1980. These provisions allow homeowners who have had their homes insulated with UFF insulation to have the foam removed at the manufacturer's expense if at least one occupant of the structure has suffered adverse health effects which occured or were aggravated after exposure to the UFF insulation.

(2) The Attorney General's Office of the State of Connecticut has entered into an agreement with nine members of the UFF insulation industry to resolve complaints concering acute illness associated with UFF insulation. The Connecticut agreement also requires manufacturers to provide prospective purchasers with a notice concerning possible adverse health effects associated with the product. On January 1, 1980, the Connecticut Department of Consumer Protection proposed a regulation to require a health notice in all UFF insulation contracts for all manufacturers.

(3) The Office of the Attorney General of the State of Colorado issued a warning on December 4, 1978 about potential acute health hazards to consumers who have purchased UFF insulation. Denver County has adopted a prohibition against the use of UFF insulation in new or existing construction.

The Colorado Board of Health held a hearing on UFF insulation on June 18, 1980 on the advisability of either requiring labeling or banning the product. On September 17, 1980, based on the acute health hazards to consumers, the Colorado Department of Health banned the future installation of UFF insulation in facilities where persons may be exposed for a protracted length of time without knowledge of the presence of the product. The health department also requires a disclosure statement in contracts for installation of the product in private dwellings or other buildings not covered by the ban.

(4) New York and Rhode Island have adopted health- and safety-related disclosure requirements for the product concerning the acute risk of injury.

(5) In Minnesota, the legislature enacted a law requiring the Commissioner of Health to determine if a significant health problem is presented by the use of building materials, including UFF insulation, that emit formaldehyde gas. On May 22, 1980, the Commissioner of Health declared that because of problems of acute toxicity, the use of building materials which give off formaldehyde vapor can be a "significant health problem" under certain circumstances. On June 23, 1980, a temporary rule was proposed which will establish a maximum limit of 0.1 parts per million for the air inside newly constructed dwelling units.

(6) On December 18, 1979, the Virginia Department of Health issued a Health Hazard Alert Sheet on the problems of acute toxicity presented by formaldehyde and UFF insulation.

(7) In several State legislatures, bills have been introduced to ban or impose a moratorium on the sale of UFF insulation (Arizona, West Virginia, New Hampshire, and Ohio), to set performance requirements limiting formaldehyde emission (California), or to require safety-related disclosures (Maryland).

(8) The Canadian government has adopted a temporary ban of further sales of UFF insulation, effective in December 1980, because of the acute and chronic risks of injury associated with the product.

(9) The Department of Housing and Urban Development (HUD) has issued a Use of Materials Bulletin (UMB #74, October 13, 1977) for UFF insulation. UMB #74 explains the conditions under which HUD will accept the product and stipulates certain limitations for its use in new home construction.

(10) On May 29, 1980, the Small Business Administration (SBA) informed the Commission that the SBA declined to make small businesses in the UFF insulation industry eligible for financial assistance under the Economic Dislocation Loan Program. SBA determined that the problems affecting the industry are not due to direct governmental actions but were caused by adverse publicity resulting from improper installation of the product by dealers.

(11) On September 25, 1980, the Department of Energy (DOE) published interim final material and installation standards for UFF insulation (45 FR 63786). These standards are now in effect. DOE stated in the preamble to the regulation that if significant new information arises, DOE will be able to take whatever action is appropriate including, if necessary, banning UFF from the Residential Conservation Service Program (45 FR 63787). DOE also stated that its regulations will conform with any legal action taken by the Commission with respect to UFF insulation (45 FR 63787). The DOE regulations include a required notice to consumers that is similar to the notice proposed by the Commission.

On January 27, 1981 DOE proposed (48 FR 8997) to either amend their interim standard for UFF insulation or to ban the installation of UFF insulation under the Residential Conservation Service Program.

Active Government Collaboration

The National Academy of Sciences (NAS), in a 10-month comprehensive analysis of existing formaldehyde research in the international health community prepared for the Commission in March 1980, recommended that consumer exposure to formaldehyde be reduced to the lowest practical level.

In November 1980, a panel of 16 Federal experts in health science and cancer research advised the Commission that formaldehyde should be presumed to pose a risk of cancer for human beings.

The Commission has also conducted research with the Department of Energy to help determine why formaldehyde gas is released from UFF insulation and whether there are means of preventing such release. The Commission has also received a completed economic study, conducted by a contractor, concerning the major uses of formaldehyde in consumer products, including UFF insulation. The study also provides an overview of the production of and market for formaldehyde.

The Commission staff has had meetings with the National Association of Urea Foam Insulation Manufacturers, the National Insulation Certification Institute, and the Formaldehyde Institute (including the National Particleboard Association and the Hardwood Plywood Manufacturers Association).

Timetable

Regulatory Impact Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Final Rule—To be determined.

Final Rule Effective—30 to 180 days after any final ban is published.

Available Documents

CPSC staff briefing packages dated November 2, 1979, April 23, 1980, September 2, 1980 and November 18, 1980 (includes economic impact report and public comments, from comment period February 5 to April 6, 1981) are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

"Public Hearings Concerning Safety and Health Problems That May Be Associated With Release of Formaldehyde Gas From Urea Formaldehyde Foam Insulation," 44 FR 69578, December 3, 1979.

"Urea-Formaldehyde Foam Insulation Proposed Notice to Purchasers," 45 FR 39434, June 10, 1980.

Regulatory Flexibility Analysis, January 1981.

"Urea-Formaldehyde Foam Insulation; Proposed Ban; Denial of Petition," 46 FR 11188, February 5, 1981.

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NUCLEAR REGULATORY COMMISSION

Office of Nuclear Regulatory Research

Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation (10 CFR Part 60)

Legal Authority

Energy Reorganization Act of 1974, §§ 202 (3) and (4), 42 U.S.C § 5842.

Reason for Including This Entry

The Nuclear Regulatory Commission (NRC) has included this rule in the **Calendar** because it deals with an important health and safety issue which has great public interest.

Statement of Problem

The Energy Reorganization Act of 1974 gives NRC licensing and regulatory authority over facilities to be built and operated by the Department of Energy (DOE) for the permanent disposal of high-level radioactive wastes (HLW) that have been generated under activities licensed by the Commission or by government programs. High-level radioactive wastes are either the residue from reprocessing spent reactor fuel or spent fuel itself if it is to be disposed without reprocessing.

The intent of this regulation is to provide information to DOE and other interested parties on how the NRC plans to exercise its authority over DOE facilities to be used for the disposal of HLW in prepared cavities deep in the earth. (This method of waste disposal is commonly termed "geologic disposal," and the facility itself is called a "geologic repository.") The NRC has published as a final rule the licensing procedures for the disposal of HLW in geologic repositories (February 25, 1981, 46 FR 13971).

This rulemaking is taking place in two segments. The first segment consisted of the licensing procedures noted above. The second deals with the technical criteria which will be published shortly as a proposed rule. An ANPRM was published May 13, 1980. Specifically, the first segment spells out the procedures DOE should follow in applying for an NRC license for geologic disposal of HLW and the procedures NRC will follow in reviewing that application. The second segment contains the technical criteria the NRC will use in evaluating a DOE application, approving or disapproving a license, and inspecting the placement of the waste within the geologic repository. Specific topics addressed include the suitability of a site and the design and closure of a repository. During the licensing process, the NRC staff will be available to discuss opportunities for participation with representatives of both State and local governments. Provisions for participation of Indian tribes in the licensing process are also set forth.

Alternatives Under Consideration

This regulation addresses only geologic disposal of HLW. The NRC had considered promulgating a broad regulation to cover other methods which have been suggested for the disposal of HLW, such as placing the wastes on the ocean floor (seabed emplacement), or within a polar ice cap (icesheet disposal). However, neither of these methods appears to be within NRC's jurisdiction, and other potential methods (e.g., transmutation-alteration of the waste to decrease its radioactivity) do not appear to be technically developed to the point that rulemaking would be warranted.

The NRC had also considered whether to proceed with rulemaking at this time or to rely on its existing body of regulations in discharging its licensing responsibilities over the disposal of HLW. The NRC has decided to proceed with rulemaking because reliance on existing regulations would neither give proper perspective to the unique problem of geologic disposal of HLW, nor provide the guidance to both the DOE and the public which NRC believes to be necessary to an efficient and publicly accessible licensing process.

Summary of Benefits

Sectors Affected: Industries producing high-level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development and military programs); State and local governments; and the general public.

Industry would be able to dispose of its high-level radioactive waste permanently in a DOE repository licensed under this regulation. State,

Tribal, and local governments would be able to participate in the licensing process under the provisions of this regulation. This regulation would require NRC to make a finding of reasonable assurance that the high-level radioactive waste could be disposed of in a manner that would protect the public health and safety, and the environment.

The principal benefit that will accrue to the public is that it will better understand the basis upon which the Commission will determine whether waste disposal by DOE meets the standard set forth by the Environmental Protection Agency (EPA). It should be noted that the NRC could fulfill its licensing responsibilities through judicious application of its existing regulations for possession of source, byproduct, and special nuclear material (10 CFR Parts 30, 40, and 70). However, to do so would not afford the public the opportunity to comment in a very specific way as to what it believes are the necessary features of a waste disposal system adequate to meeting the generally applicable environmental standard.

Summary of Costs

Sectors Affected: Industries producing high-level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development, and military programs); users of electricity produced by nuclear power; and NRC.

Based on EPA estimates done in 1978, the estimated construction and operating costs for a geologic repository range from $1 billion to $5 billion (in 1978 dollars). Estimates of the impact on the cost of electricity production vary over a wide range, but are not expected to exceed one mill (1/10 of a cent) per kilowatt hour. As many as four repositories may be required to accommodate the HLW that the Government and commercial interests generate by the end of the century. Compliance with NRC's regulations are not expected to alter these costs.

The only costs to produce the regulation are the resources that NRC expends to develop, support, and issue it.

Related Regulations and Actions

Internal: This action is related to an NRC program to classify radioactive waste according to the degree of hazard it presents.

External: This action is related to the Environmental Protection Agency's criteria and standards being developed for the disposal of HLW.

Active Government Collaboration

The NRC has active liaison with the Environmental Protection Agency, the United States Geological Survey, and the Department of Energy.

Timetable

NPRM (Technical Criteria)—June 1981.
Public Comment Period—Ninety days following NPRM.
Public Hearing—To be determined.
Final Rule (Technical Criteria)—June 1982.
Regulatory Impact Analysis—Not required, but similar material available with NPRM.
Regulatory Flexibility Analysis—Not required.

Available Documents

Commission Paper—SECY-79-366.

ANPRM, "Technical Criteria for Regulating Geologic Disposal of High-Level Radioactive Waste," 45 FR 31393, May 13, 1980.

Policy Statement—"Licensing Procedures for Geologic Repositories for High-Level Radioactive Wastes," 43 FR 53869, November 17, 1978.

NPRM (Procedural Requirement)—"Disposal of High-Level Radioactive Wastes in Geologic Repositories; Proposed Licensing Procedures," 44 FR 70408, December 6, 1979.

NPRM (Procedural Requirement)—"Disposal of High-Level Radioactive Wastes in Geologic Repositories; Licensing Procedures," 46 FR 13971, February 25, 1981.

NUREG-0279—"Determination of Performance Criteria for High-Level Solidified Nuclear Waste," July 1977.

NUREG-0465—"A Classification System for Radioactive Waste Disposal—What Waste Goes Where?", June 1978.

All of the above documents are available in the NRC Public Document Room at 1717 H Street, N.W., Washington, DC, for inspection and copying for a fee. The NUREG docments are also available for sale by writing the National Technical Information Service, Springfield, VA 22161.

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CHAPTER 5—HUMAN RESOURCES

ED-OESE

Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs 34144

ED-OPE

Institutional Aid Program Regulations 34145

HUD-HOUS

Minimum Property Standards for One- and Two-Family Dwellings 34146

DOJ-CRD

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs 34147

DOJ-CRD

Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds 34149

DOJ-CRD

Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs 34150

DOJ-CRD

Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance 34151

DOJ-INS

Admission of Refugees and Asylum Procedures 34152

GSA-HRO

Nondiscrimination in Federally Assisted Programs 34153

GSA-NARS

Freedom of Information Act Requests for National Security Classified Information in the National Archives 34156

SBA

Revision to Method of Establishing Size Standards and Definitions of Small Business .. 34157

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs (34 CFR Parts 200 and 201)

Legal Authority

Elementary and Secondary Education Act of 1965, Title I, §§ 101–198, as amended by P.L. 95–561, 20 U.S.C. §§ 2701–2854.

Reason for Including This Entry

The Department of Education (ED) includes this entry because the regulations govern one of ED's largest programs of Federal assistance to education. These regulations could have an effect of $100 million or more on the economy.

Statement of Problem

These regulations are necessary to implement Title I of the Elementary and Secondary Education Act of 1965 as amended by the Education Amendments of 1978.

Title I authorizes a State-administered grant program that provides financial assistance to:

(1) Local educational agencies (LEAs) for projects designed to meet the special educational needs of educationally deprived children in low-income areas and children in local institutions for neglected or delinquent children.

(2) State agencies for projects designed to meet the special educational needs of handicapped children.

(3) State agencies for projects designed to meet the special educational needs of children in institutions for neglected or delinquent children, or children in adult correctional institutions.

(4) State educational agencies (SEAs) for projects designed to meet the special educational needs of migratory children of migratory agricultural workers or fishers.

The proposed Title I regulations consist of two parts: 34 CFR Part 200 and 34 CFR Part 201.

Part 200 contains general requirements that apply to all Title I grantees and to State and Federal administration of Title I programs.

Part 201 contains requirements that apply only to those Title I projects operated by LEAs to provide supplemental educational services for educationally deprived children in eligible low-income areas and for children in local institutions for neglected or delinquent children.

Alternatives Under Consideration

We published in the **Federal Register** on January 19, 1981 (46 FR 5136) final regulations for Title I of the Elementary and Secondary Education Act of 1965, as amended. Pursuant to a Presidential memorandum, we postponed the effective date of these regulations until March 30, 1981 (46 FR 12495, February 17, 1981).

On the same date that we published the final Title I regulations, the Department published a Notice of Proposed Rulemaking: Cross-reference (46 FR 5236, January 19, 1981), in which we invited public comment on the requirements imposed on State and local educational agencies by 34 CFR 200.93–200.95 (requiring use of Title I funds only for the "excess costs" directly attributable to Title I projects which exceed the average per pupil expenditure of a local educational agency) and 34 CFR 201.130–201.143 (requiring use of Title I funds only to "supplement, not supplant" certain funds from State and local sources). The Department received a number of comments objecting to the burdens imposed by these provisions. In particular, a number of school administrators expressed the opinion that the final regulations regarding "excess costs" did not provide as much flexibility as the June 11, 1980 proposed regulations because the more recent regulations defined "excess costs" in terms of individual Title I projects, and therefore did not provide administrators with the opportunity to develop individual interpretations of "excess costs."

After further reviewing the final Title I regulations concerning the "excess costs" and "supplement, not supplant" requirements, the Secretary decided to amend §§ 200.93–200.95 and §§ 201.130–201.144 to designate them as guidelines, rather then regulations (46 FR 18976, March 27, 1981). As guidelines, these provisions do not impose any requirements on grantees beyond those specified in the Title I statute. Rather, the guidelines are intended to assist agencies in meeting the statutory requirements. While the guidelines describe permissible ways of meeting the statutory "excess costs" and "supplement, not supplant" requirements, grantees may develop and pursue alternative approaches that comply and are not bound by the excessively rigid and burdensome regulatory requirements in the

regulations as originally published. Grantees must, of course, continue to comply fully with the "excess costs" requirement in § 126(b) of the Title I statute and to use Federal funds to "supplement, not supplant" non-Federal sources as required in §§ 126 (c) and (d) of the Title I statute.

The Department published this amendment to the Title I final regulations in the **Federal Register** on March 27, 1981 at 46 FR 18976. On the same date, the Department published a notice of intent to further review these regulations by a target date of January 31, 1982 (46 FR 19000). The notice of review invited interested persons to submit comments on or before May 31, 1981.

Summary of Benefits

Sectors Affected: State and local educational agencies; educationally deprived elementary and secondary school students and their parents; and elementary and secondary school teachers and other education employees.

Congress appropriated $3.2 billion in fiscal year 1979 for Title I programs operated in the 1979–1980 school year. Of that total, Congress appropriated $2.8 billion for Title I grants to LEAs.

In appropriating this sum, Congress recognized the special educational needs of children from low-income families and the impact that concentrations of low-income families have on the ability of LEAs to support adequate educational programs. Federal financial assistance is provided as formula grants to LEAs serving areas with concentrations of children from low-income families and enables them to expand and improve those educational programs which contribute particularly to meeting the special educational needs of educationally deprived children. The amount of assistance available to an LEA depends on the number of these children being served. Financial assistance is also provided to meet the special educational needs of Indian children, of children of certain migrant parents, and of handicapped, neglected, and delinquent children.

Federal funds are used to pay instructional and administrative costs. In addition, the proposed rules provide for teacher, school board, and parent participation in Title I projects.

By amending these regulations to designate the provisions regarding "excess costs" and "supplement, not supplant" as guidelines, the Secretary relieves regulatory burdens on grantees. Although grantees will now be able to approach these issues with more flexibility, they must continue to comply fully with the statutory requirements.

Summary of Costs

Sectors Affected: State and local educational agencies.

The primary administrative costs stem from the recordkeeping and reporting requirements imposed on State and local educational agencies in order for them to obtain and account for Federal funds. However, Federal payments are made from Title I funds to reimburse these costs. Some of the requirements, such as the rule against supplanting local effort, also cause administrative burdens by requiring that LEAs be prepared to demonstrate that the State and local funds currently available for each type of special program are properly allocated. Many of these requirements, however, are imposed by statute. No systematic data are available on the costs of those requirements that are only partially mandated by law and whether State and local educational agencies are fully reimbursed from Title I funds for the costs of these requirements.

Related Regulations and Actions

Internal: ED regulations in 34 CFR Parts 203, 204, and 302 were published separately and are now in effect as final regulations. Part 302 governs Title I grants to State agencies operating projects for handicapped children. Part 203 governs Title I grants to State agencies operating projects for neglected or delinquent children. Part 204 governs Title I grants to SEAs operating projects for migratory children.

External: None.

Active Government Collaboration

In addition to considering public comments, ED made special efforts to obtain additional specific suggestions from State and local government officials.

Timetable

Regulatory Impact Analysis—To be completed by January 31, 1982.
Final Rules—Have taken interim effect pending completion of Regulatory Impact Analysis in accordance with Executive Order 12291.
Public Hearings—None.
Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—44 FR 38400, June 29, 1979.
NPRM—45 FR 39712, June 11, 1980.
Individuals interested in reviewing public comments may call or write the Agency Contact listed below.
Final Rule—46 FR 5136, January 19, 1981.
NPRM—46 FR 5236, January 19, 1981.
Final Rule—46 FR 18976, March 27, 1981.
Notice of Intent To Review—46 FR 1900, March 27, 1981.

Agency Contact

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ED—Office of Post-Secondary Education

Institutional Aid Progam Regulations (34 CFR Parts 624, 625, 626, and 627)

Legal Authority

Title III of the Higher Education Act of 1965, §§301–347, as amended by P.L. 96–374, 20 U.S.C. §§ 1051–1069c.

Reason for Including This Entry

The Department of Education (ED) includes this entry to increase public participation in the development of these regulations because the regulations concern issues of great public interest to the institutions targeted for funding.

Statement of Problem

The regulations the Department expects to propose are necessary to implement Title III of the Higher Education Act of 1965 as amended by the Education Amendments of 1980.

Title III provides Federal financial assistance to institutions of higher education to solve problems that threaten their ability to survive and to stabilize their management and fiscal operations.

Title III is one of the original programs authorized by the Higher Education Act of 1965. In 1973, Title III consisted of two separate programs, and in 1979 these programs were merged. The Education Amendments of 1980 revised Title III by establishing three separate grant programs:

(1) Strengthening Institutions Program;
(2) Aid to Institutions with Special Needs Program; and
(3) Challenge Grant Program.

All three programs fund the same type of activities. The only major differences in the programs are: the institutions eligible for funding, the duration of the

grants, and the matching funds requirements.

Alternatives Under Consideration

The regulations ED expects to propose are in the planning stage. Therefore, it is not clear what, if any, alternatives will be considered.

Summary of Benefits

Sectors Affected: Institutions of higher education.

In reenacting the Title III program, Congress recognized that many institutions of higher education face the problems of declining enrollments and scarce resources which threaten their ability to survive. In addition, many institutions also face problems stemming from ineffective administrative and fiscal management, as well as an inability to engage in long-range planning, recruitment, and development activities. The money provided to institutions under the Title III programs enables them to plan, develop, and implement a comprehensive long-range development plan to strengthen their academic quality and institutional management and to promote self-sufficiency and growth. Activities that may be funded as part of such a plan include faculty and curriculum development, student services, and fiscal and administrative management development. For example, grants have been awarded to institutions of higher education to: improve their career counseling and placement services; develop curriculum in new areas; establish an integrated management information system; and develop institutional research offices.

It has been estimated that 375 to 400 awards will be made under Title III in FY 1982:

- 203 under the Strengthening Institutions Program;
- 213 under the Aid to Institution with Special Needs Program; and
- 15 under the Challenge Grant Program.

Further, it has been estimated that:

- planning grants awarded under the Strengthening Institutions and Aid to Institutions with Special Needs programs will range from $30,000 to $50,000;
- implementation grants awarded under the Strengthening Institutions and Aid to Institutions with Special Needs programs will range from $200,000 to $750,000; and
- grants awarded under the Challenge Grant Program will range from $500,000 to $1 million.

The Administration requested an appropriation of $129.6 million for FY 1982 for the Title III programs.

Summary of Costs

Sectors Affected: Institutions of higher education.

The authorizing legislation requires an applicant to develop a long-range comprehensive development plan. However, before an institution submits a plan, it must submit an application to determine if it is eligible to receive Title III funding.

It is estimated that:

- the application for grants under the Strengthening Institutions Program, the Aid to Institutions with Special Needs Program, and the Challenge Grant Program will each require an average of 60 person hours to complete; and
- the request for designation as an eligible institution under the institutional aid programs will require an average of .5 person hours to complete.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—August 1981.
Public Comment Period—Following NPRM.
Public Hearings—To be determined.
Final Rule—To be determined.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—To be determined.

Available Documents

None.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing

Minimum Property Standards for One- and Two-Family Dwellings (24 CFR Part 200, Subpart S)

Legal Authority

National Housing Act, § 211, 12 U.S.C. § 1715(b).

Reason for Including This Entry

The Department of Housing and Urban Development (HUD) thinks this rule is important because it is an initial effort to reduce unessential regulations, incorporate model code standards, and minimize the bulk of the current Minimum Property Standards.

Statement of Problem

HUD now imposes Minimum Property Standards on the construction of one- and two-family dwellings insured or assisted by HUD funds. The standards were first issued in the 1930s, during the early days of the Federal Housing Administration. Some 300,000 units a year are subject to these standards. The standards are set for the health and safety, marketability, durability, livability, and workmanship of these dwellings. Over the years, these standards have increased in length and complexity, due to the continuing review and revision of the standards to conform to up-to-date building practices. Unfortunately, this has made the standards harder to use by builders, who must maintain a familiarity with a more lengthy document, and a streamlining of the standards is now appropriate. HUD's Housing Cost Task Force identified several aspects of the Minimum Property Standards, such as conformity with the three major, nationally recognized model building codes and elimination of unessential "livability" standards, which, if changed, might improve the affordability of housing without substantially lowering the construction quality of the housing affected (i.e., housing with FHA mortgage insurance or HUD-assisted units). For these reasons, HUD is proposing a revision to delete redundant, obsolete, and unnecessary requirements. Appropriate parts of the model one- and two-family dwelling code are also being incorporated into the Minimum Property Standards, particularly in the safety and health sections where the model code is a suitable substitute.

Alternatives Under Consideration

Alternative A would be to make no change in the present standards. This would save administrative effort but has no other advantage. On the other hand, if we do not revise the standards, they will become more obsolete through time, and present undue compliance costs will be perpetuated. Therefore, we are considering the following alternatives:

Alternative B would be to replace the Minimum Property Standards with the model one- and two-family dwelling code. While this would reduce

compliance costs to builders, we are concerned that this drastic step should be undertaken only after careful study and consideration of the implications. We are studying additional ways to make the Minimum Property Standards conform to the model code, but until these studies are completed and evaluated, we feel alternative B is premature.

Alternative C is to move toward simplification of the Minimum Property Standards by deleting standards we consider unnecessary and revising the sections of the standards that in our judgment can safely be simplified at this time, while retaining those standards which we feel are necessary to ensure the health and safety of the occupants. Alternative C is the alternative that HUD has selected in this rulemaking procedure.

Summary of Benefits

Sectors Affected: Residential building construction and construction workers; public and private developers of housing programs; occupants and owners of minimum standard housing, especially FHA-insured housing; and the mortgage banking industry.

Although Minimum Property Standards govern all FHA housing, FHA-eligible dwellings are often built to standards higher than those required by the Minimum Property Standards. In such cases, the standards are not binding and lowering them will have no effect. We expect, however, that the impact of these changes would be felt throughout the construction industry generally, because they would promote lower building costs, ultimately reducing the purchaser's outlay. Our draft Regulatory Analysis attempted to come to grips with the potential cost savings, but accurate estimates are not available, since obtaining such estimates would require a large survey to determine which standards are binding, and what the impact of lowering these standards would be. Qualitatively, to the extent that cost savings are realized, the amount of new housing produced would increase, and this would generate indirect benefits in the form of construction employment and increased mortgage activity for the banking industry. Also, the standards are picked up by a number of local building codes, and for this reason, changes in the standards should have an impact beyond FHA-insured and HUD-assisted housing alone.

The draft Regulatory Analysis estimated the maximum benefit in terms of a maximum direct cost saving of $61.5 million per year (1979 dollars), such saving consisting of potential lowered construction costs. The likely impact is considerably less than this, in that this estimate assumed all dwellings currently constructed at the lower end of the quality scale would adopt the lower allowed standards. Of course, some of these units would not fully exploit the potential cost savings, because builders might consider a higher quality unit more marketable.

Summary of Costs

Sectors Affected: Residential building construction; occupants and owners of minimum standard housing; and HUD.

The purpose of the Minimum Property Standards is to ensure units of housing which are decent, safe, and sanitary, and which conform to good building practice. This protects the home buyer by assuring the unit is built to (at least) a minimum quality level, and provides a basis for FHA mortgage insurance, so that if a mortgage defaults, there is a high probability that the value of the property will exceed the principal balance on the loan. Most of the costs associated with the proposed changes are in the form of what we consider a small additional risk of lower quality units being built. (Lower quality here means smaller units with fewer amenities.)

There are administrative costs involved in issuing a new regulation, and builders will have to become familiar with a new set of standards, even though the standards are simplified compared to the existing ones. It is felt, however, that these costs are small, and more than likely to be offset by future cost savings.

Related Regulations and Actions

Internal: None.
External: Local Building Codes.

Active Government Collaboration

None.

Timetable

Public Hearings—None planned.
Final Rule—To be determined. The proposal is under HUD review.
Final Rule Effective—A minimum of 30 days after publication.
Regulatory Flexibility Analysis—None.

Available Documents

NPRM—September 15, 1980; 45 FR 62316.

Public comments in response to the NPRM can be reviewed in Room 5128 at the address below.

Draft Regulatory Analysis.

Environmental Impact Statement, July 1980.

Available from Rules Docket Clerk, Room 5218 at address below.

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DEPARTMENT OF JUSTICE

Civil Rights Division

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs (28 CFR 42.401-.415*).

Legal Authority

E.O. 12250, "Leadership and Coordination of Nondiscrimination Laws" (45 FR 72995, November 4, 1980).

Reason for Including This Entry

The Department of Justice (DOJ) includes this entry because it concerns nondiscrimination, a matter of great public interest.

Statement of Problem

The DOJ has proposed changes to its existing regulations that coordinate enforcement of nondiscrimination in federally assisted programs, 28 CFR 42.401-.415. These changes are the result of responsibilities assigned to the Attorney General by President Carter when he issued Executive Order 12250 on November 2, 1980. This Order, which superseded E.O. 11764 (1974), was the result of a multi-year study undertaken by President Carter's Reorganization Task Force on Civil Rights. The first part of its review resulted in the issuance of E.O. 12067 which made the Equal Employment Opportunity Commission (EEOC) responsible for coordinating Federal Government activity concerning nondiscrimination in employment. A subsequent evaluation by the Task Force of Government activities in the area of nondiscrimination in federally assisted programs found numerous problems including: a lack of civil rights enforcement by the 34 Federal grant agencies charged with that responsibility; overlapping civil rights and programmatic jurisdictions resulting in inconsistent standards, investigative procedures and findings; inadequate coordination and Government-wide leadership; deficient civil rights laws; poor management; and inadequate resources.

The Task Force identified several possible alternatives for resolving these problems, including: complete consolidation of civil rights enforcement into a new or existing Federal agency; partial consolidation; improving the existing enforcement mechanisms; and legislative changes in civil rights laws.

In choosing among the possible alternatives, the option of working within existing structures but following the EEOC model of consolidating coordination responsibility within one agency was chosen. Therefore, E.O. 12250 was issued. This Order substantially broadened the authority previously conferred on DOJ in E.O. 11764 for coordinating Federal enforcement of Title VI, of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*). In addition to Title VI, which prohibits discrimination in access to federally assisted programs because of race, color, or national origin, the Attorney General also was charged by the new Order to coordinate Federal enforcement of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, which prohibits discrimination on the basis of sex in federally assisted education and training programs; § 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap in federally assisted or federally conducted programs; and all other provisions of Federal statutory law which prohibit discrimination on the basis of race, color, national origin, sex, handicap, or religion in federally assisted programs.

In addition to increasing the number of protected classes under the Attorney General's jurisdiction, E.O. 12250 also expanded and enlarged upon the number of coordination responsibilities assigned to DOJ by the earlier E.O. 11764. For example, the Attorney General is now charged with the responsibility for: reviewing existing and proposed rules and regulations issued by executive agencies in order to identify those which are inadequate, unclear, or unnecessarily inconsistent; issuing standards and procedures concerning civil rights law enforcement such as those establishing reasonable time frames for securing voluntary compliance, for initiating sanctions, and for referring matters to DOJ when voluntary compliance fails and administrative hearings are inappropriate; developing model information systems; ensuring consistent reporting and recordkeeping requirements; and establishing cooperative enforcement systems between Federal, State, and local agencies.

Alternatives Under Consideration

The Department considered the possibility of not amending the existing regulations which were issued to implement E.O. 11764, but rejected taking no action for three reasons. First, 4 years of experience with the existing regulations on nondiscrimination in federally assisted programs, 28 CFR 42.401–.415, indicated that a redraft was necessary whether or not there were any changes in the Attorney General's authority. For example, 28 CFR 42.407(b), "Application Review," requires that all grant agencies must review and make a written determination of compliance with Title VI prior to the provision of Federal financial assistance. Our experience has shown that disbursing agencies with a large number of applicants could not reasonably be expected to implement this section. To illustrate, when we raised this requirement with the Department of Health and Human Services, they pointed out to us they had neither the time nor the staff, whether civil rights or programmatic, to make pre-award determinations of compliance for all of the thousands of applications they receive yearly. Consequently, the new regulations will recommend a series of alternative approaches to be used in conducting pre-award reviews which will be more reasonable and at the same time improve civil rights enforcement.

Second, the existing coordination regulations extend only to Title VI (race, color, or national origin discrimination). To effectively implement E.O. 12250, this coverage must be expanded to include § 504 (discrimination against the handicapped), Title IX (sex discrimination in federally assisted education and training programs), and the nondiscrimination provisions of grant statutes. Therefore, the regulation must be redrafted to be responsive to this new authority.

Third, DOJ is presently involved in two law suits, *Paralyzed Veterans of America et. al.* v. *Smith*, C.A. No. CV. 79–1979 (C.D.-Cal.), and *Gale Williams* v. *U.S.A.*, C.A. No. CV 80-5368 (C.D.-Cal.), concerning the Attorney General's responsibility for implementing portions of E.O. 12250. The changes proposed in the coordination regulations would in part respond to the issues being raised in these cases.

Summary of Benefits

Sectors Affected: The Federal Government; minorities; handicapped individuals; women; and the general public.

We expect that these proposed rules will result in a more efficient use of Federal executive agency civil rights personnel. The rules place time limits on how long investigation of alleged civil rights noncompliance may last and how long voluntary negotiations between an agency and recipient may continue before the agency determines whether voluntary compliance is possible or formal enforcement action is necessary. As a result, civil rights investigations should be resolved more quickly. In addition, because they provide that civil rights compliance decisions are subject to the approval of agency civil rights offices, whose staffs are trained in civil rights requirements, decisions should be more consistent and made more promptly.

As a result, recipients, minorities, women, handicapped individuals, and the public can expect that civil rights problems will be dealt with in a more predictable and efficient manner.

Summary of Costs

Sectors Affected: The Federal Government.

The proposed regulations would only affect the Federal sector, and any additional costs—incurred, for example, for increased staff or training—would be borne by the Federal Government.

Over a period of time, however, Federal costs should be reduced by E.O. 12250 and the proposed implementing regulations, which will stress more efficient use of staff and increased cooperation among Federal agencies.

Related Regulations and Actions

Internal: These proposed rules will require the amendment of regulations entitled "DOJ Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964," 28 CFR 42.401–.415.

External: These proposed rules will require the amendment or issuance of regulations implementing Title VI, Title IX, § 504, and other statutes which prohibit discrimination on the basis of race, color, national origin, handicap, religion, or sex by the following agencies: ACTION; Agency for International Development; Department of Agriculture; Civil Aeronautics Board; Department of Defense; Department of Commerce; Department of Education; Equal Employment Opportunity Commission; Environmental Protection Agency; Federal Home Loan Bank Board; General Services Administration; Department of Health and Human Services; Department of Labor;

Department of Housing and Urban Development; Department of the Interior; Department of the Treasury; National Aeronautics and Space Administration; National Endowment for the Arts; Nuclear Regulatory Commission; National Science Foundation; Office of Personnel Management; Small Business Administration; Department of State; Department of Transportation; Tennessee Valley Authority; Water Resources Council; Veterans Administration; Community Services Administration; Department of Energy; Department of Justice; Federal Emergency Management Agency; International Communications Agency; International Development Corporation; and National Endowment for the Humanities.

Active Government Collaboration

As required by § 1-303 of E.O. 12250, the Attorney General shall consult with the agencies listed above and others, as appropriate, before the final coordination regulations are issued.

Timetable

NPRM—May/June 1981.
Regulatory Impact Analysis—Not required.
Public Hearing—Not required.
Public Comment Period—Minimum of 90 days following publication of NPRM.
Final Rule—September/October 1981.
Final Rule Effective—Upon publication.
Regulatory Flexibility Analysis—Not required.

Available Documents

E.O. 12250, "Leadership and Coordination of Nondiscrimination Laws," 45 FR 72995, November 4, 1980.
28 CFR 42.401-.415.
42 U.S.C. § 2000d *et seq.*
20 U.S.C. § 1681 *et seq.*
29 U.S.C. § 794.
"Agencies When Providing Federal Financial Assistance Should Ensure Compliance With Title VI," General Accounting Office, April 15, 1980. Available from the General Accounting Office, publication number HRD-80-22.

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DOJ—CRD

Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds (28 CFR Part 42; 29 CFR Part 1691)

Legal Authority

E.O. 12250 (45 FR 72995, November 4, 1980); E.O. 12067 (43 FR 28967, June 30, 1978); Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d *et seq.*; Civil Rights Act of 1964, Title VII, as amended, 42 U.S.C. § 2000e *et seq.*; Education Amendments of 1972, Title IX, 20 U.S.C. § 1681; Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621 *et seq.*; Equal Pay Act of 1963, 29 U.S.C. § 206(d); President's Reorganization Plan No. 1 of 1978, 92 Stat. 3781.

Reason for Including This Entry

The Department of Justice [DOJ] includes this entry because the proposed rule would cause an increase in the efficiency and productivity of Federal agencies.

Statement of Problem

The authority of the Equal Employment Opportunity Commission (EEOC) to enforce prohibitions against employment discrimination on the basis of race, color, religion, sex, national origin, or age overlaps with the authority of Federal funding agencies to enforce prohibitions against employment discrimination by recipients of Federal funds. There is, therefore, a potential for duplicative efforts by Federal agencies which may cause needless burdens on the recipients, such as separate investigations by EEOC and Federal agencies of the same employment practice. In addition, victims of discrimination may be confused about where to file their complaints of employment discrimination.

We have decided to act on this problem at this time upon the suggestion of several Federal fund-granting agencies. By taking regulatory action, we may be able to eliminate duplicative investigations, increase the efficiency of Federal agencies, and minimize needless burdens on recipients of Federal funds.

Alternatives Under Consideration

(A) Allow each interested Federal-granting agency to negotiate a separate memorandum of understanding with EEOC. A memorandum of understanding could provide for a Federal fund-granting agency and EEOC to share information or conduct joint investigations relating to the employment practices of the recipients of Federal funds. This alternative would allow a Federal agency to address a unique aspect of its program in a separate memorandum of understanding. However, the process of negotiating separate memoranda would be time-consuming and might lead to inconsistent results. For example, employment discrimination complaints filed with one Federal fund-granting agency may be treated differently by that agency than similar kinds of complaints filed with another agency.

(B) Promulgate a joint [DOJ and EEOC] regulation setting forth procedures for processing complaints of employment discrimination filed with Federal fund-granting agencies. The regulation would allow Federal fund-granting agencies to refer complaints of employment discrimination to EEOC for investigation and would provide for the agencies and EEOC to share information relating to the employment practices of recipients of Federal funds. This alternative would provide a uniform approach to the processing of such complaints and would be easier to administer.

We regard alternative (B) as the desirable alternative because it addresses the problem across the board and eliminates the possibility of a multiplicity of different procedures governing the same types of complaints.

Summary of Benefits

Sectors Affected: Recipients of Federal financial assistance covered by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and similar provisions in Federal grant statutes; Federal fund-granting agencies; DOJ; EEOC; and the general public.

This regulation is intended to eliminate duplication of investigations by EEOC and Federal fund-granting agencies by providing for EEOC investigation when the complaint is individual in nature. The elimination of duplicative investigations will not only increase the efficiency and therefore productivity of Federal agencies, but will minimize the burdens on recipients of Federal funds.

By referring complaints of individual discrimination to EEOC, Federal fund-granting agencies will be able to focus their enforcement efforts on discrimination in the provision of services and systemic acts of employment discrimination which affect the rights of beneficiaries. The individual complaints, as a general rule, will be handled by EEOC, the agency with the most expertise in processing that kind of complaint.

Summary of Costs

Sectors Affected: None.

We anticipate that this regulation will save money because it should reduce duplicative investigations of employment discrimination complaints by Federal fund-granting agencies and EEOC.

Related Regulations and Actions

Internal: Coordination of Enforcement of Non-discrimination in Federally Assisted Programs, 28 CFR 42.401 *et seq.*; Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964, 28 CFR 50.3.

External: The procedural regulations of EEOC are codified at 29 CFR 1601.1 *et seq.* Federal fund-granting agencies have promulgated regulations concerning the enforcement of Title VI of the Civil Rights Act of 1964. See, e.g., 34 CFR Part 100.

Active Government Collaboration

DOJ and EEOC have worked together to develop this joint regulation. In December 1980, we circulated for comment a draft of the proposed regulation to Federal fund-granting agencies and met to discuss the draft with the major fund granting agencies, including the Departments of Health and Human Services, Education, Labor, Energy, Interior, Housing and Urban Development, and Transportation, and the Economic Development Administration.

Timetable

Public Comment Period—60 days following publication of NPRM. Comments may be addressed to: Executive Secretariat, EEOC, 2401 E Street, N.W., Washington, DC 20503.
Final Rule—August 1981.
Final Rule Effective—September 1981.
Public Hearing—None.
Regulatory Impact Analysis—None.
Regulatory Flexibility Analysis—None.

Available Documents

NPRM—46 FR 22395, April 17, 1981.

Agency Contact

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DOJ—CRD

Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs

Legal Authority

Age Discrimination Act of 1975, as amended, 42 U.S.C. Section 6101 *et seq.*; Health, Education, and Welfare (now Health and Human Services) Government-wide Age Discrimination Regulations, 44 FR 33768, June 12, 1979.

Reason for Including This Entry

The Department of Justice (DOJ) includes this entry because it concerns nondiscrimination, an issue of great public interest. This proposed regulation prohibits discrimination on the basis of age against persons participating or attempting to participate in DOJ-assisted programs.

Statement of Problem

A substantial number of people in the United States are denied full participation in major activities, such as public benefits, services, and facilities, because of discrimination based on their age. Recognizing this fact, the Congress passed the Age Discrimination Act of 1975, which prohibits discrimination solely on the basis of age in all programs and activities that receive Federal financial assistance. Federal agencies that provide such assistance must develop and publish regulations in furtherance of the broad remedial purpose of the Age Discrimination Act of 1975.

Pursuant to the Act, the Secretary of Health and Human Services (HHS) has issued a general regulation, 45 CFR Part 90, 44 FR 33768 (June 12, 1979), to guide Federal agencies in implementing the Act. In addition to setting Government-wide Standards, HHS required all disbursing agencies, such as DOJ, to issue agency specific regulations.

The DOJ regulation closely adheres to the substance of the HHS standard. However, the DOJ directive has been made program specific by including a number of illustrative examples which apply the Act to those recipients who receive assistance from DOJ, including police departments, court systems, and correction agencies.

Alternatives Under Consideration

In furtherance of its statutory authority, the HHS has required each Federal department or agency to issue regulations that are consistent with the Government-wide standards found in its regulations. There are no alternatives to the standards published by HHS in terms of scope, timing, or substantive requirements. However, the regulations have been tailored to identify issues of concern to recipients of DOJ grant programs.

Although there are no alternatives to issuing these regulations, we are concerned that some applications of the Act may result in substantial problems in the administration of federally funded programs. We have recommended to HHS and the Regulatory Council in a letter from Drew S. Days III, Assistant Attorney General, Civil Rights Division, DOJ, to Patricia R. Harris, Secretary, HHS, dated November 10, 1980, that Federal agencies further examine the effects of the Act upon particular types of programs. We are especially concerned about the unclear nature of the Act's prohibitions and exceptions; for example, many terms used directly in the Act are not defined, so it is difficult to determine the specific scope of, for instance, the discretion recipients of funds are allowed under the Act.

Summary of Benefits

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities; approximately 1,000 private entities, such as juvenile homes, educational institutions, and public interest groups that participate in activities related to the Nation's criminal justice system; and individuals eligible to take part in their programs.

The regulations will establish standards to define and prohibit age discrimination in programs and activities that receive Federal financial assistance from DOJ. Programs and activities that the regulations would cover include those administered by State and local units of the criminal justice system that receive Federal assistance in the form of grants and Federal assistance contracts from the Law Enforcement Assistance Administration (e.g., police departments, prisons, courts), or training from the Federal Bureau of Investigation or other agencies within DOJ.

We are unable to provide precise data on the number of recipients covered by the proposed regulations because the major disbursing component of the DOJ, the Law Enforcement Assistance Administration, is scheduled to cease its grant-making programs. Other components of DOJ which provide Federal financial assistance include the National Institute of Justice, the Bureau of Justice Statistics, the Federal Bureau of Investigation, the Bureau of Prisons, and the Drug Enforcement Administration. These agencies provide

grants, contracts, and training to units of State and local government.

Summary of Costs

Sectors Affected: Units of government receiving Federal financial assistance from DOJ include police departments, court systems, and correction agencies.

We cannot provide estimates of compliance costs but we expect them to be minimal because the exemptions contained in the Act appear to exclude from coverage a significant portion of the activities conducted by DOJ recipients. In support of this conclusion, we note that DOJ has not yet received any age discrimination complaints. Thus we do not believe the costs associated with these regulations will result in major economic consequences within the meaning of E.O. 12291. We considered the appropriateness of a Regulatory Impact Analysis and determined that no such analysis was necessary. We invited public comment on this issue.

Related Regulations and Action

Internal: None.

External: HEW (now HHS) general regulations under the Age Discrimination Act, 44 FR 33768, June 12, 1979.

Active Government Collaboration

Pursuant to 42 U.S.C. § 6103(a)(4), the proposed regulation was sent to the Secretary of Health and Human Services for review.

Timetable

Final Rule—June 1981.
Regulatory Impact Analysis—Not required.
Public Hearing—Not required.
Regulatory Flexibility Analysis—Not required.
Final Rule Effective—Upon publication.

Available Documents

NPRM—45 FR 32710, May 19, 1980.
Public Comments—Available for review; see Agency Contact.

Agency Contact

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DOJ-CRD

Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance (28 CFR 42.701-.771)

Legal Authority

Education Amendments of 1972, as amended, Title IX, §§ 901 and 902, 20 U.S.C. § 1681 *et seq.*

Reason for Including This Entry

The Department of Justice (DOJ) includes this entry because it deals with nondiscrimination, a matter of public concern. These regulations would prohibit discrimination on the basis of sex in education and training programs receiving Federal financial assistance from DOJ.

Statement of Problem

In June 1980, the Department of Justice proposed a new regulation for nondiscrimination on the basis of sex in education and training programs receiving or benefiting from Federal financial assistance provided by DOJ (45 FR 41001, June 17, 1980). We intended the June proposal to implement Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, which prohibits (with certain exceptions) sex discrimination in federally assisted education programs or activities.

Examples of such DOJ covered programs include:

The National Institute of Corrections gives a grant to a State sheriffs' association to develop and implement a plan to assist local jails. Activities under the grant project include training of resource personnel, who in turn provide on-site training to local jail employees. The sheriffs' association is a recipient of Federal financial assistance for a program which includes education programs and activities. Title IX and this regulation apply to the association's selection and training of resource personnel, and to on-site training provided to local jail employees.

The National Institute of Corrections provides a grant to a State agency to implement State jail standards. Employees of the State agency provide training to employees of local jails on the requirements of the jail standards. This training is part of the implementation project which is subject to the Federal grant, and it is covered by Title IX and these regulations.

Alternatives Under Consideration

The DOJ had two possible alternatives to choose from in designing this congressionally mandated regulation: it could have followed the directions provided by the other Federal agencies, the Department of Health, Education, and Welfare (HEW), now the Departments of Education (ED) and Health and Human Services (HHS), and the Department of Agriculture (USDA), which had already issued their Title IX regulations; or it could have developed an entirely new approach to Title IX enforcement, ignoring the work performed by other agencies. DOJ is following the leads of HEW and USDA in order to ensure consistency in the Federal Government's approach to enforcing Title IX.

On June 17, 1980, this Department issued proposed regulations implementing Title IX (45 FR 41001-41012). On August 18, 1980, the Department of Justice extended the comment period on the June 17 proposal to September 19, 1980 (45 FR 54770). Because numerous comments received on the original proposal indicated a serious misunderstanding of its nature and scope, the Department is publishing revised and clarified regulations for additional comments.

In addition to providing clarifying information, the redraft will also contain changes based on suggestions made during the public comment period. For example, we have provided new definitions for "Department" and "assisted education program or activity;" added a prohibition against sexual harrassment; decided not to allow for a lengthy adjustment period for recipients who have already been permitted an adjustment period because of prior coverage under another regulation; and added a new section on fringe benefit plans.

Summary of Benefits

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities; approximately 1,000 private entities, such as juvenile homes, educational institutions, and public interest groups that participate in activities related to the Nation's criminal justice system; and individuals eligible to take part in their programs.

We are unable to provide precise data on the number of recipients covered by the proposed regulations because the major disbursing component of the DOJ, the Law Enforcement Assistance Administration, is scheduled to cease its grant-making programs. Other components of DOJ which provide Federal financial assistance include the National Institute of Justice; the Bureau

of Justice Statistics; the Federal Bureau of Investigation; the Bureau of Prisons; and the Drug Enforcement Administration. These agencies provide grants, contracts, and training to units of State and local government, including police departments, courts systems, and correction agencies.

This regulation will clarify prohibited discrimination on the basis of sex in access to education and training programs and in fringe benefit plans sponsored by these recipients. Viewed from a larger perspective, implementation of the regulation will upgrade the quality of law enforcement and related activities by ensuring equal access to education and training programs regardless of sex. Specifically, it will improve the ability of women who have traditionally been discriminated against by the employment practices of law enforcement agencies to obtain equal access, once hired, to those activities needed for professional advancement.

Below is an outline of the issues to be addressed by this regulation.

Introduction

Purpose and effective date.
Definitions.
Remedial and affirmative action and self-evaluation.
Assurance required.
Transfers of property.
Effect of other requirements.
Effect of employment opportunities.
Designation of responsible employee and adoption of grievance procedures.
Dissemination of policy.

Coverage

Application.
Educational institutions controlled by religious organizations.
Military and merchant marine educational institutions.
Membership practices of certain organizations.
Exempt activities.
Admission.
Education institutions eligible to submit transition plans.
Transition plans.

Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

Admission to assisted education programs and activities.
Preference in admission to assisted programs or activities.
Recruitment.

Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

Education programs and activities.
Housing.
Comparable facilities.
Access to course offerings.
Access to schools operated by LEAs.
Counseling and use of appraisal and counseling materials.
Financial assistance.
Employment assistance to students.
Health and insurance benefits and services.
Marital or parental status.
Athletics.
Textbooks and curricular material.

Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

Employment.
Employment criteria.
Recruitment.
Compensation.
Job classification and structure.
Fringe benefits.
Marital or parental status.
Effect of State or local law or other requirements.
Advertising.
Pre-employment inquiries.
Sex as a bona fide occupational qualification.

Procedures

Interim procedures.
Appendix.

Summary of Costs

Sectors Affected: State and local law enforcement and correction agencies; and private entities participating in activities related to the Nation's criminal justice system, such as juvenile homes, educational institutions, and public interest groups.

We cannot provide estimates of compliance costs; however, they appear minimal. The primary costs to the recipients associated with Federal implementation of these regulations are those traditionally associated with civil rights compliance activities, for example, responding to complaint investigations and compliance reviews, the collection and reporting of equal opportunity data, and public notification programs. We do not believe that the Federal enforcement costs will have any major economic consequences within the meaning of E.O. 12291.

Related Regulations and Actions

Internal: DOJ regulation issued by the Law Enforcement Assistance Administration under the authority of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) *et seq.* This law, which contains a general prohibition against sex discrimination, has been reenacted in the Justice System Improvement Act of 1979, P.L. 96-157, and is implemented by 28 CFR 42.201-.217.

External: HEW regulation, 45 CFR Part 86; USDA regulation, 44 FR 21610, April 11, 1979.

Active Government Collaboration

At the time of development of the regulation, no Federal agency had been delegated overall responsibility for coordination of Title IX. However, on November 2, 1980, DOJ was assigned the responsibility by E.O. 12250, of coordinating all government activity, including Title IX, concerning nondiscrimination in access to Federally assisted programs on the grounds of race, color, national origin, sex, handicap, and religion. Nevertheless, in order to assure consistency with the regulations already published, DOJ has followed the lead established by HEW (now the Departments of ED and HHS) and USDA in their Title IX rules.

Timetable

Revised NPRM—July 1981.
Regulatory Impact Analysis—Not required.
Public Hearing—Not required.
Public Comment Period—90 days following publication of revised NPRM.
Final Rule—October 1981.
Final Rule Effective—Upon publication.
Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—45 FR 41001, June 17, 1980.

Comments received on the June 17 NPRM and the revised NPRM will be available for public inspection in Room 412, 521 12th Street, N.W., Washington, DC, between 9:00 a.m. and 5:30 p.m., Monday through Friday, except on Federal holidays, until the rule is published in final form.

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DOJ—Immigration and Naturalization Service

Admission of Refugees and Asylum Procedures (8 CFR Parts 207, 208, and 209)

Legal Authority

Refugee Act of 1980, P.L. 96-212, Title II; 8 U.S.C. 1157-1159.

Reason for Including This Entry

These regulations set a precedent for U.S. programs providing relief for the increasing numbers of refugees seeking haven in the United States. The refugee problem has generated worldwide attention and is of major concern to the United States and its citizens.

Statement of Problem

The Refugee Act of 1980 is a major departure from prior legislation which provided relief for refugees. It establishes a permanent and systematic procedure for meeting these humanitarian needs. Prior statutory provisions have proven to be inadequate because of the lack of uniformity in treating refugees from different parts of the world. The Immigration and Naturalization Service (INS) must adopt regulations to implement the provisions of the new Act.

On June 2, 1980, we adopted interim regulations (45 FR 37392) to carry out the Act. The interim regulations provide that the Immigration and Naturalization Service accomplish the following specific responsibilities: determine who qualifies as a refugee; establish asylum procedures; adjust the status of refugees; establish procedures for inspection and examination of refugees; waive certain exclusionary grounds for admitting refugees; develop regulations for procedures to terminate the status of those who no longer qualify as refugees; and admit refugees into the United States, subject to numerical limitations established by the President after appropriate consultation with Congress. In addition, the regulations also specify procedures for the Immigration and Naturalization Service to inform aliens, other governmental agencies, and the public as to who may qualify as a refugee, and the methods and procedures for refugees to apply for the benefits which the Act provides.

Alternatives Under Consideration

Because of provisions in the Refugee Act of 1980, and the short time frame within which to develop regulations, the Immigration and Naturalization Service decided to publish interim regulations. The nature of the problem we are faced with—emergency relief for human suffering—argued against a prolonged deliberative process to weigh innumerable alternatives before deciding upon a course of regulatory action. We believe that by publishing the interim regulations, we best served the intent of the law. Fine tuning in the form of final regulations is now in process and incorporates the constructive comments received from the public during the interim period.

Summary of Benefits

Sectors Affected: Refugees; Federal agencies, such as Departments of State, Health and Human Services, and Labor, and the Public Health Service; international organizations; foreign governments; State governments; others involved in refugee relief and resettlement; and the general public.

Until the refugees are absorbed into the economy and contribute to the Nation's gross national product through their labor and services, they place a burden upon public agencies. This rule would help refugees more quickly become productive participants in the economy.

Summary of Costs

Sectors Affected: Federal agencies, such as Departments of State, Health and Human Services, and Labor, and the Public Health Service; international organizations; foreign governments; State governments; and others involved in refugee relief and resettlement.

As the number of refugees admitted increases because of the new liberalized admission trend reflected in the Act, the workloads of the Federal agencies, public and private agencies, and charitable organizations increase proportionately. The need for financial and medical assistance for the refugees falls upon various Federal and State agencies responsible for public health and welfare. Private and voluntary organizations which provide services not available from public agencies also have increased operating costs. While we are unable at this time to place a dollar value on the cost to all sectors affected by the Act, our experience in fiscal year 1979 indicates that about 108,875 refugees were approved for admission to the United States by the Immigration and Naturalization Service and 213,950 were approved for admission in fiscal year 1980.

Related Regulations and Actions

Internal: Existing regulations, dealing with asylum, 8 CFR Part 108, adjustment of status, 8 CFR Parts 242 and 245, and other references in various sub-sections in Title 8, Chapter I of the regulations are affected by the new regulations, and we will amend them as necessary.

External: Other Federal agencies are also affected by the Act, and appropriate revisions are being made to their regulations, particularly Department of State.

Active Government Collaboration

Operating units of the Immigration and Naturalization Service have been in contact with the Departments of State, Labor, and Health and Human Services because of the mutual areas of responsibility each shares under the Act.

Timetable

Final Regulations—July 1981.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—Not required.
Public Hearing—None.

Available Documents

Refugee Act of 1980, P.L. 96-212 (94 Stat. 102), available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at $1.50 per copy.

Senate Conference Report 96-590, Refugee Act of 1980, available from Senate Document Room, U.S. Capitol, Washington, DC 20510 (no cost).

Interim Regulations—45 FR 37392, June 2, 1980.

Public comments on the interim regulations (public comment period ended July 31, 1980) are available for review. See Agency Contact.

Agency Contact

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GENERAL SERVICES ADMINISTRATION

Administrative Operations Division

Nondiscrimination in Federally Assisted Programs (41 CFR Parts 101-8)

Legal Authority

The Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d *et seq.;* the Education Amendments of 1972, Title IX, as amended, 20 U.S.C. § 1681 *et seq.;* Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.;* the Rehabilitation Act of 1973, as amended, § 504, 29 U.S.C. § 794; and E.O. 12250 (45 FR 72995, November 4, 1980).

Reason for Including This Entry

The General Services Administration (GSA) includes this entry because it is imperative to inform the widest possible audience of the scope of procedures GSA will issue to enforce nondiscrimination in programs and activities which receive Federal assistance from GSA.

Statement of Problem

GSA is required by Federal laws to promulgate regulations which provide,

in whole or in part, that no person in the United States shall on the grounds of race, color, national origin, handicap, age, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal assistance from GSA.

GSA has issued one such regulation in 1964 which prohibits discrimination only on the grounds of race, color, and national origin (41 CFR 101–6.2). This regulation needs revision to reflect the changes that have occurred in (1) the GSA organizational structure, namely the shifting of commensurate responsibilities to different components within the Agency, (2) the methods of implementation of nondiscrimination regulations, and (3) the scope of federally assisted programs and activities.

In order to ensure that these and regulations on other bases of discrimination are issued in the most useful, timely, and comprehensive manner, GSA will issue an umbrella regulation, which will incorporate the required prohibitions provided in the Federal laws listed under the "Legal Authority" section above. The regulation will follow the Department of Justice (DOJ) standards and procedures for monitoring compliance, taking enforcement actions, conducting investigations, establishing reasonable time limits on efforts to secure voluntary compliance, and referring to DOJ for enforcement when there is noncompliance.

The objective of this regulation is, to the extent possible, to reduce GSA's administrative burdens and the cost of issuing separate regulations for each of the Federal statutes. Until now, other Federal agencies with financially assisted programs have issued separate regulations to implement each of the statutes. Unfortunately, this has led to too many instances of duplication and placed a strain on meager resources and caused a severe negative impact on program implementation at the Federal, State, and local levels.

The nondiscriminatory provisions found in Federal statutes were enacted by the U.S. Congress after thorough analysis and debate about federally assisted programs. The following excerpt from the legislative history of Title VI of the Civil Rights Act of 1964 clearly illustrates Congress' intent: "Title VI is necessary . . . because the Federal Government simply cannot be expected to continue to pay out tax dollars contributed by all the people to just some of them and to exclude others because of the color of their skin." (110 Cong. Rec., p. 6842, April 7, 1964.) The Congress gradually saw fit to include additional distinctions of nondiscriminatory protections for other classes of individuals (i.e., based on handicap, age, and sex) as they too were being denied benefits from federally assisted programs and activities.

GSA-assisted programs and activities, for the most part, permit the taxpayer to obtain the maximum use of real and personal property acquired by the Federal Government. This is achieved by redistributing back to eligible individuals, groups, and State and local governments the property which the Federal Government no longer needs.

Alternatives Under Consideration

GSA will propose one regulation that will incorporate the nondiscriminatory provisions applicable to federally assisted programs and activities by the Agency. The approach we propose in this rule will provide the most flexibility, considering the scope and dollar value of the GSA-assisted programs, and will alleviate unnecessary burdens and cost to the approximately 62,000 recipients or subrecipients (donees).

Federally assisted programs sponsored or supported by GSA are categorized as follows: (A) Project Grants; (B) Sale, Exchange, or Donation of Real and Personal Property and Goods; and (C) Use of Property, Facilities, and Equipment.

GSA activities to ensure compliance with this proposed rule are projected to occur in categories B and C. The compliance efforts will also include monitoring the civil rights compliance activities of other Federal agencies with whom we have delegated agreements or to whom we have delegated authority, as we are still required by the Department of Justice regulations to monitor these nondiscrimination compliance activities as they pertain to categories B and C above. The nature of some assisted programs does not lend itself to compliance monitoring; i.e., compliance monitoring is not appropriate for State participation in Federal Telpaks, one program under the category, "Use of Property, Facilities, and Equipment." ("Federal Telpaks" refers to interstate telecommunications circuits consisting of twelve or more voice circuits comprising a single channel. The Federal Government leases Telpaks from a common carrier. To make use of any spare capacity that exists, such excess capacity is offered to State governments at a specific rate.)

There are two programs in which the greatest GSA compliance activity will occur. The first, the "Federal Surplus Personal Property Donation Program," by which the Federal Property Resources Service (FPRS), through State agencies, may transfer surplus personal property for donation to public agencies for public purposes and to eligible nonprofit, tax-exempt activities, falls under category B above. Under this program, Federal surplus personal property, with an organized Government acquisition cost of approximately $340 million, was distributed through 50 States and Territorial Possession Agencies for Surplus Property to 61,792 recipients or subrecipients (donees) during FY 1980.

Another program in the "Sale, Exchange, or Donation of Property and Goods" category is the program for real property donation or transfers for education or public health; public airports; and park, recreation, or historic monument purposes. In FY 1980, 420 conveyances of real property were completed by the Office of Real Property.

The second area of high compliance activity is the assistance program which deals with facilities (space) and services (utilities) offered to vendors and concessionaires through negotiated contracts. This program falls under the category "Use of Property, Facilities, and Equipment." GSA's Public Buildings Service (PBS) permits and encourages the location of commercial, cultural, educational, and recreational facilities and activities in public buildings.

The proposed GSA regulation will require that applicants for assistance from GSA submit an assurance to GSA that the assisted program or activity will be offered on a nondiscriminatory basis, and will be accessible and usable by the handicapped. A recipient might comply with this latter requirement through such means as redesign of equipment, or structural changes in existing buildings. We will use "GSA Accessibility Standards," PBS (PCD): DG6, October 14, 1980, as our standard. Where the assistance is in the form of real property, the proposed regulation will stipulate that GSA may reclaim the property if the recipient's use is contrary to the nondiscrimination provisions.

The regulation will require recipients to maintain relevant data on demography; race, color, and national origin; sex; age; and handicapping conditions to allow GSA or primary recipients to evaluate the effectiveness of their nondiscrimination effort. Further, recipients must set up a complaints procedure. In programs where discrimination is found to occur, the regulation will require GSA to encourage remedial action on a voluntary basis before commencing with the provisions to terminate aid. The

subparts on nondiscrimination on the basis of sex and of race, color, and national origin prohibit discrimination in employment on these bases in programs established to increase employment or where service is affected by employment practices. The handicap subpart prohibits discrimination in employment in federally assisted programs and activities. This means, for example, that a hospital built on GSA-donated land would have to abide by Federal nondiscrimination regulations in hiring a handicapped individual.

In the subpart of the regulation on nondiscrimination on the basis of handicap, we are considering the following alternatives:

(A) Allow those recipients of GSA assistance who employ fewer than 15 employees, after consulting with the handicapped individual, to refer the individual to another provider where the program is in an accessible location.

We could eliminate this option for small employers, but we prefer to include it in order to provide greater flexibility to small providers while still meeting the needs of handicapped individuals.

(B) Require that increasingly more stringent steps be taken to ensure accessibility to historic buildings and allow a waiver, to be reviewed by the GSA Administrator, where structural changes would permanently endanger the historic integrity of the building and alternate methods have been exhausted. We could allow fewer alternatives to ensure accessibility in historic buildings but feel that doing so would not ensure the integrity of historic buildings as well as the rights of handicapped individuals.

Summary of Benefits

Sectors Affected: The general population; special populations (Blacks, Hispanics, Asian Americans and Pacific Islanders, American Indians, Alaskan Natives, women, and handicapped individuals); Federal, State, and local governments; other public bodies; charitable (tax-exempt) organizations; and GSA.

The direct benefits will primarily accrue to the special populations as recipients and beneficiaries, who will be assured of equal participation in programs, and, in the case of handicapped individuals, access to facilities which receive Federal assistance through GSA. Because nondiscrimination provisions cover employment, some handicapped workers may achieve self-sufficiency or higher standards of living because of increased employment opportunities.

Indirect benefits are realized in terms of GSA fulfilling its obligations under the law. Other beneficiaries will benefit from the enrichment of the program by the increased presence of the special population, particularly its participation in GSA's National Archives and Records Service (NARS) historical records grants. Recipients, including government and other public bodies, and charitable organizations, will be in a better position to administer their assisted programs on an equitable basis because of definitive guidance and clearer understanding of how to comply with all Agency requirements, as provided in the regulation.

Summary of Costs

Sectors Affected: State and local governments and other public and charitable bodies receiving Federal assistance through GSA; programs and activities that benefit from this assistance; and GSA.

Because the projected effect on the economy is less than $100 million, we will not prepare a Regulatory Impact Analysis. We have not estimated cost figures for the recipient, but we can provide a list of the requirements for each recipient and the number of recipients to allow the reader to analyze the scope of the direct costs (see below). Because a large proportion of GSA recipients in these programs also receives assistance from other Federal agencies, the GSA regulations will not generate additional significant program costs for recipients. Any cost incurred by recipients to meet, for example, accessibility requirements of § 504 of the Rehabilitation Act of 1973 would be to comply with Department of Health and Human Services (HHS) regulations. The recipients, therefore, should have no significant passthrough costs to the general public as a result of the GSA nondiscrimination regulation.

Recipients—*GSA-Sponsored Programs and Activities*

Number of Disposals of Federal Surplus Real Property	420
Number of Recipients of Federal Surplus Personal Property:	
Primary Recipients	50 States and Territorial Possessions
Subrecipients (Donees)	61,792
Number of Recipients of National Historical Publications and Records Grants	180
Number of Recipients of Facilities and Services (Vendors and Concessionaires):	
Health Units	227
8(a) Facilities	45
Recreation and Services Facilities	527
Cafeterias	134
Credit Unions	(*)
Employee Associations	(*)
Unions	(*)
Day Care	(*)
Other	(*)

*Data unavailable.

Requirements for Compliance with Nondiscrimination Provisions in Federal Statutes

General. As a requirement for compliance with nondiscrimination provisions in Federal statutes, a recipient of Federal assistance must take action in those areas, as listed below.

Certificate of Assurance. In order to qualify for Federal assistance an application must be accompanied by a written assurance that the program or facility to be benefited will be operated in compliance with nondiscrimination Federal laws and GSA regulations. An applicant must provide methods of administration for the program designed to ensure that the primary recipient and subrecipient (donee) under the program will comply with all applicable regulations, and correct any existing or developing instances of noncompliance.

Publication Notification Procedures. Each recipient will be responsible for ensuring that all eligible persons, particularly minorities, women, and handicapped individuals, who may have been previously or traditionally deprived of equal opportunity, are adequately encouraged to participate fully in GSA programs, and informed of GSA policy of nondiscrimination and the procedures for filing a complaint. The recipient will be required to prominently display the nondiscrimination poster, "We Won't Cut You Out Because Of," developed by GSA.

Program Participation Data. A recipient must establish and maintain a system for collecting and reporting data on minority, women, and handicapped persons' participation in any program or activity receiving Federal assistance. The system should identify the eligible populations and measure delivery of program benefits in order that the quantity and quality of benefits and services delivered to minority, women, and handicapped individuals can be documented and compared to benefits delivered to nonminority individuals.

Access to Sources of Information. The regulation will require recipients to keep records and to submit timely, complete, and accurate compliance reports. In addition, it will require recipients to permit access by GSA to such books, records, accounts, and other sources of information as may be pertinent to determining compliance.

Failure to Take Action. Failure on the part of a recipient of Federal assistance to take action in any of the aforementioned areas constitutes a case of noncompliance.

This will require GSA to take immediate corrective action to remedy the situation of noncompliance. If a recipient fails to cooperate or take voluntary corrective actions, GSA may wish to take formal enforcement action. This, in turn, could result in termination of assistance or other legal means to achieve compliance.

Preliminary Cost Data. In order to implement the regulation, GSA will incur costs in the following primary areas:

Annual costs	1980 dollars
Training	$9,900
Compliance and Enforcement	$100,000

Related Regulations and Actions

Internal: The Federal Property Resources Service (FPRS), in conducting GSA's "Federal Surplus Personal Property Donation Program" in accordance with 41 CFR 101–44.207(f), requires all applicants for program participation to provide necessary assurances of nondiscrimination. FPRS also requires nondiscrimination clauses in any disposal of real property to public bodies by negotiations in accordance with 41 CFR 101–47.307–2. In contracts entered into for facilities and services offered to vendors and concessionaires, GSA's Public Buildings Service (PBS) requires contractors to adhere to equal employment provisions of Title VII of the Civil Rights Act of 1964. PBS monitors these provisions in accordance with Executive Order 11246. In addition, the above contracts require the contractor to render nondiscriminatory services to the general public (Title VI).

External: The Department of Health and Human Services (HHS) has issued guidelines for nondiscrimination in federally assisted programs on the basis of (1) Sex, 45 CFR Part 86; (2) Handicapping condition, 45 CFR Part 84; and (3) Age, 44 CFR Part 90. The Department of Justice issued guidelines on the basis of race, color, and national origin, 28 CFR Part 42. Executive Order 12250 (45 FR 72995, November 4, 1980) delegated to the Attorney General additional responsibilities to coordinate the implementation and enforcement by executive agencies of items (1) and (2) above, but keep in effect HHS regulations implementing (1) and (2) until revoked or modified.

Active Government Collaboration

GSA has worked with the Department of Justice, the lead agency for nondiscrimination in federally assisted programs under Title VI of the Civil Rights laws of 1964; Title IX of the Educational Amendments Act of 1972; and § 504 of the Rehabilitation Act of 1973, as amended; and with the Department of Health and Human Services, the lead agency for nondiscrimination in federally assisted programs under the Age Discrimination Act of 1975.

Timetable

NPRM—June 15, 1981.
Public Hearing—Do not plan to hold.
Public Comment Period—June 15–August 15, 1981.
Final Rule—October 1981.
Final Rule Effective—December 1981.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—Not required.

Available Documents

28 CFR Part 42, Nondiscrimination; Equal Employment Opportunity; Policies and Procedures.

41 CFR Chapter 101, Federal Property Management Regulations.

45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting From Federal Financial Assistance.

45 CFR Part 86, Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefitting From Federal Financial Assistance.

45 CFR Part 90, Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

E.O. 11246, 3 CFR, 1964–65 Comp., p. 339, Equal Employment Opportunity.

E.O. 12250 (45 FR 72995, Nov. 4, 1980), Leadership and Coordination of Nondiscrimination Laws.

PBS (DG 6), October 14, 1980, GSA Accessibility Standards.

GSA Order PRM P 4025.1, Chapter 2, Donation of Surplus Personal Property.

The Code of Federal Regulations and **Federal Register** are available at many public libraries. Write to the Office of the Federal Register to obtain a list of libraries which receive these documents: Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408 or call (202) 523–5240. PBS (DG 6) and GSA Order PRM P 4025.1, Chapter 2, can be obtained through Business Service Centers, General Services Administration, National Capital Region, 7th and D Streets, S.W., Washington, DC 20407, or Regional Business Service Centers in Boston, MA; New York, NY; Philadelphia, PA; Atlanta, GA; Chicago, IL; Kansas City, MO; Fort Worth, TX; Denver, CO; San Francisco, CA; and Seattle, WA.

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GSA—National Archives and Records Service

Freedom of Information Act Requests for National Security Classified Information in the National Archives (41 CFR Part 105–61*)

Legal Authority

Freedom of Information Act, 5 U.S.C. § 552; E.O. 12065, 3 CFR, 1978 Comp., p. 190.

Reason for Including This Entry

The General Services Administration (GSA) includes this rule because it deals with public access to classified information, which is an important resource for historical research.

Statement of Problem

The Freedom of Information Act (FOIA) sets out procedures for obtaining information and records from Federal Government agencies. Researchers and other persons seeking access to records of Federal agencies under the FOIA direct their requests to the agency which has custody of the records. The National Archives and Records Service (NARS) of the General Services Administration acts as custodian of noncurrent records of Federal agencies, including records classified for reasons of national security. A request for access to classified information also serves as a request for declassification of the information. NARS is authorized to declassify records more than 20 years old (or 30 years in the case of foreign government information provided to the United States). If a request is for newer classified records, NARS forwards a request for declassification to the agency with declassification authority (usually the originating agency), and that agency decides whether to declassify the requested information. FOIA requires NARS to notify the requestor of a denial of access, but under current NARS regulations, agencies with declassification authority sometimes inform requestors directly of denials of declassification without informing NARS. One result of this

information gap is that subsequent requests for the same classified material must again be routed to the agencies. Another result occurs when a request is for both classified and unclassified material. In these cases, NARS replies to the request for unclassified material, but delays the response in anticipation of being able to give a full notification on all records requested. So, when the agencies send their responses directly and solely to the FOIA requestor, the consequences can be delays in supplying NARS notifications and the sending of multiple notifications.

Alternatives Under Consideration

The proposed regulation changes the current procedure so that agencies with declassification authority would notify NARS of the decision about declassification, and NARS would in turn provide a single notification to the requestor. Our alternative would be to keep the current procedure, but we rejected that option because of the reasons given above.

Summary of Benefits

Sectors Affected: Persons and organizations requesting access to national security classified information under the Freedom of Information Act; NARS; and other agencies with declassification authority.

If NARS changes the regulation, the 100 to 200 persons a year who request access to national security classified information will maintain direct contact with NARS when it is the agency which has physical custody of the records, and will receive notices only from NARS. We expect that this "single point of contact" approach will be less confusing to persons requesting information, and frequently result in quicker replies by the Federal Government. It should also slightly reduce costs of other Government agencies by reducing duplication of notices.

Summary of Costs

Sectors Affected: None.

The proposed regulation has no significant direct or indirect costs. (When the request involves only classified material, there would be some added work for NARS employees who handle the requests. Conversely, work on subsequent requests for the same material would be reduced. We assume that these factors largely cancel each other out, with any resulting savings or costs being insignificant.)

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—August 1981.
Public Hearing—None.
Public Comment Period—60 days following NPRM.
Final Rule—November 1981.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—Not required.

Available Documents

Public Use of Archives and FRC Records, 41 CFR Part 105–61.

Agency Contact

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SMALL BUSINESS ADMINISTRATION

Revision to Method of Establishing Size Standards and Definitions of Small Business (13 CFR Part 121*)

Legal Authority

The Small Business Act, 15 U.S.C. §§ 632 and 634.

Reason for Including This Entry

The Small Business Administration (SBA) thinks that these rules are important because they will define the term "small business" and thus clarify what businesses are eligible for SBA programs. In addition, these rules have an annual effect on the economy in excess of $100 million.

Statement of Problem

SBA is charged by the Small Business Act of 1953 and the Small Business Investment Act of 1958 to administer a wide variety of programs designed to benefit the small business community of the United States. These programs include financial business assistance, such as direct loans, loan guarantees, and surety bond guarantees; management and technical assistance, such as direct consultation; and provision of opportunities to contract with the Federal Government to provide it goods and services. Eligibility for these programs is based on, among other things, the size of the applicant. SBA must define the term "small business" in a manner which is equitable to all concerns seeking the Agency's assistance. Hence, size standards are necessary, and we have set them to cover each of the industries specified in the Standard Industrial Code. We urge other Federal agencies to use these standards as well, and many do, in their contracting and financial assistance programs.

The promulgation of size standards is a difficult chore because the concept of size is by nature a relative one. The Small Business Act precludes SBA from rendering assistance to firms that are dominant in their industries. However, conception of the size of a firm can be based on a number of other factors, including number of employees, sales per particular time period, and competitive position within an industry or geographic area. It may also be appropriate to define "small" differently depending on the SBA program involved.

In the past, size standards have varied from SBA program to program and were often set to suit the preferences of SBA's program offices or other procuring agencies within the Federal Government. However, many of these standards attracted considerable criticism from the public because they were factually unsubstantiated, inconsistent, and confusing, and not tied sufficiently to expressed SBA policy. Both the House and Senate Small Business Committees have made frequent inquiries concerning SBA's size-standard setting procedures, and the General Accounting Office prepared two reports in 1978 and 1979 which were somewhat critical of the process as it concerned SBA's procurement and timber set-aside programs.

All of this led SBA Administrator A. Vernon Weaver to pledge in congressional testimony, in 1979, that SBA would develop new size standards where justified.

SBA thinks that the proposed revision of these size standards rules is important because it will update and improve the logic, methodology, and format of the size standards. It will simplify understanding of SBA programs for the small business community, reduce complexity in the administration of SBA's programs, and improve the targeting of SBA's resources.

Alternatives Under Consideration

The possible alternatives under consideration are:

(A) SBA can use a combination of factors to determine a firm's size for the purposes of these proposed rules, such as sales, number of employees,and gross assets. The advantage of this system is that it allows for review of a firm from a number of different viewpoints. The

disadvantage is that it can confuse the small business community and the public at large because it will require comparisons of the operative factors within various industries which cannot be easily made and which will make uniformity of decisionmaking, to the extent that it is desirable, an impossibility. Furthermore, SBA has found that size standards measured in dollars, such as in sales or gross assets, are not a true measure, since inflation can affect different products or assets differently, and distort any attempt to compare their prices.

(B) SBA can use a single factor, such as number of employees, to determine a firm's size. Such a standard will be easier for SBA to administer, but might be inequitable, because the factor chosen may not be an adequate measure of size in a given industry. However, SBA feels that using employment as opposed to sales or assets will provide greater stability for SBA and its clients because it will remove distortions generated by inflation and will reduce the need for frequent future adjustments merely to reflect inflation.

(C) SBA can use the same size standard in administering each of its programs. This will promote uniformity in SBA decisionmaking and ease of administration for SBA and applicants, but it also inevitably will lead to decisions that do not take all the important variables into consideration.

(D) SBA can use individual size standards for each of its programs, which may mean several different standards would apply to one company. This will lead to a more flexible decisionmaking process, but will also promote confusion and difficulty in administration, because a given company might be eligible for one SBA program and not another based on this system.

Currently, SBA bases its size standards on a combination of factors and uses different standards for each of its programs. We are proposing to use the firm's number of employees as the exclusive measure of size, and to develop a single standard to cover all of our programs by this proposed revision.

Summary of Benefits

Sectors Affected: SBA; businesses eligible to receive SBA assistance.

The proposed regulations will benefit SBA because they will help us determine which businesses will be eligible for SBA assistance. Our program will cover all sectors covered by the Standard Industrial Classification.

Currently, about 99 percent of all American firms meet the definition of "small business," and are eligible for SBA assistance. We project that our redefinition will decrease that figure to 96 percent. While this means that some businesses that previously may have been eligible for SBA assistance may no longer be eligible, there will be a corresponding benefit to those that remain eligible, in that there may be fewer companies competing for SBA assistance.

We cannot project precisely what the cost or benefit impact will be in this respect, because businesses are not automatically entitled to SBA assistance it they meet our definition of "small." There are no other eligibility requirements for the various SBA programs that would still apply to an applicant in a given situation. (Our proposed rule to redefine "small business" will not modify these program-specific requirements.)

Summary of Costs

Sectors Affected: Businesses that may no longer be defined as small.

Because the total number of businesses eligible for SBA assistance will decline by about 3 percentage points (from 99 percent under the current definition to about 96 percent under the new definition), some businesses that previously may have been eligible for SBA assistance will no longer be eligible for assistance. This represents a difference of about 225,000 businesses, of which about 150,000 are agricultural and about 75,000 are industrial, manufacturing, or retail businesses.

Related Regulations and Actions

Internal: In order to be eligible for any SBA business assistance, SBA must determine the firm is "small." Therefore, these regulations will, of necessity, affect the application of all of the Agency's business assistance regulations, including 13 CFR Parts 106, 107, 115, 118, 119, 120, 122, 124, 125, 128, 129, 130, and 131.

External: These regulations will affect any Federal regulations which contemplate governmental assistance to, or contracting with, small business, if those regulations incorporate by reference SBA's definitions of small business. Use of SBA's size standards is left to the discretion of each governmental agency.

Active Government Collaboration

In establishing its size standards, SBA has relied upon information developed by the Department of Commerce and Internal Revenue Service. SBA contemplates the receipt of comments and suggestions from other Federal and State agencies on its proposed rules during the comment period thereon.

Timetable

NPRM—Summer 1981.
Public Comment Period—60 days following publication of NPRM.
Regulatory Impact Analysis—A Regulatory Impact Analysis of these rules is presently being prepared. It will accompany the NPRM.
Regulatory Flexibility Analysis—Will be combined with RIA accompanying NPRM.

Available Documents

ANPRM—45 FR 15442, March 10, 1980; 45 FR 23704, April 8, 1980; and 45 FR 59587, September 10, 1980.

In addition, comments received in regional hearings held between May 8 and June 5, 1980, and comments in response to the ANPRMs, are available at SBA's Central Office, 1441 L Street, N.W., Washington, DC 20416, for public review and inspection.

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CHAPTER 6—TRADE PRACTICES

DOC–MARAD

Construction-Differential Subsidy Repayment; Total Repayment Policy 34159

DOT–FHWA

Buy America Requirements 34161

TREAS–ATF

Implementation of the Distilled Spirits Tax Revision Act of 1979 34162

TREAS–ATF

Labeling and Advertising Regulations Under the Federal Alcohol Administration Act 34164

TREAS–CUSTOMS

Civil Aircraft Regulations 34166

TREAS–CUSTOMS

Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act 34167

TREAS–CUSTOMS

Interest Charges on Delinquent Accounts 34168

GSA–FPRS

National Defense Stockpile Disposal Regulations 34169

FEC

Nonpartisan Communications by Corporations or Labor Organizations 34170

FTC

Proposed Amendment to Eyeglasses Rule and Eyeglasses II 34172

FTC

Proposed Trade Regulation Rule Concerning Credit Practices 34174

FTC

Proposed Trade Regulation Rule on Mobile Home Sales and Service 34178

FTC

Residential Real Estate Brokerage Industry Practices 34180

DEPARTMENT OF COMMERCE

Maritime Administration

Construction-Differential Subsidy Repayment; Total Repayment Policy (46 CFR Part 276)

Legal Authority

Merchant Marine Act, 1936, as amended, §§ 204(b), 207, 506, and 714, 46 U.S.C. §§ 1114(b), 1117, 1156, and 1204.

Reason for Including This Entry

The Maritime Administration (MarAd) is including this entry because the regulation sets a major precedent for the administration of the maritime subsidy programs. The regulation would establish a policy for total repayment of construction-differential subsidy (CDS) in exchange for the removal of domestic trade restrictions prescribed in § 506 of the Merchant Marine Act, 1936, as amended (the Act). However, the annual impact of the regulation on the economy may not exceed $50 million, and is not expected to impose a major increase in costs or prices.

Statement of Problem

Pursuant to Title V of the Act, MarAd grants financial aid in the form of construction-differential subsidy (CDS) for the construction of vessels for operation in the U.S. foreign trade. However, if no favorable opportunities exist for the viable employment of CDS-built vessel(s) during a protracted period which exceeds that normally associated with cyclical downturns, then MarAd might consider whether "exceptional circumstances" exist to consider payback of CDS in order that the vessel may seek viable employment opportunities in the domestic trade. By establishing the existence of "exceptional circumstances" as a precondition to considering CDS repayment, the regulation would ensure that CDS-vessel owners do not prematurely abandon the foreign trade for which they are intended if more lucrative opportunities exist in the domestic trade. The purpose of the regulation is to establish guidelines for deciding whether to permit vessels built with such aid to operate without restriction in the domestic trade in exchange for the payback of the CDS attributable to the remaining economic useful life of the vessel. These guidelines will be designed to minimize adverse impacts on investors in and operators of vessels built without CDS exclusively for the domestic trade, shipbuilders, shippers, MarAd, consumers, and the general public.

Sections 501–507 of the Act (46 U.S.C. §§ 1151–1157) contain the provisions relating to eligibility and conditions for the award of CDS by the Secretary of Commerce (Secretary). The authority to grant these awards rests, by delegation, with the Maritime Subsidy Board within MarAd. Essentially, CDS represents the excess of the cost of constructing (including reconstructing or reconditioning in exceptional cases) a vessel in a U.S. shipyard (excluding the cost of national defense features) over the fair and reasonable estimated cost of its construction in a representative foreign shipbuilding center. This excess is paid by MarAd to the U.S. shipyard only for a vessel "to be used in the foreign commerce of the United States," as defined in § 905 of the Act (46 U.S.C. § 1244).

Section 506 of the Act (46 U.S.C. § 1156) requires the owner of every vessel for which CDS has been paid to agree that the vessel be operated "exclusively in foreign trade" or in foreign trade with limited domestic trade operation as specified in this section. If such a vessel engages in this limited domestic operation, the owner must repay a portion of the CDS. Section 506 also provides for the temporary transfer of such a vessel to services other than those covered by the owner's CDS agreement for periods "not exceeding 6 months in any year," with the consent of the Secretary. A condition for consent to such temporary transfer is the agreement by the owner to repay, on conditions that the Secretary may prescribe, "an amount which bears the same proportion to CDS paid as such temporary period bears to the entire economic life of the vessel."

In addition to these express statutory provisions for partial repayment, the Secretary has discretionary authority to accept full repayment of CDS in return for the permanent removal of the domestic trading restrictions in § 506. The U.S. Supreme Court has affirmed this authority. (*Seatrain Shipbuilding Corp., et al.* v. *Shell Oil Co. et al.*, 100 S. Ct. 800 (February 20, 1980).)

Consistent with this decision, MarAd proposed the regulation to provide, as a matter of sound policy, guidelines and procedures for approval of applications to repay CDS, which MarAd can apply uniformly to all applicants.

Neither § 506 nor any other provision of the Act provides guidelines for determining the circumstances under which the total repayment of CDS is appropriate. In order to establish such guidelines, MarAd is conducting an analysis to provide a basis for determining suitable conditions and to

estimate costs and benefits. The economic impact of the regulation will depend on these conditions.

Recently MarAd published an interim regulation applying only to tankers of at least 100,000 deadweight tons (DWT) (45 FR 68393, October 5, 1980). Ten existing CDS-built vessels are in this category. MarAd has received applications for the total repayment of CDS with respect to six of these vessels. One of the applications has been approved and three have been withdrawn, leaving two applications with aggregate outstanding CDS balances of approximately $39 million. MarAd has approved one of these applications with respect to the BAY RIDGE (upheld on appeal to the Secretary), a 225,000 DWT vessel. A consolidated action is pending in the U.S. District Court for the District of Columbia (*American Petrofina and Independent U.S. Tanker Owners Committee* v. *Baldrige et al.*; C.A. Nos. 80-3038 and 80-3214). The principal issues involved are whether the interim rule was issued in full compliance with the Administrative Procedure Act and whether the decision to approve the BAY RIDGE application was arbitrary and capricious.

Alternatives Under Consideration

The first alternative requiring consideration in any regulatory impact analysis is the "no-action" option. MarAd believes that adoption of a regulation is not a legal requirement, and that it could exercise discretion in allowing the total repayment of CDS by adopting a case-by-case approach and making a determination on the individual merits of each application. However, the advantage of a formalized rule is that it would provide a framework for the decisionmaking process. The regulation would be in compliance with the District Court's suggestion in the *Seatrain* case that the Agency provide guidelines that apply uniformly to all applicants.

MarAd is considering whether it should adopt a single regulation for all CDS vessels, regardless of type, size, or employment pattern, or whether it should adopt separate regulations for various categories, however defined. A single regulation has the advantage of general applicability and simplicity, but may not adequately reflect the unique aspects of the markets in which the various categories of vessels operate.

The choice of specific "exceptional circumstances" under which MarAd would grant permission for a vessel to operate in the domestic trade requires the evaluation of a number of potential alternatives and underlying conditions. If the conditions are too restrictive, the interest of the CDS-built vessel's owner, MarAd, and the maritime industry may not be served. If they are too general, they raise questions concerning whether the non-subsidized fleet, in which there is considerable investment, will be equitably treated.

If no favorable opportunities exist for economic employment of a category of CDS-built vessels in the foreign trade for a protracted period that is longer than that of normal cyclical market downturns, MarAd might consider whether exceptional circumstances are present which would warrant approval of total CDS repayment in return for removal of the restrictions on domestic trade operation of the vessel.

MarAd must consider potential impacts on competition in the development of these conditions. The approval of an application for total repayment of CDS for a vessel can be expected to remove that vessel from the foreign trade for which it was intended, generating a potential competitive impact in that trade. Similarly, the removal of the domestic trading restrictions may have a competitive impact in the domestic trade. Among the factors that MarAd might consider before approving an application is whether the operation of the vessel in the domestic trade would be likely to have any significant adverse impact on other vessels operating in that trade.

Finally, MarAd must consider two principal procedural alternatives to insure that all interested parties have an opportunity to present their views. Under the first alternative, MarAd would publish in the **Federal Register** a notice of any application for the total repayment of CDS, and would allow a specified period for interested parties to submit written comments. As a second alternative, MarAd would hold a hearing or similar proceeding to provide an opportunity for all interested parties to provide data and analyses in support of their respective positions. The formal hearing requirement would greatly increase the likelihood of delays in the decisionmaking process. These delays could have significant adverse impacts on the applicant, as well as on the Government's security interest in the vessel with respect to any outstanding ship obligation guarantees or ship mortgage insurance.

MarAd must consider various hypotheses in order to prepare a Regulatory Impact Analysis involving economic matters. The statements in this document concerning impacts are merely illustrative and are in no sense to be considered exhaustive or definitive.

Summary of Benefits

Sectors Affected: Owners and operators of vessels built with CDS and intended for deep sea foreign water transportation; owners and operators of vessels built without CDS and intended for deep sea domestic water transportation; shipbuilding; shippers of commodities by U.S. deep sea foreign and domestic water transportation; MarAd; consumers; and the general public.

Fairness to all identifiable interests in the administration of the CDS program is the object of the regulation. The regulation can be expected to state the conditions MarAd will consider for removing a restriction on domestic trade operation that is required by the Act as a condition for receiving CDS assistance.

The regulation may limit total repayment of CDS in exchange for the removal of domestic trade restrictions to situations determined by MarAd to represent "exceptional circumstances," with guidelines provided for making this determination. Benefits would accrue to the owner or operator of an existing vessel that has no favorable opportunities for employment in the foreign trades for which it was originally built with CDS.

Since vessels built with CDS may have obligation guarantees or vessel mortgage insurance issued by MarAd under Title XI of the Act, the prospective default by the vessel owner may mean an imminent loss to the Government due to its payment of the debt (reduced by the amount of recovery through foreclosure sale), as well as the loss of any on-going benefit to the economy from the Government's CDS expenditure. With respect to the two remaining CDS repayment applications that meet the criteria of this regulation, only one involves Title XI obligation guarantees amounting to approximately $13.7 million. MarAd may better preserve the value of its security interest by allowing the vessel to operate in the domestic trade in order to generate sufficient income to amortize its Government guaranteed obligations or insured debt. The incidence of default for Title XI guarantees has been extraordinarily low, only seven-tenths of one percent (net losses of only $62.9 million out of $8.8 billion of guarantees since the inception of the program in 1938 to date).

The guidelines to be adopted are intended to minimize any potential adverse impact on the U.S. shipbuilding market for the construction of vessels for the domestic trade. The regulation

may significantly reduce uncertainties in this market. Other objectives are that owners of vessels built without CDS will not be subject to excess tonnage competition; shippers will be protected against unreasonably high rates; and the consuming public will not experience higher commodity prices resulting from unreasonably high freight rates.

MarAd's careful application of these guidelines should protect investment in domestic trade shipping, shippers of domestic trade cargoes, consumers of commodities shipped in the domestic trade, MarAd's security interests, and the general public.

By allowing repayment, the funds repaid become available for other Government purposes and the vessel can be actively employed. The general public may benefit through reallocation of the asset. A Regulatory Impact Analysis is currently being prepared which will provide estimates of the potential benefits.

Summary of Costs

Sectors Affected: Owners and operators of vessels built with CDS and intended for deep sea foreign water transportation; owners and operators of vessels built without CDS and intended for deep sea domestic transportation; shipbuilding; shippers of commodities by U.S. deep sea foreign and domestic water transportation; MarAd; and the general public.

The Regulatory Impact Analysis MarAd is currently preparing will provide estimates of these costs and impacts. Owners and operators of existing domestic trade vessels, which are not eligible for CDS aid, contend that the introduction of even a single additional vessel into the trade, through CDS repayment, would have significant impacts on rates. Unlike liner trades with regulated tariffs, rates in the bulk trades are generally controlled by vessel availability, suitability, and location at any particular time. The domestic trades are relatively small. Few vessels are available at any given time, since most are in proprietary trades or under long-term charter. Thus, the addition of a single CDS vessel could temporarily reduce the profit potential of an existing owner. However, over time, the average charter rates obtained in the domestic trade might not be significantly affected.

While the regulation is intended to limit impacts on shipbuilding, shipyards in the United States could possibly lose an opportunity for new vessel construction for the domestic trade if a CDS vessel owner is allowed to make total repayment in exchange for the removal of domestic trade restrictions. In addition, the uncertainty of potential competition from other CDS vessels could further reduce the incentives for vessel construction for the domestic trade. Since the Act expressly permits owners of vessels built with CDS to apply for permission to operate temporarily in domestic trades for periods not exceeding 6 months in any year, the policy reflected in the regulation does not create a completely new class of competing vessel. Also, when the foreign trades again provide favorable employment opportunities, new construction for these trades would probably occur.

Related Regulations and Actions

Internal: Participation by vessels built with CDS in the carriage of oil from Alaska in the domestic trade (46 CFR Part 250).

External: None.

Active Government Collaboration

MarAd encourages Federal agencies and State and local governmental bodies, as well as the general public, to participate in development of this regulation through submission of comments to the Agency Contact listed below.

Timetable

Final Rule—Unknown, publication may be delayed until final disposition of pending litigation in the U.S. District Court for the District of Columbia (*American Petrofina and Independent U.S. Tanker Owners Committee* v. *Baldrige et al.*; C.A. Nos. 80-3038 and 80-3214).

Regulatory Impact Analysis—Although the economic impacts of the regulation may not exceed the thresholds requiring the preparation of a Regulatory Impact Analysis, MarAd is now preparing a Regulatory Impact Analysis because it considers the regulation to be a matter of sufficient policy significance to warrant such an analysis.

Public Hearing—The agency does not plan to hold public hearings on this regulation.

Regulatory Flexibility Analysis—This regulation will not have a significant economic impact on a substantial number of small entities. Since the notice of proposed rulemaking was issued prior to January 1, 1981, the Regulatory Flexibility Act (P.L. 96-354) provisions are not applicable.

Available Documents

Comments received in response to the NPRM (45 FR 29610, May 5, 1980) are available for inspection in Room 3099B, Department of Commerce Building.

Interim Rule—45 FR 68393, October 15, 1980.

The final Regulatory Impact Analysis will be made available for inspection at the time the notice of final rulemaking is published in the **Federal Register.**

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Requirements (23 CFR 635.410*)

Legal Authority

Surface Transportation Assistance Act of 1978, § 401, P.L. 95-599, 92 Stat. 2689.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it is controversial and could possibly increase construction costs in the Federal-aid highway program by 2 percent, or approximately $150 million (in 1980 dollars) annually.

Statement of Problem

The Buy America provisions (§ 401) of the Surface Transportation Assistance Act (STAA) of 1978 require that all articles, materials, and supplies purchased with grant funds authorized under the Act must be of U.S. origin. The States, as recipients of the grant funds, are responsible for enforcing § 401.

Before Congress enacted STAA, suppliers of certain foreign products, including steel, were allowed to compete for contracts on Federal-aid highway projects. The pressure of foreign competition has been increasing and will continue. In fact, the General Accounting Office (GAO) found that, in 1976 and 1977, foreign-produced steel products valued at $97.8 million (in 1976 and 1977 dollars) were used in Federal-aid highway construction projects.

Under STAA, the Department of Transportation (DOT) must develop and enforce a policy on procurement of foreign materials for projects funded by Federal-aid highway assistance. However, the Secretary of

Transportation has retained the authority to waive the Buy America provisions under certain conditions. These include situations where domestic supplies are unavailable or where using them would increase the cost of the project by more than 10 percent.

Alternatives Under Consideration

The Buy America provisions were effective immediately and required implementation. Therefore, the FHWA issued an emergency regulation on November 17, 1978, to implement them. That regulation applied only to foreign structural steel.

The FHWA is continuing the provisions of the emergency rule because its approach is consistent with the legislative history of the Buy America provisions. Competition between domestic and foreign sources for highway construction contracts generally has been limited to the structural steel market. Other products are abundant domestically or are not available in sufficient quantities from American sources to meet highway construction needs (e.g., petroleum and petroleum products).

The FHWA is considering whether materials used in Federal-aid construction projects over $500,000 should meet the Buy America provisions. While fairly large quantities of petroleum products, such as fuel, lubricants, and asphalts, are used on all highway projects, domestic petroleum is not sufficiently and reasonably available to meet this need. Restrictions on the purchase of petroleum products undoubtedly would delay many construction projects and would be contrary to the legislative intent. Moreover, the statute clearly allows domestic preference only if the exclusion of foreign products would not increase project costs by more than 10 percent.

Summary of Benefits

Sectors Affected: Domestic steel industry, including blast furnaces and basic steel products manufacturing steel foundries, fabricated structural steel products manufacturing, and iron ore mining and related services.

Reduction in the use of foreign products would give domestic suppliers more opportunities for contracts. The FHWA estimates that, from 1979 to 1982, the Bridge Replacement and Rehabilitation Program will use more than $500 million (in 1980 dollars) annually in structural steel. The GAO estimates that 9.5 percent of the steel used annually in the Federal-aid highway program is from foreign sources. For the years 1976 and 1977, the GAO estimated that $97.8 million in foreign steel products were used in the highway program. Domestic suppliers could have provided this steel.

Summary of Costs

Sectors Affected: Highway construction industry; States; steel importing; and the general public.

The increase of up to 10 percent in the cost of highway construction projects may affect all industries participating in these projects. The regulatory provisions would force contractors to find domestic sources for some of their steel and steel products. States would be required to bear additional administrative costs in order to evaluate bids. A limited number of steel importers could lose some import business. Some highway improvements would be delayed or abandoned because of the increased overall cost of highway construction. As a result, the general public would be denied, at least temporarily, the benefits to be expected from such improvements.

The FHWA has estimated that the provisions of Buy America, which apply to approximately 87 percent of the Federal-aid authorization of $35 billion over the years of 1979 to 1982, could increase construction costs by 2 percent, or $150 million (in 1980 dollars) annually.

Because the States are responsible for administering the regulations, State administrative costs may increase. Further, projects could be delayed until the Secretary approved any necessary waivers.

Related Regulations and Actions

Internal: The Buy America regulation of the Urban Mass Transportation Administration (49 CFR Part 660).

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—To be determined.
Public Hearing—None.
Regulatory Impact Analysis—Will be prepared in conjunction with final rule.
Regulatory Flexibility Analysis—Not required.

Available Documents

Emergency Rule—43 FR 53717, November 17, 1978.

Federal Highway Administration Docket 78–35.

Emergency Final Rule—45 FR 75643, November 17, 1980.

NPRM—45 FR 77435, November 24, 1980.

Federal Highway Administration Docket No. 80–1, including Draft Regulatory Analysis.

Extension of Comment Period—46 FR 10177, March 2, 1981.

GAO Report, "Foreign Source Procurement Funded Through Federal Programs by States and Organizations," report number 1D–79–1, November 30, 1978.

All documents are available for review in the Office of the Chief Council, Room 4205, 400 Seventh Street, S.W., Washington, DC 20590.

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

Implementation of the Distilled Spirits Tax Revision Act of 1979 (27 CFR Parts 5*, 13*, 19*, 170*, 173*, 186*, 194*, 195*, 196*, 197*, 200*, 201*, 211*, 212*, 213*, 231*, 240*, 250*, 251*, and 252*)

Legal Authority

Distilled Spirits Tax Revision Act of 1979; Trade Agreements Act of 1979, Title VIII, P. L. 96–39, 93 Stat. 273.

Reason for Including This Entry

The Department of the Treasury thinks that this is important because it establishes a new tax system for proprietors of distilled spirits plants. There will also be an annual revenue loss to the Treasury in excess of $100 million and a tax savings amounting to over $100 million a year to importers of bottled distilled spirits.

Statement of Problem

Under the Internal Revenue Code of 1954, the Secretary of the Treasury has strict control over liquors for beverage purposes and alcohol for industrial purposes, from the beginning of the production process to the point of removal from bonded premises (the portion of the distilled spirits plant where spirits on which the tax has not been paid or determied are stored). The Secretary has maintained control through a rigid system requiring permits, on-site supervision, and restriction of industry operations to separate premises

or designated areas. However, in recent years, with the increased emphasis on audit techniques, and the use by industry of sophisticated data and accounting systems, Treasury's Bureau of Alcohol, Tobacco, and Firearms (ATF) has recognized the need for modernizing this system of control and has sought legislative amendments to make possible an all-in-bond system for taxing and controlling distilled spirits. Under the all-in-bond system, all distilled spirits operations are conducted on the bonded premises of a distilled spirits plant, and the tax is determined after processing and bottling is completed on the basis of the proof (alcoholic content) of the finished product when it is removed from bond.

The Distilled Spirits Tax Revision Act of 1979 changed the tax system to eliminate disparities in taxation between domestic and imported spirits. Under this Act, the tax is based solely on the alcoholic content of the domestic or foreign distilled spirits products. The Act also gave the Secretary of the Treasury authority to discontinue assignment of government officers at distilled spirits plants. Finally, in order to promote increased efficiency of government and industry operations, the Act permitted many other simplifications in the regulation of the distilled spirits industry. Reduction of government forms and increased acceptance of commerical documents in place of separate government records, elimination of the distinction between bonded and non-bonded operations and premises, and elimination of many letterhead applications all contribute to greater simplification of operations and recordkeeping systems.

On December 11, 1979, ATF issued temporary regulations in Treasury Decision (T.D.) ATF–62 (44 FR 71613). These regulations implemented the Distilled Spirits Tax Revision Act of 1979, effective January 1, 1980.

Alternatives Under Consideration

Because these regulations were required to implement a statute, there was no practical alternative to issuing them. However, because these regulations completely changed the ways the distilled spirits industry was operated and regulated, ATF issued them in the form of a temporary rule with provision for public comment. Based on the public comments received, ATF will issue a final rule. Pertinent comments citing practical experiences of both the industry and the Government under the temporary regulations will be considered in the writing of the final rule.

Summary of Benefits

Sectors Affected: Manufacturers and importers of distilled spirits, brandy and wine spirits; bonded manufacturers of wine; and the Federal Government.

Direct benefits accruing to proprietors of distilled spirits plants include savings due to simplification of their operational methods and required recordkeeping. With respect to operations, greater flexibility on the use of premises and equipment is possible, because all operations are conducted on bonded premises. Proprietors will be able to employ their equipment, such as tanks, in multiple uses, and will be concerned with paper transactions rather than the physical transfer of spirits from one type of premises to another. In addition, eliminating the requirement for Government officers to supervise directly certain operations or to be present to allow proprietors access to bonded areas allows the proprietors to schedule plant operations more efficiently.

Under the new system, proprietors determine the amount of tax due to the Government after processing and bottling is completed on the basis of the proof (alcoholic content) of the bottled product when removed from bond. Under previous regulations, ATF officers determined the tax when bulk spirits were withdrawn from bonded premises to non-bonded processing and bottling facilities. By postponing the tax determination until removal of the finished products, the new system simplifies the records systems necessary for proprietors to document their tax liability.

Distilled spirits taxes are paid on the basis of semimonthly returns. Under the previous system, qualified proprietors could defer actual payment of tax for up to 30 days. The new law provided for an additional deferral period of 15 days, and this benefits proprietors of distilled spirits plants because it saves them the cost of borrowing money for this additional length of time. This increased deferral period will be phased-in over 3 years.

Wineries are also directly affected by the elimination of "standard wine premises." Under previous law, winery proprietors could not manufacture and bottle nonstandard wine products on standard winery premises. The previous regulations required these nonstandard wine products to be manufactured on nonstandard wine premises. Effective January 1, 1980, the new law abolished distinction between standard and nonstandard premises and manufacturers may now both produce and bottle wines on the same bonded winery premises.

These regulations directly affect importers of bottled distilled spirits because such products are no longer taxed on a wine gallon basis when below 100 degrees proof (i.e., on the actual volume of liquid in the product when below 100 degrees proof). Under the new law and regulations, imported bottled distilled spirits are taxed on a proof gallon basis (i.e., on the actual degree of proof in the product). As a result, importers will pay a reduced amount of tax amounting to over $100 million a year (1980 dollars) beginning in calendar year 1980.

The Government will realize manpower savings because of the elimination of on-site supervision of distilled spirits plants by ATF officers, and the more simplified methods of tax collection, records, and reporting requirements.

Summary of Costs

Sectors Affected: Manufacturers of distilled spirits, brandy, and wine spirits; bonded manufacturers of wine; manufacturers of nonbeverage products; and the Department of the Treasury.

Proprietors of distilled spirits plants should generally experience some increase in costs during the year in which government supervision is eliminated. Training employees, adopting security measures to replace those that were formerly provided by the Government, and revising internal control and recordkeeping systems will entail a one-time cost.

The wine industry and manufacturers of alcoholic flavorings used in spirits will probably feel some effects of the new distilled spirits tax system. While the regulations will provide ways for wineries and flavoring manufacturers to continue their existing relationships with distilled spirits plants, the statutory changes in the tax system may lead to changes in product mix or in the formulation of existing products which would affect their sales to the distilled spirits industry.

The Government also will bear administrative costs of implementing the new system. Specific costs include those for developing the new regulations and procedures and for providing assistance to the industry in converting to the new system. The taxation of certain distilled spirits on a proof gallon basis rather than on a wine gallon basis directly affects the Government because there will be an annual revenue loss to the Treasury amounting to over $100 million

a year (in 1980 dollars) beginning in calendar year 1980.

Related Regulations and Actions

Internal: The principal regulations that this statutory change affects are the following: Gauging Manual (27 CFR Part 13); Distilled Spirits Plants (27 CFR Part 19); Distilled Spirits Plants (27 CFR Part 201); Wine (27 CFR Part 240); Taxpaid Wine Bottling Houses (27 CFR Part 231); Liquors and Articles from Puerto Rico and Virgin Islands (27 CFR Part 250); Importation of Distilled Spirits, Wine, and Beer (27 CFR Part 251); Exportation of Liquors (27 CFR Part 252); Gauging Manual (27 CFR Part 186); Miscellaneous Regulations Relating to Liquors (27 CFR Part 170); Distribution and Use of Denatured Alcohol and Rum (27 CFR Part 211); Distribution and Use of Tax-free Alcohol (27 CFR Part 213); Liquor Dealers (27 CFR Part 194); Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products (27 CFR Part 197); Labeling and Advertising of Distilled Spirits (27 CFR Part 5).

We have incorporated the following regulation projects that were under development into this general revision:

Alternate Premises between Distilled Spirits Plants and Bonded Wine Cellars (27 CFR Parts 201 and 240).

Formulas for Rectified Products (27 CFR Parts 170, 201, 250, and 252).

Strip Stamps and Alternative Devices (NPRM published November 7, 1978 (43 FR 51808), 27 CFR Parts 194, 201, 250, 251, and 252).

Export Storage Facilities at Distilled Spirits Plants (27 CFR Part 201).

Samples of Distilled Spirits (27 CFR Part 201).

Distilled Spirits Meters (27 CFR Part 201).

External: The statutory changes affect the regulations that the U.S. Customs Service administers (Title 19, Code of Federal Regulations).

Active Government Collaboration

Certain aspects of the regulatory changes affect procedures of the U.S. Customs Service and the Internal Revenue Service (IRS). Some distilled spirits plants currently receive imported bulk spirits under an immediate delivery procedure wherby ATF officers act as Customs officers. Elimination of assignment of ATF officers would preclude the use of this procedure in the future. ATF is coordinating its plans for withdrawal of ATF officers with the U.S. Customs Service.

The repeal of the rectification tax (an additional tax applicable to certain mixed or processed products) eliminated the need for the collection of the rectifier's occupational tax by IRS.

Timetable

Public Hearing—None.
Final Rule—June 1981.
Regulatory Impact Analysis—ATF will not prepare.
Regulatory Flexibility Analysis—ATF will not prepare.

Available Documents

ANPRM—Notice No. 326, 44 FR 41833, July 18, 1979.

Public comments in response to ANPRM and NPRM.

NPRM—Notice No. 329, 44 FR 71612, December 11, 1979.

Temporary Rule—T.D. ATF-62, 44 FR 71613, December 11, 1979.

Extension of comment period—Notice No. 347, 45 FR 54087, August 14, 1980.

Extension of comment period—Notice No. 349, 45 FR 69249, October 20, 1980.

Public Law 96-39, Trade Agreements Act of 1979.

Committee Reports—U.S. Senate, Committee on Finances (S. 1376); U.S. House of Representatives, Ways and Means Committee (H.R. 4537).

These documents are available for public inspection during normal business hours at the ATF Reading Room, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue, N.W., Washington, DC 20226.

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TREAS—ATF

Labeling and Advertising Regulations Under the Federal Alcohol Administration Act (27 CFR Parts 4*, 5*, and 7*)

Legal Authority

Federal Alcohol Administration Act, 27 U.S.C. §§ 205 (e) and (f).

Reason for Including This Entry

The Department of the Treasury believes this rule is important because it is the first major amendment of alcoholic beverage advertising regulations since the repeal of prohibition. The regulations proposed are intended to deregulate in some instances, update advertising standards, and ensure conformity between the labeling and advertising regulation subparts.

Statement of Problem

The Bureau of Alcohol, Tobacco, and Firearms (ATF) is responsible for ensuring that advertisements for alcoholic beverages contain certain information about the product, and that the advertisements are not false or misleading. While the current advertising regulations have remained basically unchanged since ATF adopted them in the mid-1930s, advertising techniques and practices and consumer education and awareness have changed significantly in the past 40 years. Over the years, ATF has issued a number of rulings interpreting the regulations in light of the changing advertising practices and growing consumer awareness. In many cases, inappropriate regulations and varied interpretations of these regulations have caused confusion for both the advertiser and the consumer.

ATF reviews approximately 3,000 advertisements for alcoholic beverages each year, usually after the advertiser is ready to release the advertisment to the media. However, since review by ATF is not mandatory, some advertisements are released without ATF review.

Furthermore, because of the confusion over certain regulations, some advertisements violate these regulations, and ATF recalls or rejects them, costing the industry and ATF money and effort. ATF does not have a monetary estimate of the costs which it and industry incur because of recalled and rejected advertisements.

From the consumer's perspective, many advertisements which conform to ATF regulations seem to be false or misleading because of consumers' changing perceptions toward certain products. For instance, the term "light" used with a malt beverage traditionally referred to the color of the product. Now the term "light" has a completely different meaning to most consumers of malt beverages, that is, reduced caloric content.

For these reasons, ATF reviewed the labeling and advertising regulations for possible updating and revision. The major proposals in the NPRM are:

(A) the use of active athletes and the depiction of athletic events where alcoholic beverages are shown being consumed before or during the event would be prohibited in alcoholic beverage advertisements and on labels;

(B) the use of subliminal advertising techniques (subliminal is the use of words and devices to send a message to an audience below the level of normal

awareness (subconsciously)) would be prohibited;

(C) a regulatory standard for the use of the word "Natural" on labels and in advertisements to imply that the product is natural;

(D) a definition for "false" or misleading statements and advertisements;

(E) the prohibition of curative or therapeutic references on labels and in advertisements;

(F) allowing comparative advertisements (i.e., ads that mention a competitor's name or brand);

(G) a definition of disparagement (for instance, should statements about a competitor's product which are true but nonetheless disparaging be allowed on labels and in advertisements?);

(H) allowing "taste tests" in alcoholic beverage advertisements;

(I) a standard for the use of the term "light" on alcoholic beverages; and

(J) lifting the prohibition against the use of the words "pure," "double distilled," and "triple distilled" on labels and in advertisements.

If ATF fails to address these issues, the problem of false and misleading labeling and advertising statements and representations will continue.

Alternatives Under Consideration

The Federal Alcohol Administration (FAA) Act requires the Treasury Department to regulate the labeling and advertising of alcoholic beverages. ATF received approximately 8,900 comments on the ANPRM (43 FR 54266, November 21, 1978) from the general public, some of whom wanted greater restrictions on advertising, including a total ban on alcoholic beverage advertisements. This is beyond the authority of ATF and would require legislative action. However, the Treasury Department may deregulate in certain areas, such as in taste tests, within the framework of the FAA Act and may rely on industry self-regulation. For example, if an industry member feels that a certain advertisement by a competitor does not comply with regulations or certain statements made in the advertisement cannot be factually supported, the industry member would submit a complaint to ATF for their appropriate action.

ATF reviewed all comments received in response to the ANPRM and analyzed the alternatives. The NPRM we published on December 19, 1980 (45 FR 83530) reflected the consideration of the alternatives and comments received on the ANPRM. The alternatives were to take no action, leaving the present regulations as they are now written and not consolidating rulings into the regulations; to place stricter regulations on industry; or to issue guidelines for industry to follow in presenting advertisements that are truthful and that will not tend to mislead the consumer, while at the same time allowing industry greater discretion in choosing their advertising matter. ATF received 372 comments on the NPRM proposals, as described previously. The comments supported our intent and made many suggestions on modifying the proposed regulations.

By clarifying and consolidating regulations, policies, interpretations, and rulings on advertising, ATF hopes to provide a single comprehensive source of guidelines and to liberalize the regulations in certain areas (for example, if ATF allows the use of truthful comparative advertising, the consumer might gain more information about various alcoholic beverage products and be able to make a more informed selection). ATF hopes also to restrict certain advertising practices which the public finds objectionable (for example, many respondents objected to the possible use of subliminal stimuli in alcoholic beverage advertising).

ATF will uniformly apply the adopted regulations to all alcoholic beverage advertising.

Summary of Benefits

Sectors Affected: Manufacturing and wholesale and retail trade of advertised alcoholic beverages, including malt beverages, wines, and distilled spirits (liquors); the advertising industry; consumers who view advertisements of these products; and Federal and State governments.

These regulations will benefit consumers and those listed above. Because these regulations will clarify ATF's position on advertising, they will help reduce the recall and rejection of advertisements, thus saving the industry money by reducing necessary revisions of the advertisement's content in order to comply with regulations, while protecting the industry's right to advertise its products and reinforcing the consumer's right to expect clear and truthful advertisements. In addition, the use of taste tests will promote competition among industry members, while regulations prohibiting subliminal advertising would protect the consumer against undue persuasive advertising.

Revising the regulations will not increase costs to Government. The Government will benefit, since it currently spends much effort in explaining confusing regulations and rulings.

The FAA Act affects only labeled and advertised alcoholic beverages which are entered into interstate commerce. In the case of malt beverages, the labeling and advertising regulations issued under the authority of the FAA Act apply only to the extent that the law of a particular State imposes similar requirements. In States which have adopted the FAA Act (22 States have adopted) or impose similar requirements, these State governments should also benefit from the revisions and amendments of the regulations.

Summary of Costs

Sectors Affected: None.

We have not been able to determine specific cost estimates for this project. In general, costs to producers of alcoholic beverages and the advertising media should not increase because these regulations affect only advertising content and do not alter methods of advertising.

Related Regulations and Actions

Internal: ATF has published a Treasury decision (T.D. ATF-66, 45 FR 40538, June 13, 1980) requiring ingredient labeling for alcoholic beverages. ATF contracted a study with Michigan State University to study the effects of alcoholic beverage advertising on the drinking habits of young people. The University has submitted a preliminary report, which ATF did not accept. Michigan State University is in the process of revising their report. We held a meeting with the Federal Trade Commission and the National Institute of Alcohol Abuse and Alcoholism concerning the preliminary report.

External: The Federal Trade Commission is responsible for regulating the advertisement of wine with less than 7 percent alcohol by volume and the advertisement on nonalcoholic beverages. Under the FAA Act (27 U.S.C. § 211(a)(7)) wine is an alcoholic beverage containing not less than 7 percent and not more than 24 percent of alcohol by volume. Therefore, any beverage containing less than 7 percent does not come under the purview of the FAA Act and is not subject to regulations promulgated by ATF.

Active Government Collaboration

The Federal Trade Commission and ATF are collaborating on this project. ATF is soliciting comments on proposed regulations from other Federal agencies, and State and local governments.

Timetable

Final Rule—Summer 1982.

Public Hearings—We will hold at

least one hearing in the Washington, D.C. area.
Regulatory Impact Analysis—ATF will not prepare.
Regulatory Flexibility Analysis—ATF will not prepare.

Available Documents

ANPRM—Notice No. 313, 43 FR 54266, November 21, 1978, entitled Advertising Regulations Under the Federal Alcohol Administration Act.
Extension of comment period—Notice No. 313, 44 FR 2603, January 12, 1979.
NPRM—Notice No. 362, 45 FR 83530, December 19, 1980, entitled Labeling and Advertising Regulations Under the Federal Alcohol Administration Act.
Copies of the documents and comments may be inspected during normal business hours at the ATF Reading Room, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue, N.W., Washington, DC 20226.

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TREAS—United States Customs Service

Civil Aircraft Regulations (19 CFR Parts 6* and 10*)

Legal Authority

Trade Agreements Act of 1979, § 601, 19 U.S.C. §§ 66 and 1624.

Reason for Including This Entry

The Customs Service (Customs) believes this rule is important because, by eliminating duty on civil aircraft and parts for civil aircraft, it implements the Civil Aircraft Agreement of the Multilateral Trade Negotiations (MTN). Further, the amendments will change the procedures for the admissibility of civil aircraft and parts for civil aircraft and therefore, it is of public interest.

Statement of Problem

Unless specifically exempted, all merchandise imported into the United States is subject to a customs duty. One of the major responsibilities of Customs is to assess and collect duties when due, and to insure that the entry requirements for merchandise are met.
In some instances, the President and the Congress determine that it would be in the national interest to reduce or eliminate duty on particular merchandise. In this regard, as part of the MTN conducted with many of the nations engaged in international trade, the United States signed the Agreement on Civil Aircraft. This Agreement, which was incorporated into U.S. law as Title VI of the Trade Agreements Act of 1979 (the Act), provides for the duty-free trade in civil aircraft and parts for civil aircraft.

To implement the statutory provisions of Title VI of the Act, Customs is proposing to amend its regulations as they relate to (1) the importation of civil aircraft and parts for civil aircraft, and (2) foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. The regulations which we will develop will enable us to administer the provisions of the Agreement.

In the area of tariffs, the Agreement eliminates, as of January 1, 1980, duties on the following:

(a) all civil aircraft;

(b) all civil aircraft engines and their parts and components;

(c) all other parts, components, and subassemblies of civil aircraft; and

(d) all ground-flight simulators (machines used for training on the ground which duplicate flight conditions) and their parts and components, whether used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of civil aircraft.

"Civil aircraft" are defined in Title VI of the Act to mean all aircraft other than those purchased for use by the Department of Defense and the Coast Guard.

Under the Act, parts, components, and subassemblies of civil aircraft qualify for duty-free entry if they (1) are for use in civil aircraft, and (2) are classified for Customs purposes under one of the specific Tariff Schedules of the United States (19 U.S.C. § 1202) headings listed in Title VI of the Act.

To be admitted free of duty, parts, components, and subassemblies must be "Certified for Use in Civil Aircraft" by the Federal Aviation Administration (FAA) or an FAA-recognized airworthiness authority in the country of exportation.

In addition, duties on foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft, previously assessed under § 466, Tariff Act of 1930, as amended (19 U.S.C. § 1466), and §§ 6.7 (d) and (e), Customs Regulations (19 CFR 6.7 (d) and (e)), are eliminated.

Alternatives Under Consideration

Customs cannot consider alternatives to the proposal because it must implement the provisions of the Agreement and the Act providing for the duty-free entry of civil aircraft and aircraft parts. However, certain enforcement and administrative methods are being considered as a result of public comments on the NPRM.

Summary of Benefits

Sectors Affected: Domestic and foreign manufacturing, repair services, wholesale trade (particularly importing), and retail trade of civil aircraft and parts for civil aircraft; the general public; and purchasers of civil aircraft and parts for civil aircraft.

This Agreement and implementing regulations will indirectly benefit all nations with a civil aircraft industry, whether it be a civil aircraft manufacturer, air carrier, or civil aircraft maintenance industry, by providing for the free flow between countries that are signatories to the Agreement on civil aircraft and parts for civil aircraft.

Foreign repairs to, and foreign purchase of, repair parts and materials for U.S.-registered civil aircraft which were previously dutiable, are duty free under the Act and Customs' proposed implementing regulations. This will eliminate a trade barrier to foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. Elimination of the duty will also benefit purchasers of foreign civil aircraft and purchasers of spare or replacement parts for those aircraft through a reduction in the purchase price because of elimination of duties. The reduction would vary because of the different percent rates of duty on aircraft, parts, and foreign equipment and repairs, but would range between 5 and 50 percent of their appraised value.

Summary of Costs

Sectors Affected: None.

These regulations do not require a Regulatory Impact Analysis under the criteria established by E.O. 12291 (46 FR 13193). Accordingly, no analysis of costs has been made by Customs. An analysis of the budgetary impact is contained in the Senate report on the Act (Senate Report No. 96-249). Customs believes the costs of implementation of the provisions would be negligible, since significant additional requirements for the entry of the items covered by the Act have not been and will not be established.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to civil aircraft. We have held meetings at the Customs Service headquarters with representatives of the aircraft industry and others who were involved in the MTN negotiations on this Agreement.
External: None.

Active Government Collaboration

The proposal has been coordinated with representatives of the Office of the Special Trade Representative; the Departments of State, Labor, Commerce, and Treasury; the International Trade Commission; and the Federal Aviation Administration.

Timetable

Regulatory Impact Analysis—None.
Public Hearing—None.
Final Rule—Summer 1981.
Final Rule Effective—30 days from date of publication in the **Federal Register.**
Regulatory Flexibility Analysis—Will accompany final rule.

Available Documents

Work Plan 79–30.
NPRM—45 FR 1633, January 8, 1980.
Public comments on NPRM. (Public comment period closed March 10, 1980.)
Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS—Customs

Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act (19 CFR 12.73*)

Legal Authority

Clean Air Act Amendments of 1970, 42 U.S.C. § 7521 *et seq.;* 19 U.S.C. §§ 66 and 1624; 42 U.S.C. §§ 7521, 7522, and 7601.

Reason for Including This Entry

The Customs Service (Customs) thinks this proposal is important because it would improve our administrative and enforcement efficiency and the effectiveness of regulations relating to the importation of motor vehicles and motor vehicle engines under the Clean Air Act. The proposal also would be a matter of great public interest because it provides a precedent-setting exemption to an individual who wishes to import a vehicle or engine for personal use.

Statement of Problem

Under §§ 202 and 203 of the Clean Air Act, as amended (42 U.S.C. §§ 7521 and 7522) (the Act), the Department of Health and Human Services (formerly the Department of Health, Education, and Welfare) and the Environmental Protection Agency (EPA) have promulgated regulations in 40 CFR Parts 85 and 86 which establish standards for the control of emissions from certain vehicles and engines. The Act prohibits importation into the United States of a vehicle or engine manufactured after the effective date of an emission control standard applicable to the vehicle or engine (or which would have been applicable had the vehicle been manufactured for importation into the United States). However, this prohibition does not apply if the vehicle or engine is covered by a certificate of conformity with applicable standards or if it is exempted by the EPA Administrator.

In conjunction with EPA, Customs enforces those laws and regulations applicable to emission controls for imported vehicles and engines. Regulations relating to those importations are found in § 12.73, Customs Regulations (19 CFR 12.73), and in the EPA regulations at 40 CFR Part 85, Subpart P. EPA is proposing several major changes in its regulations, published in the **Federal Register** on July 21, 1980 (45 FR 48812). If adopted, the revision to the EPA regulations would require corresponding changes to 19 CFR 12.73, Customs Regulations.

If a vehicle or engine now fails to comply with emission standards, an importer may post a bond with Customs and bring the vehicle or engine into conformity within 90 days of entry. This procedure has misled some importers into believing that modification is an easy option. Likewise, although an importer may post a bond and enter a vehicle or engine to attempt to demonstrate that it conforms by subjecting it to the full Federal test procedure, in some cases this is expensive and impracticable.

Administration and enforcement of present procedures place a substantial burden on Customs and EPA. To alleviate this burden, Customs published in the **Federal Register** on July 21, 1980 (45 FR 48817) an NPRM which would eliminate the provisions currently found in § 12.73(c), Customs Regulations, which allow conditional importation of a vehicle or engine under bond. Further, because of potential hardships, the proposed regulations would provide an exemption from EPA emission control regulations to an individual who has not imported or attempted to import a nonconforming vehicle or engine since December 31, 1970, the effective date of the Clean Air Act Amendments of 1970, and who wishes to import a vehicle or engine for personal use and not for resale. The individual could use this exemption only once.

The Customs proposal provides very limited exemptions for national security and repairs or alterations to vehicles or engines and strengthens and clarifies the exemption in § 12.73 and other exclusions.

Alternatives Under Consideration

Because Customs, in conjunction with EPA, enforces those laws and regulations applicable to emission controls for imported vehicles and engines, the proposed Customs regulations to a large degree are predicated upon the alternatives proposed by EPA.

Alternative (A) would be to maintain the *status quo.* However, because the present regulations appear to have misled some importers, resulting in great expense and inconvenience to them, and are burdensome to Customs and EPA, we believe that this alternative is not satisfactory.

Alternative (B) would be to eliminate the current provisions which allow conditional importation of a vehicle or engine under bond, pending modification to make the vehicle or engine identical in construction to a vehicle or engine covered by a certificate of conformity, or testing to demonstrate that the vehicle or engine conforms with Federal emission standards. However, adoption of this alternative could cause a hardship to individuals who import nonconforming personal use vehicles for the first time. Without the modification and testing options, an individual attempting to import a vehicle or engine not covered by a certificate of conformity would have to export or destroy the vehicle.

Alternative (C), which we favor and have set forth in the NPRM, would be to adopt Alternative (B) above, but promulgate regulations providing a qualified exemption for an individual who imports a nonconforming vehicle or engine for his or her own personal use and not for resale. The exemption would apply only to an individual who has not

imported or attempted to import a nonconforming vehicle or engine since the effective date of the Clean Air Act Amendments of 1970 (December 31, 1970). Therefore, an individual could use the exemption only one time at most to import one vehicle or engine not covered by a certificate of conformity.

Summary of Benefits

Sectors Affected: Individuals importing nonconforming vehicles or engines for their own personal use and not for resale; nonresident and resident owners of fleet vehicles (such as corporate owners of taxicabs or buses) importing those vehicles or engines for repairs or alterations; Customs; and EPA.

Under current regulations, if a vehicle or engine fails to comply with emission standards, an importer may post a bond with Customs and bring the vehicle or engine into conformity within 90 days of entry. This procedure and related regulations have imposed a substantial administrative and enforcement burden on Customs and EPA. Similarly, it has proved misleading, expensive, and impracticable for importers to modify or test nonconforming vehicles or engines. Adoption of Alternative (C) would allow an individual, under specified conditions, to import a nonconforming vehicle or engine only once and for personal use and not for resale.

A savings in expenses to the Government and individuals would be realized. Individuals eligible to use the exemption to import a nonconforming vehicle or engine for personal use would be saved the expense of bringing the vehicle or engine into conformity or having to export or destroy it. Similarly, the Government would be able to reduce its expenses associated with administering and enforcing the present procedures related to conditional importations under bond.

The current regulations do not allow residents or nonresidents to import vehicles or engines for the purpose of repairs or alterations. Under the proposed regulations, owners of fleet vehicles would be allowed to import those vehicles or engines for repairs or alterations.

Summary of Costs

Sectors Affected: None.

Customs believes that adoption of the proposed regulations would not result in any increased costs to any sectors.

Related Regulations and Actions

Internal: None.

External: The regulations of EPA applicable to emission control for imported vehicles and engines are found in 40 CFR Part 85, Subpart P.

In conjunction with Customs, EPA published its NPRM on July 21, 1980, in the **Federal Register** (45 FR 48812). On September 22, 1980, EPA published a document in the **Federal Register** (45 FR 62851) extending the time for public comment to December 3, 1980, and announcing that a public hearing would be held at EPA headquarters on November 3, 1980. Customs' final action on these regulations suspended pending EPA consideration of public comment received in response to both NPRMs and EPA public hearing.

Active Government Collaboration

Customs-proposed regulations were coordinated with and reviewed by the Environmental Protection Agency, which would review in a similar manner any final rule adopted by Customs.

Timetable

Regulatory Impact Analysis—None.
Public Hearing—None.
Final Rule—Summer 1981.
Final Rule Effective—30 days from date of publication in the **Federal Register**.
Regulatory Flexibility Analysis—None.

Available Documents

Clean Air Act Amendments of 1970 (P.L. 91-604).

Customs NPRM—45 FR 48817, July 21, 1980.

Extension of comment period until December 3, 1980—45 FR 64601, September 30, 1980.

Comments to NPRM.

EPA NPRM—45 FR 48812, July 21, 1980.

Copies of these documents may be reviewed at Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS—Customs

Interest Charges on Delinquent Accounts (19 CFR Parts 24* and 113*)

Legal Authority

19 U.S.C. §§ 66, 580, 1623, and 1624.

Reason for Including This Entry

The Customs Service (Customs) believes this project is important because it would provide an incentive for importers to pay accounts due to Customs promptly and, if accounts are not paid on time, provide for reimbursement of interest costs resulting from unnecessary government borrowing resulting in possibly millions of dollars in savings to the Government. Because of the possible savings involved, Customs believes this matter is of great public interest.

Statement of Problem

The Department of the Treasury (Treasury) has overall responsibility to maintain adequate cash to meet the Government's expenditure needs. One source of that revenue is the duty and other charges that Customs collects on imported merchandise. If importers or other persons who owe the Government money do not pay these amounts on time, Treasury must borrow funds to meet the Government's expenditure needs.

In a major effort toward improving cash management practices, Treasury in 1979 issued requirements prescribing cash management-related procedures, including interest charges on overdue receivable accounts. Specifically, Part 6, Chapter 8020.20, Treasury Fiscal Requirements Manual (TFRM), requires payment of amounts owed the Government on time and assessment of a late charge on overdue accounts calculated at a percentage rate based on the current value of funds to the Treasury. The percentage rate will be calculated by Treasury as an average of the current value of funds to the Treasury for a recent 3-month period; and will be transmitted in TFRM bulletins before the first day of each calendar quarter.

Section 580 of Title 19, United States Code (19 U.S.C. § 580), provides for collection of interest upon all bonds, on which suits are brought for the recovery of duties at the rate of 6 percent a year, from the time when the bonds became due. The TFRM provides that interest will be charged at an annual rate of 9 percent on all contracts, agreements, or other formal arrangements. Thus, the TFRM requirements would be applicable in all cases except those covered by 19 U.S.C. § 580.

In a report from the Comptroller General to the Congress dated August 21, 1978, the General Accounting Office (GAO) recommended that Customs charge interest on all duty accounts 30 days past due. GAO made this

recommendation as part of an effort to maximize the Government's use of Customs collections to decrease its own borrowing. That report states that in the Customs Regions of Boston, Chicago, Los Angeles, and New York, accounts receivable for duties averaged $8.5 million each month from April 1976 to March 1977 and that approximately 38 percent of that amount was more than 90 days past due.

The present Customs accounts collection policy is to (1) issue a bill which is due and payable upon receipt, (2) pursue collection in accordance with the Federal Claims Collection Act (31 U.S.C. §§ 951, 952, and 953) if payment is not received by Customs within 30 days, and (3) if a surety (guarantor) is also liable by virtue of a bond (contract), to make a formal demand on the surety for payment if the bill remains unpaid after 60 days. Currently, there is no provision for collection of an amount exceeding the principal amount, regardless of the time period of delay or additional administrative costs to the Government incurred as a result of special collection efforts.

This project would amend Parts 24 and 113, Customs Regulations (19 CFR Parts 24 and 113), to establish interest charges for the late payments of supplemental duty bills (bills for additional duties found due after payment of estimated duties and release of merchandise); reimbursable services; and miscellaneous bills issued by Customs to organizations outside the Government, including sureties upon which a formal demand for payment has been issued and that have not paid the amount within 60 days of the issuance of the formal demand.

The proposal bases the interest rate on the current value of funds to the Treasury and calculates the rates as prescribed by the TFRM, as discussed above.

Alternatives Under Consideration

Customs is proposing amending its regulations to conform to Treasury cash management policies. Accordingly, other than giving the importing community sufficient time to adjust their procedures, alternative approaches are not applicable. To take no action would result in continued unnecessary government borrowing.

Summary of Benefits

Sectors Affected: The Federal Government.

If this proposal is adopted, it will provide substantial benefits to the Government (1) through the avoidance of unnecessary borrowing by the Treasury, and (2) by providing an incentive for prompt payment of accounts which will reduce delays in collection or, alternatively, provide compensation to the Government for revenue collection delays on overdue accounts.

Customs considered preparing a Regulatory Impact Analysis to detail the monetary benefits and other impacts from this proposal on the Federal Government, importing community, and surety insurance industry. However, it has been determined that neither a Regulatory Impact Analysis as described in E.O. 12291, nor a Regulatory Flexibility Analysis, as provided in the Regulatory Flexibility Act, is required.

Summary of Costs

Sectors Affected: The Federal Government; the importing community; and the surety insurance industry.

The Federal Government will bear the start-up costs to initiate this project. The importing community and the surety insurance industry would bear the cost of interest charges for late payments. However, there will be no such cost if payments are made on a timely basis.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—Summer 1981.
Regulatory Impact Analysis—None.
Regulatory Flexibility Analysis—None.
Public Comment Period—60 days following publication of NPRM in the **Federal Register.**
Public Hearing—None.
Final Rule/Treasury Decision (T.D.)—Winter 1981.
Final Rule Effective—120 days from date of publication in the **Federal Register.**

Available Documents

Work Plan 80-2.
Part 6, Chapter 8020.20, "Treasury Fiscal Requirements Manual."
Report from the Comptroller General to the Congress, dated August 21, 1978.
These documents are available at Customs Service Headquarters, 1301 Constitution Avenue, N.W., Room 2426, Washington, DC, during normal business days from 9:00 a.m. to 4:30 p.m.

Agency Contact

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Washington, DC 20229

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

National Defense Stockpile Disposal Regulations (41 CFR Part 101-14*)

Legal Authority

Strategic and Critical Materials Stockpiling Act, 50 U.S.C. § 98 *et seq.*

Reason for Including This Entry

The General Services Administration (GSA) includes this entry because it is of interest to industries concerned with commodities maintained in the National Defense Stockpile and because the Government is a significant seller of these commodities.

Statement of Problem

Under the Strategic and Critical Materials Stockpiling Act, the Federal Property Resources Service (FPRS) is responsible for the congressionally authorized disposal of materials that are excess to the needs of the National Defense Stockpile. The stockpile contains many commodities such as tungsten, tin, industrial diamonds, and silver that are excess to stockpiling requirements.

Section 6(b) of the Act provides that "disposal of materials from the Stockpile shall be made by formal advertising or competitive negotiation procedures to the maximum extent feasible." The purpose of advertising a sale, when appropriate, and of competitive negotiations, is to involve the largest practical number of bidders, and thereby to obtain the most favorable offer. At this time there are no specific regulations which describe the practices and procedures which FPRS uses in disposing of materials from the stockpile. The proposed regulation will amend 41 CFR Chapter 101 and is intended to prescribe FPRS's practices in a publicly available form.

Alternatives Under Consideration

We have considered issuing no regulation, amending other disposal regulations to cover stockpile disposals, and issuing a separate regulation. If we do not issue a regulation, the public will be left without a formal description of our practices and procedures for the authorized disposal of stockpile

materials. We see no advantages to this option. Procedures contained in other disposal regulations are not applicable to stockpile material transactions. For this reason, we believe that a separate regulation is preferable, and can better describe FPRS practices in disposing of stockpile commodities. Specific procedures to be included in the regulations are procedures for both formal advertising and competitive negotiation.

Summary of Benefits

Sectors Affected: Domestic and foreign industries which supply, trade, and use the basic industrial raw materials of the economy of the United States; and users of these raw materials.

The proposed regulation will increase public knowledge of FPRS stockpile disposal practices, especially among dealers in and consumers of the stockpile materials. This knowledge should help other buyers, traders, and users of affected commodities to deal with FPRS and plan their transactions. Standardizing forms and procedures should minimize administrative expenses and help to maximize real competition. The public will benefit by knowing how to contract for these materials.

Summary of Costs

Sectors Affected: FPRS.

The proposed regulation does not impose direct or indirect costs on the Government or any sector of the economy because it will not require changes in existing practices. The administrative costs of compiling the practices and procedures are the necessary result of legislation and are covered by appropriations. Once these initial costs are paid, the continuing benefits of the regulations will accrue.

Related Regulations and Actions

None.

Active Government Collaboration

The Federal Emergency Management Agency coordinates National Defense Stockpile programs activity, developing stockpile goals and policies in coordination with the Departments of Defense, Interior, State, Commerce, and Treasury; the Central Intelligence Agency; GSA; and the Office of Management and Budget. GSA, as the stockpile manager, has sole control over actual stockpile transactions.

Timetable

NPRM—None.
Public Hearing—None.
Public Comment Period—None.
Final Rule—Winter 1981.
Regulatory Impact Analysis—Not required.
Regulatory Flexibility Analysis—Not required.

Available Documents

None.

Agency Contact

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FEDERAL ELECTION COMMISSION

Nonpartisan Communications by Corporations or Labor Organizations (11 CFR 114.4)

Legal Authority

Federal Election Campaign Act, 2 U.S.C. §§ 438(a)(8) and 441b.

Reason for Including This Entry

The Federal Election Commission (FEC) includes this proposed rulemaking because it concerns an issue of public interest that affects all corporations and labor organizations contemplating nonpartisan activities in connection with Federal elections.

Statement of Problem

The Federal Election Campaign Act (at 2 U.S.C. § 441b) prohibits corporations and labor organizations from making contributions or expenditures in connection with a Federal election. Certain exceptions from that general prohibition are set forth in the statute. These statutory exceptions permit a corporation or labor organization to make contributions or expenditures for communications or activities aimed at the corporation's executive and administrative personnel, stockholders and their families, or the union's members and their families. Thus, 2 U.S.C. § 441b(2)(A) and (B) specifically permit:

(1) A corporation to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and their families or at its executive or administrative personnel and their families.

(2) A labor organization to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its members and their families.

While the above statutory exceptions permit contributions or expenditures for communications or activities aimed at a corporation's or labor organization's restricted class, there are no comparable statutory exceptions for communications or activities aimed at the general public. Commission regulations, however, do permit a corporation or union to use its treasury funds for communications or activities directed to individuals who are outside the restricted class—that is, to all employees of the corporation or labor organization or to the general public—provided that certain requirements are met. 11 CFR 114.4(c) and (d) of Commission Regulations permit the following activities:

(1) A corporation or labor organization may, through various communications, urge *employees* of the corporation or employees of the labor organization to register, to vote, or to otherwise participate in the electoral process, provided that the organization meets certain specified conditions designed to ensure nonpartisanship. These conditions are that the communication mentions no political affiliation and that information on paticular candidates or political parties is not included unless the entire list of candidates on the ballot is reproduced (see 11 CFR 114.4(c)(1)(i) and (ii)).

(2) A corporation or labor organization may reprint in whole and distribute to the *general public* official registration and voting information or materials, provided that the organization distributes the forms in a nonpartisan manner and does not encourage or support registration with a particular party (see 11 CFR 114.4(c)(2)).

(3) A corporation or labor organization may distribute to the *general public* voter guides and similar materials describing the candidates and their positions if the organization obtains the materials from a nonpartisan nonprofit organization and if the materials do not favor one candidate or political party over another (see 11 CFR 114.4(c)(3)).

(4) A corporation or labor organization may participate in registration and get-out-the-vote drives aimed at the *general public* if the drive is jointly sponsored with and conducted by a nonpartisan nonprofit organization and if the services are made available without regard to the voter's political preference (see 11 CFR 114.4(d)).

The above regulations thus specifically permit a corporation or labor organization to make nonpartisan registration and voting communications directly to the corporation's or union's *employees*. There is, however, no provision which specifically permits a corporation or labor organization to use

its treasury funds to make such communications directly to the *general public*. Except for offical materials prepared by a State government, current regulations specifically permit a corporation or labor organization to make contributions or expenditures for communications or activities directed to the general public only with the involvement of a nonpartisan, nonprofit organization.

Any person may request an Advisory Opinion from the FEC on the application of the Federal Election Campaign Act to a proposed specific transaction or activity by the requestor. Several corporations and labor organizations have expressed, through the Advisory Opinion procedure, interest in making nonpartisan communications directly to the general public. In certain situations, the Commission has approved the expenditure of corporate funds for nonpartisan registration and voting communications directed to the general public without the involvement of a nonpartisan nonprofit organization. (See Advisory Opinions 1980–20, Federal Election Campaign Financing Guide (CCH) ¶5487; and Advisory Opinion 1980–33, ID., ¶5500.) In order to clarify the circumstances in which corporations and labor organizations may make such nonpartisan communications, the Commission is considering the promulgation of regulations to govern such activity.

Alternatives Under Consideration

The Commission is considering the following four possible revisions to 11 CFR 114.4:

(A) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public about registration and voting?

(B) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications about the record of a candidate, including the voting record of an officeholder?

(C) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues?

(D) Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section, or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section?

Summary of Benefits

Sectors Affected: Labor organizations and corporations in all industries, including corporations without capital stock, incorporated membership organizations, trade associations, and cooperatives.

The revisions under consideration would affect those entities whose activities come within the purview of 2 U.S.C. § 441b: corporations, labor organizations, incorporated membership organizations, trade associations, cooperatives, and corporations without capital stock.

By clarifying which types of nonpartisan communications by corporations and labor organizations to the general public are permissible under 2 U.S.C. § 441b, the revisions under consideration will remove uncertainty as to such activity. This will make it easier for corporations and labor organizations to plan such nonpartisan activity, and will thereby encourage such activity.

It is hoped that the proposed action will provide increased voter participation, reduced costs to corporations and labor organizations in complying with 2 U.S.C. § 441b(because greater clarity in regulations will eliminate the need to seek Advisory Opinions), and reduction in Advisory Opinion workload at FEC.

Summary of Costs

Sectors Affected: None.

The alternatives under consideration would impose no obligation to make nonpartisan communications. There is, therefore, no cost imposed by any of the possible revisions.

Related Regulations and Actions

Internal: Generally, 11 CFR Part 114 ("Corporate and Labor Organization Activity").

External: None.

Active Government Collaboration

Per 2 U.S.C. § 438(f), we have informed the Internal Revenue Service of our actions.

Timetable

NPRM—June–July 1981.
Public Hearing—None scheduled.
Public Comment Period—To be determined.
Regulatory Impact Analysis—None.
Regulatory Flexibility Analysis—None.
Transmittal to Congress—Summer 1981. (Pursuant to 2 U.S.C. § 438(d), the FEC must transmit all rules interpreting the Federal Election Campaign Act to Congress. Each House has 30 legislative days to disapprove a regulation submitted under this provision.)
Final Rule—30 legislative days after transmittal to Congress, if not disapproved.

Available Documents

ANPRM—45 FR 56349, August 25, 1980.

Agency Contact

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FEDERAL TRADE COMMISSION

The entries for credit practices and mobile homes describe rulemaking proceedings that are currently in progress. The views expressed in these entries are those of the rulemaking staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will address the issues presented after it reviews the record.

The entries for real estate brokers and eyeglasses describe current investigations in which rulemaking is one of several options under consideration. The views expressed here are those of the investigative staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will consider whether a rulemaking proceeding or some other courses of action should be undertaken after it reviews the results of the investigation and comments in response to any advance notices of proposed rulemakings.

The entry for the standards and certification rulemaking proceeding which was included in the **Calendar of Federal Regulations** published in November 1979 is not included in this edition. A description of this proceeding may be found in the **Federal Register** (44 FR 68331, November 28, 1979).

The standards and certification rulemaking is currently pending. It is affected by the Federal Trade Commission Improvements Act of 1980, P.L. 96–252. More specifically, the Federal Trade Commission's authority to issue the standards and certification rule with respect to "unfair or deceptive

acts or practices" under § 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might have under any other provision of the Act to issue a rule with respect to "unfair methods of competition."

With respect to any rulemaking activities and in compliance with the Federal Trade Commission Improvements Act of 1980, P.L. 96-252, a preliminary Regulatory Analysis will be issued whenever the Commission publishes a notice of proposed rulemaking, and a final Regulatory Analysis will be issued whenever the Commission promulgates a final rule. Such Regulatory Analysis parallels the requirements of Executive Order 12291 for Regulatory Impact Analysis.

FTC

Proposed Amendment to Eyeglasses Rule and Eyeglasses II (16 CFR Part 456*)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

The Federal Trade Commission (FTC) is examining restrictions on the delivery of eye care services and products in an effort to ensure maximum consumer access to these goods and services at the lowest possible price, without any compromise in the quality of vision care.

On December 2, 1980, the Commission issued an ANPRM requesting public comment on the issues discussed below.

Statement of Problem

The staff of FTC's Bureau of Consumer Protection has identified a number of restrictions on delivery of eye care goods and services which may have the effect of decreasing consumer access to vision care services, increasing the cost of those services, and impeding the growth of alternative "non-traditional" eye care practices. The Commission's interest in assessing the effects on these restrictions stems from its earlier eyeglasses investigation which began in 1975, and culminated in 1978 in a new Federal regulation (16 CFR Part 456) requiring (among other things) the release of eyeglasses prescriptions following an eye examination. In that investigation, which focused on advertising restrictions, the Commission's staff became aware of a number of additional eye care restrictions which may significantly harm consumers by maintaining higher prices and limiting the accessibility to consumers of vision care products and services. The Commission staff is aware of little evidence, at this time, to support the assertion by proponents of these restrictions that they are necessary to protect the public health and safety.

One category of restriction under review inhibits the commercial or high-volume practice of optometry and opticianry. (Optometry is the examining of eyes and the prescribing of corrective lenses, and opticianry is the dispensing of eyeglasses.) For example, many States prohibit opticians and optometrists from working for nonprofessional corporations or department stores, or from locating in high-traffic commercial locations, such as shopping centers. Many States also ban the use of trade names by practitioners, or place restrictions on the number of branch offices they may operate.

Proponents of these restraints argue that they are needed to guard against low quality vision care. They argue that the practice of optometry in commercial settings invites the intrusion of profit motives into the profession, resulting in poor quality, incomplete examinations, or unnecessary prescribing of corrective lenses. Bans against the use of trade names are justified by the additional argument that they protect consumers from deception.

The effect of these laws may be to prevent individual practitioners from locating in areas such as shopping centers, where the potential for developing high-volume, lower cost operations, such as optical chains, exists. They may also limit the ability of opticians, optical chains, and department stores to compete, and, according to preliminary evidence, may result in an increase in consumer prices. Finally, branching and location restrictions may restrict consumer accessibility to vision care, especially affecting the elderly and other less mobile members of society. Both higher prices and decreased accessibility may mean that some consumers receive no care at all or obtain vision care less frequently than they otherwise would.

The second category of restrictions which the FTC staff has examined consists of those prohibiting opticians from (1) duplication, a process whereby a new eyeglass lens is produced by analyzing the prescription of an existing lens, and (2) fitting of contact lenses. These restrictions may limit the consumer's ability to comparison shop for eyeglasses or contact lenses, particularly when consumers are not given a copy of the prescriptions following the initial sale of eyeglasses or contact lenses. The Commission's Eyeglasses Rule currently mandates prescription release only after the eye examination, and not after the dispensing of prescription lenses.

Approximately twelve States prohibit opticians from duplicating a new eyeglass lens from an existing lens. One of the justifications advanced in support of such prohibitions is that opticians may not be able to duplicate eyeglasses accurately from an existing pair. The FTC staff conducted a study which was designed to measure the accuracy of the duplication process. The results indicate that there appears to be some potential for introducing a significant margin of error through the duplication process. However, even in States where duplication is prohibited, an optician is permitted to make new eyeglass lenses from a valid prescription. Thus, if the consumer has been provided with a copy of his or her prescription following the initial sale of eyeglasses (i.e., a "re-release" procedure), he or she could use that prescription to purchase new eyeglass lenses from any optician, so that comparison shopping would be facilitated while any problems in the duplication process would be avoided.

A possible concern with such a "re-release" procedure is that it will enable the consumer to bypass regular eye examinations. However, staff is unaware of any State which presently requires an additional eye examination before the purchase of new eyeglasses if the seller already possesses a valid prescription for the consumer. Thus, even in States where duplication is prohibited, a consumer can purchase additional eyeglasses from his or her initial seller without further eye examinations.

Certain States also prohibit opticians from fitting contact lenses. It has been argued that these restrictions are necessary on the ground that opticians may not be adequately trained to perform this function. The FTC staff has designed a study of recently fitted contact lens wearers in an attempt to generate comparative empirical data about relative quality and prices of lenses in States which restrict opticians from fitting contact lenses and those States which do not.

Alternatives Under Consideration

Various options are available to the Commission if it decides to proceed in this area, including an amendment to its Eyeglasses Rule, the promulgation of new trade regulation rule provisions, a formal complaint against private parties alleged to have engaged in unfair acts or practices, a voluntary guide defining unfair acts or practices, legislative

recommendations to Congress or to the States (including development of model State laws), or a public report setting forth the findings of the staff, or no action. On December 2, 1980, an ANPRM was published in the **Federal Register** (45 FR 79823), requesting comment on the options available to the Commission. A discussion of some of these options follows.

A. Staff Recommendations

The FTC staff has written a report recommending that the Commission (1) commence a rulemaking proceeding to examine commerical practice restrictions and (2) propose amendments to the Eyeglasses Rule concerning release of eyeglass and contact lens prescriptions following the dispensing of those ophthalmic goods.

The staffs proposal concerning commercial practice restraints would remove certain restrictions on the practice of optometry and opticianry in commercial settings. Economic evidence indicates that these restrictions may raise consumer prices and that the argued justifications are without merit. The staff proposal, however, would not interfere with the State's ability to control any perceived abusive practices through more direct regulations rather than broad restrictions aimed at banning commercial practice altogether. For example, to the extent that a State is concerned with the thoroughness of eye examinations offered by eye doctors, the State would remain free to enact minimum eye examination standards.

In its report, the staff has also recommended that the Commission extend the prescription release requirement of the Eyeglasses Rule to require that upon filling a prescription for spectacle lenses, the dispenser (whether an ophthalmologist, optometrist, or optician) return the prescription to the consumer. This would enable the consumer to obtain replacement or duplicate pairs of eyeglasses from the provider of his or her choice, and should enhance competition among dispensers. Under this recommendation, States or individual eye doctors would be free to impose a reasonable expiration date on the prescription.

The staff has also recommended that questions concerning the fitting of initial contact lenses by opticians be explored in public hearings which could result in the issuance of a model State law.

Finally, in its report the staff has recommended that the Commission expand the release-of-prescription requirement in the Eyeglasses Rule to require that the original contact lens fitter provide each consumer with a copy of his or her complete contact lens specifications at the completion of the initial contact lens fitting process. This would enable consumers to obtain replacement contact lenses from the dispenser of their choice.

The Commission has made no determination on the findings and recommendations of the staff. The ANPRM solicited comments on the staff's analysis and on the facts and evidence supporting the staff report.

B. Other Options

In addition to the staff report recommendations, the Commission is considering alternative courses of action. One of the alternatives is a publication of a Commission report along with a model State law for review by the States. Such a model statute might for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality of care by including minimum standards for eye examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for a rulemaking. A guide could define, for example, the kinds of private restrictions on commerical practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services.

Summary of Benefits

Sectors Affected: The retail ophthalmic industry and primarily three groups within that industry: ophthalamologists, optometrists, and opticians; and consumers of eyeglasses and contact lenses.

The Commission's staff estimates that the removal of commerical practice restraints should benefit consumers by reducing vision care costs and making vision care more accessible. In this regard, the Commission's Bureau of Economics (BE) conducted a study which compared prices charged for eye examinations and eyeglasses in cities where commerical optometry exists and in cities where it is restricted. The data, collected in late 1977 and early 1978, suggest that (1) prices are significantly lower in cities where commercial practice and advertising are not restricted; (2) commerical optometrists charged lower prices than noncommercial optometrists; and (3) noncommercial providers who operated in markets where commerical practice was permitted charged less than those noncommercial providers working in markets where commercial practice was prohibited.

The BE Study also found that the estimated average price for an eye examination and eyeglasses was $72 (in 1977–78 dollars) in markets where commercial practice was permitted, as opposed to $94 in restrictive cities. Given the substantial size of this industry, consumers annually spend approximately $2.7 billion for ophthalmic goods and an additional $1 billion for eye examinations. There may be considerable savings to consumers if commercial practice restrictions are lessened or eliminated.

The lifting of commercial practice restraints may also facilitate the growth of commercial chains or volume practices because practioners would be able to locate in high-traffic commercial areas, have branch offices, and be employed by lay individuals and firms. Such firms could compete with other traditional dispensers of optical goods, with a very possible effect of generating lower prices to consumers. In addition, such changes may provide consumers with a wider choice of providers and greater accessibility to vision care.

If the Commission were to adopt a requirement that the person who fills an eyeglasses prescription must return the prescription, consumers would be able to have their prescriptions refilled by sellers of their choice without necessarily obtaining another eye examination. Such a "re-release" requirement, by enabling consumers to engage in comparison-shopping for replacement lenses, could increase competition and lead to lower prices. In addition, the re-release requirement recommended by the staff should fully protect the quality of care received by consumers who wish a duplicate or replacement pair of eyeglasses which reproduce the visual correction present in their existing eyeglasses. The duplication process, on the other hand, may have some potential for error, according to preliminary evidence reviewed by the staff.

Under the staff's recommendation, States or individual eye doctors would be free to impose a reasonable expiration date on the prescription. Such a requirement would prevent consumers from bypassing needed examinations by obtaining duplicate or replacement lenses with an outdated prescription.

If the Commission were to adopt a provision which requires original contact lens fitters to release complete contact lens specifications after the initial fitting, consumers would be able

to engage in comparison shopping for replacement lenses. The market for replacement lenses appears to be substantial: preliminary data indicate that contact lens wearers purchase, on the average, one new lens per year. Furthermore, the data suggest that there may be a wide price disparity for replacement lenses. Such a provision could enable consumers who have been forced to purchase replacement lenses from higher-priced providers to obtain lenses from lower-priced providers without undergoing a new fitting procedure. (Although there is no currently available evidence that lower-priced providers of contact lenses offer lower quality goods or services, data from the FTC's contact lens study will provide information concerning comparative quality and any possible tradeoffs between quality and price.)

Summary of Costs

Sectors Affected: The retail ophthalmic industry and primarily three groups within that industry: ophthalmologists, optometrists, and opticians; and States.

In assessing the costs of possible Commission action, it should be understood that this proposal is essentially deregulatory, not regulatory. That is, the investigation seeks to enhance competition by eliminating restrictions on the marketplace which may be unnecessary.

One cost associated with removal of present commercial restrictions may involve the issue of quality of care. While removal of these restrictions may lower consumer prices, it is necessary to determine whether their removal would involve any decrease in the quality of care received by the public. Before any action is taken, the Commission must determine what, if any, effect there will be if such restrictions are removed.

The critical area of concern is the quality of care comparison between markets which permit commercial forms of practice and those which restrict such practice. The Bureau of Economics study found that the overall level of quality for each of the measures of quality employed was the same both in markets which permit commercial practice and those which prohibit it. With respect to one of the measures of quality, the thoroughness of the eye examination, the results show substantial variation from optometrist to optometrist in the thoroughness of exams being performed, and that variation exists both in markets with and without commercial forms of practice.

Within cities which permit commercial practice, the less thorough exams tended to be given more frequently by commercial providers. However, less thorough examinations were available from about the same percentage of optometrists even in markets where commercial practice was prohibited. With respect to the other measures of quality, commercial or chain firm optometrists derived the correct prescription and produced accurate eyeglasses no less frequently than noncommercial optometrists. In addition, the study found no difference between commercial optometrists and noncommercal optometrists in the incidence of unnecessary prescribing of eyeglasses.

If instead of restricting commercial practices the States were solely to impose requirements to control specific abusive practices (for example, by setting minimum eye examination requirements to ensure that all practitioners provide thorough examinations), the States would have to bear the costs of monitoring compliance with those requirements, and it is possible that the prices of vision care would be affected.

The Commission staff does not yet know exactly what costs would be associated with a requirement that a seller return an eyeglass prescription to the purchaser, or a requirement that the original contact lens fitters release complete contact lens specifications to their customers following the fitting process. As noted above, data from the FTC's contact lens study will provide information concerning comparative quality of contact lenses fitted by lower-priced providers and possible tradeoffs between price and quality.

If the Commission were ultimately to promulgate a rule requiring that when an eyeglass prescription is filled the seller return it to the patient, the compliance cost should be minimal, involving only the time and material for the seller to write a copy of the prescription. If the Commission were to require ophthalmologists and optometrists to release complete contact lens specifications following the initial contact lens fitting so that consumers can obtain replacement contact lenses from a fitter of their choice, the compliance cost should be, again, minimal.

Related Regulations and Actions

Internal: The Advertising of Ophthalmic Goods and Services Trade Regulation Rule (16 CFR Part 456).

External: Various State laws restricting commercial vision care practices and the ability of opticians to fit contact lenses and duplicate lenses without a prescription.

Active Government Collaboration

None.

Timetable

The FTC staff is presently reviewing and analyzing the comments which were received in response to the request for comment.
Following this review, the staff will make its next set of recommendations and the Commission will decide what action, if any, it should take in this area.
Commission Decision on Appropriate Action—October 1981.
Preliminary Regulatory Analysis—If, and when, an NPRM is issued.
Initial Regulatory Flexibility Analysis—If, and when, an NPRM is issued.

Available Documents

All are available from Room 281, Federal Trade Commission, Washington, DC 20580.

ANPRM—45 FR 79823, December 2, 1980. Comments in response to the ANPRM are available for review and copying. Call Agency Contact.

"Staff Report on the Advertising of Ophthalmic Goods and Services and Proposed Trade Regulation Rule (16 CFR Part 456)," dated May 1977.

"A Comparison of a Random Sample of Eyeglasses," prepared by Resource Planning Corporation for the Federal Trade Commission, dated July 2, 1979.

"Advertising and Commercialism in the Profession: The Case of Optometry," prepared by the FTC's Bureau of Economics, April 1980.

"State Restrictions on Vision Care Providers: The Effects on Consumers (Eyeglasses II)," Report of the Staff to the Federal Trade Commission, July 1980.

Agency Contact

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FTC

Proposed Trade Regulation Rule Concerning Credit Practices (16 CFR Part 444)

Legal Authority

Federal Trade Commision Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

The Commision is conducting a rulemaking proceeding on the consumer

and competitive effects of certain practices used by creditors when consumers have difficulty repaying their debts. Remedies under consideration in this proceeding could have an important effect on the relationship between creditors and consumer debtors in the United States and on competition in this sizable sector of the economy.

Statement of Problem

Most Americans use consumer credit at some time in their lives. At any given time, about half of all households in the Nation are making payments on installment debt. Many encounter financial or other problems which cause them to become delinquent in their payments. Only rarely is such delinquency deliberate. Studies show that the leading causes are such unplanned events as unemployment, illness, and circumstances in which the consumer is overburdened with debt obligations.

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, inflict injury on debtors that may be disproportionate to the gain to creditors. The injury includes not only dollar losses, but also nonpecuniary harm, such as emotional distress, loss of privacy, and disruption of family relationships. The disproportionate nature of the injury may mean that many consumers may be obtaining credit on terms that they would not choose in a market in which complete information and choice about credit terms were available.

The right of creditors to use remedies derives largely from provisions included in credit contracts. Credit contracts are standardized form documents prepared by creditors. There is generally no bargaining over terms between debtor and creditor.

The record shows that consumers frequently cannot shop for credit terms because they lack the specialized legal knowledge necessary to understand and evaluate remedy terms in contracts. Furthermore, creditors often do not compete with each other by offering more favorable remedy terms of contracts, and therefore, in a given market, consumers will find little variation in such terms. We believe that all these factors indicate market forces may not have produced a reasonable balance of creditor and debtor rights in credit contracts.

Specific contractual and other creditor remedies which may cause substantial injury to consumers and which are in widespread use include the following:

(1) Confession of judgment—As part of the contract by which credit is extended, the debtor signs a form which authorizes the creditor to obtain a court judgment against him without notice to the consumer and without any opportunity for the consumer to appear and defend himself. The debtor thus loses due process rights, such as the ability to contest disputed claims.

(2) Waivers of state property exemptions—The debtor waives the right granted by State law, to keep certain minimal property if a court judgment is obtained against him. In many States, a court will not honor the waiver, however, the rulemaking record shows that some creditors nonetheless have used this waiver to threaten debtors with loss of all their goods.

(3) Wage assignments—The debtor authorizes the creditor to seize a portion of his wages without first obtaining a court judgment. The debtor loses the ability to contest disputed claims. Moreover, some debtors may be subject to disciplinary action or firing by employers who do not like to divide employee wages between a creditor and an employee because of the accounting costs this imposes.

(4) Blanket security interests in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. Because in many instances such goods may have little resale value, it appears that creditors may use these security interests primarily to threaten the debtor and deter default, rather than to actually secure the debt.

(5) Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase.

(6) Deficiencies—Following the repossession and sale of collateral, the creditor can sue the debtor for deficiency, i.e., the difference between the sale price of the product and the amount the consumer owes. The evidence shows that the sale prices of repossessed collateral may frequently be very low, resulting in large deficiencies.

(7) Attorney's fee provisions—The provisions require the debtor to pay the creditor's attorney fees. They thus may tend to inhibit debtors from defending themselves against payment of disputed debts. The evidence indicates that, in some instances, attorney's fees assessed by courts may be larger than actual court costs or the cost of actual legal service provided.

(8) Late charges—Late charges are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. The rulemaking record shows that sometimes they are "pyramided," i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments.

(9) Third party contacts—The record indicates that creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss.

(10) Cosigners—Creditors sometimes having the debtor obtain one or more consigners who agree to pay the debt if the principal debtor defaults. The evidence shows that consigners frequently do not understand that the obligation they undertake is substantial.

Alternatives Under Consideration

The rule that was originally proposed on April 11, 1975 (40 FR 16347) would prohibit a number of the above creditor remedies and restrict the use of others. It would prevent or limit confessions of judgment, waivers of State property exemptions, wage assignments, non-purchase money security interests in household goods, and attorney's fee provisions. Creditors would have to promise in the contract not to make third party contacts except to locate the debtor or his property. Cross-collateral security would be permitted only if creditors released collateral from the security agreement as the consumer paid for it in the order it was purchased by the consumer. Creditors could collect deficiencies only if they credited the debtor with the fair market retail value of the collateral. Late fees would be limited. Cosigners would have to be given an information disclosure explaining their obligation and a 3-day "cooling-off" period to evaluate that obligation. Creditors would also be required to give cosigners copies of relevant documents, to notify cosigners in the event of default by the principal debtor, and to make serious efforts to collect from the principal before seeking payment from the cosigner.

Following publication of the NPRM, members of the public (including many members of the credit industry, which would be affected by the rule) suggested numerous modifications, alternatives, exceptions, and deletions to the proposed rule. Based, in part, on these suggestions, the rulemaking staff, in its staff report, recommended modifications

to the originally proposed rule. The most important proposed modifications concern the provisions on late fees, security interests, deficiencies, and cosigners.

The original proposal would have limited late fees to the amount derived by applying the annual percentage interest rate governing the debt to the amount which was late for the period it was late. The staff report finds insufficient evidence to support the proposed general limitation on late fees and recommends confining the provision to a ban on "pyramiding."

The original proposal on security interests would have prohibited any security interest other than a purchase money security interest, where credit is used to purchase consumer goods. (A purchase money security interest is a security interest in goods that are purchased with the credit that is being secured.) The staff report recommends dropping the general restriction on non-purchase money security interests. Instead, it recommends a provision banning non-purchase money security interests in household goods but allowing them in other consumer goods such as automobiles. The recommended provision is intended to focus on the specific problem documented on the record.

The original proposal on deficiencies would have required that whenever a creditor repossesses collateral, the creditor must credit the debtor with the fair market retail value of the property. The revised proposal would apply a retail value standard only if the creditor wishes to collect a deficiency. Creditors would not be required to return surpluses to debtors based solely on the retail value standard. In addition, retail value would have to be determined based on an actual sale in an established retail market, either by the creditor or a third party. This would eliminate ambiguity in the determination of retail value. If no established retail market exists for the collateral, the creditor could not collect any deficiency. This is consistent with the view that deficiencies may be appropriate when high value collateral, such as automobiles, is repossessed but not when low value collateral is repossessed.

The original proposal required that creditors provide cosigners with a 3-day cooling-off period before the cosigners become obligated on a debt. The staff report recommends a cooling-off period only where a creditor solicits someone to become a cosigner after a debtor has defaulted.

Apart from the four alternatives described, the staff report recommends a variety of other, more technical changes in the proposed rule. The staff report is accompanied by a memorandum from the Director of the Bureau of Consumer Protection which does not make specific recommendations but which invites public comment on alternatives to a number of proposed rule provisions. These include: substituting a "loser pays" approach to attorney's fees for the proposed ban on provisions that require a debtor to pay attorney's fees, limiting the prohibition against third party contacts to contacts with employers, and dropping proposed protections for cosigners that go beyond disclosure. In addition, the Bureau Director's memorandum suggests that the Commission may wish to consider some optimal mix of rule provisions, perhaps modeled on consumer credit laws that are already in effect in Connecticut, Iowa, and Wisconsin. These three States have laws that are similar in many respects to the proposed rule, and the rulemaking developed extensive information about how these State laws have worked in practice.

Finally, a memorandum from the Commission's Bureau of Economics concerning the recommended rule is also available to the public. The Bureau of Economics memorandum suggests alternative rule provisions in a number of areas, including elimination of the prohibition on security interests in household goods; elimination of the cross-collateralization provision of the rule; substitution of a "loser pays" approach to attorney's fees; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider the alternatives recommended in the staff report, as well as those raised by the Bureau Director, the Bureau of Economics, and various participants in the proceeding, and will decide what form of rule, if any, it ultimately should promulgate.

Summary of Benefits

Sectors Affected: Consumer debtors.

The primary beneficiaries of this rule would be consumers who borrow to obtain goods or services and have difficulty repaying their debts. While the rule would not prevent creditors from compelling consumers to pay legitimate debts where necessary, it seeks to limit unjustified consumer injury arising from the use of certain boilerplate collection remedies, where the benefits to creditors from such use appear to be small and the injury to consumers is substantial.

Although at the present time the Commission does not know what form of rule, if any, it will adopt, it is possible to identify the type of benefits that should result if it promulgates certain provisions of the proposed rule. For example, several provisions would produce dollar benefits for consumers by reducing excessively large deficiencies and late fees. If the final rule eliminates collection methods which result in injury to the employment relationship, it would benefit consumers by protecting their employment security. Eliminating practices by which creditors evade due process requirements would increase the fairness with which creditors treat consumers and would improve consumers' ability to legally defend themselves when creditors demand payment even though the consumer did not get what he or she paid for as a result of fraud or other seller non-performance.

An important qualitative benefit of any final rule should be fairer treatment of people suffering from financial difficulties. The proposed rule attempts to rectify practices that currently result in some creditors unfairly threatening such individuals with the loss of their possessions and jobs, and harassing their friends and relatives.

Quantitative information relevant to an assessment of current injury to consumers is available for a number of provisions of the proposed rule. For example, evidence in the rulemaking record indicates that over 60,000 consumers have wage assignments filed with their employers each year. One source estimates that use or threatened use of wage assignments results in loss of employment up to 10 to 20 percent of the time, at least for low-income consumers. Next, the rulemaking record indicates that well over 10 million consumers are subject to contracts containing blanket security interests in household goods. Creditors often make implicit or explicit threats to repossess when borrowers become seriously delinquent. We estimate, based on the rulemaking record, that creditors make such threats to repossess to at least several hundred thousand borrowers each year. Finally, over 750,000 automobiles are repossessed each year. In most cases where an auto is repossessed, it is sold at less than its wholesale value and the consumer continues to owe the creditor money. Based on figures for the mid-1970s, the amount owed totals over $400 million. The provision of the proposed rule relating to deficiency judgments, if

adopted, may significantly reduce this amount.

Summary of Costs

Sectors Affected: Consumer debtors; credit agencies other than banks, particularly installment sales finance companies, and other establishments providing consumer credit; retail trade or consumer products; adjustment and collection agencies; and State governments.

The cost to consumers of any rule may potentially take two forms: increases in the price of consumer credit (i.e., interest rate) and reductions in availability of credit to certain consumers.

The rulemaking record contains empirical economic evidence based on data in States whose credit laws contain provisions similar to one or more provisions of the proposed rule. These economic studies and other information on the record provide an imprecise estimate of the effect a rule would have on the cost of credit, but suggest that adopting the rule in the form originally proposed by the Commission would cause no more than a small increase in the interest rate on loans made by finance companies in States with no existing regulation.

For example, the primary econometric study prepared for the proceeding applied statistical techniques commonly used by economists to data on individual loans from 30 States with varying credit laws. The estimates of the effect of the rule on the price of credit varied with the method of estimation. The estimates predicted an increase in the annual percentage rate ranging from 0.19 percentage points to 1.6 percentage points, compared to the average interest rate of 25 percent for loans in the sample. (The 0.19 percent measures the overall impact on the price of credit of demand and supply factors influencing the cost and availability of credit. The 1.6 percent, in contrast, measures only the factors influencing the supply of credit. This estimate is based on loans made at or above the legal interest rate ceiling where it is hypothesized that the demand for credit exceeds the available supply of credit.) However, these estimates should be viewed as "worst case" estimates. For example, the study measures the effect of a shift to the rule from a system where there is no regulation whatsoever. In fact, most States already restrict one or more of the creditor remedies covered by the rule, so the change created by the rule should be smaller than that measured by the study.

Testimony by State officials, some creditors, and others who have experience in States with laws similar to the proposed rule indicates that prohibitions on the covered creditors' remedies have not had significant impact on either the cost or availability of credit in those States.

However, the Commission and its staff will analyze these economic data carefully before determining if the rule should be issued or what form it should take.

The main costs of creditors' compliance with any rule should be those associated with revising contract forms and instructional materials that they give their employees. They will have to do these tasks only once. Creditors can spread the cost over all subsequent transactions covered by the rule: costs should therefore be low on a per-transaction basis. While the rule would restrain certain creditor remedies, the evidence suggests that such restraints would not prevent creditors from collecting debts.

For example, the remedies rated as most valuable by creditors in surveys—self-help repossession (retaking of collateral without first going to court) and garnishment (creditor taking a proportion of a debtor's wages directly from the employer pursuant to a court order)—would not be affected by the rule. Moreover, the fact that most serious delinquency is unintentional should involuntarily limit the economic importance of any collection remedy, and particularly of presure devices such as household goods security and third party contacts.

The proposed rule would be likely to affect large and small creditors in similar ways. This proposal would affect finance companies more than other creditors because finance companies make greater use of the remedies covered by the rule.

The rule would not impose any requirements on State and local governments. However, several of the proposals concerning cosigners could preempt State laws on this subject.

Related Regulations and Actions

Internal: None.

External: If the Commission decides to adopt the proposed rule, the Federal Reserve Board is required by § 18 of the FTC Act to consider adopting a substantially similar rule for banks, unless the Board determines that such acts or practices of banks are not unfair or deceptive or that implementation of similar regulations would seriously conflict with essential monetary and payment systems policies of the Board. The Federal Home Loan Bank Board is also required to consider a similar rule for savings and loan institutions.

Most States have laws similar to one or more provisions of the proposed rule. A small number of States—including Connecticut, Iowa, and Wisconsin—have laws similar to most provisions of the rule, though they differ in detail.

Active Government Collaboration

Federal, State, and local government agencies participated in the rulemaking proceeding. Representatives of over half of the States testified at hearings, along with a number of local government officials. A member of the Federal Reserve Board staff also testified. The commission received written comments from additional government agencies including, among others, the Department of Defense, the National Credit Union Administration, and several State and local agencies.

Timetable

Final Staff Recommendations to Commission—July 1981.
Oral Presentation to Commission by Interested Parties—September 1981.
Commission Consideration—October 1981.
Final Regulatory Analysis—If, and when, any final rule is issued.
Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—40 FR 16347, April 11, 1975.
Final Notice Concerning Proposed Trade Regulation Rule—42 FR 32259, June 24, 1977.
Report of the Presiding Officer—August 1978.
Staff Report—August 1980.
Bureau of Economics Comments on Credit Practices Rule—August 1980.

Copies of these documents can be obtained from the Office of Legal and Public Records, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, DC.

All documents on the rulemaking record, including hearing transcripts, public comments, etc., are available for examination at the same address.

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FTC

Proposed Trade Regulation Rule on Mobile Home Sales and Service (16 CFR Part 441)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

Mobile homes are an important segment of the housing industry, with annual sales of approximately 275,000 units. The recommended rule of the Federal Trade Commission (FTC) staff seeks to enhance warranty performance in the mobile home industry by establishing certain requirements and incentives designed to ensure that mobile home manufacturers fulfill warranty obligations. Therefore, the rule could have a significant impact on the mobile home segment of the housing market.

Statement of Problem

Most mobile home manufacturers offer a 1-year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects. However, the FTC staff believes, on the basis of the rulemaking record developed, that some manufacturers and dealers have failed in a significant number of instances to provide adequate warranty service to the homeowner.

The record indicates that many mobile homeowners discover defects in their new mobile homes, including water leaks, malfunctioning plumbing, buckled frames, and inoperative windows and doors. Such problems may have been caused by factory defects or improper transportation or installation of the mobile home. In some cases, severe problems—for example, lack of electricity and heat—may threaten the safety of the homeowner, and make the mobile home uninhabitable. Nonetheless, when consumers seek warranty repairs, some manufacturers and dealers often refuse service or delay repairs beyond a reasonable time. In some instances, when manufacturers and dealers attempt repairs, they do not adequately remedy the problem.

These problems in providing adequate warranty service indicate that mobile home manufacturers and dealers may not have adequate service systems to properly perform their warranties. Their warranty systems appear to be deficient in several ways. First, although dealers perform much of the warranty work, the evidence indicates that many manufacturers fail to clearly allocate service responsibilities between themselves and their dealers. As a result, disputes between manufacturers and dealers can delay warranty service. Second, some manufacturers and dealers fail to have sufficient parts, service personnel, and equipment to fulfill consumer requests for repairs. Finally, some manufacturers do not properly monitor their dealers to determine if they have completed repairs. Because they do not have an adequate warranty performance system, some manufacturers and dealers are not able to provide prompt and adequate warranty repairs for mobile homeowners. In addition, disputes over the responsibility for defects caused by transportation and installation (set-up) of the home also impede and delay warranty repairs.

The Federal Trade Commission's investigation into warranty service problems in the mobile home industry initially led to consent orders against four major manufacturers. (A consent order is an agreement between the Commission and a company, in which the company agrees to change certain of its business practices. The agreement is not an admission of wrongdoing by the company.) Under the orders, the companies agreed to take specific steps to improve their warranty service programs. Shortly after the consent agreements were entered into, the Commission began this rulemaking proceeding because it had reason to believe that substantial numbers of mobile home purchasers receive inadequate warranty service, and that an industrywide approach to this problem might be necessary.

On August 13, 1980, the Commission staff issued a report and recommended a rule concerning warranty practices in the mobile home industry. The recommended rule contains substantial modifications and deletions from the original rule (40 FR 23334, May 29, 1975) that had been proposed. The recommended rule seeks to improve warranty service by setting time limits within which the warrantor must complete warranty repairs, and by requiring manufacturers or their service agents to perform pre-occupancy inspections of the home. It would also require that manufacturers who offer written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monitor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs. Under the rule, written warranties must include specific time deadlines for service; set-up and transportation damage cannot be excluded; and repairs cannot be contingent on return of the home to the factory or return of a registration card (some mobile home manufacturers have used clauses in their written warranties requiring that a registration card be returned to validate the warranty as a precondition to receiving free warranty service.)

Alternatives Under Consideration

In contrast to the detailed requirements of the original proposed rule, the recommended rule sets general performance standards for warranty service and warranty service systems, and omits many of the original provisions proposed in 1975. The use of performance standards should allow industry flexibility to develop its own specific systems and procedures. To illustrate this approach, the original proposal addressed alleged problems in the manufacturers' handling of consumer complaints by requiring (1) implementation of a specific system to process complaints; (2) designation of a corporate focal point to handle complaints, with responsibility vested in non-sales personnel; (3) recordkeeping; and (4) regular review and periodic reports on the effectiveness of complaint handling procedures. In contrast, the rule now recommended by staff only requires warrantors to resolve complaints in 30 days and to keep records concerning such complaints. Similarly, the 1975 proposal contained detailed requirements for the manufacturers' evaluation of prospective new dealers, including periodic visits to the dealer's sales lot. The staff has deleted these provisions from the recommended rule on the basis that the recommended service deadlines—as well as Federal warranty law, which places ultimate responsibility for warranty performance on the manufacturer that offers a written warranty—provide sufficient incentives for manufacturers to develop their own cost-effective evaluation mechanisms.

The Commission and the staff will further evaluate the need for each of the provisions of the recommended rule based on a review of the written comments that have been received on the staff report. While the staff has designed the provisions of the recommended rule as performance standards for warranty service and service systems, the Commission and staff must still resolve the appropriate degree of flexibility for each rule provision. For instance, the

recommended rule sets specific time deadlines for warranty repairs. These deadlines are consistent with some present industry policies and some State laws. A possible alternative would be to allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties.

The recommended rule sets out eight issues (e.g., specific time deadlines for repairs, inspections) that must be addressed in the written service agreement between the manufacturer and dealer. If any final rule that is promulgated retains specific deadlines and related requirements, the written agreement may not need to include some of the terms that essentially track obligations the recommended rule would impose on manufacuturers.

The Commission and staff also will consider the need to mandate a pre-occupancy inspection by the warrantor or his agent. Industry members consider such an inspection to be a beneficial procedure, and at present about half of all new mobile homes are inspected prior to occupancy, by manufacturers or their agents. Given these facts and that other provisions of the rule create strong incentives for timely warranty service, many manufacturers may independently decide to perform inspection.

The recommended rule requires warrantors to assume responsibility for set-up and transportation damage. While this requirement should eliminate manufacturer-dealer disputes as to the cause and responsibility for defects, the Commission and staff will consider further whether ultimate liability for such defects should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monitor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. The questionnaire should provide a low-cost means of monitoring dealer service. Because the questionnaire will also enable consumers to list in one place all remaining defects at a specified time, service costs thereby could be lessened to the extent that the number of service calls decreases. Since the recommended rule would require manufacturers to monitor warranty repairs, an alternative may be to have manufacturers select their own monitoring devcies, rather than require the use of a questionnaire.

Summary of Benefits

Sectors Affected: Purchasers of mobile homes, mobile home dealers, and mobile home manufacturers.

By ensuring that manufacturers meet warranty obligations, the recommended rule should heighten industry competition by removing unjustified advantages that may be enjoyed by companies that appear to offer warranty coverage, but breach their warranties. It would allow reputable manufacturers to communicate the effectiveness of their warranty repair program through written warranties and would enable consumers to rely on competing warranty claims when making their decision to select a particular brand.

Owners of new mobile homes would receive more prompt and adequate warranty service. Survey data on the rulemaking record from California and Ohio indicate that as many as 80 percent of new mobile homes have defects, and 40 percent of the mobile homeowners who request service have been unsuccessful in obtaining adequate repairs. Thus, significant numbers of owners either have to pay for repairs themselves or suffer the inconvenience of defective homes. Improved warranty service may reduce these problems. Moreover, consumers may benefit from inspections that provide early detection and repair of problems. Because many defects can lead to more serious structural damage if not promptly repaired, the recommended rule may also prolong the useful life of mobile homes and, thus, increase their resale value. This, in turn, may lead to more favorable financing terms for purchasers of mobile homes and should make mobile homes a more attractive investment, providing consumers with a less costly but reliable alternative to site-built homes.

The recommended rule may also encourage warrantors to reduce customer claims by voluntarily correcting the underlying causes of defects. For example, manufacturers may find it less costly to comply if they build better homes that require less warranty service, thereby providing a clear benefit to consumers.

Summary of Costs

Sectors Affected: Mobile home manufacterers and dealers, particularly firms not presently providing adequate warranty service.

The proposed rule would affect the business practices of some 200 mobile home manufacturers (Standard Industrial Classification 2451) and approximately 12,000 mobile home dealers.

The recommended rule would affect most heavily those firms that do not presently provide adequate warranty service. For such companies, staff estimates that the total costs to comply with the rule recommended in the staff report would be a maximum of $120 per home (all cost figures in this section are 1977 dollars). This figure represented approximately 1 percent of the average wholesale price of a new home in 1978. Other companies would experience lower compliance costs. These projections are based in part upon an analysis of records submitted in 1977 by the four mobile home manufacturers that are operating under consent orders. These estimates of compliance costs are based on the terms of the recommended rule and may change significantly if it is modified.

Industry compliance costs fall into one of three categories: (1) administrative and other overhead costs, (2) inspections, and (3) additional repairs to mobile homes. Many of the provisions of the original proposed rule that imposed purely administrative costs have been eliminated. Staff estimates that administrative costs for the recommended rule will represent a maximum per-home cost increase of about $5.00 to $10.00 for large manufacturers, $13.00 for medium-sized producers, and $25.00 for small firms, assuming that no corporate officials now work on warranty matters. Since most companies currently assign at least some corporate personnel to their warranty programs, the net cost increase should be substantially below these estimates.

Manufacturers would also incur other overhead costs through compliance with the service agreement and questionnaire provisions of the recommended rule. The cost to manufacturers of entering into written agreements should be concentrated in the first year of compliance and therefore should have minimal effect on prices in the long run. For the most part, the long run impact will depend on the frequency with which manufacturers affiliate with new dealers. Responses from the companies currently under Commission order indicate that legal costs for drafting the written service contracts should not exceed about $2.00 per home for the medium-sized manufacturer. Staff estimates that such costs would be less than $1.00 for large manufacturers and should not exceed $5.00 for small companies. Based upon the experience of the consent order companies, the required consumer questionnaires should cost no more than $5.00 per home to print, distribute, and tabulate. Adding this figure to the other costs brings the total administrative and overhead compliance costs of the recommended rule to a maximum of $35.00 per home

for small firms, $20.00 for medium firms, and $16.00 for large firms.

Analysis of data from the companies under the consent orders indicates that each of the required pre-occupancy inspections of mobile homes costs these manufacturers about $50.00. Since half of all new mobile homes are already inspected, total industry compliance costs should not exceed $25.00 per unit. These estimates include reimbursements to dealers for travel and all inspection expenses. Furthermore, because the total number of inspections will depend directly upon the number of homes sold, large and small manufacturers will spend approximately the same amount per home to meet the inspection requirements of the proposed rule.

It is difficult to estimate the magnitude of increases in warranty costs related to repairs or general increases in warranty expenditures resulting from more diligent attention to customer complaints, as the recommended rule presumably could motivate producers to lower the incidence of defective homes. Specifically, manufacturers can be expected to introduce quality control improvements whenever the cost is justified by expected future savings in warranty expenditures. In addition, a pre-occupancy inspection should permit dealers to spot and correct installation problems before costly structural problems result and would therefore reduce overall warranty service expenditures.

Staff estimates that additional expenditures for each different size of manufacturer for the warranty service under the recommended rule should be approximately $0 to $75 per home, depending on the present level of service provided. Companies that already meet the recommended requirements should experience no additional costs. Firms on the other end of the service and quality spectrum could expect to incur substantial costs, perhaps greater than the $75 estimate. However, if industry service costs increase more than $75 per home, it will be because staff has underestimated the seriousness of current warranty problems and thus the benefits to be achieved by strengthening warranty performance. Thus, total compliance costs for administration, overhead, inspection, and service should not exceed $120 per home for medium size firms. Comparable maximums for large firms would be $115 per unit and for small firms $135. These costs should not have an unfair impact on small manufacturers, since most of the cost (direct warranty service) will vary by the number of homes sold. Manufacturers would probably attempt to increase prices by an equivalent amount, though competitive pressures from firms with more effective warranty systems and lower compliance costs might prevent a full cost pass-through to consumers.

The recommended rule should not alter the competitive structure of the industry significantly. Staff has investigated whether the rule will encourage manufacturers to integrate vertically into retailing or enter into exclusive franchising agreements with dealers. Even the largest manufacturers would probably find the capital costs of establishing a large network of company-owned retail outlets to be prohibitive. The record also documents that dealers would not find exclusive franchises (representing one manufacturer) as profitable as their present practice of representing four to five manufacturers. Since consumers generally do not select mobile homes on the basis of brand reputation, dealers currently compete for sales by offering the widest possible selection of homes in varying price ranges, sizes, and floor plans. Exclusive dealing would necessarily limit the variety of homes that dealers could offer without giving them any compensating benefits.

Related Regulations and Actions

Internal: Commission consent orders presently require four mobile home companies to establish effective warranty performance systems. The Commission has also brought other cases against mobile home companies allegedly in violation of the warranty disclosure and labeling requirements of the Magnuson-Moss Act, § 101 *et seq.*, 15 U.S.C. § 2301 *et seq.*

External: The Department of Housing and Urban Development regulates the production of mobile homes at the factory under the National Mobile Home Construction and Safety Standards Act of 1974, Title VI, 42 U.S.C. § 5401 *et seq.*

Seventeen States require warranties in the sale of new mobile homes. A number of States license and bond mobile home dealers and manufacturers.

Active Government Collaboration

The Department of Housing and Urban Development, Small Business Administration, and representatives from eleven State attorney general offices testified at the rulemaking hearings. Other Federal and State officials submitted written comments on the proposed rule.

Timetable

Final Staff Recommendations—September 1981.
Oral Presentation before the Commission by Interested Parties—October 1981.
Commission Consideration—November 1981.
Final Regulatory Analysis—If, and when, any final rule is issued.
Regulatory Flexibility Analysis—Not required.

Available Documents

NPRM—40 FR 23334, May 29, 1975.
Final NPRM—42 FR 26398, May 23, 1977.
Presiding Officer's Report—45 FR 53538, September 11, 1979.
Final Staff Report (including a cost-benefit analysis)—45 FR 53839, August 13, 1980.
The record of this proceeding, including comments to the NPRMs, is publicly available at the Office of Legal and Public Records Section, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, DC 20580.

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FTC

Residential Real Estate Brokerage Industry Practices

Legal Authority

Federal Trade Commission Act, § 5, 15 U.S.C. § 45.

Reason for Including This Entry

The Federal Trade Commission (FTC) has authorized a staff investigation to determine whether competition among real estate brokers may be hindered by private restrictions, thus causing consumers to pay higher than necessary prices for brokerage services and causing the performance of the industry to suffer. If remedial action ultimately is taken, it could have an important effect on the relationships among consumers, brokers, and agents in real estate transactions and on competition and productivity in this critical sector of the economy.

Statement of Problem

The FTC staff estimates that in 1979 approximately 3.8 million existing homes were sold through real estate brokers. Total revenues from those 1979

sales exceeded $215 billion, generating an estimated $13 billion in commissions paid to over 2 million licensed brokers and agents in the country.

The FTC has received complaints from many sources within the real estate brokerage industry. Brokers and sales agents throughout the country contend that their competitive efforts have been frustrated by other brokers and groups in unfair ways.

In addition, complaint letters, petitions, and public statements from individuals and consumer groups have called attention to alleged consumer problems in the brokerage services market, including inadequate representation of the buyer's and the seller's interests.

Furiher, articles and studies in legal and economic publications have suggested that problems may exist in the competitive process of the industry. Economists and other observers have questioned whether the seemingly high degree of price and service uniformity among brokers, characterized by the commonplace 6 or 7 percent commission rate, is the product of problems with the competitive process. Studies have also questioned whether this high degree of price uniformity may contribute to an apparent decline in productivity in the industry.

The FTC staff has identified five issues for particular emphasis in its study of the residential brokerage industry: (1) the nature and role of private trade associations of brokers; (2) the structure and operations of multiple listing services (systems for sharing house listings among brokers); (3) problems facing brokers who offer innovative packages of prices and services; (4) the role of the broker in the residential brokerage transactions, including issues of potentially conflicting duties and interests which may make the adequate representation of consumers difficult, and (5) the nature and role of State law and State agencies that regulate the industry.

The Commission staff has completed its investigative fieldwork. A staff report to the Commission, summarizing staff findings and possible regulatory alternatives, is being reviewed before submission to the Commission.

Alternatives Under Consideration

Since the FTC staff has just completed its investigative work, neither the staff nor the Commission has reached any conclusions on any appropriate FTC action. However, the following are among the numerous alternatives under scrutiny.

The FTC staff is considering at least five major types of alternative recommendations: (A) a public FTC report designed to aid the industry, State regulators, and brokers in dealing with industry performance problems; (B) a trade regulation rule or guide; (C) FTC efforts to educate the customers of brokers, who are the home buying and selling public; (D) FTC formal administrative complaints alleging violations of the FTC Act against groups or individuals in the industry; and (E) no FTC action.

One or more of these alternatives might encourage a number of substantive changes which would enhance competition and improve the flow of information to consumers. The FTC staff, in considering various policy alternatives, is seeking to insure that the marketplace will be allowed to provide the choices consumers want. The staff is giving primary consideration to actions that enhance competition by eliminating any anticompetitive private restraints on competitors, and that improve the flow of accurate information to consumers. Among the many possible provisions the staff is considering are: (1) elimination of restrictions that directly or indirectly inhibit competition among brokers on the basis of prices and services offered; (2) easing restrictions on the use by brokers of multiple listing services; (3) clarification of legal duties between brokers, and between brokers and consumers; and (4) facilitating informed consumer choice through requirements that brokers make brief information disclosures to consumers. The FTC could incorporate these provisions in any of the above alternative approaches.

Summary of Benefits

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; and consumers of brokerage services, both buyers and sellers.

The costs and benefits of FTC action will depend upon the final choices the Commission makes among the numberous policy alternatives currently under consideration. Overall estimates will remain highly conjectural until the Commission determines which specific actions, if any, it will take. The staff is now carefully analyzing each alternative.

Pending a final decision on which alternative or alternatives, if any, the Commission will follow, the precise benefits of the above alternatives can only be roughly estimated by the FTC staff. However, if one accepts the view of some experts that the widespread 6-percent standard commission rate is not the product of healthy competition, then improving competition could produce a significant reduction in consumer settlement costs.

Improving competition also could provide substantial benefits for the brokerage industry. If declining productivity of the industry is resulting from competitive restraints, reducing those restraints could help ensure the competitive viability of the present industry, composed of small businesses.

Removing restraints on the free flow of information to consumers could significantly increase the flow of accurate information to consumers. This should benefit buyers and sellers in their home purchase/sale transactions and should lead to a better overall housing market.

Summary of Costs

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; trade associations; and related services, such as multiple listing services.

The FTC will carefully design any action in the brokerage industry to minimize regulatory burdens and costs. For example, many of the alternatives under consideration involve the removal of private regulation by trade associations of brokers' activities, rather than additional government regulation. Other alternatives, such as affirmative disclosures, should in most cases involve no additional paperwork than brokers currently use, and would require disclosures currently recommended by real estate attorneys to protect brokers from liability.

The principal costs of these remedial efforts would be the one-time costs to brokers involved in redrafting forms and revising training programs.

It is possible that lower rates flowing from greater competition might reduce total revenues to the industry as a whole if there is little change in business volume. However, with the high level of entry and exit by brokers and agents, a decrease in revenues may primarily result in a decrease in the rate of entry, and not in a decrease in individual broker income.

The staff is analyzing all the proposals under consideration against the criterion that the positive impact on consumers and the brokerage industry must outweigh the burdens imposed. The staff is taking particular care to identify alternatives which avoid placing small businesses at a competitive disadvantage.

Related Regulations and Actions

Internal: None.

External: Other Federal agencies have a role in the brokerage industry. The

Justice Department's Antitrust Division has conducted a series of investigations of brokerage practices, primarily involving alleged local brokerage conspiracies in restraint of trade. The Department of Housing and Urban Development (HUD) maintains a Real Estate Brokerage Practices Division. HUD is currently conducting a 2-year study of settlement services, including brokerage services, in light of the 1975 Real Estate Settlement Procedures Act, which requires that certain information be provided to the consumer at different stages of the home purchase/sale process.

State departments of real estate or real estate commissions have primary regulatory responsibility in this industry. The FTC staff believes this will continue to be the case. A number of the State agencies are actively engaged in reviewing and revising licensing and related regulations.

State antitrust enforcement officials are also active in the brokerage industry. State and local prosecutors in California, New Jersey, New York, Washington, and many other States have conducted investigations and brought lawsuits involving many of the practices identified for study in this investigation.

Active Government Collaboration

The FTC staff is in contact with the Justice Department and the Department of Housing and Urban Development regarding the studies and investigation under way in those agencies.

The staff has sent a "Notice of Intent to Make Recommendations and Invitation to Comment" to State and local government officials, including all the State departments of real estate, governors, attorneys general, and legislatures, and to selected local prosecutors and State consumer agencies. The FTC will encourage State and local agencies to participate in every phase of any FTC effort in the industry.

Timetable

Commission Decision on Appropriate Action—July 1981.

Preliminary Regulatory Analysis—If, and when, NPRM is issued.

Initial Regulatory Analysis—If, and when, an NPRM is issued.

Available Documents

Documents available to the public include:

(1) FTC Press Release, dated December 27, 1975, describing the initiation of the original FTC brokerage investigation;

(2) FTC Press Release, dated March 31, 1978, announcing that the Los Angeles Regional Office of the FTC would coordinate the consolidated FTC brokerage investigation;

(3) "Notice of Intent to Make Recommendations and Invitation to Comment," issued in July 1979 to State and local government officials.

Copies of these documents can be obtained from the FTC Office of Public Information, Sixth and Pennsylvania Avenue, N.W., Washington, DC 20580 or from the Agency Contact listed below.

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CHAPTER 7—TRANSPORTATION AND COMMUNICATION

DOT-FHWA

Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways 34183

DOT-OST

Special Air Traffic Rules and Airport Traffic Patterns 34185

SBA

Revision of Business Loan Policy; Business Loans and Guarantees 34188

CAB

Air Carrier Insurance and Liability 34190

CAB

Essential Air Service Subsidy Guidelines 34191

CAB

Notice to Passengers of Conditions of Carriage 34193

FCC

Children's Television Programming and Advertising Practices (Docket 19142) 34194

FCC

Creation of "New" Personal Radio Service (PR Docket 79-140) 34195

FCC

Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79-252) 34196

FCC

Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System (Broadcast Docket No. 78-253; RM-1932; FCC 80-503) .. 34198

FMC

Filing of Currency Adjustment Factors 34199

ICC

Leasing Rules Modifications (Ex Parte No. MC-43 (Sub-No. 12)) 34200

ICC

Revision of Abandonment Regulations (Ex Parte No. 274 (Sub-No. 5)) 34202

PRC

Postal Rate Commission Docket—Attached Mail Proceeding, 1981 34203

PRC

Postal Rate Commission Docket—E-COM Forms of Acceptance, 1980 34205

PRC

Postal Rate Commission Docket MC81-3, ZIP + 4 Subclasses of First-Class Mail 34206

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways (23 CFR Part 625*)

Legal Authority

Federal-Aid Highway Acts, as amended, 23 U.S.C. §§ 101, 109, 315, and 402; 49 CFR 1.48(b).

Reason for Including This Entry

The Federal Highway Administration (FHWA) believes this rule is important because of the controversy over its possible impacts on safety and because the geometric design criteria proposed in the NPRM would substantially affect the condition of the Nation's highway system.

Statement of Problem

The 1976 and 1978 Highway Acts provided for a Federal-aid program to assist the States in resurfacing, restoration, and rehabilitation (RRR) of streets and highways.

Under current regulations and procedures (23 CFR Part 625), RRR improvements must meet the geometric design standards established for new construction, unless FHWA approves specific exceptions on a project-by-project basis. These standards were established by the American Association of State Highway and Transportation Officials (AASHTO) and are called the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets." They have been adopted by FHWA. The standards deal with the dimensions of highway features such as alignment, grades, widths, sight distances, slopes, and clearances. The intent of this proposed rule is to amend existing regulations in order to provide procedures for establishing separate geometric design standards for RRR improvements.

Separate geometric design standards are needed for RRR improvements because current standards for new construction are not appropriate to the basic purpose of RRR improvements—to preserve and prolong the service life of existing highways. Geometric design standards for new construction were developed for projects normally much greater in scope and cost than typical RRR improvements. Continued application of these higher standards to RRR improvements has complicated and discouraged the use by States of Federal-aid funds for RRR improvements. Although figures are not available, this practice probably has kept some RRR improvements from being completed in a timely manner.

The red tape, delay, and inconsistency (with project-by-project exceptions), associated with the current process aggravate the already serious problem of preserving and maintaining the Nation's highway system. Rapidly spiraling construction costs in the past few years, coupled with relatively static or diminishing State and local revenues, have prevented the traditional State and locally funded RRR programs from keeping pace with RRR needs. Consequently, the overall condition of the highway system is deteriorating. Since 1972, the percent of the Nation's arterial and collector systems rated in good condition has dropped from 38 percent to 30 percent. Furthermore, the rate of deterioration accelerates as the deterioration progresses. If this situation is allowed to continue unabated, the utility of the highway system will be significantly diminished, and the eventual repair or replacement cost will rise sharply.

Because of the magnitude of the need and relative shortness of funds, it is important to devise a system that permits States to make some improvements in as many highways as possible, allocating funds at their own discretion. Uniform design standards that require a high level of improvements would instead

concentrate available funds in relatively fewer places.

Alternatives Under Consideration

The FHWA has considered a number of alternatives for implementing the RRR program. Initially, the FHWA explored three major alternatives through the publication of an ANPRM on August 25, 1977 (42 FR 42876). These were:

(A) To continue FHWA design approval operations within the provisions of the current regulations (23 CFR Part 625) by granting exceptions to existing design standards on an individual project basis for RRR projects.

(B) To incorporate, by reference, AASHTO's "RRR" Guide as the acceptable criteria for Federal-aid RRR work.

(C) To develop, with State officials, individual RRR standards for each State by using the AASHTO "RRR Guide" and other guides.

An FHWA task force rejected all three alternatives after reviewing comments it received on the ANPRM. The alternatives were rejected because: (1) FHWA recognized the need to establish separate standards for RRR improvements; (2) FHWA perceived the need to minimize inconsistencies in application arising from the present exceptions process (FHWA approval of exception to full standards on a project-by-project basis); and (3) public comments, primarily from highway safety groups, severely criticized AASHTO's "RRR Guide" because it tended to emphasize the perpetuation of existing geometric features rather than safety improvements. The FHWA withdrew the ANPRM on January 19, 1978 (43 FR 2734).

FHWA then recommended a new set of geometric design standards for RRR projects on August 23, 1978 (43 FR 37556), which it published as an NPRM. The FHWA design standards were more stringent than AASHTO's "RRR Guide," but still significantly less stringent than full geometric standards required for new construction. The NPRM elicited more than 100 comments, primarily from State and local highway agencies. The FHWA subsequently established an internal working group to review the comments it received on the NPRM and to identify and evaluate alternatives for implementing the RRR program.

Two basic policy alternatives are available to the FHWA:

(A) The FHWA would adopt design standards for use on all federally assisted, non-freeway RRP projects nationwide. Various options for implementing this alternative include: application of current design standards in 23 CFR Part 625 with exceptions granted on a case-by-case basis (i.e., essentially maintaining the status quo); application of current design standards in 23 CFR Part 625 without exception; development and application of new design standards (e.g., standards proposed by the FHWA in 1978 under Docket No. 78–10).

(B) The FHWA would adopt a flexible approach to non-freeway RRR projects without establishing nationwide standards. Options available under this alternative include: providing State highway agencies with full authority to adopt their own non-freeway RRR design standards; issuing an FHWA policy statement for non-freeway RRR work; issuing an FHWA policy statement for non-freeway RRR work; and establishing a framework for the adoption of non-freeway RRR procedures and criteria in each State that meets the intent of the FHWA policy.

After evaluating these alternatives, FHWA chose to issue an FHWA policy statement for non-freeway RRR work and establish a framework for the adoption of non-freeway RRR procedures and criteria in each State which meets the intent of the FHWA policy. The advantages of this approach are that: (1) it provides needed program flexibility; (2) it encourages designs that conform to local needs; (3) it maintains sufficient Federal oversight for preservation of the highway system as well as for safety; (4) it reflects the intent of Congress to provide greater flexibility in the use of Federal funds and to obtain maximum use of the existing highway system; (5) it minimizes the burden of Federal regulations on State and local governments; and (6) it avoids disproportionate impacts on urban and rural communities that nationally uniform standards might cause. The only significant disadvantage is that, to use the flexibility provided by the proposal, States would have to develop their own procedures, criteria, and/or standards. We do not consider this a serious disadvantage, since most States already have developed similar procedures or criteria for guidance in using the present system of exceptions on a project-by-project basis. The selected alternative was published as an NPRM on January 5, 1981 (46 FR 1228).

Summary of Benefits

Sectors Affected: Users of highways; State and local governments; and the general public.

The primary benefits of this program would be to prolong the life of the existing highway system and to enhance highway safety features.

Approximately 8 percent of the Nation's arterial and collector highway mileage is rated in poor condition, which means it is approaching structural failure. Another 62 percent is rated only as fair, or in a state of advancing deterioration. If this program is not expediently and effectively implemented, these highways would otherwise continue to deteriorate to the point of structural failure, requiring a much larger expenditure by Federal, State, and local governments, and ultimately taxpayers, for reconstruction. Other anticipated benefits to users of highways and the general public include: reducing costs related to vehicle operation and future highway repair; lowering energy consumption; and increasing the comfort, convenience, and safety of drivers.

Summary of Costs

Sectors Affected: Users of highways; State and local governments; the highway construction industry and its suppliers; and engineering services.

The FHWA has prepared an analysis of the impacts of the major alternatives entitled "RRR Alternative Evaluations for Non-Interstate Rural Arterial and Collector Highways Systems." Using estimates of the funding levels that Congress might provide, the analysis considers the impacts of various levels of design standards. It concludes that, given limited funding availability, improving or preserving many miles of existing highways to less than full standards would yield a greater safety benefit than complete reconstruction of many fewer miles to full standards. In addition, it concludes that effective and expedient implementation of the RRR program would avoid much of the sharply higher costs of total reconstruction or replacement. The analysis is available as a support document for the NPRM.

Related Regulations and Actions

Internal: FHWA has regulations establishing geometric design standards for highway construction projects (23 CFR Part 625).

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—October 31, 1981.

Regulatory Impact Analysis—Will be prepared in conjunction with final rule.

Regulatory Flexibility Analysis—Not required.

Available Documents

ANPRM—42 FR 42876, August 25, 1977, FHWA Docket 77–4.

Withdrawal of ANPRM—43 FR 2734, January 19, 1978.

NPRM—43 FR 37556, August 23, 1978.

Draft Regulatory Analysis of the proposed regulations (FHWA Docket 78–10).

Notice regarding status of proposed rulemaking—44 FR 29921, May 23, 1979.

NPRM—46 FR 1228, January 5, 1981, FHWA Docket 80–3.

Draft Regulatory Analysis on proposed regulations, FHWA Docket 80–3.

Analysis Appendix—"RRR Alternative Evaluations for Non-Interstate Rural Arterial and Collector Highway Systems," FHWA Docket 80–3.

All documents, including the record of a public meeting we held February 3, 1981, and public comments in response to the January 5, 1981 NPRM, are available for review in the Office of the Chief Counsel, Federal Highway Administration, Room 4205, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—Office of the Secretary of Transportation

Special Air Traffic Rules and Airport Traffic Patterns (14 CFR Part 93*)

Legal Authority

Federal Aviation Act of 1958, as amended, 49 U.S.C. §§ 1303, 1348 (a) and (c), and 1354(a); Department of Transportation Act, § 6(c), 49 U.S.C. § 1655(c); Act for the Administration of Washington National Airport, 54 Stat. 688, 1940.

Reason for Including This Entry

The Department of Transportation (DOT) thinks these proposed rules are significant for several reasons. Airline fares and services are of substantial public interest. The proposed rules could be potentially costly for the airlines and, if they have to pay for slots, the airlines may pass the costs on to customers. The rules could also affect air transportation service to some communities with service to and from Washington National Airport (DCA).

Statement of Problem

The airport "High Density Rule" (14 CFR 93.123 *et seq.*) limits the number of landings and takeoffs per hour at four heavily used airports: Washington National (DCA), LaGuardia, John F. Kennedy, and O'Hare. Because of this restriction, air carriers serving these airports must make reservations for each landing and takeoff. Such reservations are known as "slots." To distribute (allocate) the limited number of slots among air carriers who want to serve these airports, airline scheduling committees, made up of representatives of the air carriers and chaired by a representative from the Air Transport Association, draw up schedules for each of the four airports. The schedules are made up on the basis of unanimous agreement among the airline representatives who serve on the respective scheduling committees. Without antitrust immunity, the airlines were unwilling to meet in scheduling committees to allocate slots. The Civil Aeronautics Board (CAB) granted such immunity in the form of an exemption from antitrust law.

Currently, scheduling committees operate under a strict set of rules designed to prevent collusion and overtly anticompetitive behavior. To a degree, they are successful. However, they recently have been criticized on antitrust grounds for faults inherent in the system. The CAB is investigating whether slot agreements substantially reduce or eliminate competition within the meaning of § 412 of the Federal Aviation Act and whether it should continue to grant antitrust immunity to the scheduling committees. The Department of Justice, which will inherit the exemption-granting authority when the CAB expires in 1985, also has opposed the scheduling committees as anticompetitive.

While the Federal Aviation Administration (FAA) of DOT does not have statutory authority to authorize the continued operation of the committees, it solicited comments on them as part of its consideration of a "no-action" regulatory alternative, in an NPRM issued October 27, 1980 (45 FR 71236). DOT does have the authority to allocate slots by means other than the existing scheduling committee system, and several alternatives were proposed in the NPRM.

Alternatives Under Consideration

Based on several studies and review of the existing slot allocation system, DOT proposed, in its NPRM, to establish a specific methodology for allocation of slots at Washington National Airport. (Although the proposals in the NPRM apply only to DCA, if the rule is promulgated and proves effective, they could be expanded to cover all high density airports. Such expansion would occur only through additional rulemaking.)

The NPRM described three alternative types of slot allocation methods:

(A) administrative allocation;

(B) allocation by auction;

(C) allocation by the present scheduling committee (the status quo) or some modified version of this technique.

The NPRM indicated no preferred methods.

Regardless of the method that may be adopted there are elements of the allocation process which are applicable to each method and should be considered. Specifically, these elements are:

- How should a "slot" or "reservation" be defined?
- Should all airport users compete for all slots or should there be separate allocations for different classes of users?
- Who should be eligible to bid for slots?
- Over how long a time period should a slot be awarded?
- What property rights, if any, do recipients of a slot have with respect to resale of slots?
- Should there be a penalty for nonuse of a slot?
- What provision is provided to assure that slots are available for essential air service?
- Should provision be made to restrict the use of slots to assure that carriers do not substitute more profitable service to larger cities for existing service to smaller communities?

With respect to these elements, DOT proposed in its October 1980 NPRM that:

(1) A reservation be defined as authority to schedule one operation, either landing or takeoff, during a given one-hour interval between 7:00 a.m. and 8:59 p.m. or the half-hour interval between 9:00 p.m. and 9:30 p.m. The term "slot" as used in this document refers to a single reservation.

(2) Three classes of reservations be defined. The first would be for "air carriers," which conduct operations with aircraft having a maximum passenger seating capacity of 55 or more; the second would be for "scheduled air taxis," which would be defined as air taxis or air carriers that conduct operations with aircraft having a maximum seating capacity of less than 56; and the third would be for other operations (general aviation). The first two categories of slots would be subject to the carrier agreement, administrative

allocation, or auction processes described below. In the NPRM, DOT further proposed that allocations for the first two categories of reservations be made through separate allocations for each category. Finally, a procedure for establishing fees for the third class of user (general aviation) would be set forth in a separate section.

(3) Bidding or application for reservations would be limited to carriers operating under a certificate of convenience and public necessity issued by the CAB or registered with CAB and exempted from certification under 14 CFR Part 298.

(4) Reservations would be awarded for a period of 6 months starting either in October or April immediately following the award of reservations. This would follow the current procedure of the airline scheduling committee, which allocates slots in January for the 6-month period starting the last Sunday in October.

(5) The air carrier slots available under any of the three proposed allocation methods would be subdivided into three parts, with three different sets of slots devoted to three categories of airports served: large hub, medium hub, and small and non-hub. (A hub is an airport where there is a lot of connecting traffic.)

The question of a marketable property right for holders of a slot (the right to sell a slot) and the question of a penalty being levied for nonuse of a slot was addressed in the NPRM in the discussion of each of the procedures under consideration. In addition, under the administrative allocation procedure, DOT proposed as one alternative to allocate slots specifically for the purpose of providing the minimum level of essential air service as determined by the CAB. DOT recognizes that there may be some problems with this proposal and, therefore, solicited comments on other alternatives that may be more effective for the allocation of slots for essential air service under any allocation procedure chosen. A discussion of the three major alternatives follows.

(A) Administrative Procedures—To ensure continuity of operation at Washington National Airport, DOT has been analyzing several alternative administrative procedures for allocating slots. The easiest way would be to freeze all allocations at their existing levels, but this would not help DOT meet the objectives of the Airline Deregulation Act, such as increased competition and access by new carriers. If DOT froze slot allocations, new carriers could begin operations at DCA only when encumbent carriers were willing to relinquish slots.

Alternative (A) would involved a two-step administrative allocation procedure. Each carrier wanting a reservation would submit an initial reservation request to DOT. For any given hour, an air carrier could request one or more reservations as desired. These requests would have to be submitted by January 1 and July 1 of each year. DOT would tally the reservation requests. If there were a "resolution" (i.,e., the number of reservations requested by the airlines was less than or equal to the number available in each hour), DOT would grant all requests. If there were no resolution, DOT would have to compute the number of slots for each airline. This would be done based on a number of factors, including:

- number of slots allocated in the preceding scheduling period, with a minimum of slots;
- number of pasengers enplaned (i.e., who board the plane) per departure;
- number of passengers deplaned (i.e., who leave the plane) per arrival;
- number of different cities to which nonstop service has been provided in the preceding scheduling period relative to the number of slots allocated.

The first factor (current slot allocation) would allow for some continuity and stability of existing service patterns. DOT is now considering allocating half of the available slots based upon the existing allocation. The second and third factors (enplaning and deplaning) would allow DOT to measure the service each airline provided with its slot allocations in the past. Because larger airlines, serving higher-population markets, tend to enplane and deplane more passengers, this factor placed smaller markets (i.e., areas with less air service) at a disadvantage. Therefore, DOT also proposed using the fourth factor, namely, the number of different cities provided direct air service by each carrier. By considering the airlines' enplanement/deplanement figures, along with the number of cities served, DOT would be able to measure the carriers' "public service," obtain a better distribution of service to and from high density markets among the three area airports (National, Dulles, and Baltimore-Washington International), and provide direct access to and from DCA to the maximum number of cities.

Once DOT had awarded each carrier its total number of reservations for the day, the second step of this administrative procedure—allocation of slots by hour of day—would begin. Each carrier would submit several alternative schedules, and DOT would combine these into a feasible "consolidated schedule" for all participating airlines. DOT invited comments in the NPRM concerning this mechanism, the specific weighting factors to be assigned to each component of the allocation formula, and minimum allocation to new entrants.

(B) Actions—DOT also proposed separate semiannual auctions for air carrier commuter reservations at DCA. The proposed procedure would take place in two steps: a "reservation auction," followed by a continuous "reservation exchange." In the first step of the auction, each carrier (a similar procedure would be used for air taxis) would have to submit, by January 1 and July 1 of each year, sealed bids for the landing and takeoff reservations it desires for the next 6-month period. The bidding would take place in a number of rounds, during which DOT would release certain information on which the air carriers could base their bids for the next round. Individual airline's demands would not be revealed. After a specified period, if there were no more bids, or only minimal changes to previous-round bids, the auction would end. The auction also could end, and DOT could finalize awards and prices, if all the participating carriers informed DOT withn 24 hours after a round of bidding that they chose to end the auction. DOT then would notify each successful bidder in writing of the amount of its accepted bid prices. (DOT would not retain this money, but would pay it into the United States Treasury. DOT also has asked for comments in its NPRM on whether this money could be handled in other ways—for example, paid into a special fund for DCA or some other aviation-related purpose. The auction revenuer would not take the place of landing fees, which now cover the cost of maintaining and operating the airfield, and which air carriers and taxis would continue to pay.)

In the second step of the process—the continuing "reservation exchange"—reservation owners could sell their reservations to other users. Any reservation owner wishing to sell a reservation and any air carrier or air taxi wishing to buy a reservation would notify DOT in writing. DOT would maintain a list of available reservations and desired reservations and bid prices, but the names of the bidders and offerors would not be disclosed until the transaction was completed. This would eliminate special deals, collusion, or conspiracy that might impair DOT's objective of enhancing competition.

There are several advantages to the auction process. By requiring carriers to pay for slot rights, the auction method ensures that the slots go to those carriers that can most profitably use them. New entry and expansion by the more efficient carriers would be encouraged, while less efficient carriers would be discouraged from entering or expanding at the airport. A carrier would be free to discontinue marginal or unprofitable service by selling its slots, but could re-enter the market at a future date if it so desired.

An important advantage of the auction system is that, because it would force airlines to pay for landing and takeoff privileges, the airlines might be encouraged to redistribute their flights to the other area airports (Dulles International and Baltimore-Washington International), where they could charge lower fares (because the fares would not reflect slot allocation costs). One disadvantage of the auction system would be that airlines serving DCA could raise fares to reflect the cost of their slots.

(C) Scheduling Committees—This alternative would maintain the status quo.

The DOT invited specific comments on the appropriateness of the operations of the present committee system as well as any suggestions for modifications to the rules under which the committees function that would improve the results. In addition, comments were invited on the current system used to allocate air taxi slots. Under that system, slots allocated to commuters are essentially frozen. New entrants or additional flights by a given air taxi can only be added when another air taxi relinquishes a slot or when the number of slots is increased. These comments will be weighed against objections to aspects of the auction and administrative allocation process to determine whether regulatory action under Alternative (A) or (B) is advisable. In addition, these comments will be considered if Alternative (A) or (B) is adopted and proves unworkable, inefficient, or otherwise undesirable in actual practice.

In addition to Alternatives (A), (B), and (C), above, the October 1980 NPRM also described a special provision that would offer some protection to smaller markets and, in the event of an auction, the airlines that serve them. These markets have suffered because of the current trend at DCA and other major airports toward slot usage by carriers on more profitable markets (those involving longer hauls and/or high passenger levels). To alleviate this problem, DOT proposed dividing the current market categories (large hub, medium hub, and small or non-hub) into "submarkets," based on distance from Washington, geographic quadrant (New England, Middle Atlantic, Southeast, etc.), or city hub size.

The process would start with a determination of the percent of total slots which are currently being used to serve the three market categories. During June 1980, the distribution was:

	Percent
Large hub	54
Medium hub	23
Small hub and non-hub	28

These percentages would then be applied to the total number of slots to be made available during the forthcoming scheduling period. This would set the size of the three air carrier "submarkets."

The second phase would be to allocate the slots independently in each of these submarkets using either scheduling committees, slot auctions, or the administrative procedure. There would be no transfer of slots between "submarkets" unless the total demand for slots fell short of the number available. Using hub size as a criterion for establishing the allocation subset has the advantage of placing together markets of relatively comparable economic strength. While this mechanism would not guarantee that every small or non-hub would continue to receive the same amount of non-stop service to and from Washington National, it would tend to protect these markets, and to compete more equitably for a limited resource with similarly situated competitors.

With respect to the possible two-step process for allocation, DOT also proposed that if the slots are not used to serve the specified hub type, they would revert to the DOT for reallocation.

Another alternative DOT is considering involves general aviation operators (those that do not qualify as commuter operators or air carriers). For example, if DOT adopts the auction system—Alternative (B), above—the system might treat general aviation operators separately, setting aside an allocation for these operators, rather than requiring them to participate in the bidding process. Some public comments have pointed out that this is a logical system, since general aviation operators do not require slots on a regularly scheduled basis. Others, however, contend that, given the limited number of slots available and the need for economic efficiency, it is not desirable to allocate slots specifically to general aviation. These commenters believe that general aviation users should compete in an auction system.

DOT is considering two alternatives:

(1) Continue the present system, in which general aviation operators would continue to pay landing fees, but would not be required to bid for slots or participate in a two-step administrative scheduling procedure. This would not require a regulatory change.

(2) Set the fee for the use of a slot for general aviation during any hour at the bid price established during the auction for scheduled air taxi reservations. An advantage to this alternative is that it would encourage redistribution of general aviation traffic to nearby airports, where auction fees are not applied.

Summary of Benefits

Sectors Affected: Scheduled air carriers; commuter airlines; and scheduled passengers, including passengers traveling to and from small communities.

DOT expects that benefits from a two-step allocation system, which is different from the current scheduling committee system, would be to increase competition among carriers serving DCA; to make more efficient use of the airspace; and to continue and possibly improve service to Washington, DC, for travelers from small communities. Other benefits are discussed above in the "Alternatives Under Consideration" section.

Summary of Costs

Sectors Affected: Air carriers; commuters; and scheduled passengers.

Without the two-step procedure, both the slot exchange auction and the administrative allocation are expected to result in increased service on high-density routes at the expense of service to smaller cities. If a slot exchange auction is initiated, passenger fares may, on the average, rise by as much as $6 to $24 (in 1980 dollars) depending on the airline bidding strategy. The average first-leg-out/last-leg-in fare for DCA (that is, the fare to the first stop after leaving DCA or the last stop before landing there) was $72 in February 1980. Fares would be unaffected by the administrative procedure or the scheduling committee procedure.

The slot exchange auction may increase airline costs of service at DCA between $49 million and $197 million per year (in 1980 dollars) depending upon airline bidding strategy.

Related Regulations and Actions

Internal: On August 15, 1980, the Secretary of Transportation issued a Washington Airport Policy. This followed publication of a Notice of Proposed Policy (45 FR 4320, January 21, 1980). The policy and implementing regulations were published in the **Federal Register** on September 18, 1980 (45 FR 62406). On October 29, 1980, DOT issued a regulation for the temporary allocation of slots at DCA for the period December 1, 1980, until April 26, 1981, because of the failure of the scheduling committee to come to agreement for that period. On March 24, 1981, the Secretary issued a notice delaying the effective date of the Washington Airport Policy and implementing regulations so that they could be reviewed under Executive Order 12291 (46 FR 19225, March 30, 1981), Federal Regulation.

External: The Air Transport Association (ATA) has petitioned the CAB for an extension of antitrust immunity granted to the Airline Scheduling Committee. In CAB Order 80-9-148, the CAB granted the ATA a one-year extension of antitrust immunity. At the same time, the CAB will investigate the need for antitrust immunity for airline scheduling committees.

Active Government Collaboration

The DOT has worked with the Civil Aeronautics Board (CAB) and the Department of Justice to develop a set of alternative allocation procedures. An initial study of slot auctions was prepared for DOT/CAB and was widely circulated for comment within the Government and to the general public

Timetable

Final Rule—To be determined.
Final Rule Effective—Not before January 1982.
Regulatory Flexibility Analysis—Not required, because NPRM was published before January 1, 1981.

Available Documents

NPRM—October 27, 1980 (45 FR 71238).

Draft Regulatory Analysis.

"A Method for Administrative Assignment of Runway Slots," June 1980, FAA-AVP-80-5.

Econ, Inc. "The Allocation of Runway Slots by Auction," Princeton, NJ, April 1980, FAA-AVP-80-3.

J. Watson Noah, Inc. "A Slot Allocation Model for High Density Airports," Falls Church, VA, August 1980.

The above documents are, or will be, available from the Agency Contact listed below.

Polynomics Research Laboratories, Inc. "Alternative Method of Allocating Slots: Performance and Evaluation." Available from the Civil Aeronautics Board.

Transcripts from public hearings held February 12 and 13, 1981, and written comments are available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation, 400 Seventh Street, S.W., Washington, DC. Refer to Docket No. 70. The docket is open between 9:00 a.m. and 5:30 p.m., Monday through Friday.

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SMALL BUSINESS ADMINISTRATION

Revision of Business Loan Policy; Business Loans and Guarantees (13 CFR 120.2(d)(4)*)

Legal Authority

The Small Business Act, 15 U.S.C. § 633(d).

Reason for Including This Entry

The Small Business Administration (SBA) has determined that these regulations are significant because they are precedent-setting—they will allow us for the first time to target media-oriented small businesses for financial assistance.

Statement of Problem

The Small Business Administration (SBA) is acutely aware of the large number of recent mergers and acquisitions in the media industries, and we are concerned that these takeovers tend to eliminate many media-oriented small businesses and promote concentration of ownership. We are also concerned that our present "opinion-molder" policy relative to media industry eligibility may be unnecessarily inhibiting our ability to assist these small businesses, and that it may thereby indirectly promote undesirable concentration of ownership. We are therefore in the process of altering this policy, and as we have expressed in recent testimony before Congress, we favor a regulatory rather than a legislative approach to accomplishing this purpose.

Under SBA's present regulatory policy, the Agency cannot make business loans to an applicant engaged in the "creation, origination, expression, dissemination, propagation, or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form or content" (13 CFR 120.2(d)(4)). There are several exceptions to this prohibition regarding assistance to firms involved in printing, advertising, T.V., and certain publishing firms.

SBA originally adopted this policy in 1953 under the authority granted by § 4(d) of the Small Business Act (15 U.S.C. § 633(d)), which permits SBA to "establish general policies which shall govern the granting and denial of applications for financial assistance by the Administration."

There are three basic reasons for the policy: First, the prohibition is based upon SBA's desire to avoid any possible accusation that the Government is attempting to control editorial freedom by subsidizing media or communication for political or propaganda purposes. Second, the Agency has generally sought to avoid government identification, through its business assistance programs, with concerns which might publish or produce matters of a religious or controversial nature. Third, SBA recognizes that the constitutionally protected rights of freedom of speech and press ought not be compromised either by the fear of government reprisal or by the expectation of government financial assistance.

SBA has come to the conclusion that assistance rendered under exceptions to the "opinion-molder" rule and its Small Business Investment Company and disaster programs may not be sufficient to assist the small businesses in the media industries which are demonstrably in need of increased assistance. We feel that time has come for a complete revision of our "opinion-molder" policy. We note that there has been strong sentiment in both Houses of Congress favoring a change in the policy, and we acknowledge that the present policy has produced inconsistent results in the way we have rendered our assistance. For example, we have made assistance available to some "opinion-molders" by virtue of the rule's exceptions. However, we have denied assistance to those businesses in analogous areas of opinion-molding which do not fit into the exceptions. Therefore, we have recently undertaken a legal review of the policy, and we feel that we are not legally prohibited from making regulatory changes which will allow us to make much more assistance available from SBA to media concerns.

We favor a regulatory approach to this problem because, as indicated below, we feel it will permit us to maintain the rule's valid features while allowing increased assistance to worthy elements of the media industry.

Alternatives Under Consideration

Alternative (A)—Retain the present rule, but provide a waiver procedure by which media concerns which SBA denies assistance could demonstrate that the purpose of the rule is not served by the denial of assistance.

This policy would add a "rule of reason" to SBA's current strict policy of denying assistance to all "opinion-molders" except those that qualify for specific exemptions. This proposal would give SBA administrative flexibility to allow funding of certain enterprises covered by the rule where application of the rule would serve no useful purpose (e.g., most publishers or distributors of greeting cards, sheet music, pictures, and posters; producers or distributors of musical broadcasts or recordings; specialty bookstores that do not promote a particular point of view; most neighborhood newspapers). The waiver procedure would be administered by an SBA central office committee to ensure fairness and uniformity in ruling on waiver requests.

Alternative (B)—Expand the exceptions in the current rule to allow SBA assistance to those types of businesses which meet the present broad definition of an "opinion-molder," but which do not primarily mold opinions, and the funding of which would not be likely to promote governmental interference with freedom of speech and press.

This proposal would substantially reduce the number of cases in which SBA is forced to deny assistance to concerns which technically are covered by the rule but in which no real purpose is served by denying them assistance. Unlike the waiver procedure described above, this proposal could directly exclude from the rule, for example, greeting card manufacturers and certain types of publishers. The case-by-case determinations involved in the waiver procedure are absent from this proposal.

Alternative (C)—Replace the present broad proscription against assisting "opinion-molders" with specific prohibitions against certain types of assistance to certain types of enterprises. This proposal would reverse the structure of the current extremely broad rule by making small media concerns eligible for assistance unless otherwise prohibited from receiving it. This proposal would have the effect of widening the scope of media concerns to which SBA would provide assistance.

Alternative (D)—Prohibit SBA assistance to certain forms of media enterprises which advocate a particular religious, political, social, or economic point of view.

This proposal would narrow the "opinion-molder" rule to cover those cases where its purpose is best served. The danger of government censorship of the press is greatest where a newspaper, magazine, book publisher, or bookstore advocates a particular point of view. By refraining from assisting all such businesses (regardless of what point of view is advocated) while funding other media concerns which do not advocate a particular point of view, SBA could assist eligible media enterprises while avoiding actual or apparent government censorship of the media.

For the purposes of this proposal, a daily or weekly newspaper serving a city or community would not be considered as advocating a particular point of view, even if it carried editorials as well as news stories.

Alternative (E)—Prohibit SBA assistance to an applicant if more than 30 percent of the applicant's annual gross income is derived from the sale, rental, or lease of religious products, materials, or services.

This proposal, which includes but is not limited to media concerns, would ensure that SBA's liberalization of the "opinion-molder" rule would not run afoul of the First Amendment's prohibition of governmental establishment of religion. The Supreme Court has repeatedly held that government cannot act in a manner which will have a primary effect that advances religion or which will promote excessive entanglement with religion. SBA funding of religious bookstores or broadcast stations that emphasize religious programming would advance religion and excessively involve the government in religiously oriented enterprise. The 30 percent income limitation contained in the proposal is a reasonable standard by which SBA could determine that assisting an enterprise would violate the First Amendment.

Alternative (F)—Prohibit SBA assistance to an applicant if more than 30 percent of the applicant's annual gross income is derived from the sale, rental, or lease of sexually explicit products, materials, or services.

This proposal, which includes but is not limited to media concerns, would keep SBA from funding hard-core sex industries. Such businesses (e.g., sexually explicit magazines or pornographic bookstores or theaters) are generally not in need of governmental assistance and thus SBA's finite resources could be more productively applied to other types of businesses.

Alternative (G)—Prohibit direct SBA loans to "opinion-molders."

Presently, all financial assistance, including SBA loan guarantees as well as direct loans, is denied to "opinion-molders." The dangers of government interference with freedom of speech and press is greatest where direct loans are involved. This proposal would be a reasonable accommodation between our desire to assist eligible media enterprises while minimizing the danger of actual or apparent government censorship of the media.

Summary of Benefits

Sectors Affected: All "media" small businesses, including printing, publishing, and allied industries, news syndicates, television and radio broadcasting, motion pictures, and theatrical producers; and SBA.

These regulations will benefit all U.S. small media businesses because we will use them to determine which of those businesses will be eligible for SBA assistance. In addition, these revisions will benefit SBA by making its policy with respect to assistance to media concerns more specific. However, no additional funds will be available to media concerns as a result of the revisions. The revisions will merely affect the targeting of appropriated funds.

Summary of Costs

Sectors Affected: None.

SBA expects no costs as this rule by itself would impose no burdens. There is a possibility that the rule could result in decreased funding to some businesses, since the rule would not generate additional funds, but redistribute current targets. However, we do not know at this time what businesses would be affected or to what degree.

Related Regulations and Actions

Internal: These regulations will apply to SBA's loan-making function. Therefore, those regulations which deal with that function, 13 CFR Parts 120 and 122, will be affected.

External: None.

Active Government Collaboration

In preparing its ANPRM, SBA contacted the Department of Justice and Office of Management and Budget to obtain legal clearance. We do not contemplate any other government collaboration although we anticipate that comments may be forthcoming from

other sectors of the executive branch, as well as from the legislative branch of government.

Timetable

NPRM—Summer 1981.
Public Comment Period—60 days following publication of NPRM.
Public Hearing—None planned.
Regulatory Impact Analysis—None planned.
Regulatory Flexibility Analysis—Not required.
Final Rule—To be determined.

Available Documents

ANPRM—45 FR 66807, October 8, 1980.

A complete docket of public comment is available for copying and inspection at the offices of the Small Business Administration, 1141 L Street, N.W., Washington, DC 20416, Room 700.

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CIVIL AERONAUTICS BOARD

Air Carrier Insurance and Liability (14 CFR Part 205)

Legal Authority

Federal Aviation Act of 1958, § 401(q), as amended by the Airline Deregulation Act of 1978, § 22(d), P.L. 95-504, 92 Stat. 1722, 49 U.S.C. § 1371(q).

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it would place insurance requirements on certificated route airlines for the first time and would substantially increase the present insurance requirements for air taxi operators. The proposed rule would also meet a concern of Congress when it passed the Airline Deregulation Act of 1978: that passengers be protected during the transition to a more competitive environment.

Statement of Problem

The Civil Aeronautics Board (CAB) staff estimates that the average bodily injury/death claim award for losses suffered by passengers and non-passengers has climbed from $55,182 in 1967 to a projected $252,834 in 1979, an increase of 450 percent. The CAB's insurance regulations (14 CFR Parts 208 and 298), which require airlines to obtain insurance from private companies, now only apply to air taxis (operators of small aircraft), charter airlines, and domestic cargo carriers. The minimum insurance limits that the CAB requires for these carriers range from $75,000 per person to $500,000 per person. However, at the present time, there are no CAB insurance requirements for CAB-certificated passenger carriers, such as the large nationwide airlines.

The Airline Deregulation Act of 1978 requires all certificated air carriers to have liability insurance coverage as established by the CAB. Unless a carrier complies with the CAB's insurance rules, it cannot obtain or retain operating authority. Although there has not been a problem with the ability of existing scheduled carriers to pay claims made against them, Congress concluded that airline deregulation would significantly reduce the barriers to entry into air transportation. This in turn could result in operations by new carriers that are less able to compensate the public for damage losses in an accident.

Changes in the liability protection rules also appear to be needed to keep pace with the steadily increasing value of losses the public suffers in aircraft accidents. The restructuring and revision of insurance rules will also meet the mandate of the Congress, in ensuring protection of the public during the transition of air transportation from a heavily regulated to a deregulated market.

Alternatives Under Consideration

Possible alternatives the CAB is considering include (A) minimum standards for insurance policies and self-insurance plans, to prohibit certain types of exclusions of liability, such as for safety violations, or to require certain specific terms, such as for policy cancellation, (B) minimum limits of coverage, (C) requiring disclosure of the carrier's insurance and liability limits to shippers, (D) establishing different limits and standards for different types and sizes of air carriers, and (E) no action at all at this time.

Minimum limits of liability and minimum standards for insurance policies, alternatives (A) and (B), would set specific amounts and terms and conditions that the carriers must meet. The standards would be similar to the CAB's current insurance rules, which require insurance by licensed insurors, and prohibit cancellation without notice to the CAB. These alternatives have the advantage of ensuring a minimum financial responsibility for all existing carriers, whatever their past records, and for new carriers as the historical barriers to entry are reduced. They would also go further in meeting the intent of the Airline Deregulation Act, which emphasizes that safety in air transportation be given primary importance in the transition to deregulation. A possible disadvantage could be corresponding ticket price increases if mandatory coverage is adopted with conditions requiring higher premiums, or in amounts greater than standard industry coverage.

For domestic air cargo transportation, the CAB now uses alternative (C), requiring carriers to disclose their insurance and liability limits for cargo, but does not require specific amounts for those limits. While the CAB has only used this type of approach in regulation of insurance liability for a short time, it has the advantage of allowing carriers to establish their own liability limits within the boundaries of competition and internal economic management. Its disadvantages are that it depends on a generally knowledgeable consumer, such as a shipper in cargo transportation, and may not be as effective in giving actual notice to vacation travelers and others who might not be regular users of air transportation.

Alternative (D) is important because of the wide variety in the size of airlines, the aircraft they use, and the size of their businesses. An advantage of different rules for large and small aircraft or businesses is that the rules may be structured so that the premium costs are not overwhelming. The disadvantage is that nonuniform rules may be misleading to passengers and shippers.

Alternative (E) is based on the assumption that the present standards, conditions, and applicability of the CAB's insurance requirements are adequate, and that the burden should generally be on passengers and shippers to ensure that they have necessary insurance coverage in case of an accident. Advantages are no increase in costs to airlines, other than inflation. The disadvantages are the possibility of substantial loss for some passengers because of inadequate insurance of some air carriers, and that passengers would have no way of knowing whether the airline has adequate coverage.

The CAB is proposing to use a combination of alternatives (A) through (D). The proposal includes authorized exclusions and standards for insurers, and minimum coverage of $300,000 per passenger. The minimum for passenger liability per accident would be $300,000 x 75 percent of the number of seats. For liability to non-passengers, the proposed amounts are $300,000 per person and

$20,000,000 per occurrence ($2,000,000 for small aircraft). The proposal would also require disclosure of an air cargo carrier's insurance and liability limits to shippers. This combination of alternatives would allow the agency to tailor insurance regulations to the needs of each group of shippers and passengers, and to the ability of carriers to afford needed coverage.

Summary of Benefits

Sectors Affected: Air cargo carriers; air travelers; shippers using air transportation; and the general public.

Air passengers, air shippers, and, for that matter, anyone on the ground can be expected to benefit from the proposed insurance requirements because they would be better able to recover money damages in the event of an accident or damage to property. Cargo air carriers would benefit by being able to set their own insurance levels and liability limits to meet market demand, thus ensuring they will be at the most efficient amounts.

Summary of Costs

Sectors Affected: The air transportation industry, including certificated air passenger carriers, charter air carriers, air taxis, and air cargo carriers; the insurance industry; air travelers; and the CAB to monitor enforcement.

Although the CAB has not previously required certificated route carriers to maintain insurance, most already have coverage in amounts equal to or greater than the limits being considered. All but one of the charter airlines also have such coverage. Some air taxi operators may have to increase their insurance coverage to meet the proposal, and new carriers would, of course, have to obtain coverage meeting these standards. Air cargo carriers would have the cost of giving notice to their customers of the insurance carried. The CAB staff estimates that the increased annual cost to the air taxis for new passenger liability coverage may be approximately $200 (1979 dollars) per seat, and the increase in cost for public liability coverage (insurance for liability to people other than passengers) may be approximately $200 to $4,000 (1979 dollars) per plane, depending on the size of the plane. These costs would likely be passed on to passengers and shippers as increases in prices.

The insurance industry would have some costs in rewriting present policies and obtaining reinsurance to meet the new coverages and conditions.

Operators of small aircraft would have somewhat smaller costs for the proposed third-party liability coverage, since the per-occurrence limit set for those aircraft would be $2,000,000 rather than $20,000,000.

Related Regulations and Actions

Internal: Insurance requirements for special classes of air carriers: Indirect Cargo Carriers—14 CFR Part 296; Air Taxis—14 CFR Part 298; Domestic Cargo Carriers—14 CFR Part 291; and Charter Carriers—14 CFR Part 208.

External: The CAB staff is researching related actions by other agencies.

Active Government Collaboration

CAB staff held discussions with the Federal Aviation Administration, whose experience with accident litigation and insurance problems is helpful to the CAB in formulating a proposed rule, and with the Military Traffic Management Command for information about insurance of air carriers carrying civilians for the Department of Defense.

Timetable

Public Hearing—None.
Final Rule—Summer 1981.
Final Rule Effective—Fall 1981.
Regulatory Impact Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the CAB prepares essentially the same information in its NPRMs and final rules.
Regulatory Flexibility Analysis—The Regulatory Flexibility Act does not require a Regulatory Flexibility Analysis for proposals, such as this one, that were issued before January 1, 1981.

Available Documents

NPRM—45 FR 7566, February 4, 1980 (EDR-395).

Extension of Comment Period—45 FR 14062, March 4, 1980 (EDR-395A).

NOTE.—Numbers in parentheses are CAB reference numbers for these documents.

Civil Aeronautics Board Dockets 37531 and 37532.

Public comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, DC.

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CAB

Essential Air Service Subsidy Guidelines (14 CFR Part 271)

Legal Authority

Federal Aviation Act of 1958, § 419(d), as amended by the Airline Deregulation Act of 1978, P.L. 95-504, 92 Stat. 1739, 49 U.S.C. § 1389(d).

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should significantly reduce the Federal subsidy of airlines. It also represents a major shift in focus of the subsidy program. Rather than subsidizing certificated airlines to aid in their economic viability and expansion, the new subsidy program will focus on smaller commuter airlines in order to improve air service to small communities.

Statement of Problem

The primary thrust of the Airline Deregulation Act of 1978 is to let the level, quality, and price of air transportation be determined by free competition of airlines seeking to meet consumer demand, instead of by pervasive government regulation. However, to minimize the potential disruption caused by airlines' increased freedom to reduce or eliminate service in particular markets, the Deregulation Act also established a program to preserve essential air service to small communities that cannot support profitable air service, using Federal subsidy when necessary. The CAB is responsible for determining the level of essential air transportation at each eligible point and ensuring that such service is provided. "Eligible points" basically are those to which any certificated airline was authorized to provide service on October 24, 1978 (746 points), plus certain other points that the CAB may designate. "Essential air transportation" is a level of air transportation that the CAB, according to statutory criteria, finds will satisfy the community's needs for air transportation to one or more principal destinations, and will ensure the community's access to the Nation's air transportation system.

The Federal Aviation Act has long contained a subsidy provision, § 406. Although the CAB has built incentives

into that subsidy system, § 406 has not always been effective as a tool to prevent the withdrawal of airlines from small communities. One reason is that § 406 is limited to certificated airlines, which typically use large aircraft that cannot operate efficiently to many of the affected cities and towns. Also, the CAB must consider the needs of the certificated airline's overall system, and not only the points affected, when determining the airline's subsidy need.

This subsidy provision had not been significantly modified since the adoption of the Civil Aeronautics Act in 1938. Its primary intent was the development of a national air transportation system, rather than ensuring air service to small communities. That is why the CAB considered the financial need of the airline's entire system in establishing subsidy rates. This approach enabled airlines to expand and acquire larger aircraft. While this worked well in building the air transportation system and nurturing airlines to self-sufficiency, the shift to larger equipment made high-frequency service to smaller points increasingly impractical. Because the § 406 subsidy was limited to certificated airlines, the CAB was unable to subsidize the air taxi industry (uncertificated operators of small aircraft) whose equipment was better suited to serving the small points.

The essential air service subsidy program of § 419, which was added to the Federal Aviation Act by the Airline Deregulation Act of 1978, corrects this problem. This rulemaking to establish subsidy guidelines responds to § 419(d), which states:

> The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point.

During fiscal year 1980, the CAB provided subsidy support for 27 points, at an average cost of about $225,000 per point. During fiscal year 1981, the CAB expects to provide subsidy support for 51 points. Those points are smaller communities where air service cannot be provided at a profit. The § 419 subsidy program is reaching all communities that want service, need subsidy, are not receiving subsidized service under § 406, and qualify as eligible points under the Act.

Alternatives Under Consideration

The Airline Deregulation Act does not point the CAB toward any particular subsidy approach. On the contrary, Congress expects the CAB to develop new and innovative subsidy methods. The primary emphasis is on ensuring essential services, rather than on minimizing the costs of the program; i.e., the subsidy program must be structured so as not to hinder, in any way, the provision of essential services. But of course, the CAB must be prudent with Federal expenditures, so it is faced with the dual and possibly conflicting objectives of assuring the provision of essential air services while maintaining a fiscally responsible program.

Developing a market for air service to small communities is a step common to achieving both goals. Specifically, increased traffic volumes can at once justify better service (more flights) and reduced subsidy cost. The CAB is considering two alternatives for achieving these goals. The cost-plus subsidy, under which the CAB would reimburse airlines for their expected losses, allow them a reasonable profit, and, in addition, compensate them for any additional losses that they incur in actually providing the service, does not appear to promote either goal. The CAB has rejected this approach.

Instead, the CAB favors two innovative incentive approaches. Under one, the fixed incentive rate, the CAB would reimburse the airline for a predetermined projected loss, and would allow a reasonable profit. If the airline incurred additional losses, it would not receive additional compensation. If the airline received additional revenue, however, it could keep the extra profit. The possibility of making large profits with subsidy gives airlines the incentive to be cost efficient and develop the market. The possibility of uncompensated losses, however, poses the danger of service terminations. To avoid this problem, the CAB is considering another approach, the shared incentive rate. Under this approach, as with the others, the CAB would reimburse the airline for a predetermined projected loss and allow a reasonable profit. The difference is that under the shared rate, the CAB would compensate the airline for some of its additional losses instead of all of them (cost-plus approach) or none of them (fixed incentive rate approach). These alternatives are more fully discussed in the NPRM (45 FR 83254, December 18, 1980).

Summary of Benefits

Sectors Affected: Small communities; air travelers and potential travelers to these communities; industries within small communities; the air transportation industry, particularly small, commuter airlines; the general public; and CAB.

The benefit from the subsidy program is the assurance that all communities that were receiving service from a Board certificated carrier would continue to be linked to the air transportation network. In some subsidy cases, the combination of deregulation and subsidy will result in more flights and cheaper or more available air service. Small commuter airlines are more likely to take advantage of the subsidy program because it is oriented towards cities where jet service is inefficient. This may lead to other tangible benefits to the communities, such as the attraction of new industry or business, and intangible benefits, such as an improved way of life stemming from better and continued access to the Nation's air transportation system.

The subsidy guideline rule, as opposed to the subsidy program itself, should also provide several benefits. It would simplify the procedures for computing subsidy amounts, thus saving administrative time for the CAB and airlines. It should also result in improved services and lower subsidy costs by using an incentive approach. Although the effect on individual taxpayers of the choice of guidelines will be slight in any event, the incentive plan should minimize subsidy compensation and save taxpayers in the aggregate several million dollars annually, when compared with other approaches to subsidy.

The Congressional Budget Office estimated that when this new system is phased in and the old subsidy system phased out (currently scheduled for 1986), there will be a savings of 26 million subsidy dollars (1980 dollars) per year. A proposal has been submitted to Congress to end the § 406 subsidy program on October 1, 1981. If it is adopted, several points currently subsidized under § 406 would require subsidy under the § 419 program. This would raise the costs of the § 419 program but should result in an estimated overall savings of 55.6 million subsidy dollars (1980 dollars) per year. The subsidy program and guidelines are not predicated on a cost/benefit analysis by the Agency, but are required by law.

Summary of Costs

Sectors Affected: CAB.

The cost to the Government of the underlying § 419 subsidy program for fiscal year 1979 was $1.2 million and for fiscal year 1980 was $9 million. The CAB staff's preliminary estimates of the costs are $20.2 million (1980 dollars) for fiscal year 1981 and $25.1 million (1980 dollars) for fiscal year 1982. (If the § 406 program is eliminated, the CAB staff estimates that the costs of the § 419 program would be $58 million (1980 dollars) for fiscal year 1982.) A regulation establishing subsidy guidelines, as opposed to the subsidy program itself, is not likely to impose any significant costs.

Related Regulations and Actions

Internal: The CAB has adopted the following new regulations:

Criteria for Designating Additional Eligible Points—14 CFR Part 270.

Terminations, Suspensions, and Reductions of Service—14 CFR Part 323.

Procedures for Compensating Air Carriers for Losses—14 CFR Part 324.

Guidelines for Individual Determinations of Essential Air Transportation—14 CFR Part 398.

External: The CAB is a party to an interagency cooperative agreement, described below.

Active Government Collaboration

The CAB is a party to an interagency cooperative agreement for the purpose of fostering optimum air service to small communities through coordinated financial assistance. The agreement is titled "Small Community Air Transportation Memorandum of Cooperation." Other parties to it are: the Economic Development Administration (Department of Commerce), the Federal Aviation Administration (Department of Transportation), the Farmers Home Administration, and the Small Business Administration.

Timetable

Public Hearing—None.
Final Rule—Summer 1981.
Final Rule Effective—Summer 1981.
Regulatory Impact Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the CAB prepares essentially the same information in its NPRMs and final rules.
Regulatory Flexibility Analysis—The Regulatory Flexibility Act does not require a Regulatory Flexibility Analysis for proposals, such as this one, that were issued before January 1, 1981.

Available Documents

Available documents can be viewed at Docket Section, Room 711.

Final Rule adopting Part 270: 44 FR 76767, December 28, 1979 (ER–1166).

Final Rule adopting Part 323: 44 FR 20635, April 6, 1979 (PR–200).

Final Rule adopting Part 324: 44 FR 42171, July 19, 1979 (PR–209).

Final Rule adopting Part 398: 44 FR 52646, September 7, 1979 (PS–87).

NPRM proposing new Part 271: 45 FR 83254, December 18, 1980 (EDR–415).

Public comments in CAB Docket 39041 may be examined and copied at the Docket Section, Room 711, Civil Aeronautics Board, Washington, DC 20428.

Note.—Numbers in parentheses are CAB reference numbers for these documents.

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CAB

Notice to Passengers of Conditions of Carriage (14 CFR Part 255)

Legal Authority

Federal Aviation Act of 1958, as amended, §§ 403, 404, and 411, 49 U.S.C. §§ 1373, 1374, and 1381.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should greatly benefit a large portion of the public by increasing passengers' ability to understand their agreements with the airlines, and to make informed choices about what airlines to fly and what services to buy. It should also help airlines to prepare for the later stages of deregulation, when they will have to make contracts directly with passengers, rather than through tariffs filed with the CAB.

Statement of Problem

Contracts between airlines and their passengers are very complicated. The airlines write thousands of contract provisions in technical legal language and publish them in tariffs, which are documents that airlines file with the Civil Aeronautics Board (CAB). These documents contain crucial information about the rights passengers do or do not have when they encounter air travel problems like mishandled baggage, delayed or canceled flights, oversold flights (bumping), lost tickets, or fare misunderstandings. Unlike the practice with most contracts, airlines do not give air travelers a copy of the tariffs to take home and read. The CAB requires airlines to inform passengers about a few basic subjects by using airline ticket notices and ticket counter signs written by the CAB (14 CFR 221.173–221.176). But even these notices have been technical and hard to understand, and to read most of the terms of their contracts, passengers must visit the Tariffs Section at the CAB or an airline ticket office where tariffs are kept open for public inspection. It is hard for the average passenger to locate and understand important information in the tariffs, and most airline passengers don't find out about many important limitations on their rights until after they have a serious problem and register a claim with the airline. But because of the legal doctrine of "constructive notice," under which passengers are assumed to know what is in the tariffs, passengers are usually bound by the contents of tariff rules, whether or not they are aware of them when they agree to buy their tickets.

Alternatives Under Consideration

The CAB has issued an NPRM (45 FR 42629, June 25, 1980) proposing a simpler, more direct way than tariffs for informing passengers of their contract terms. The proposed rule states that airlines may not use the tariff system to put terms in the contract without giving passengers a direct opportunity to read and know of them. The courts would review the adequacy of the airlines' notification efforts in claims brought before them, as they do in unregulated industries. The NPRM requests comments on alternative ways to notify passengers. One alternative under consideration would entail increased amounts of CAB involvement in specifying "plain English" standards for the contract documents prepared by airlines, or in reviewing the clearness and completeness of documents. More detailed regulation—such as specifying subject matter, readability, form, distribution, and type size of notices—has the disadvantages of restricting airline management decisions and not necessarily using the most effective and least costly method.

Summary of Benefits

Sectors Affected: Air travelers (over 250 million passengers yearly); the air transportation industry; and travel agents.

Passengers would have more reasonable expectations of just what is

included in their air fares, and would be able to take precautions to avoid many types of air travel problems or minimize the consequences when problems do arise. They would also be able to make more informed choices among competing airlines, since they would have a clearer understanding of the differences in the services offered. Airlines would also receive some benefits, since they would gain valuable experience for the later phases of deregulation, when they will no longer have the protection of a government-regulated tariff system and the concomitant doctrine of constructive notice. Similarly, travel agents would be better able to serve their customers, since they could more easily determine the differences between different airlines' service offerings.

Summary of Costs

Sectors Affected: The air transportation industry; and air travelers.

There would be one-time airline costs to develop "plain English" contract documents, as well as printing and distribution costs to make the documents available to passengers. Under airline deregulation, when tariffs are eliminated for domestic air transportation in 1983, however, airlines will eventually face this problem and these costs in some form anyway. The costs would presumably be reflected in the airlines' fare-setting decisions. The effect of the CAB regulation would not be to add significantly to costs in the long run, but instead to assist the industry in developing the most cost-effective means of making passengers aware of the terms and conditions of their travel.

Related Regulations and Actions

Internal: The CAB issued an NPRM to simplify the notices that it already requires airlines to give passengers (45 FR 25817, April 16, 1980); CAB reference number for this document is EDR-396.

The CAB issued an NPRM to require that airlines give actual notice to passengers about the terms of the contract of carriage. Under the proposed rule, tariff filings would no longer automatically be part of the passenger/airline contract (45 FR 42629, June 25, 1980); CAB reference number for this document is EDR-404.

Exemption of U.S. and Foreign Air Carriers from Tariff Observance Requirements to Permit Resolution of Consumer Complaints, Order 78-12-49, Docket 34189.

Air Carrier Rules Governing Failure to Operate on Schedule or Failure to Carry, Orders 79-4-115, 79-9-129, 79-11-23, and 80-3-10, Docket 35361.

Air Carrier Rules Governing the Application of Tariffs, Order 79-2-106, 79-12-98, and Order 80-4-51, Docket 34772.

14 CFR Part 221, Tariffs.

14 CFR Part 250, Oversales.

External: None.

Active Government Collaboration

None.

Timetable

Public Hearings—None.
Supplemental NPRM—Summer 1981.
Final Rule—Fall 1981.
Final Rule Effective—Fall 1981.
Regulatory Impact Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the CAB prepares essentially the same information in its NPRMs and final rules.
Regulatory Flexibility Analysis—The Regulatory Flexibility Act does not require a Regulatory Flexibility Analysis for proposals, such as this one, that were issued before January 1, 1981.

Available Documents

The orders listed under Related Regulations and Actions can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, DC 20428, (202) 673-5432.

NPRM—45 FR 42629, June 25, 1980 (EDR-404).

Extension of Comment Period—45 FR 52820, August 5, 1980 (EDR-404A).

Public Comments—CAB Dockets 38021 and 38348 may be examined and copied at the Docket Section, Room 711, Civil Aeronautics Board, Washington, DC 20428.

Note.—Numbers in parentheses are CAB reference numbers for these documents.

Agency Contact

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FEDERAL COMMUNICATIONS COMMISSION

Children's Television Programming and Advertising Practices (Docket 19142)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 307, 308, and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks that these proposed regulations are of significant public interest because of the large volume of citizen mail received by the FCC about children's television programming and practices. This proposed rulemaking puts out for comment the options we think may be available for changing children's television programming practices, if change is appropriate.

Statement of Problem

On January 26, 1971, at the request of a public interest group, Action for Children's Television (ACT), the FCC issued a Notice of Inquiry into children's programming and advertising practices, calling for comments on ACT's proposal that the Commission adopt certain guidelines for television programming for children. As a result of this inquiry, the FCC issued a Children's Television Report and Policy Statement in October 1974 stating that it expected television licensees to make meaningful efforts to voluntarily regulate themselves in several areas:

- to air programming specifically designed for children;
- to air a reasonable amount of programming designed to educate and inform and not merely to entertain;
- to provide programming for specific age groups; and
- to improve scheduling practices.

The FCC also set forth specific advertising guidelines regarding too many commercials, separation of program matters from commercial matters, host selling (use of a program host or other program personality to promote products), and tie-ins (promotion of products during a program in such a way that it constitutes advertising). In 1978, the Commission reopened its inquiry and issued a Second Notice of Inquiry seeking information to evaluate the effectiveness of its 1974 guidelines and to assess possible alternatives to these guidelines. As a result of the Commission's findings, the FCC issued a Children's Television Task Force Report in October 1979, concluding that industry self-regulation during this period had not been effective in fully meeting the programming guidelines set forth in the 1974 Children's Television Report and Policy Statement. Subsequently, the Commission issued an NPRM (45 FR 1976, January 9, 1980) asking for comments on a number of options for rules to be applied to the broadcast industry. Comments were due

on June 16, 1980 and reply comments on August 1, 1980. The FCC is now reviewing these filings.

Alternatives Under Consideration

In considering whether (and to what extent) the FCC needs to regulate children's television programming, the FCC is considering the following alternatives:

(A) Repealing the existing Policy Statement.

(B) Maintaining or modifying the Policy Statement in accordance with comments received.

(C) Adopting interim programming rules requiring a minimum amount of educational programming for preschool and school-age children (the Task Force report recommended 2½ hours per week of educational and instructional programming for school-age children and 5 hours per week for preschool children). If these rules are adopted, they would require most broadcasters to provide additional programming for children. Economic analyses of television programming conducted by the FCC staff indicate that broadcasters are generally providing less children's programming than is desired by parents. The rules would require that the programming be aimed at specific age groups. Many broadcasters believe there is sufficient children's programming already being aired and that the proposed rules would result in improper government intervention into a licensee's operations.

(D) Adopting requirements similar to the proposed interim programming rules as license renewal processing guidelines. Such guidelines would provide that the renewal applications of stations broadcasting less than the guideline amounts of children's programming during the previous license term could not be routinely granted by the FCC staff, but would have to be brought before the full Commission. This would provide for some flexibility in licensee operations, as licensees failing to broadcast the guideline programming amounts would have the opportunity to make a showing as to why they took such action, and why their failure to meet the guideline was not an indication of failure to operate in the public interest. A guideline is essentially procedural in nature, while a rule is an absolute requirement.

(E) Encouraging competition in telecommunications by increasing the number of cable systems, subscription television and other types of pay television. If this is adopted, it would increase the number of sources of programming to provide diversity, and more programming might well be provided to small audiences and children's programming without Commission action.

Summary of Benefits

Sectors Affected: Children nationwide and their families; cablevision services; subscription or closed circuit television; and other types of pay television.

If adopted, the rules proposed as alternative (C) or the processing guidelines proposed as alternative (D) may increase the amount of educational/informational programming for children broadcast on any commercial television station. By increasing competition as proposed in alternative (E), the proceeding might lead to increased diversity in the type of programming available, including programming specifically produced for the child audience. Presently, children watch television on an average of 33½ hours per week for preschool age and 29 hours per week for school age. Eight percent of programming by network affiliates and 11 percent of programming by independent stations was devoted to children in 1978.

Summary of Costs

Sectors Affected: The entire television broadcasting industry, including networks, stations, and production and programming activities; and the advertising industry.

The FCC will review public comments on the question of potential costs of this proposal, and cannot make any express findings of these costs until final review has taken place.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Report and Order—December 31, 1981.

Regulatory Impact Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Impact Analysis. However, the FCC does an extensive analysis of the economic effects of regulation.

Regulatory Flexibility Analysis—None.

Available Documents

"Television Programming for Children," A Report of the Children's Television Task Force, October 1979.

Notice of Inquiry/Notice of Proposed Rulemaking—45 FR 1976, January 9, 1980.

The comments from the public are available for review (the public was invited to an FCC panel discussion on October 15–16, 1980).

Request Docket 19142.

Agency Contact

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FCC

Creation of "New" Personal Radio Service (PR Docket 79–140)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks this rulemaking is important because it would make a new personal radio service available to the public.

Statement of Problem

For over 30 years, the Federal Communications Commission has recognized the need for, and the value of, personal radio communications. The largest personal radio service is the Citizens Band (CB) Radio Service, in which the FCC has licensed more than 14 million people. Other personal radio services include the General Mobile Radio Service, which offers the general public very high quality communications, but at greater equipment cost, and the Radio Control Radio Service, which licenses people to operate model boats, cars, and airplanes by radio control. The CB Radio Service meets many personal and business needs, but there are continuing complaints by CB users about channel congestion and interference.

The FCC is now exploring several issues:

(1) to what extent the public views the limitations of the three personal radio services as problems (the limitations include the complaints mentioned above, as well as any other problems brought to our attention during the comment period);

(2) whether creation of a new personal radio service in a different frequency range would solve any problems;

(3) what the demand would be for a new personal radio service; and

(4) what features the public would like to see incorporated in a new personal radio service.

Alternatives Under Consideration

The FCC is considering whether to establish a new personal radio service in the 900 Megahertz (MHz) band. The major alternative under consideration is for the FCC to decline to create a new personal radio service. If the decision is made to establish the new service, there will be a series of secondary issues that will have to be resolved. For example, the FCC will decide whether equipment to be used in this new service should be designed so that it automatically identifies the station, and whether to allow interconnection with the public telephone system. A new service would aid the public in satisfying their personal communication needs. In comparison to CB, a new service could provide for better emergency highway and information communications, better communications between known parties (car to home or work, etc.), and could provide other technical and operational features not available in the other personal services. For these reasons, our demand estimates indicate that a new service could attract new people into personal radio who would never become users of CB radio, because of its problems. In addition, a new service could better provide for the needs of many CBers. It may also help to stimulate development of technology that can be used for other services; for example, the experience gained from the use of single sideband and/or digital communications may be applicable to other personal or land mobile services.

Summary of Benefits

Sectors Affected: Manufacturing, wholesale, and retail trade of two-way radio transmitting, signaling, and detection equipment and apparatus; all potential personal two-way radio users; and all owners of home entertainment equipment (such as stereos, televisions, etc.).

Some members of the public have suggested that the benefits of a new personal radio service at 900 MHz would include better quality communications than those available in the CB Radio Service; less potential than the CB Radio Service for causing television interference; and the possibility to incorporate special features (such as channels devoted to special uses) in the new service. A new service could reduce congestion in the CB radio service and offer a higher quality radio service than the present-day CB service offers. The communications equipment industry could benefit from the sale of a new line of equipment usable by the general public. Some individuals may purchase new 900 MHz equipment to supplement or supplant their 27 MHz CB equipment, while others who never bought 27 MHz equipment will purchase 900 MHz equipment because of the high quality communications potential of the new personal radio service.

Summary of Costs

Sectors Affected: Radio services desiring the 900 MHz spectrum for their communications systems (broadcasting, private land mobile, and common carriers); and FCC.

Nine-hundred MHz equipment costs more than CB equipment because it uses an advanced state-of-the-art technology and, at least initially, demand would be low for the 900 MHz equipment.

The FCC has requested the public to comment on the issue of possible costs. For example, the FCC expressly asked for comments on whether the technical standards for the radios in the new service should be set so as to minimize the costs of the radio.

Related Regulations and Actions

Internal: The Commission terminated the proceeding in Docket 19759 (the proposal to create a new personal radio service in 220 MHz band). The public comments filed in this proceeding were inconclusive. The FCC concluded that a "fresh start" was necessary on the creation of a new Personal Radio Service, and, therefore, that it would start a new rulemaking proceeding to request public comment.

In addition to the actions noted above, the Commission is also investigating the feasibility of allocating some single sideband (SSB)–only channels to the CB Service. The role of SSB in the CB Service is one of the unresolved issues in Docket 20120, and, in view of the very widespread interest in this issue, the staff is researching the ramifications of an allocation of frequencies above 27.410 MHz. The reduced occupied bandwidth, the slight frequency offset, and the time varying characteristics of an SSB signal may well result in substantially reduced intermodulation product generation than occurs with the mixing of two AM signals. We hope to resolve this issue in the near future and take appropriate action based on our findings. The current proceeding will not be able, nor is it intended, to be the forum through which the SSB issue is resolved. We would, however, urge respondents who have unmet communications needs at 27 MHz to consider which, if any, of those needs might be met at 900 MHz, and to determine what impact a 900 MHz service will have on their overall communications needs.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—Fall 1981.
Regulatory Flexibility Analysis—None.
Regulatory Impact Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Impact Analysis. However, the FCC does an extensive analysis of the economic effects of regulation.
Public Hearing—None.

Available Documents

The Notice of Inquiry (June 7, 1979) is available on request from the FCC's Office of Public Affairs, Washington, DC 20554.

For review of public comments, request PR Docket 79–140.

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FCC

Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79–252) (47 CFR 61.38*)

Legal Authority

Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), 201, 202, 203, 204, 205, 214, and 403; Administrative Procedure Act, 5 U.S.C. § 553.

Reason for Including This Entry

The Federal Communications Commission (FCC) is attempting to change the traditional approach to regulating common carriers to one where the Commission would exercise only that amount of regulation that is necessary, depending upon the degree of market power exercised by particular providers of communications services.

Statement of Problem

The telecommunications industry provides telephone, telegraph, and similar "communications" services. As a result of technological and regulatory developments in recent years, the telecommunications industry has evolved from one dominated by a few large entities to one where there is now some competition for the provision of some communications services.

The rules the FCC originally adopted to regulate a monopoly telecommunications market may now result in unnecessary regulatory burdens on smaller competitive carriers, which up until now we have regulated fully as common carriers. However, there is some debate as to whether they should even be defined as common carriers. In general, a common carrier means any entity engaged in providing interstate and foreign communications services for hire.

Alternatives Under Consideration

We have attempted to address the problem in two ways. (A) The FCC has adopted a new regulatory scheme substantially reducing or eliminating several of the rules by which we regulate the entry and exit of certain carriers in the telecommunications market and the rates and practices they may charge and employ.

Under the FCC's new approach toward fulfilling its regulatory responsibilities, we have classified carriers on the basis of their ability to control prices in the marketplace. Those that lack such ability are labeled as non-dominant, and regulatory burdens on them have been significantly reduced or eliminated through a rulemaking that became effective November 28, 1980. Because these carriers lack the market power to charge rates or impose conditions of service that would contravene the Act, we now presume that their tariff filings are lawful. These carriers no longer have to submit the extensive economic data required by our current rules to support their tariff filings and they only have to provide 14 days notice to the public of tariff changes rather than the 90 days notice previously required. Moreover, the FCC will not suspend their tariff filings unless a petitioner can make a strong showing of substantial and irreparable injury to competition that harms the public. Non-dominant carriers are also able to institute or discontinue service more easily under the new regime. They have blanket authority to extend their circuits into any part of the continental United States and thus will no longer need a separate certificate to do so. They will also be able to discontinue service simply upon giving the Commission and their customers 30 days notice.

On the other hand, we have not relaxed the regulatory rules for those carriers which we have identified as possessing market power, i.e., dominant carriers, since we need to insure that such carriers do not exploit their dominance to the detriment of the public.

(B) The FCC is also examining the question of what types of communications carriers should be defined as common carriers and hence subject to our jurisdiction. The issues involved are set forth in a further NPRM released January 16, 1981 (46 FR 10924, February 5, 1981).

The Federal Communications Commission has tentatively concluded that the Communications Act of 1934 (the Act) does not compel us to apply any of the regulatory obligations set forth in Title II of the Act to all companies which offer communications services and facilities to the public. (The essential elements of Title II encompass traditional public utility regulations including control on price, publication of terms and conditions of service, prohibitions on price discrimination, control on investments, and an obligation to service all. These obligations are imposed on common carriers.) Rather, the Commission has the discretion to decide which communications suppliers should be treated as common carriers, and hence subject to Title II regulation as well as the discretion to forbear from imposing the full panoply of Title II regulation upon those entities which the Commission determines should be treated as common carriers.

The Commission must have a set of standards upon which to exercise this discretion. We therefore seek comment on what criteria should be used; but we tentatively conclude that market power is at least one element sufficient to identify those firms which should be treated as carriers as well as those common carriers which need not be subjected to full regulation under Title II. This element emerges from an analysis of the regulatory scheme embodied in Title II of the Act, the historical context in which the Act was adopted, and applicable legal precedent. We also seek comment on how this discretionary authority should be applied to the telecommunications industry, although we have tentatively determined that only those carriers with substantial market power in relevant submarkets need be subjected to Title II regulation. And finally, we seek comment on how our tentative conclusions should be implemented.

Summary of Benefits

Sectors Affected: The telecommunications industry, particularly nondominant carriers; telecommunications users; and the FCC.

This proposal would allow the FCC staff to concentrate its resources on regulating those carriers with substantial market power, particularly AT&T.

Under our new regulatory scheme, the FCC expects that non-dominant carriers (approximately 27) will save unnecessary regulatory costs, which savings in turn will be passed on to the consumer.

Summary of Costs

Sectors Affected: None.

We do not expect that the industry or the FCC will bear any additional costs as a result of these policies and in fact, regulatory and administrative costs will be significantly reduced if not totally eliminated.

Related Regulations and Actions

Internal: The FCC found that the public interest would be served by allowing all interstate telecommunications services, including message telephone service (MTS), wide area telephone service (WATS), and their functional equivalents, to be provided competitively (FCC Docket 78–72, MTS–WATS Market Structure Inquiry).

External: None.

Active Government Collaboration

None.

Timetable

Reply Comments are due June 5, 1981. (The initial comment period closed May 1, 1981.)

Second Report and Order—Winter 1981.

Regulatory Impact Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Impact Analysis. However, the FCC does an extensive analysis of the economic effects of regulation.

Public Hearing—None.

Regulatory Flexibility Analysis—46 FR 10934, February 5, 1981.

Available Documents

First Report and Order—FCC 80–628 released November 28, 1980 (45 FR 76148, November 18, 1980).

The Notice of Inquiry/NPRM of September 27, 1979, 77 F.C.C. 2d 308 (1979), the First Report and Order, and Further Notice of Proposed Rulemaking (46 FR 10924, February 6, 1981), are available on request from the FCC's Office of Public Affairs, Washington, DC 20554. Request FCC Docket 79–252.

MTS/WATS Market Structure Inquiry (FCC Docket 78–72).

Agency Contact

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FCC

Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System (Broadcast Docket No. 78-253; RM-1932; FCC 80-503) (47 CFR Part 73*)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 303 (b), (c), (g), and (r), 315, 317, 318, 325(a), and 4(i).

Reason for Including This Entry

The Federal Communications Commission (FCC) believes the rules proposed for a new low-power television service are important because they could facilitate the provision of increased and more diverse television service to greater numbers of viewers throughout the United States and to groups that are currently underserved by conventional methods of television distribution. They also would afford new television opportunities to entrepreneurs, while continuing to permit translator licensees to offer rebroadcast service.

Statement of Problem

On September 9, 1980, the FCC began a rulemaking proceeding proposing to authorize low-power television stations that could originate an unlimited amount of programming and operate subscription (pay TV) service. If adopted, the low-power proposal could result in a significant increase in the number of television stations, both in rural areas and large cities. The Commission's action was motivated in part by its recognition of the large unsatisfied demand for television service, particularly in rural and mountainous areas where millions of Americans do not receive even a basic complement of three of the four signals available. According to ARBITRON and A.C. Nielsen surveys, about 1,879,175 households, or 5,252,676 individuals, do not have television receivers; the Office of Telecommunications Policy estimated that 15,200,000 households, or 42,560,000 individuals receive fewer than four television signals. The low-power proposal would permit low-power stations (with maximum power of 100 watts VHF and 1,000 watts UHF) to operate on any available channel on a secondary, or noninterference, basis to regular, full-service stations. Secondary status, or spectrum priority, means that any low-power station creating interference to a full-service station must cease operation if it is unable to change channels or take other steps to correct the interference. Low-power stations must also give way to full-service stations proposing a mutually exclusive use of a frequency. The proposed low-power service would consist of existing translator stations, as well as new low-power stations. A translator is a low-powered transmitter permitted by present FCC rules only to rebroadcast simultaneously the programming of a full-service station, in order to extend coverage or correct interference problems. Under the FCC's present rules, the only stations that can originate programs are full-service stations. The FCC's TV Table of Assignments, which allocates spectrum by community, requires full-service stations operating on the same or adjacent channels to be separated by very wide mileages. Low-power stations could be separated from each other and full-service stations by small distances, because their low operating powers would make their coverage areas smaller. Thus, low-power station operators would have the flexibility to use lower cost equipment and design and program a system adapted to local needs.

In markets where cable penetration is high, the multi-channel aspect of cable is likely to make it more attractive than low-power subscription service, because the FCC's proposed ownership restrictions would prevent a low-power licensee from operating on more than one channel within the same service area.

Alternatives Under Consideration

Through the proposed rule changes, the FCC hopes to facilitate television service in locations that otherwise are unserved or underserved by regular stations and cable services. At the same time, translators can continue the rebroadcast service they have offered in the past.

Low-power is the first new broadcast service the FCC has proposed in over 20 years. The low-power stations would be subjected to minimal programming rules, as required by the Communications Act. These include the Fairness Doctrine, the prohibitions against obscenity and lotteries, access for political candidates, and the personal attack rule. The copyright laws, which require consent of the primary station for retransmission or commercial substitution, would apply. Cable systems would not be required to carry the programming of local low-power stations. Low-power stations that originate programming would be required to have a licensed operator on duty at all times. The FCC has proposed no ascertainment requirement, nonentertainment programming or commercialization guidelines, or prescribed hours of operation or origination for low-power stations. It is believed that these essentially deregulatory aspects of the proposal will facilitate the swift development of low-power stations. To promote diversified control of broadcast outlets and therefore diverse program offerings, TV networks would not be permitted to own low-power stations. Cable and full-service TV and radio station operators would not be permitted to own low-power stations in their own service areas.

Summary of Benefits

Sectors Affected: Television broadcasting industry, including the subscription TV industry and cable industry; and television users.

If adopted, the low-power proposal could result in a significant number of new broadcasting outlets, bringing television service to locations and audiences that are otherwise unserved or underserved by regular television and cable systems and bringing specialized service to particular groups in larger communities. Low-power could open up new opportunities for increased service to and ownership by minorities, as well as other individuals wishing to enter the broadcast market. The relatively inexpensive nature of construction and operation of a low-power facility would facilitate entry into the market. The FCC has proposed few limitations on the method of financial support of low-power stations. They may use subscription (pay for programming) service, advertising, listener solicitation, or local tax revenues, in any combination. Satellite and terrestrial microwave interconnection, already permitted for TV translators, will facilitate program networking on low-power stations.

Another concern is the competition between cable and low-power. Cable systems operate on a subscriber basis and offer a multi-channeled service. The cost of laying cable is very high, and a minimum population density is necessary for a cable operation to be economically viable. It is believed that the less costly low-power service could fill in areas where neither cable nor full-service operation is economically attractive.

Summary of Costs

Sectors Affected: The television broadcasting industry, including cable

industry and subscription television; and television users.

Provision of a signal of very high technical quality and coverage of a wide area are goals for the FCC's current regulatory scheme. Expensive transmitting equipment is necessary to achieve these goals. Thus, the cost of entry into the television industry is relatively high. These costs may preclude development of stations that would be financially viable if smaller coverage areas and relaxed transmission standards were permitted. It is believed that numerous small communities cannot provide the advertising revenues required to maintain full-service stations. The proposed low-power rules could reduce the cost of serving small or specialized communities, because low-power stations would be less expensive to own and operate than full-service stations. The trade-off is wide-area coverage, superior reception, and fewer stations in exchange for smaller coverage areas, adequate reception, and a greater number of stations and program offerings.

Subscription television involves encoding (scrambling) a broadcast signal and charging a rental or sale fee for a decoding device that is attached to the subscribers' television sets. For full-service subscription operation, the community of license is required first to receive at least four unscrambled or free signals. No such complement of four would be required for low-power subscription operation. Theoretically, communities served only by translators and by no full-service stations could lose some free TV service, as a result.

The FCC is interested in learning during the comment period if this proceeding will affect any other sectors and what other potential costs and benefits may be anticipated.

Related Regulations and Actions

Internal: The FCC instructed its staff to continue to accept for filing and processing translator applications, including those seeking waiver of the rules for low-power features, during the pendency of the rulemaking. With nearly 5,000 such applications pending, the FCC has discontinued acceptance of new applications until further notice.

External: None.

Active Government Collaboration

None.

Timetable

Report and Order—Winter 1981. Staff is reviewing reply comments during the summer.

Regulatory Impact Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Impact Analysis. However, the FCC does an extensive analysis of the economic effects of regulation.

Public Hearings—None.

Regulatory Flexibility Analysis—None.

Available Documents

Staff Report and Recommendations in the Low-Power Television Inquiry, September 9, 1980.

Notice of Inquiry/NPRM—45 FR 69178, October 17, 1980.

Comments are available for review from address below.

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FEDERAL MARITIME COMMISSION

Filing of Currency Adjustment Factors (46 CFR Parts 536* and 538*)

Legal Authority

The Shipping Act of 1916, 46 U.S.C. §§ 813(a), 817(b), 820, 833(a), and 841(a).

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will provide shippers with greater rate stability and the consequent ability to improve long-range commercial marketing practices.

Statement of Problem

The shocks absorbed in foreign exchange markets since 1971, arising from two devaluations of the U.S. dollar and a shift of most of the major currencies from fixed to floating exchange rates, have created frequent and substantial fluctuations in these exchange rates. Consequently, ocean carriers and conferences (associations of carriers permitted, pursuant to an agreement approved by the Commission under § 15 of the Shipping Act of 1916, to discuss, establish, and file rates and practices on behalf of their member lines) have filed numerous currency adjustment factors with the Commission in recent years to accommodate currency fluctuations. A currency adjustment factor is a surcharge imposed upon the shipping public by steamship carriers and conferences to allow for the adjustment of ocean freight rates to reflect currency fluctuations. Several years ago, carriers in the U.S. foreign commerce began to impose these surcharges upon the shipping public in response to currency changes.

Whenever currency adjustment factors are established by steamship conferences, the shipping public frequently registers legitimate complaints about their establishment. Over the last several years, the Commission has received an increased number of such complaints, centering on three major issues. One major complaint refers to the fact that such surcharges often do not reflect current foreign exchange market conditions because currency surcharges are generally implemented some time after the negative currency fluctuation in question has occured. Another complaint concerns the allegedly disproportionate level of the surcharge imposed in response to the currency fluctuation and the methods used in its computation. The shipping public also protests the lack of reciprocal adjustments to reflect positive tariff currency changes.

When a surcharge of any type is filed by an ocean carrier or conference, the Commission has an obligation to ensure that these transportation costs will not unduly impede our international trade by interfering with the efficient flow of goods or imposing costs upon U.S. exporters that are unreasonably high in comparison to costs imposed upon their foreign counterparts. In response to this obligation, the Commission promulgated rules to provide for a procedure under which certain carriers and conferences that operate pursuant to a Commission-approved system of dual-rates could justify and impose currency surcharges on less than the required statutory notice period (90 days) in the event of a depreciation of the tariff currency. (Dual-rate contracts are used as a patronage or loyalty device to offer lower rates to shippers who agree to give all or a fixed portion of their shipments to a specific carrier or conference. The Shipping Act of 1916 requires that the contract rate shall not be more than 15 percent lower than the published ordinary rate.) Owing to its cumbersome requirements for justifying a "short-notice" currency surcharge, this rule has never been used by any carrier or conference since its promulgation.

Since this rule has never been used, the staff of the Commission developed other, informal procedures in February 1977 to validate currency surcharges. However, this system did not produce sufficient data to permit proper evaluation of the surcharges. Since the existing formal rule has never been used and the Commission's informal system has yielded inadequate data regarding

the validity of currency surcharges, it has become apparent that a new procedure is required.

The proposed regulation replaces the existing rules, which apply only to carriers and conferences employing approved dual-rate systems. The proposal currently under consideration will require a currency adjustment factor (CAF) scale to be included in a carrier's tariff filings. The carriers may use one of several publicly recognized scales based on a fixed annual currency exchange rate, with the amount of allowable surcharge or discount scaled according to monthly deviations from this annual exchange rate base. A separate scale must be constructed by an ocean carrier or conference for each major trade currency to apply on cargo destined to that nation's ports. The proposed rule will establish a simplified and uniform procedure for the filing of all currency surcharges and will apply to all carriers and conferences.

The proposed regulation represents an effective system which will ensure prompt Commission consideration of all currency surcharges. The proposal establishes clear, understandable procedures that are equitable to the industry and permit adequate review by the Commission to ensure protection of the shipping public.

Alternatives Under Consideration

Retention of the existing rules and the informal currency surcharge validation system is an alternative. However, to do so would cause the Commission to be unresponsive to problems that have arisen under these procedures. For example, one of these problems concerns the selection of a base date used by a carrier or conference to compute the level of a currency surcharge. The proposed rule eliminates the uncertainties under existing procedures by specifically defining the base date that must be used.

If the Commission takes no action, regulatory supervision over carriers and conferences imposing currency surcharges will continue to be inadequate and the shipping public will not benefit from the increased degree of protection that would be provided through the rule.

Other alternatives would entail different systems of evaluating currency adjustment factors. However, the Commission believes the existing proposal is the simplest and most equitable because it affords shippers the greatest protection while imposing the least burden upon the industry and generating the least administrative cost within the FMC.

Summary of Benefits

Sectors Affected: Steamship carriers and conferences operating in the U.S. foreign commerce (deep sea foreign transportation); and shippers.

All steamship carriers and conferences operating in the U.S. foreign commerce will be affected by the proposed rule if they impose currency surcharges. The proposal establishes a simplified and uniform procedure for the publication of currency adjustment factors. This will enable the Commission to fairly, reasonably, and promptly review these surcharges under statutory standards and provide a greater degree of protection to the shipping public.

The rule also requires a reciprocal adjustment in rates if the tariff currency appreciates by 2 percent or more. This requirement permits the currency adjustment factor to operate as a true adjustment, restoring the prior currency relationship, and it is therefore clearly responsive to shippers' complaints. Since the methods used to compute a currency adjustment factor level as prescribed in the rule are uniform, shippers will be aware of how individual currency surcharges are determined.

Summary of Costs

Sectors Affected: Steamship carriers and conferences operating in the U.S. foreign commerce (deep sea foreign transportation).

No quantitative estimate of the relative costs is available. At most, those carriers and conferences imposing currency surcharges will incur slight administrative costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Regulatory Impact Analysis—Section 1(d) of E.O. 12291 exempts the FMC from the Regulatory Impact Analysis requirements. However it is possible that a voluntary Regulatory Impact Analysis might be prepared.

Regulatory Flexibility Analysis—A Regulatory Flexibility Analysis is not required for any proposed regulation for which an NPRM is published prior to January 1, 1981. If a revised NPRM is published in the future, a Regulatory Flexibility Analysis will be prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

Public Hearing—None.

Final Rule—Winter 1981.

Final Rule Effective—Winter 1981.

Available Documents

NPRM—45 FR 23708, April 8, 1980.

Public comments.

Federal Maritime Commission Docket 80–19.

Commission General Order 13, "Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States" (46 CFR Part 536).

Commission General Order 19, "Dual-Rate Contract Systems in the Foreign Commerce of the United States" (46 CFR Part 538).

All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, DC 20573.

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INTERSTATE COMMERCE COMMISSION

Leasing Rules Modifications (Ex Parte No. MC–43 (Sub-No. 12)) (49 CFR Part 1057*)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 11101 and 11107; Administrative Procedure Act, 5 U.S.C. § 553.

Reason for Including This Entry

The Interstate Commerce Commission (ICC) believes that this proposed rule is important because it could cause an increase in efficiency, productivity, and profits in the motor carrier industry in general and in the private carriage segment of the industry in particular.

Statement of Problem

Under existing Commission regulations (49 CFR 1057.11), an authorized carrier (one holding a certificate or a permit from the ICC authorizing it to engage in furnishing interstate transportation for hire) may perform authorized transportation in equipment it does not own only when a written lease grants the use of the equipment to the authorized carrier-lessee for a minimum duration of 30 days. Equipment is typically leased in this fashion from owner-operators or commercial lessors. Commission regulations do allow a lease of

equipment to authorized carriers for less than 30 days (commonly called a trip-lease) as an exemption from the standard lease requirements, but only if the lessor is another authorized carrier. Even then, the authorized carrier-lessor must (A) own the equipment or hold it under a lease of 30 days or more, (B) regularly use the equipment in the service it is authorized by the Commission to perform, and (C) provide transportation under the trip-lease in the direction of a point which the lessor is authorized to serve. These requirements preclude the use of the trip-lease arrangement by private carriers (persons who operate private fleets of trucks in furtherance of their primary business).

Critics of the existing regulations claim that such a distinction between private carriage and for-hire carriage causes private carriers, which transport approximately 40 percent of the total truck tonnage, to operate unproductively and hence less efficiently compared to other segments of the motor carrier industry. They point out that a manufacturer operating a private motor carrier for distribution purposes has no way of profitably returning its equipment from the destination to the point of origin unless it can transport a load of commodities exempt from ICC regulation such as agricultural products and other commodities listed in 49 U.S.C. § 10526(a)(6) and 49 U.S.C. §§ 10526 (a)(11)–(13). This is often difficult, as many consuming areas of the country are not producing areas for exempt commodities, and raw materials supplies may be located hundreds of miles away from the vehicle's destination. If private carriage equipment is returned empty, the excess costs of empty vehicle operations are no doubt built into and inflate the cost of products delivered via private carriage. A 1979 Commission study estimated that approximately 27.3 percent of private carrier truck mileage is empty. This factor is 6.1 percent higher than other forms of exempt motor carrier mileage and is higher than all types of interstate motor carrier transportation except bulk, tank, and "other" (residual) haulers.

Opponents of the existing regulations also focus on the regulations' discrimination against private carriers. Historically, private carriers were tightly controlled and closely scrutinized by the Commission to ensure that the freight which they carried was not diverted from a young and growing regulated motor carrier industry and that their operations would not encroach on the established province of for-hire motor carriers.

In November 1980, the Private Carrier Conference of the American Trucking Associations, Inc. petitioned the Commission to institute a rulemaking proceeding addressing the operating inefficiencies of private carriers by amending the existing regulation to include private carriers in the class of carriers which could avail themselves of trip-lease arrangements. The Commission responded by granting the petition and instituting the rulemaking. In the course of reviewing the involved regulation, the Commission determined to receive public comment on a proposal to delete requirements (B) and (C) for trip-leases (above). It is generally believed by the Commission that the two requirements in question tend to frustrate the efficient movement of goods, contrary to the national transportation policy, and that they place unnecessary and costly burdens on a carrier attempting to qualify for the trip-lease exemption.

The Commission is proposing this rulemaking as part of its overall program to improve and streamline its regulation of the motor carrier industry and in response to staff studies and public comments that have indicated the Commission should change the involved regulations to accommodate private carriers. If action is not now taken, Commission regulations will continue to have the effect of preventing private carriers from conducting their operations as efficiently as they could.

Alternatives Under Consideration

No specific alternatives are presently contemplated; however, the Commission retains the option, based on the response to the NPRM, to delete all, some, or none of the present requirements for trip-leasing.

Summary of Benefits

Sectors Affected: Corporations which now operate or desire in the future to operate private truck fleets; users of these corporations' products; the motor carrier industry; and shippers and consumers of products shipped by regulated motor carriers.

If the proposed rules are adopted, private carriage operators who cannot find raw materials or exempt commodities available at their destination for backhaul (return trip), will be able to trip-lease their equipment to an authorized lessee-carrier to transport any regulated freight which the lessee is authorized to transport. Private carriers could thus improve their present operating efficiency, reduce the number and extent of their empty backhauls, and avert the use of precious energy resources for unproductive operations. The aggregate result could be lower consumer prices.

Adoption of the proposed rules could benefit existing regulated motor carriers by enabling them to augment their equipment fleets with private carriage equipment without an investment of capital or personnel. This could help existing carriers expand their services to meet the shipping needs of the public, while allowing them to maintain balanced traffic movements and avoid the burden and costs of empty backhauls themselves. Furthermore, the Commission generally believes it best to leave questions of equipment repositioning logistics under trip-lease to the business judgments of individual carriers, both regulated and private, rather than have the Government mandate their decisions through regulations.

Summary of Costs

Sectors Affected: None.

The Commission does not believe that adoption of the proposal would adversely affect any sector.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rules—Final rules, if any, should be adopted by the end of fiscal year 1981. There is no statutory deadline for final decision.

Regulatory Impact Analysis—The Commission does not plan to issue a separate Regulatory Impact Analysis in this proceeding. However, the final decision of the Commission will incorporate the results of any analysis we conduct.

Public Hearing—No public hearing is anticipated at this time.

Regulatory Flexibility Analysis—None.

Available Documents

NPRM—Appears 46 FR 15300, March 5, 1981. Public comments were due on April 20, 1981.

"Empty/Loaded Truck Miles on Interstate Highways during 1976," Bureau of Economics and Bureau of Operations, Interstate Commerce Commission, April 1977.

Public comments on the NPRM are available for inspection at the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, during normal business hours. Documents may be copied at a nominal charge.

Agency Contact

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ICC

Revision of Abandonment Regulations (Ex Parte No. 274) (Sub-No. 5)) (49 CFR Part 1121*)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10321, 10362, and 10903-06.

Reason for Including This Entry

The Interstate Commerce Commission (ICC) believes this rulemaking proceeding will make significant policy changes regarding cost evidence in proceedings in which railroads seek to abandon service over railroad lines.

Statement of Problem

The Interstate Commerce Act requires the ICC to regulate abandonments of railroad lines and, in certain circumstances, to set terms for rail service continuation subsidies. (49 U.S.C. §§ 10903-06.) ICC regulations set forth at 49 CFR Part 1121 govern abandonment and subsidy proceedings. The ICC proposes to revise these regulations to reflect various policy changes made since the present regulations were adopted in 1976. The policy changes arise from ICC decisions, court decisions, and new legislation. In addition to reflecting policy changes, the new regulations will be substantially rewritten and reorganized in order to make them easier to understand.

These regulations prescribe standards for the submission of financial evidence by railroads in abandonment applications filed with the ICC relating to operations over lines the railroads propose to abandon. The ICC uses this evidence to determine whether to permit the abandonment and to determine what level of subsidy would be adequate to keep the line in service. Case-by-case adjudications by the ICC have made various refinements to the cost/revenue standards applicable to preparation of the financial evidence submitted by railroads in abandonment proceedings. These policy refinements include clarification of the treatment of labor costs and property taxes by the regulations as costs attributable to operations of a line and avoidable through abandonment. The ICC also has adopted a policy of considering opportunity costs in abandonment proceedings. (*Abandonment of Railroad Lines—Use of Opportunity Costs*, 360 I.C.C. 571 (1979).) Opportunity cost is the real economic loss a business entity experiences when it must forego some other, more profitable use of its resources.

The ICC proposes changing its equipment costing policy in the abandonment regulations in response to the decision in *Chicago & North Western Transp. Co.* v. *U.S.*, 582 F.2d 1043 (7th Cir. 1978), *cert. denied*, 439 U.S. 1039 (1978) (*CNW* case). In that case the Court held that the equipment costing methodology in the present abandonment regulations does not meet the requirements of the Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210 (4R Act). In order to comply with the *CNW* case, the proposed rules will provide for railroads to calculate equipment costs on the basis of the replacement cost for new equipment, rather than on the basis of the value of the railroad's equipment, as carried on the railroad's financial accounts. The ICC originally proposed these changes in Ex Parte No. 274 (Sub-No. 2), *Abandonment of Railroad Lines and Discontinuance of Service* (not printed), decided March 20, 1979, 44 FR 37243 (June 26, 1979). That proceeding will be embraced on this rulemaking for further comment and action.

The recent enactment of the Staggers Rail Act of 1980, P.L. 96-448, also requires numerous changes to the abandonment regulations. The ICC is proposing procedural changes to the regulations in compliance with the Staggers Act in Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad and Discontinuance of Service* (not printed), served November 25, 1980. Those changes, when final, will be incorporated in the rules to be proposed in this proceeding. The procedural changes set strict time limits for the major steps in abandonment proceedings in order to comply with the statutory deadlines for abandonment proceedings set by the Staggers Act.

The Staggers Act also makes a fundamental change in the treatment of subsidy offers in abandonment proceedings. The 4R Act merely created a framework for subsidy negotiations. Under that Act, the ICC could postpone the effective date of an abandonment for up to 6 months if a responsible party made a reasonable subsidy offer to the railroad. The ICC's subsidy regulations, therefore, were used merely to determine whether a subsidy offer met a minimal level of reasonableness warranting postponement of the abandonment. Under the Staggers Act, however, a party offering subsidy may request that the ICC determine the amount of subsidy if subsidy negotiations fail to produce agreement, and the railroad must accept the Commission's determination and continue operations. The regulations must be revised to reflect this change.

Alternatives Under Consideration

No specific alternatives to the regulations to be proposed are being considered. Several of the policies to be enunciated have already been adopted by the ICC. Other changes have been mandated by judicial decision or new legislation. However, certain aspects of the cost/revenue standards are susceptible to differing approaches, and the ICC will ask the public to comment specifically on these approaches. For example, the ICC will seek public comments regarding amortization of rehabilitation costs for lines proposed to be abandoned. At present, the abandonment regulations merely provide for consideration of the total cost of needed rehabilitation, if any, for the line proposed to be abandoned. The regulations provide no methodology for considering these costs on a meaningful annualized basis. The revised regulations may propose to consider allowing railroads to annualize rehabilitation costs. Amortization of these costs will promote more accurate determination of whether operation of a line burdens interstate commerce. The ICC will consider public comments on amortization methodology for rail lines, especially with respect to what amortization period would be appropriate.

The ICC will also consider public comments regarding traffic retention after abandonment. The present abandonment regulations do not assume that, after abandonment, a railroad will retain any traffic that has been originating or terminating on a line. The railroad, however, often will retain at least some of this traffic on other lines. Shippers, rather than the railroad, control the degree to which the railroad would retain this traffic after abandonment. The retention factor is highly speculative and there may be no reliable method of estimating retention. If public comments provide a feasible methodology for determining a traffic retention factor in individual abandonment proceedings, that methodology may be adopted in the final rules to be adopted in this proceeding.

Summary of Benefits

Sectors Affected: Railroads; railroad employees; shippers and consumers of products transported by rail, particularly those located in small communities and rural areas; and State and local governments.

The revised regulations will provide a clear, uniform methodology for the presentation of financial evidence in abandonment proceedings. The regulations will provide for the submission of necessary cost and revenue data prepared from company records and other readily available sources to the greatest extent possible. The regulations will attempt to minimize and simplify the financial data required to be compiled specifically for abandonment proceedings.

The revised regulations should simplify and clarify the process of determining costs and revenues of rail operations over lines proposed to be abandoned. The clarification of the standards should reduce the length and complexity of administrative proceedings on abandonment applications, thus reducing costs to all parties in abandonment proceedings, including railroads, railroad employees and their unions, and State and local governments. By permitting the submission of financial evidence accurately reflecting operating costs, the revised regulations should make easier the abandonment of lines which burden railroad operations. The shedding of burdensome lines will allow railroads to operate more efficiently and economically and to compete more effectively with other railroads and other transportation modes. Increased efficiency and competitiveness should promote better and more economical service to the public.

Summary of Costs

Sectors Affected: Railroads; railroad employees; shippers and consumers of products transported by rail, particularly those located in small communities and rural areas; and State and local governments.

The revised regulations to be proposed should not impose any burdens significantly different from those imposed by the existing regulations. The information required by the revised regulations should take about the same amount of preparation as does the information required by the existing regulations. To the exent the revised regulations provide for the submission of more comprehensive financial data, the preparation of evidentiary exhibits may become somewhat more complicated for applicant railroads; however, the increase in preparation required likely will not be significant and should be more than offset by the benefits to the railroads of allowing the presentation of a more complete case in support of the abandonment application. The presentation of more complete and accurate financial evidence by railroads in abandonment applications might increase the likelihood of approval of abandonment applications. An increase in abandonments may have adverse impacts on railroad employees, who could lose jobs, and shippers and communities that would lose rail service.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—May 1981.
Regulatory Impact Analysis—The Commission does not plan to issue a separate Regulatory Impact Analysis in this proceeding. However, the NPRM and any final notice will incorporate the results of any analyses that we conduct.
Public Comment Period—60 days following publication of NPRM in the Federal Register. Comments should be sent to: Interstate Commerce Commission, Office of Proceedings, Section of Finance (Room 5417), 12th and Constitution Ave., N.W., Washington, DC 20423.
Public Hearing—No public hearings are contemplated.
Regulatory Flexibility Analysis—The ICC does not plan to prepare a Regulatory Flexibility Analysis.
Final rule—90 days after close of public comment period.
Final Rule Effective—30 days after publication of final rule in the **Federal Register.**

Available Documents

NPRM—pending publication, approximately June 1981.

ICC dockets Ex Parte No. 274 (Sub-No. 2), Ex Parte No. 274 (Sub-No. 2A), Ex Parte No. 274 (Sub-No. 6), No. AB–43 (Sub-No. 47), and No. AB–20 (Sub-No. 3).

The above documents are available for review in the Office of the Secretary, Docket Room, 12th and Constitution Avenue, N.W., Washington, DC 20423.

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POSTAL RATE COMMISSION

Postal Rate Commission Docket—Attached Mail Proceeding, 1981

Legal Authority

Postal Reorganization Act, 39 U.S.C. § 3623(b).

Reason for Including This Entry

This case may have a national effect because it is an investigation into a mail classification change that may bring about improvement in the joint productivity of mailers and the Postal Service, and therefore may mitigate cost increases for both the Postal Service and its customers.

Statement of Problem

Attached mail occurs when more than one item travels through the mail as one unit. An example is a first-class letter enclosed within a package mailed at the parcel post rate. Under current postal regulations, the mailer must pay the first-class rate for the letter plus the parcel post rate for the package. The Postal Service, of course, handles the items as a unit. The package with the enclosed letter receives regular parcel post treatment, and the Postal Service does not incur the cost of handling the first-class letter separately.

The Commission initiated this case to explore the issue of whether separate classifications, and possibly different rates, are appropriate for the various types of attached mail (e.g., first-class letters attached to magazines and third-class brochures enclosed in parcels). This case should show whether the Postal Service should encourage mailers, by offering lower rates, to make greater use of attached mail. These classification changes might stimulate new volume. Business mailers might take advantage of the classification changes, if they result in lower rates, to offer various products and services to their current customers. Such a change could reduce the postal workload while the rates paid would protect necessary postal revenue. If the rates charged reflect a savings made possible by the handling of combined rather than separate pieces, the Postal Service will benefit because it can handle the greater volume more efficiently, because of economies of scale. If the change results in additional volume, the Postal Service will benefit as long as the rates are set to cover the costs and make a contribution toward covering

institutional costs (e.g., headquarters and regional administration costs).

Alternatives Under Consideration

On February 5, 1981, the Commission issued an order instituting the Attached Mail Proceeding. The order set a deadline for persons who want to intervene and requested that parties submit proposed language to describe any change they support.

At this early stage in the proceeding, only some of the alternatives that the Commission will consider are apparent. After the parties have had time to address the issue, the Commission will have additional alternatives to consider.

The parties to this proceeding now include the Postal Service, Associated Third Class Mail Users, Meredith Corporation, Reader's Digest Association, Magazine Publishers Association, Association of American Publishers, Recording Industry Association of America, American Business Press, American Retail Federation, Classroom Publishers Association, Department of Defense, J.C. Penney Company, Time Incorporated, United Parcel Service, Parcel Shippers Association, and the Officer of the Commission (OOC), who represents the interests of the general public.

The alternatives at present are:

(A) No change in the current classification schedule. Mailers who wish to attach first-class mail or other types to the other classes of mail will continue to pay the same rates as if the pieces were mailed separately. The Parcel Shippers Association (PSA) opposes any change with regard to third-class pieces, such as brochures, included with fourth-class mail, such as parcel post. According to PSA, the combined piece pays the fourth-class rate and any change would be inappropriate. This alternative would avoid the potential drop in Postal Service revenue if mailers currently using attached mail should pay a lower rate for the service. Because attached mail now must pay the same rate as separate pieces, mailers have no monetary incentive to combine pieces and, although no definite figures are available, the volume of attached mail appears to be small. The Postal Service therefore incurs the costs for the larger number of pieces that must be handled separately.

(B) Another alternative is to classify attached mail separately and to charge a rate that reflects the lower costs of handling attached mail as one piece rather than separately. Under this alternative the Postal Service would face a reduction in revenue, because the small number of pieces of attached mail now pays the full rate charged the class. However, the Service also would find a cost savings if mailers convert into attached mail pieces now mailed separately. Rates can be set to reflect the Postal Service's cost reduction and so protect its financial position. Additionally, lower rates might attract more volume and hence improve the Postal Service's financial position. A rate schedule requiring the full rate for a mail piece as well as some payment for the attached or enclosed piece could improve the financial situation of both the Postal Service and mailers. Taking into account revenue lost because attached mail now must pay the full rate, the Postal Service's overall revenue might increase if reduced rates can be offered and generate additional volume. The mailers would have a more economic means of sending messages.

The Association of American Publishers, the Recording Industry Association of America, the Department of Defense, and the Officer of the Commission generally support this alternative.

Summary of Benefits

Sectors Affected: USPS; mailers who could take advantage of the attached mail option, such as magazine publishers and mail order businesses, and recipients of that mail.

This case will explore the potential benefits of separate classification for attached mail. The Postal Service would benefit if a classification change caused mailers to give the Postal Service additional volume as long as rates cover costs and provide some contribution to institutional costs. Moreover, if present volume shifts to attached mail, the Service would experience reduced costs because of fewer pieces to handle. Mailers would benefit if the classification change permitted them to send messages more economically. Recipients of the mail would benefit from the mailers' lower costs because often those recipients are purchasing products or services from the mailers. In this case, the Commission will consider these benefits as well as any other ones the parties may point out.

Summary of Costs

Sectors Affected: USPS; mailers who could take advantage of the attached mail option, such as magazine publishers and mail order businesses, and recipients of that mail.

One of the costs that could result from a classification change for attached mail is reduced Postal Service revenue, since attached mail now pays the regular rate. Additionally, mail that could convert to attached mail also pays the regular rate when mailed separately. However, the Postal Service's costs of handling mail that converts to attached mail will drop. Mailers might experience some increased costs in their preparation of items for mailing if they decided to change and take advantage of an attached mail classification, and they might pass these costs on to their customers. For the mailers who decide to convert, those increases would be offset by lower postage. In this case, the Commission will consider these costs, as well as any others the parties may point out, and make appropriate provisions for the protection of the financial stability of the Postal Service. The Commission expects that the parties will present estimates on the amounts of the relevant costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Public Hearing—The Commission will hold hearings in compliance with the requirements for formal rulemaking on the record.

Public Comment—In addition to intervention in the proceedings, interested parties may send letters of comment at any time during the Commission's consideration of this case (see address below). Although these letters do not become part of the record on which the Commission bases its decision, they are placed in the Commission's public "commenter" file.

Regulatory Impact Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the Postal Rate Commission presents essentially the same information in its decisions.

Regulatory Flexibility Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Flexibility Analysis as it is defined in 5 U.S.C. §§ 603–04. However, the Postal Rate Commission presents essentially the same information in its decisions.

Available Documents

As the following documents are filed with the Commission or issued by it

during the course of the proceedings, they will be available from the Commission's Docket Room, 2000 L Street N.W., Room 500, Washington, DC 20268, (202) 254–3800.

Commission Order No. 367 instituting the proceeding in MC81–2 and the Notice sent to the **Federal Register**, published at 46 FR 12377, February 13, 1981.

Transcripts of Hearings, as well as Letters of Comment, Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket MC81–2.

Commission Orders and Notices; Presiding Officer's Orders, Ruling, Motions, and Notices, Petitions for Leave to Intervene, and Requests for Limited Participation; and Commission's Recommended Decision for Docket MC81–2.

Documents may be inspected in the Commissions reading room. Copies of documents issued by the Commission or filed by the OOC are available without charge. Copies of all other public documents are available for 15 cents per page.

Agency Contact

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PRC

Postal Rate Commission Docket—E-COM Forms of Acceptance, 1980

Legal Authority

Postal Reorganization Act, 39 U.S.C. §§ 3621–23.

Reason for Including This Entry

This case may have a national effect because it will investigate possible ways to make the Postal Service's planned new service, E–COM (Electronic Computer Originated Mail), available to more mailers. The decision in this case may provide an opportunity for the Postal Service and large volume mailers to increase their productivity without causing any adverse effects.

Statement of Problem

The Postal Service is preparing to offer a service, E–COM, in which large volume mailers can electronically transmit messages from their computers to specially equipped post offices. At these post offices, the Postal Service will convert the electronic messages to printed documents that the Postal Service will put in envelopes and deliver. After reviewing new and developing technologies, the Postal Service decided that electronic mail was an important way of offering innovative service and lowering costs to mailers. The Postal Service plans to offer E–COM service by early 1982.

The Postal Service filed a proposal for the Postal Rate Commission's (PRC) consideration. The Postal Service intended to contract with a single commercial telecommunications carrier to provide all the transmission and data processing services involved when mailers used the E–COM service. The Commission, while agreeing with the Postal Service's decision to enter the market for electronic mail, recommended an alternative plan in which various private firms can compete for the business of transmitting the electronic messages from customers to 25 specially equipped post offices, where the data processing, printing, and enveloping would be done. This system provided a technically superior service at a lower price to the consumer. On August 15, 1980, the Governors of the Postal Service accepted the E–COM system the Commission recommended.

At the time the Governors accepted the Commission's design for E–COM, they instructed the Postal Service to present, as soon as possible, evidence to the Commission supporting two additional methods mailers could use to enter electronic mail into the postal system. With either of these methods, mailers would not need to purchase telecommunications service from one of the various firms that will offer it. The Governors want to permit (1) mailers to enter electronic mail by presenting magnetic tapes over-the-counter at the specially equipped post offices, and (2) direct connection to those post offices by mailers who have their own telecommunication systems.

Consideration of these two additional methods of entry will not delay the Postal Service's implementation of its E–COM service offering. To facilitate consideration of the matter, the PRC instituted Docket No. MC80–1 on May 27, 1980, shortly after the Governors first suggested the two alternative entry methods, in anticipation of the Postal Service's filing. The institution of Docket No. MC80–1 gives notice to interested parties that the Commission will expeditiously consider the proposal to add two other methods of entry for E–COM mail. The parties therefore have additional time to assess their positions and decide whether to intervene and what to present.

Alternatives Under Consideration

At this stage of the case, before the Postal Service has filed its proposal, only a general outline of the issues to be considered is clear. After the Postal Service has filed its proposal, interested parties will have an opportunity to offer modifications to the two forms of entry under consideration, as well as any related proposals—possibly including additional methods for entry. The alternatives we are considering are:

(A) No change in the forms of entry. The system would operate as described in our opinion in Docket No. MC78–3. Any mailer wanting to use E–COM would have to use the services of a carrier. The Postal Service can implement E–COM service without the additional methods of entry. These two methods were not explored in Docket No. MC78–3; therefore, neither the Postal Service nor the Commission can estimate how many mailers would use the additional methods if they were available and what the cost to the Postal Service and mailers would be.

(B) The Governors of the Postal Service want the methods of entry expanded to include presentation of magnetic tapes in the specified post offices and direct connection of telecommunication systems owned by mailers. According to the Governors, this expansion of the methods of entry into the E–COM system could reduce mailers' costs. Additionally, mailers who might not use the E–COM service if they had to purchase telecommunication service might decide to use E–COM if the additional methods of entry are available.

The parties to this proceeding now include the Postal Service, Graphnet, Inc., Computer & Business Equipment Manufacturers Association, American Cables & Radio Corporation, and MCI Telecommunications Corporation. After the Postal Service files its proposal, the Commission will set a deadline for persons to notify the Commission that they wish to intervene in this case.

Summary of Benefits

Sectors Affected: USPS; large volume mailers and recipients of that mail; and the telecommunications industry.

The exploration of these possible modifications should reveal whether improvements can be made in methods of entry into the E–COM system. The availability of additional ways to enter messages into the E–COM system might decrease costs to mailers who take advantage of them, and might make electronic mail available to more mailers. Competition might be enhanced

because the telecommunications carriers would be competing against these alternatives as well as each other. The Postal Service would benefit if the additional entry methods increased the volume of E–COM mail and the Postal Service's costs of handling this mail were not increased by the different forms of entry. Recipients of E–COM mail might benefit if the alternative methods reduced mailers' costs, because the recipients will often be consumers of the goods and services produced by the mailers and anything that serves to hold down the mailers' costs will tend to stabilize the prices charged consumers. Possible benefits may have to be weighed against potential increases in costs to the Postal Service, which might result if extra equipment or personnel are needed to deploy the new forms of entry. These are the issues that the Commission will consider in the case.

Summary of Costs

Sectors Affected: USPS; and large volume mailers and recipients of that mail.

If the methods in Alternative B, described above, are adopted, the Postal Service will have to pay for an employee to accept computer tapes over-the-counter and perform the operations necessary to convert the messages from the tapes into printed words on paper. Large volume mailers who use either alternative form of entry will need to pay the cost of putting their messages into a form that the Postal Service's E–COM system can accept. Some of these costs would be one time start-up costs. Others, such as the actual conversion of messages into a form that the E–COM system can accept, would occur for each mailing. Because recipients will often be consumers of the goods and services produced by the mailer, those recipients probably will bear the costs involved when they pay for the goods and services.

At this time, the Commission cannot estimate the effect this case will have on costs. The Commission anticipates that the Postal Service will present evidence on the costs of accepting electronic mail under the two additional methods and that mailers desiring to use the additional methods of entry will present evidence concerning their costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

When the Postal Service files its proposal, the Commission will issue a schedule for the expeditious consideration of this case.

Public Hearing—The Commission will hold public hearings in compliance with the requirements for formal rulemaking on the record.

Public Comments—In addition to intervention in the proceedings, interested parties may send letters of comment at any time during the Commission's consideration of this case (see address below). Although these letters do not become part of the record on which the Commission bases its decision, they are placed in the Commission's public "commenter" file.

Regulatory Impact Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the Postal Rate Commission presents essentially the same information in its decisions.

Regulatory Flexibility Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Flexibility Analysis as it is defined in 5 U.S.C. §§603–04. However, the Postal Rate Commission presents essentially the same information in its decisions.

Available Documents

As the following documents are filed with the Commission or issued by it during the course of the proceedings, they will be available from the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, DC 20268, (202) 254–3800.

Commission Order No. 339 instituting the proceeding in MC80–1 and the Notice sent to the **Federal Register**, published at 45 FR 37571, June 3, 1980.

Transcripts of Hearings, as well as Testimony, Letters of Comment, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket MC80–1.

Commission Orders and Notices; Presiding Officer's Orders, Ruling, Motions and Notices, Petitions for Leave to Intervene and Request for Limited Participation; and Commission's Recommended Decision for Docket MC80–1.

Documents may be inspected in the Commission's docket room. Copies of documents issued by the Commission or filed by the Office of the Commission (OOC) are available without charge. Copies of all other public documents are available for 15 cents per page.

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PRC

Postal Rate Commission Docket MC81–3, ZIP+4 Subclasses of First-Class Mail

Legal Authority

Postal Reorganization Act, 39 U.S.C. §§ 3621–23.

Reason for Including This Entry

This case may have a national effect because the U.S. Postal Service (USPS) is proposing to offer first-class mailers a discount of ½ cent per piece for mail whose address includes the Postal Service's planned ZIP+4 (the current 5-digit ZIP code plus four new digits) and conforms with the automated processing equipment that the Postal Service is purchasing. The USPS projects that mailers using the system could save $38.7 million in postage during the test year.

Statement of Problem

The Postal Service is purchasing automated processing equipment to assist in sorting the mail. The Postal Service says the equipment will be able to sort the mail to smaller, more useful groupings if the address includes the planned 9-digits ZIP code (ZIP+4). The current 5-digit ZIP identifies the post office responsible for delivering that mail. The planned 9-digit ZIP would identify the parts of the area that post office serves. For example, one 4-digit add-on may identify one side of a block. The Postal Service is proposing this discount for large volume mailers as an incentive for them to use the 9-digit ZIP code.

As an indication of the magnitude of this proposal the Postal Service estimates that in fiscal year 1982 total first-class volume will be 62.2 billion pieces (including both mail eligible and ineligible for the proposed discount).

Alternatives Under Consideration

The Postal Service filed its proposal on April 22, 1981. Therefore, the Commission has only a general outline of the issues that it, the Postal Service, and other parties will address during the course of the proceedings. At this time,

the Postal Service is the only party to the proceeding. However, the Commission anticipates that many parties will take advantage of the opportunity to intervene. These parties will then have an opportunity to present their views on the Postal Service's proposal and offer any related alternatives they may support. The alternatives that we are considering currently are:

(A) No change in the rates or classification for first-class mail. Under this alternative the Postal Service would not face the reduction in revenue that implementation of the discount will cause. Mailers would not have the benefit of the discount, but they also would not incur the cost of adding the additional 4-digits to mailing lists. The Postal Service says it will carry out its plan for automating its processing system even if no change is made in the rates and classifications to offer mailers an incentive to use the planned 9-digit ZIP.

(B) The Postal Service proposes establishing new subclasses of first class which would provide a discount of ½ cent per piece for mail bearing the planned 9-digit ZIP code and meeting certain other requirements. The other requirements are that (1) mailings include at least 500 pieces, (2) the mail is compatible with the equipment the Postal Service is purchasing, (3) the mailers present their mail in trays or other suitable containers, (4) the mailers pay the postage in a manner such that the Postal Service does not have to postmark the mail (for example, the mailers can use meter strips), and (5) the mailers present these mailings only at certain locations, generally postal facilities. Additionally, the Postal Service proposes the 9-digit ZIP code discount only for first-class mail that is either not presorted or presorted only to the 5-digit ZIP code. The Postal Service does not propose any 9-digit ZIP code discount for mail presorted to the carrier route on which the Postal Service delivers the mail. The Postal Service says it does not propose a 9-digit ZIP code discount for mail presorted to carrier route because it does not currently see a benefit in this mail bearing the planned 9-digit ZIP code. Under such a plan, the mailers would enjoy a rate reduction while the Postal Service would face a revenue reduction. But by offering a discount for first-class mail that is not presorted to carrier route, the Postal Service asserts the revenue reduction would be less than the savings in mail processing costs from using its new equipment in conjunction with the planned 9-digit ZIP code.

Summary of Benefits

Sectors Affected: USPS; and large volume mailers and recipients of that mail.

The Postal Service asserts that offering a ½ cent discount per piece for mailings bearing the planned 9-digit ZIP code and meeting the other proposed criteria will benefit the Postal Service's financial situation because it will be able to process those mailings at a lower cost, and these savings should be greater than the revenue reduction mentioned above. The Postal Service estimates that in the test year, mailers using the proposed 9-digit subclasses will save $38.7 million in postage. Mailers who take advantage of the proposed discount would incur additional costs to prepare their mailings, but the increased costs for preparation would be offset by lower postage. Recipients of the mail would benefit if the discount enables large volume mailers to reduce their costs, because often those recipients are purchasing products or services from the mailers at prices based on these mailers' costs.

Summary of Costs

Sectors Affected: USPS; and large volume mailers and recipients of that mail.

If the discount is offered, the Postal Service estimates that in fiscal year 1982 its revenues will decrease $38.7 million, a .16 percent reduction in total Postal Service revenues. Mailers taking advantage of the discount will incur the additional costs of conforming their mailings to meet the requirements for the proposed discount, but the increase in preparation expenses would be offset by lower postage. Some of the costs would be one-time start-up costs—for example, adding the planned 9-digit ZIP code to each address on the mailing lists. Recurring costs would be involved if specific mail preparation is required, such as placing mail in trays. The Commission anticipates that mailers who intervene in this case will present testimony on their costs to conform mailings to meet the proposed requirements.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Public Hearing—The Commission will hold hearings in compliance with the requirements for formal rulemaking on the record.

Public Comment Period—In addition to intervention in the proceedings, interested parties may send letters of comment at any time during the Commission's consideration of this case (see address below). Although these letters do not become part of the record on which the Commission bases its decision, they are placed in the Commission's public "commenter" file.

Regulatory Impact Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Impact Analysis as it is defined under E.O. 12291. However, the Postal Rate Commission presents essentially the same information in its decisions.

Regulatory Flexibility Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Flexibility Analysis as it is defined in 5 U.S.C. §§ 603–04. However, the Postal Rate Commission presents essentially the same information in its decisions.

Commission Decision—To be determined.

Available Documents

As the following documents are filed with the Commission or issued by it during the course of the proceedings, they will be available from the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, DC 20268, (202) 254–3800.

The Notice issued by the Commission on April 24, 1981 (46 FR 24060).

Transcripts of Hearings, as well as Letters of Comment, Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket No. MC81–3.

Commission Orders and Notices; Presiding Officer's Orders, Ruling, Motions and Notices, Petitions for Leave to Intervene, and Requests for Limited Participation; and Commission's Recommended Decision for Docket No. MC81–3.

Documents may be inspected in the Commission's reading room. Copies of documents issued by the Commission or filed by the Officer of the Commission (OOC) are available without charge. Copies of all other public documents are available for 15 cents per page.

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INDEX I—SECTORS AFFECTED BY REGULATORY ACTION

This index graphically presents those sectors of our society that are most likely to benefit from or incur the costs of the regulations described in this edition of the **Calendar.** The information noted here corresponds to that provided by the agencies in the "Summary of Costs" and "Summary of Benefits" sections of each entry. The index presents the regulations alphabetically, by agency, by unit within the agency, and then by title of the regulation. For additional information on the effects of the regulation, the reader should refer to the specific **Calendar** entry.

A reader who is interested in a particular industry or group can easily identify those regulations that have a major impact on that industry or group. The reader should locate the relevant "Affected Industries" or "Other Affected Sectors" heading and scan the columns within them to locate the specific industry or other sector in which he or she is interested. For each entry, the reader can then see the agency issuing the regulation, the title of the regulation affecting the sectors of interest, and the page number on which the regulation appears in the **Calendar.**

Similarly, a reader who is interested in a particular regulation can identify the activities and groups that the particular regulation will affect significantly.

This index highlights two types of regulatory impacts: (1) direct impacts on industries and other sectors that are required to take a specific action or that will receive a direct or immediate benefit as a result of a regulation; and (2) indirect impacts on sectors that are important suppliers or customers of the directly regulated or benefited sector, or important providers of substitute products.

For each regulation, we first identify the major industrial sectors affected. The terminology we use in the Affected Industries section of the index corresponds, where possible, to standard SIC nomenclature (Standard Industrial Classification Manual, 1972 edition with 1977 supplement, available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock Nos. 041–001–00066–6 and 003–005–00176–0 respectively). The SIC Manual defines industries in accordance with the composition and structure of the economy, and covers the entire field of economic activities. The SIC classifies industries by major division, and further classifies them within divisions by using multiple digit codes.

The specific categories within the Affected Industries section correspond to the major SIC industrial divisions. Where an impact will probably be felt throughout a major industrial division, we name that major division (e.g., Agriculture, Mining, Construction, Manufacturing, etc.). Where a regulation will affect only a particular type of establishment within a division, we use a more specific SIC level (e.g., Livestock Production, Coal Mining, Building Construction, Petroleum Refining, etc.). Below is a brief explanation of each major industrial division.

Agriculture, Forestry, Fishing

This division includes establishments primarily engaged in agricultural production of crops, seeds, livestock and dairy products, and related agricultural services; forestry; and commercial fishing (including shellfish and marine products). Manufacturing and processing of agricultrual products away from the farm and packaging of fish are classified under Manufacturing.

Mining

This division includes establishments primarily engaged in metal and nonmetallic mineral mining, coal mining and processing, oil and gas extraction, and related mining services. Manufacturing and processing of agricultural products away from the farm, packaging of fish, petroluem refining and smelting, and refining of metal are classified under Manufacturing. Natural gas transmission is classified under Electric, Gas, and Sanitary Services, and pipeline transportation of petroleum is listed under Transportation.

Construction

This category includes establishments and contractors primarily engaged in construction. Construction includes new work, additions, alterations, and repairs. Three broad types of construction activity are covered: (1) building construction by general contractors or builders primarily engaged in construction of buildings for sale on their own account rather than as contractors; (2) heavy construction, such as highways, streets, cemeteries, mines, dams and water projects, sewage collection, treatment and disposal facilities, hydroelectric plant construction, and irrigation projects; and (3) construction by special trade contractors, such as painting, carpentry, and electric work, including establishments primarily engaged in the sale and installation of communications equipment and insulation material.

Manufacturing

This division includes establishments engaged in the mechanical or chemical transformation of materials or substances into new products. The materials processed by manufacturing establishments include products of agriculture, forestry, fishing, mining, and quarrying, as well as products of other manufacturing establishments. This division includes milk processing and bottling, fish packaging, smelting and refining of metal, and shipbuilding.

Transportation, Communications, and Electric, Gas, and Sanitary Services

This division includes establishments providing to the general public or to other business enterprises passenger and freight transportation; communication services; utilities such as electricity, gas, steam, and water or sanitary services; and the U.S. Postal Service.

Trade

This division covers both wholesale and retail trade. In addition, we have specifically identified impacts on the exporting and importing operations of wholesale and retail establishments. Wholesale trade includes establishments or places of

business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, or professional business users, or to other wholesalers; and businesses acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Retail trade includes establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of goods. Impacts highlighted include increases or decreases in demand for goods or services traded, as well as passthrough costs from suppliers to wholesalers and retailers.

Finance, Insurance, Real Estate

This division includes establishments operating primarily in the fields of finance, insurance, and real estate. Finance includes banks, trust companies, credit agencies other than banks, investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and all insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate.

Other Services

This division includes establishments primarily engaged in providing a wide variety of services for individuals, business and government establishments, and other organizations. Included are health services; accounting, architectural, legal, engineering, and other professional services; educational institutions; business, repair, and recreational services; and membership organizations. Not included are services closely related to a particular industry, such as agricultural, mining, transportation, etc., which are noted in their respective categories.

All- or Multi-Industry Impact

This category identifies regulations having (1) an "across-the-board" impact on all sectors of the economy, or (2) an impact which affects several industries and cannot be adequately identified with SIC terminology. Examples of the latter include regulations affecting industries producing a particular pollutant; using a particular manufactured product, raw material, or energy source; employing a particular minority group; or subject to a particular law. For some regulations having this kind of cross-industry impact, we also identify specific industries within the general group which will be significantly affected. For example, in the case of a regulation restricting the production of asbestos products, we (1) record "Other Industries Using Asbestos Products" in the All- or Multi-Industry Impact column, and (2) record "Construction" in the Construction column, because that industry is the major industrial user of asbestos products.

After highlighting industrial sectors affected, we next record impacts on governmental, social, geographic, and other sectors. A brief explanation of each of these "Other Affected Sectors" follows:

State and Local Government

This category identifies regulations significantly affecting State and local governments. We highlight regulations in this category which directly regulate a State or local government function, involve State or local government in implementation, or preempt a State law or regulation.

Some State and local governments engage in operations not traditionally considered "governmental" in nature (such as State-owned liquor stores). Impacts on such operations are recorded in the appropriate category of the Industries Affected section of the index (e.g., any impact on State-owned liquor stores is included in the listing "Retail of Liquor" under the Wholesale and Retail Trade column). Such impacts are not noted in the State, Local Government category.

Population Groups

We use this category to highlight impacts on various population groups, including groups defined by age, income, health status, type of employment, ethnicity, and living environment.

We also use this column to highlight regulations which the agencies identify as having a specal or significant impact on consumers. Regulations identified include proposals aimed at providing safer and better quality consumer goods and services, as well as proposed actions which might raise prices or decrease the quality or quantity of consumer goods and services.

This category also indentifies proposed actions which impact the general public. This term encompasses general improvements to the quality of life, including upgrading the environment, encouraging the development of energy sources, curbing inflation, and improving the balance of trade.

Geographic Areas

In this category, we identify those areas of the country particularly affected by a regulation, such as specific States (as physical regions rather than political units), rural, urban, or other regions, Indian lands, public lands, and national parks.

Small Business

In this category we identify those regulations which have special impacts on the small business community as a whole, as well as on small businesses within specific industries. Notations in this category encompass a variety of impacts, including Small Business Administration proposals aimed at directly benefiting the small business community, proposals which might adversely affect small businesses, and regulations which are structured to meet both the special needs and the special limitations of small businesses.

Alternative Regulatory Approaches Considered

The Alternative Regulatory Approaches category is the final column in our index. This category highlights regulations which agencies are considering implementing by using alternative, market-oriented approaches. These approaches are departures from traditional "command-and-control" regulation, which involves strictly specified rules and formal government

sanctions for failure to comply. Instead, alternative regulatory approaches involve the use of private ingenuity and the economic forces of the marketplace to develop better long-term solutions to regulatory problems. These approaches include:

• Marketable rights: allowing government-conferred rights to be exchanged by private parties, eliminating the need for detailed government involvement in their allocation.

• Economic incentives: structuring fees or subsidies (rather than government-enforced standards) that encourage private sector achievement of regulatory goals.

• Performance standards: replacing regulations that specify the means of compliance (usually detailed design standards) with more general standards. These standards are based on desired overall performance levels—leaving regulated firms free to find the most efficient means of compliance.

• Information disclosure: replacing direct regulation with programs to give customers informed freedom of choice among products and services.

• Nongovernmental compliance measures: replacing or supplementing strict governmental monitoring and enforcement with market-oriented mechanisms, including third-party compliance monitoring and supervised self-certification.

• Enhanced competition: achieving needed regulatory goals more efficiently by adjusting market structure through the removal of barriers, governmental or nongovernmental, to market entry or limits on the services that may be provided.

• Tiering: tailoring regulatory requirements, usually recordkeeping and reporting requirements and compliance responsibilities, according to the nature of the regulated entity, to make for more cost-effective attainment of regulatory goals.

The remaining paragraphs provide an overview of the sectors that may be most significantly affected by regulations described in this edition of the **Calendar.** We present industrial impacts by major SIC Division; where appropriate, we also present data for particular industries within the major Divisions. We only tabulated impacts when they were industry-specific; we did not include other all- or multi-industry impacts in the tabulations we present below. Because our goal is to present an overview rather than a detailed analysis, we limited the information we present here to direct impacts and *significant* indirect impacts.

Of the 113 regulations appearing in the **Calendar,** approximately 60 affect Manufacturing. Within the Manufacturing Division, regulatory impacts are most frequent on transportation-related manufacturing (19), manufacturing of various products (15), energy-related manufacturing (9), and manufacturing in general (9).

The next largest regulatory impact is on Wholesale and Retail Trade (24), Electric, Gas, and Sanitary Services (23), and Transportation (20). Service industries such as education or engineering are affected by 19 of the regulations, mining by 16, and construction and finance by 14 each.

Population groups affected include minorities (6), persons susceptible to air pollution or fumes (6), and children (3).

Over 52 of the regulations have direct or significant indirect effects on the general public, 45 regulations have an effect on State governments, and 25 will affect local governments.

A total of 52 of the 113 entries (46 percent) discuss implementation of various alternative regulatory approaches. The techniques more often mentioned are performance standards (18), tiering (18), enhanced competition (10), and information disclosure (7).

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INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOC-MARAD Construction-Differential Subsidy Repayment; Total Repayment Policy	34159				Ship-building	Deep Sea Foreign and Domestic Water Transportation				Shippers of Goods by Deep Sea Transportation and Their Customers		Consumers of Goods Shipped by Deep Sea Transportation; General Public		Tiering
DOC-NOAA Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area	34033	Commercial Fishing for Groundfish in Bering Sea/Aleutian Island Area			Fish Processing		Exporting of Fish Products				Alaska	Consumers of Groundfish; General Public; Alaska		
DOC-NOAA Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships	34011		Oil, Gas, Coal, and Uranium Extraction	Power Plant Construction	Shipbuilding & Repairing; Electric Equipment; Energy-Intensive Products, e.g., Ammonia, Fertilizer, & Aluminum; Petroleum Refining; Nuclear Fuel	Electric Services; Ocean Thermal Energy Production	Wholesale of Natural Gas, Petroleum, and Nuclear Fuel			Other Energy-Intensive Products		S.E. United States; Gulf Coast; Virgin Islands; Puerto Rico; Hawaii and Pacific Islands; General Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOC-NOAA 34036 Regulations on the Mining of Deep Seabed Hard Mineral Resources		Mining of Copper and Ferroalloy Ores; Metal Mining Services		Primary Metal Industries							General Public		Performance Standards
ED-OESE 34144 Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs										State and Local Education Agencies	Educationally Deprived Students and Their Parents; Teachers and Other Education Employees		Performance Standards
ED-OPE 34145 Institutional Aid Program Regulations								Institutions of Higher Education					
DOE-CE 34013 Commercial and Apartment Conservation Service Program					Electric and Gas Services	Retail of Home Heating Oil	Commercial Buildings; Apartment Buildings		Occupants and Owners of Apartment and/or Commercial Buildings	State	Apartment Dwellers; General Public		
DOE-CE 34014 Energy Conservation Program for Consumer Products Other Than Automobiles				Major Household Appliances							Consumers of Major Household Appliances; General Public		Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES: AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	OTHER AFFECTED SECTORS: STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	ALTERNATIVE REGULATORY APPROACHES CONSIDERED
DOE-CE	Energy Performance Standards for New Buildings	34015			Building Construction	Construction Materials					Occupants of New Commercial Buildings	State and Local	Building Workers; Occupants of New Residential Housing; General Public		Performance Standards
DOE-ERA	Natural Gas Curtailment Priorities for Interstate Pipelines	34016				Manufacturing	Natural Gas Transmission and Distribution				Other Commercial Users of Natural Gas and Electricity		Consumers of Natural Gas and Electricity; General Public		Tiering; Economic Incentives
DOE-FE	Variable Work Commitment Bidding System for Outer Continental Shelf Oil and Gas Lease Sales	34019		Offshore Oil and Gas Extraction							Companies Bidding for OCS Leases		General Public; Outer Continental Shelf		Enhanced Competition
HHS-FDA	Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use	34089				Pharmaceutical Preparations, particularly Generic Drugs		Wholesaling and Retailing of Pharmaceutical Preparations				State Drug Purchasing Programs	Consumers of Pharmaceutical Preparations; General Public		Enhanced Competition
HHS-FDA	Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues	34091	Livestock and Poultry Production			Veterinary Pharmaceutical Preparations							Consumers of Meat and Poultry		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
HHS-FDA 34093 New Drug and Antibiotic Drug Regulations; Revision of Regulations Governing Approval for Marketing				Pharmaceutical Preparations		Wholesaling and Retailing of Pharmaceutical Preparations					Consumers of Pharmaceutical Preparations		
HHS-HCFA 34094 Uniform Reporting Systems for Health Services Facilities and Organizations								Health Care Services Facilities and Practitioners			People in Need of Health Services	Small Health Care Facilities and Operations	Tiering
HUD-HOUS 34146 Minimum Property Standards for One-and Two-Family Dwellings			Residential Building Contractors				Minimum Standard Housing; Housing Developers; Mortgage Banking Industry			Local Building Codes	Occupants of Minimum Standard Housing; Construction Workers		
DOI-HCRS 34038 Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands								Archaeological Activities			Native Americans; Collectors and Treasure Hunters; General Public; Public and Indian Lands, particularly in 13 Western States		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
			AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOI-NPS	Right-of-Way Regulations	34041		Oil and Gas Extraction			Communications Services; Electric, Gas, and Sanitary Services			Other Establishments Requesting Rights-of-Way Across National Parks		State and Local Governments Requesting Rights-of-Way Across National Parks	National Parks		
DOJ-CRD	Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs	34147									Recipients of Federal Financial Assistance	State and Local	Minorities; Women; Handicapped; General Public		
DOJ-CRD	Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds	34149									Recipients of Federal Financial Assistance	State and Local	Victims of Employment Discrimination; General Public		
DOJ-CRD	Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs	34150									DOJ-Funded Programs and Activities	State and Local Law Enforcement Agencies	Employees of and Participants in DOJ-Funded Programs and Activities		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOJ-CRD 34151 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance									DOJ-Funded Programs and Activities	State and Local Law Enforcement and Correction Agencies	Employees of and Participants in DOJ-Funded Programs and Activities		
DOJ-INS 34152 Admission of Refugees and Asylum Procedures								Charitable Organizations Involved with Refugee Relief		State and Local Refugee Relief Programs	Refugees; General Public		
DOT-FAA 34096 Flammability Standards for Crewmember Uniforms					Air Transportation						Air Passengers and Crewmembers		Performance Standards
DOT-FHWA 34161 Buy America Requirements		Iron Ores	Highway Construction	Domestic Steel Industry		Steel Importing				State Highway Construction Programs	General Public		Tiering
DOT-FHWA 34183 Design Standards for Highways -- Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways			Highway and Street Construction	Highway Construction Materials				Engineering Services		State and Local	Users of Highways; General Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOT-FHWA Hours of Service of Drivers	34098					Interstate Trucking and Busing				Shippers of Goods by Truck and Bus; Business Users of These Goods		Users of Highways; Consumers of Goods Shipped by Truck and Bus		
DOT-NHTSA Bumper Standard	34100				Manufacturing of Passenger Cars and Passenger Car Equipment			Accident Insurance Carriers		Commercial Users of Passenger Cars		Consumers of Passenger Cars; General Public		Performance Standards
DOT-NHTSA Crashworthiness Ratings	34100				Passenger Cars					Commercial Users of Passenger Cars		Purchasers of New Passenger Cars		Information Disclosure
DOT-NHTSA Heavy-Duty Vehicle Brake Systems	34102				Trucks; Buses; Tractor-Trailers; Braking Systems	Trucking and Busing				Other Commercial Users of Trucks, Buses, and Tractor-Trailers		Users of Highways; Purchasers of Trucks and Tractor-Trailers; General Public		Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
			AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
DOT-NHTSA	Occupant Crash Protection	34103				Manufacturing of Passenger Cars and Passenger Car Equipment			Accident Insurance Carriers		Commercial Users of Passenger Cars		Consumers of Passenger Cars		Tiering
DOT-OST	Special Air Traffic Rules and Airport Traffic Patterns	34185					Air Carriers				Commercial Users of Scheduled Air Carriers, particularly at DCA - National Airport		Air Passengers; Communities with Air Service to DCA; DCA - National Airport		Marketable Rights
DOT-USCG	Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	34104				All Manufacturing; Liquid Cargo Vessels	Water Transportation of Bulk Liquefied Gas; Utilities and Transportation Industries				Other Commercial Users of Bulk Liquefied Gas		Marine Environment; General Public; Consumers of Bulk Liquefied Gas		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES: AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	OTHER AFFECTED SECTORS: STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	ALTERNATIVE REGULATORY APPROACHES CONSIDERED
DOT-USCG	Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage	34042				All Manufacturing Tank Barges	Water Transportation of Oil Tank Barges; Marine Towing; Utilities and Transportation Industries				Other Commercial Users of Oil.		Aquatic Environment; General Public; Consumers of Oil		
TREAS-ATF	Implementation of the Distilled Spirits Tax Revision Act of 1979	34162				Distilled Spirits; Brandy; Wine; Alcoholic Flavorings		Importing of Distilled Spirits, Wine, and Brandy							
TREAS-ATF	Labeling and Advertising Regulations Under the Federal Alcohol Administration Act	34164				Alcoholic Beverages		Wholesale and Retail of Alcoholic Beverages		Advertising Industry		Twenty-Two States that have Adopted the Federal Alcohol Administration Act	Consumers of Alcoholic Beverages		Enhanced Competition; Non-governmental Compliance Measures
TREAS-CUSTOMS	Civil Aircraft Regulations	34166				Civil Aircraft and Parts, Domestic and Foreign	Air Transportation	Wholesale, Retail, and Importing of Civil Aircraft and Parts		Domestic and Foreign Repair of Civil Aircraft and Parts	Other Commercial Users of Civil Aircraft and Parts		Consumers of Civil Aircraft and Parts; General Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
TREAS-CUSTOMS 34167 Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act					Passenger Transportation by Taxicab, Bus, or Charter Service				Other Industries Owning Fleet Vehicles, such as Taxicabs and Buses		Individuals Importing Motor Vehicles and Engines		
TREAS-CUSTOMS 34168 Interest Charges on Delinquent Accounts				Manufacturers Importing Intermediate Materials		Importing Community	Surety Insurance Industry						
TREAS-OCC 34067 Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements							National Banking Industry		Business Customers and Shareholders of National Banks	Comments Solicited from Banking Commissioners of Each State	Customers and Shareholders of National Banks; General Public		Enhanced Competition
TREAS-OCC 34069 Lending Limits; Unimpaired Surplus Fund							National Banking Industry		Business Customers of National Banks	State and Local	Customers of National Banks; General Public; Rural Areas		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
TREAS-OCC 34071 Use of Data Processing Equipment and Furnishing of Data Processing Services							National Banking Industry	Data Processing	Business Customers of National Banks		Customers of National Banks; General Public	Non-bank Suppliers of Data Processing Services	
EPA-OANR 34105 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes					Commercial Nuclear Power Plants				Other Commercial Users of Electricity Produced by Nuclear Power		Consumers of Electricity Produced by Nuclear Power; General Public		Performance Standards
EPA-OANR 34107 Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer		Mining of Minerals and Radioactive Metals		Petroleum Refining; Chemicals; Radioactive Materials					Other Industries Emitting Carcinogenic Substances; Commercial Users of Products of Industries Emitting Carcinogenic Substances	State and Local Air Pollution Control	General Public; Consumers of Products of Industries Emitting Carcinogenic Substances; Urban Areas; Gulf Coast, W.V., and Northern N.J.		Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OANR 34044 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)				Manufacturing Industries Emitting Set II Pollutants, particularly Petroleum Refining and Primary Metal Industries	Transportation Industries; Electric Services				Other Industries Emitting Set II Pollutants	State Air Pollution Control	General Public		Performance Standards; Economic Incentives; Marketable Rights
EPA-OANR 34047 Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide	Agriculture			Manufacturing Industries Emitting Nitrogen Oxides; Motor Vehicles and Equipment	Electric Services; Natural Gas Pipelines				Other Industries Emitting Nitrogen Oxides	State and Local Transportation Programs; State Air Pollution Control	General Public, Particularly Persons Suffering from Respiratory Disease; the Aquatic Ecosystem		
EPA-OANR 34046 Review, and Possible Revision, of the National Ambient Air Quality Standards for Carbon Monoxide				Motor Vehicles and Equipment	Motor Vehicles					State and Local Transportation Programs; State Air Pollution Control	Persons with Cardiovascular or Pulmonary Disease; Pregnant Woman and Fetuses; Anemics; the Driving Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OANR 34048 Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter		Coal Mining		Primary Metal Industry; Petroleum Refining	Electric and Sanitary Services				Other Industries Emitting Particulate Matter, including Industries Supplying or Using Large Quantities of Fossil Fuel	State Air Pollution Control	General Public, particularly Children and People with Respiratory and Cardiovascular Diseases		Tiering
EPA-OANR 34049 Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)	Agriculture	Coal Mining		Non-ferrous Metal Industry; Petroleum Refining	Electric, Gas, and Sanitary Services				Other Industries Emitting Sulfur Dioxides, including Industries Supplying or Using Large Quantities of Fossil Fuel	State Air Pollution Control	General Public, particularly Children and People with Respiratory Diseases		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OANR 34050 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers				Energy-Intensive Manufacturing Industries, particularly Glass, Pulp and Paper, and Chemicals					Other Energy-Intensive Industries; Commercial Users of Manufactured Products, particularly Glass, Pulp and Paper, and Chemicals		General Public; Consumers of Manufactured Products, particularly Glass, Pulp and Paper, and Chemicals	Small Industrial Boilers	Tiering
EPA-OANR-OMSAPC 34109 Fuels and Fuel Additives Protocols				Petroleum Refining	Trucking; Passenger Transportation by Taxicab, Bus, or Charter Service				Other Commercial Users of Motor Vehicles		People Who Live Near or Work in Plants Producing Fuels and Additives; Users of Motor Vehicles; Urban Areas; General Public	Firms Producing Small Amounts of Fuels or Fuel Additives	Tiering

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OANR-OMSAPC Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines	34051			Construction	Heavy-Duty Engines and Vehicles; Light-Duty Trucks	Trucking; Busing				Other Commercial Users of Heavy-Duty Engines and Vehicles and Light-Duty Trucks		General Public, particularly Urban Populations and People with Respiratory Disease; Consumers of Heavy-Duty Vehicles and Light-Duty Trucks		Performance Standards
EPA-OANR-OMSAPC Heavy-Duty Diesel Particulate Regulations	34053			Construction	Heavy-Duty Diesel Engines and Vehicles	Trucking; Busing				Other Commercial Users of Heavy-Duty Diesel Engines and Vehicles	States with Areas in Violation of the National Ambient Air Quality Standard for TSP	General Public, particularly People with Respiratory Disease, and Urban Populations; Consumers of Heavy-Duty Diesel Vehicles		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OANR-ORP 34110 Remedial Action Standards for Inactive Uranium Processing Sites										AZ, CO, ID, NM, ND, OR, TX, PA, UT, and WY	People Living or Working Near Inactive Uranium Mill Tailings Sites in Affected States or Uranium-Contaminated Buildings; General Public		
EPA-OPTS 34113 Pesticide Registration Guidelines	Agriculture and Forestry			Pesticides and Agricultural Chemicals				Chemical and Biological Testing Laboratories	Other Commercial Users of Pesticides and Agricultural Chemicals		Users of Pesticides and Agricultural Chemicals; General Public		
EPA-OPTS 34115 Premanufacture Notification Requirements and Review Procedures				Chemicals		Importing of Chemical Products					Workers in the Chemical Industry; General Public		Information Disclosure; Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OPTS 34116 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers		Asbestos	Construction	Asbestos Products; Asbestos Substitutes		Importing of Asbestos and Asbestos Products			Other Commercial Users of Asbestos Products		Workers in Asbestos Mining and Manufacturing; Consumers of Asbestos Products; General Public		Information Disclosure; Marketable Rights
EPA-OPTS 34118 Toxic Substances Control Act (TSCA) Section 4 Test Rules				Chloromethane; Chlorinated Benzenes; Other Chemical Products Produced with These Chemicals				Testing Laboratories; Welding		State and Local	Workers Exposed to Industrial Chemicals in Production and Handling; Consumers of Formulated Products Containing the Chemicals; General Public		
EPA-OWWM 34121 Control of Organic Chemicals in Drinking Water				Water Supply Equipment	Public and Private Water Supply Systems	Wholesale of Water Supply Equipment		Sanitary Engineers	Commercial Users of Water	State and Local	Water Consumers; General Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
			AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OWWM	Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities	34055				Metal Finishing Wastewater Treatment Equipment					Other Industries with Electroplating and Metal Finishing Operations; Commercial Users		Aquatic Environment; General Public		Tiering; Nongovernmental Compliance Measures
EPA-OWWM	Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	34057				Pulp, Paper, and Paperboard Mills; Manufacturing of Pollution Abatement Equipment					Commercial Users of Pulp, Paper, and Paperboard Products	State and Local Water Pollution Control Agencies	Consumers of Pulp, Paper, and Paperboard Products; General Public		
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works	34059			Construction	Iron and Steel; Manufacturing Industries Using Iron and Steel Products					Other Commercial Users of Iron and Steel Products	State and Local	Consumers of Iron and Steel Products; General Public		
EPA-OWWM	Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	34063				Anti-pollution Equipment; Manufacturing Industries Using Electricity	Electric Services				Other Commercial Users of Electricity	State and Local Water Pollution Control Agencies	Consumers of Electricity; General Public; Aquatic Environment		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
			AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
EPA-OWWM	Hazardous Waste Regulations: Phase III-C Regulations Applicable to Hazardous Waste Disposal Facilities	34122			Construction of Hazardous Waste Depositories	Industries Generating Hazardous Wastes	Hazardous Waste Management Industry				All Industries Generating Hazardous Wastes; Consumers of Goods Produced by Waste-Generating Industries	State Governments	Persons Living or Working Near Hazardous Waste Disposal Sites; General Public		
EPA-OWWM	Sewage Sludge Disposal Regulations	34125				Fertilizer and Soil Conditioners Derived from Sludge	Sewage Systems	Wholesale and Retail of Fertilizer and Soil Conditioners Derived from Sludge			Industries Discharging into Water Treatment Facilities	State and Local Waste Management Programs	General Public		
FEMA	Review and Approval of State and Local Radiological Emergency Plans and Preparedness	34126				Manufacturing	Nuclear Power Plants				Other Commercial Users of Electricity Produced by Nuclear Power	State and Local Radiological Emergency Programs	Consumers of Electricity Produced by Nuclear Power; General Public		Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
GSA-FPRS 34169 National Defense Stockpile Disposal Regulations		Mining		Manufacturing					Other Industries Supplying, Trading, and Using Basic Industrial Raw Materials				
GSA-HRO 34153 Nondiscrimination in Federally Assisted Programs									GSA-Funded Programs and Activities	State and Local GSA-Funded Programs and Activities	Special Populations (e.g., Hispanic, Woman, Handicapped)		Tiering
GSA-NARS 34156 Freedom of Information Act Requests for National Security Classified Information in the National Archives								Organizations Requesting Classified Information	Other Establishments Requesting Classified Information		People Requesting Classified Information		
NCUA 34072 Group Purchasing Activities of Federal Credit Unions						Wholesale and Retail Trade of Select Consumer Products	Federal Credit Unions; Insurance Groups				Members of Federal Credit Unions		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
SBA 34188 Revision of Business Loan Policy; Business Loans and Guarantees					Small Communications Businesses							Small Media-Oriented Businesses	Enhanced Competition
SBA 34157 Revision to Method of Establishing Size Standards and Definitions of Small Business									Businesses that Qualify for SBA Programs			Small Business	Tiering
CAB 34190 Air Carrier Insurance and Liability					Air Transportation		Insurance Industry		Shippers of Goods by Air		Air Passengers		Economic Incentives; Information Disclosure; Tiering
CAB 34191 Essential Air Service Subsidy Guidelines					Air Transportation				Industries in Small Communities		Small Communities; Air Passengers To and From these Communities; General Public		Economic Incentives
CAB 34193 Notice to Passengers of Conditions of Carriage					Air Transportation; Travel Agencies						Air Passengers		Information Disclosure

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
CFTC Large Trader Reporting to Exchanges and Reporting Open Positions	34074							Commodity Exchanges; Futures Commission Merchants; Foreign Brokers		Commercial Users of and Speculators in Commodity Futures		Consumers of and Speculators in Commodities		Nongovernmental Compliance Measures
CFTC Proposed Dealer Option Regulations	34075							Commodity Exchanges; Futures Commission Merchants		Commercial Investors in Commodity Dealer Options		Investing Public for Commodity Options		Enhanced Competition
CFTC Proposed Rules Concerning Foreign Brokers and Traders	34077							Commodity Exchanges; Domestic Futures Commission Merchants; Foreign Brokers and Traders		Commercial Users of and Speculators in Commodities		Consumers of and Speculators in Commodities		
CFTC Review of Guideline No. 1 -- Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation	34078							Commodity Exchanges; Futures Commission Merchants		Commercial Users of and Speculators in Commodities		Consumers of and Speculators in Commodities		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
CPSC 34128 Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products				Dye							Consumers of Benzidine Congener Dyes, including Home Dyes; Crafts-people, Hobbyists		
CPSC 34130 Consumer Products Containing Asbestos		Asbestos	Construction	Asbestos Products		Wholesale and Retail of Asbestos Products			Other Commercial Users of Asbestos Products		Consumers of Asbestos Products; General Public		
CPSC 34131 Omnidirectional Citizens Band Base Station Antenna Standard			Installation of CB Base Station Omnidirectional Antennas	CB Base Station Omnidirectional Antennas		Wholesale, Retail, and Importing of CB Base Station Omnidirectional Antennas			Commercial Users of CB Base Station Omnidirectional Antennas		Consumers of CB Base Station Omnidirectional Antennas		Performance Standards
CPSC 34133 Safety Requirements for Chain Saws	Forestry			Chain Saws and Components					Industries Using Chain Saws	State of Washington	Professional and Consumer Users of Chain Saws		Performance Standards

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
CPSC Upholstered Furniture Cigarette Flammability Standard	34136				Upholstered Furniture; Textile Mill Products		Wholesale and Retail of Upholstered Furniture and Mill Products				California	Consumers of Upholstered Furniture	Small Upholsterers	Performance Standards
CPSC Urea Formaldehyde Foam (UFF) Insulation	34137			Installation of UFF Insulation	UFF Insulation		Wholesale, Retail, and Importing of UFF Insulation			Commercial Users of UFF Insulation	Several States That Have Taken Some Action on UFF Insulation	Consumers of UFF Insulation, particularly People Sensitized to Formaldehyde, and with Respiratory Illness and Allergies; General Public		Information Disclosure; Performance Standards
FCC Children's Television Programming and Advertising Practices (Docket 19142)	34194					Television Broadcasting Industry			Advertising Industry			Children		Enhanced Competition

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
FCC 34195 Creation of "New" Personal Radio Service (PR Docket 79-140)				Two-Way Radio Equipment	Radio Broadcasting	Wholesale and Retail of Two-Way Radio Equipment			Other Commercial Users of Two-Way Radio Equipment		Consumers and Users of Two-Way Radios; Owners of Home Entertainment Equipment		
FCC 34196 Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79-252)					Telecommunications Industry				Commercial Telecommunications Users		Telecommunications Users	Small Business	Enhanced Competition; Tiering
FCC 34198 Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System (Broadcast Docket No. 78-253; RM-1932; FCC 80-503)				Television Equipment Industry	Television Broadcasting Industry, including Subscription Television and Cablevision Services						Television Users, particularly in Rural and Mountainous Areas		Enhanced Competition
FEC 34170 Nonpartisan Communications by Corporations or Labor Organizations								Membership Organizations, including Trade Associations and Labor Organizations	Corporations in All Industries				

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
FERC 34022 High-Cost Natural Gas: Production Enhancement Procedures		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas	State	Consumers of Natural Gas; General Public		
FERC 34021 High-Cost Natural Gas Produced from Wells Drilled in Deep Waters		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas		Consumers of Natural Gas; General Public		Economic Incentives; Tiering
FERC 34023 Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas		Consumers of Natural Gas		Tiering
FERC 34024 Rate of Return on Common Equity for Electric Utilities				Manufacturing	Electric Services				Other Business Users of Electricity; Investors in Electric Services		Private Investors in Electric Services; Consumers of Electricity		Tiering
FERC 34026 Regulations Governing Applications for Major Unconstructed Projects			Hydroelectric Power Projects	Manufacturing	Hydroelectric Power				Other Commercial Users of Hydroelectric Power	State and Local Hydroelectric Power Projects	Consumers of Hydroelectric Power; General Public		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
FERC 34028 Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas		Consumers of Natural Gas		
FERC 34029 Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings		Natural Gas Production			Oil and Natural Gas Transmission and Distribution; Electric Services; Hydroelectric Power; Cogeneration				Commercial Users of Natural Gas, Oil, and Electric Services		Consumers of Natural Gas, Oil, and Electric Services	Small Power Producers	
FERC 34031 Revision of Form 1 Annual Report by Electric Utilities					Electric Services			Commercial Users of Electric Services		State	Consumers of Electric Services		
FMC 34199 Filing of Currency Adjustment Factors					Deep Sea Foreign Transportation				Shippers of Goods by Deep Sea Foreign Transportation				

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
		AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
FTC Proposed Amendment to Eyeglasses Rule and Eyeglasses II	34172						Retail Ophthalmic Industry		Ophthalmologists; Optometrists; Opticians		State Regulation of Ophthalmic Industry	Consumers of Eyeglasses and Contact Lenses		Enhanced Competition
FTC Proposed Trade Regulation Rule Concerning Credit Practices	34174						Retail of Consumer Products	Credit Agencies; Other Establishments Providing Consumer Credit	Adjustment and Collection Agencies		State Regulation of Consumer Credit	Consumer Debtors		
FTC Proposed Trade Regulation Rule on Mobile Home Sales and Service	34178				Mobile Homes		Retail of Mobile Homes				State Mobile Home Regulation	Purchasers of Mobile Homes		Performance Standards
FTC Residential Real Estate Brokerage Industry Practices	34180							Real Estate Agents and Brokers; Related Services, such as MLS	Brokerage Trade Associations; Related Services	Commercial Users of Real Estate Brokerage Services	State Regulation of Real Estate Practices	Consumers of Brokerage Services	Small Real Estate Brokerage Firms	Enhanced Competition; Information Disclosure
ICC Leasing Rules Modifications (Ex Parte No. MC-43 (Sub-No. 12))	34200					Trucking				Corporations Operating Private Truck Fleets		Shippers and Consumers of Products Shipped by Regulated Motor Carriers		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
ICC 34202 Revision of Abandonment Regulations (Ex Parte No. 274 (Sub-No.5))					Railroad Transportation	Shippers of Products by Rail			Commercial Users of Railroads	State; Local	Railroad Employees; Consumers of Products Transported by Railroad; Rural Areas	Small Communities	
NRC-RES 34142 Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation					Nuclear Power Plants				Business Users of Electricity Produced by Nuclear Power	State and Local	Consumers of Electricity Produced by Nuclear Power; General Public		
PRC 34203 Postal Rate Commission Docket -- Attached Mail Proceeding, 1981					U.S. Postal Service				Business Users of the Mail		Large Volume Mailers; Recipients of Attached Mail		
PRC 34205 Postal Rate Commission Docket -- E-COM Forms of Acceptance, 1980					Telecommunications Industry; U.S. Postal Service				Large Volume Mailers; Business Users of These Mailers' Goods and Services		Recipients of Mail throughout the Nation		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			ALTERNATIVE REGULATORY APPROACHES CONSIDERED
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	
PRC 34206 Postal Rate Commission Docket MC81-3, ZIP + 4 Subclasses of First-Class Mail					U.S. Postal Service				Large Volume Mailers		Recipients of Mail from Large Mailers		
SEC 34079 Classification of Issuers for Reducing or Modifying Certain Reporting Requirements							Security Brokers and Dealers; Investment Advisory Companies; and Institutional Investors		Publicly Held Companies Required to Register Securities with SEC		Investors in Publicly Held Companies Required to Register with SEC	Small Issuers of Securities	Tiering
SEC 34081 Proposed Comprehensive Revision to System for Registration of Securities Offerings							Security Brokers and Dealers; Investment Advisory Companies; and Institutional Investors		Publicly Held Companies Required to Register Securities with SEC; Business Investors in These Companies		Investors in Publicly Held Companies Required to Register with SEC		

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX I SECTORS AFFECTED BY REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES									OTHER AFFECTED SECTORS			
	AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL OR MULTI-INDUSTRY	STATE, LOCAL GOVERNMENT	POPULATION GROUPS, GEOGRAPHIC AREAS	SMALL BUSINESS	ALTERNATIVE REGULATORY APPROACHES CONSIDERED
SEC 34083 Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports							Security Brokers and Dealers		Publicly Held Companies Required to Register Securities with SEC; Business Investors in These Companies		Investors and Those Seeking Proxies in Publicly Held Companies Required to Register with SEC		
SEC 34085 Simplification of Investment Company Prospectuses							Registered Investment Companies		Business Investors in Registered Investment Companies		Prospective Investors in Registered Investment Companies		Tiering

PLEASE SEE INTRODUCTION FOR EXPLANATION OF CATEGORIES

INDEX II DATE OF NEXT REGULATORY ACTION

This index provides you with a quick reference to the status of each of the regulations under development that agencies describe in this edition of the Calendar. The index indicates the month(s) in which the agency plans to take the next scheduled regulatory action.

The index is organized alphabetically by agency, unit within the agency, and then by title of the regulation. We also provide the page number where you can find each entry in this edition of the Calendar, so you can check specific dates in the "Timetable" section of that entry.

The actions we note fall into four general categories: ANPRM (Advance Notice of Proposed Rulemaking), NPRM (Notice of Proposed Rulemaking), Final Rule, and Other (any important next action which does not fall into the previous three categories). Independent agencies are most likely to have "Other" actions, such as Staff Recommendations or Commission Decisions.

Of the 113 entries described in this Calendar, 50, or about 44 percent, of the entries have "Final Rule" scheduled as the next regulatory action; NPRMs are scheduled as the next action for 40 (about 35 percent); and 3 (about 3 percent) list ANPRMs as the next action. Of the remaining entries, 11 list "Other" regulatory actions, 6 do not have next actions scheduled yet, and 3 involve multiple actions.

To review the overall schedule which the agency anticipates for each Calendar entry, the reader should turn to the specific entry and refer to the "Timetable" section.

Note.--In most cases, the agency can only estimate these dates. For current information on any action, please call the "Agency Contact" listed for the specific entry.

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
DOC-MARAD Construction-Differential Subsidy Repayment; Total Repayment Policy	34159	FINAL RULE -- TO BE DETERMINED														
DOC-NOAA Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area	34033		<----F---->													
DOC-NOAA Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships	34011				<--F-->											
DOC-NOAA Regulations on the Mining of Deep Seabed Hard Mineral Resources	34036					<--F-->										

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
ED-OESE Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs	34144	FINAL RULES IN INTERIM EFFECT PENDING REGULATORY IMPACT ANALYSIS														
ED-OPE Institutional Aid Program Regulations	34145				<--N-->											
DOE-CE Commercial and Apartment Conservation Service Program	34013		<----------F---------->													
DOE-CE Energy Conservation Program for Consumer Products Other Than Automobiles	34014	FINAL RULES -- TO BE DETERMINED														
DOE-CE Energy Performance Standards for New Buildings	34015				<--O-->											
DOE-ERA Natural Gas Curtailment Priorities for Interstate Pipelines	34016		<--F-->													
DOE-FE Variable Work Commitment Bidding System for Outer Continental Shelf Oil and Gas Lease Sales	34019		<--F-->													
HHS-FDA Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use	34089						<--N-->									
HHS-FDA Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues	34091							<--O-->								

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INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
HHS-FDA 34093 New Drug and Antibiotic Drug Regulations; Revision of Regulations Governing Approval for Marketing						<--N-->									
HHS-HCFA 34094 Uniform Reporting Systems for Health Services Facilities and Organizations	MULTIPLE ACTIONS -- TO BE DETERMINED														
HUD-HOUS 34146 Minimum Property Standards for One-and Two-Family Dwellings	FINAL RULE -- TO BE DETERMINED														
DOI-HCRS 34038 Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands			<--F-->												
DOI-NPS 34041 Right-of-Way Regulations			<--N-->												
DOJ-CRD 34147 Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs	<----N---->														
DOJ-CRD 34149 Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds				<--F-->											
DOJ-CRD 34150 Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs		<--F-->													
DOJ-CRD 34151 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance			<--N-->												

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
DOJ-INS Admission of Refugees and Asylum Procedures	34152			<--F-->												
DOT-FAA Flammability Standards for Crewmember Uniforms	34096			<--O-->												
DOT-FHWA Buy America Requirements	34161	FINAL RULE -- TO BE DETERMINED														
DOT-FHWA Design Standards for Highways -- Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways	34183						<--F-->									
DOT-FHWA Hours of Service of Drivers	34098					<--N-->										
DOT-NHTSA Bumper Standard	34100	NPRM -- TO BE DETERMINED														
DOT-NHTSA Crashworthiness Ratings	34100	FINAL RULE -- TO BE DETERMINED														
DOT-NHTSA Heavy-Duty Vehicle Brake Systems	34102	NPRM -- TO BE DETERMINED														
DOT-NHTSA Occupant Crash Protection	34103	FINAL RULE -- TO BE DETERMINED														
DOT-OST Special Air Traffic Rules and Airport Traffic Patterns	34185	FINAL RULE -- TO BE DETERMINED														
DOT-USCG Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	34104								<--N-->							

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
DOT-USCG 34042 Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage	TO BE DETERMINED														
TREAS-ATF 34162 Implementation of the Distilled Spirits Tax Revision Act of 1979		<—F—>													
TREAS-ATF 34164 Labeling and Advertising Regulations Under the Federal Alcohol Administration Act		<——F——>													
TREAS-CUSTOMS 34166 Civil Aircraft Regulations		<——F——>													
TREAS-CUSTOMS 34167 Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act		<——F——>													
TREAS-CUSTOMS 34168 Interest Charges on Delinquent Accounts		<——N——>													
TREAS-OCC 34067 Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements		<—N—>			<—N—>										
TREAS-OCC 34069 Lending Limits; Unimpaired Surplus Fund	<—N—>														
TREAS-OCC 34071 Use of Data Processing Equipment and Furnishing of Data Processing Services		<—N—>													

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INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
EPA-OANR 34105 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes			<--N-->												
EPA-OANR 34107 Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer								<--F-->							
EPA-OANR 34044 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)					<--N-->										
EPA-OANR 34047 Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide	NPRM -- TO BE DETERMINED														
EPA-OANR 34046 Review, and Possible Revision, of the National Ambient Air Quality Standards for Carbon Monoxide	FINAL RULE -- TO BE DETERMINED														
EPA-OANR 34048 Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter	NPRM -- TO BE DETERMINED														
EPA-OANR 34049 Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)	NPRM -- TO BE DETERMINED														
EPA-OANR 34050 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers							<--N-->								
EPA-OANR-OMSAPC 34109 Fuels and Fuel Additives Protocols														<--A-->	

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INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
EPA-OANR-OMSAPC 34051 Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines														<--N-->	
EPA-OANR-OMSAPC 34053 Heavy-Duty Diesel Particulate Regulations														<--F-->	
EPA-OANR-ORP 34110 Remedial Action Standards for Inactive Uranium Processing Sites					<--F-->										
EPA-OPTS 34113 Pesticide Registration Guidelines	MUTIPLE ACTIONS -- CALL OR WRITE AGENCY CONTACT (SEE ENTRY)														
EPA-OPTS 34115 Premanufacture Notification Requirements and Review Procedures				<--F-->											
EPA-OPTS 34116 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers											<-------N------->				
EPA-OPTS 34118 Toxic Substances Control Act (TSCA) Section 4 Test Rules	MULTIPLE ACTIONS -- SEE ENTRY FOR DETAILS														
EPA-OWWM 34121 Control of Organic Chemicals in Drinking Water		<--A-->													
EPA-OWWM 34055 Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities					<--N-->										
EPA-OWWM 34057 Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways															FINAL RULE -- AUGUST 1982

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
EPA-OWWM 34059 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works								<--F-->							
EPA-OWWM 34063 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants							<--F-->								
EPA-OWWM 34122 Hazardous Waste Regulations: Phase II-C Regulations Applicable to Hazardous Waste Disposal Facilities									<----F---->						
EPA-OWWM 34125 Sewage Sludge Disposal Regulations	NEXT ACTION IS N OR A						<---------->								
FEMA 34126 Review and Approval of State and Local Radiological Emergency Plans and Preparedness	FINAL RULE -- TO BE DETERMINED														
GSA-FPRS 34169 National Defense Stockpile Disposal Regulations								<----------F---------->							
GSA-HRO 34153 Nondiscrimination in Federally Assisted Programs		<--N-->													
GSA-NARS 34156 Freedom of Information Act Requests for National Security Classified Information in the National Archives				<--N-->											
NCUA 34072 Group Purchasing Activities of Federal Credit Unions			<--F-->												

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
SBA Revision of Business Loan Policy; Business Loans and Guarantees	34188		<——N——>													
SBA Revision to Method of Establishing Size Standards and Definitions of Small Business	34157		<——N——>													
CAB Air Carrier Insurance and Liability	34190		<——F——>													
CAB Essential Air Service Subsidy Guidelines	34191		<——F——>													
CAB Notice to Passengers of Conditions of Carriage	34193		<——N——>													
CFTC Large Trader Reporting to Exchenges and Reporting Open Positions	34074	REVISED NPRM -- TO BE DETERMINED														
CFTC Proposed Dealer Option Regulations	34075						<——F——>									
CFTC Proposed Rules Concerning Foreign Brokers and Traders	34077		<——F——>													
CFTC Review of Guideline No. 1 -- Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation	34078								<——F——>							
CPSC Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products	34128					<——N——>										

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY	TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
CPSC	Consumer Products Containing Asbestos	34130	TO BE DETERMINED														
CPSC	Omnidirectional Citizens Band Base Station Antenna Standard	34131			<—N—>												
CPSC	Safety Requirements for Chain Saws	34133	NPRM -- TO BE DETERMINED														
CPSC	Upholstered Furniture Cigarette Flammability Standard	34136	ANPRM -- TO BE DETERMINED														
CPSC	Urea Formaldehyde Foam (UFF) Insulation	34137	FINAL RULE -- TO BE DETERMINED														
FCC	Children's Television Programming and Advertising Practices (Docket 19142)	34194								<—O—>							
FCC	Creation of "New" Personal Radio Service (PR Docket 79-140)	34195					<—N—>										
FCC	Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79-252)	34196								<—O—>							
FCC	Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System (Broadcast Docket No. 78-253; RM-1932; FCC 80-503)	34198								<—O—>							
FEC	Nonpartisan Communications by Corporations or Labor Organizations	34170		<—N—>													

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INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
FERC High-Cost Natural Gas: Production Enhancement Procedures	34022	REHEARING DECISION -- TO BE DETERMINED														
FERC High-Cost Natural Gas Produced from Wells Drilled in Deep Waters	34021	FINAL RULE -- TO BE DETERMINED														
FERC Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978	34023	FINAL RULE -- TO BE DETERMINED														
FERC Rate of Return on Common Equity for Electric Utilities	34024	NPRM -- TO BE DETERMINED														
FERC Regulations Governing Applications for Major Unconstructed Projects	34026		<--N-->													
FERC Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act	34028		<----------F---------->													
FERC Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings	34029	FINAL RULE -- TO BE DETERMINED														
FERC Revision of Form 1 Annual Report by Electric Utilities	34031		<----------F---------->													
FMC Filing of Currency Adjustment Factors	34199								<----------F---------->							
FTC Proposed Amendment to Eyeglasses Rule and Eyeglasses II	34172						<--O-->									

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INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
FTC 34174 Proposed Trade Regulation Rule Concerning Credit Practices			<--O-->												
FTC 34178 Proposed Trade Regulation Rule on Mobile Home Sales and Service							<--O-->								
FTC 34180 Residential Real Estate Brokerage Industry Practices			<--O-->												
ICC 34200 Leasing Rules Modifications (Ex Parte No. MC-43 (Sub-No. 12))				<----F---->											
ICC 34202 Revision of Abandonment Regulations (Ex Parte No. 274 (Sub-No. 5))	<--N-->														
NRC-RES 34142 Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation		<--N-->													
PRC 34203 Postal Rate Commission Docket -- Attached Mail Proceeding, 1981	TO BE DETERMINED														
PRC 34205 Postal Rate Commission Docket -- E-COM Forms of Acceptance, 1980	TO BE DETERMINED														
PRC 34206 Postal Rate Commission Docket MC81-3, ZIP + 4 Subclasses of First-Class Mail	TO BE DETERMINED														
SEC 34079 Classification of Issuers for Reducing or Modifying Certain Reporting Requirements		<----N---->													
SEC 34081 Proposed Comprehensive Revision to System for Registration of Securities Offerings		<----F---->													

A = ANPRM N = NPRM F = FINAL RULE O = OTHER

INDEX II DATE OF NEXT REGULATORY ACTION

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	MAY 82	JUN 82	JULY 82 AND BEYOND
SEC Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports	34083					<———	F	———>								
SEC Simplification of Investment Company Prospectuses	34085			<—N—>												

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INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

This index graphically displays the dates of comment periods, meetings, and hearings on regulations under development which agencies describe in this edition of the Calendar. Where possible, we indicate the opening and closing dates of the comment periods, the dates and locations of hearings and meetings, and the next regulatory action for the entry.

The index is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

Not all regulations described in the Calendar are included here; only those with present or future comment periods, hearings, or meetings. Those which are not listed usually had comment periods, meetings, or hearings that have passed, or have not yet been scheduled.

For further information on each regulation, the reader should refer to the text of the entry in the appropriate chapter of the Calendar.

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
DOC-NOAA Regulations on the Mining of Deep Seabed Hard Mineral Resources	34036	C—→												FINAL RULES	Comment period on NPRM (published March 24) ends May 29, 1981.
ED-OPE Institutional Aid Program Regulations	34145					←—C—→								NPRM	
DOE-CE Energy Performance Standards for New Buildings	34015													OTHER	Public comment period to follow Interim Final Rule to be published in August 1981.
DOI-NPS Right-of-Way Regulations	34041			←—	—C—		—→							NPRM	
DOJ-CRD Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs	34147													NPRM	Public comment period minimum of 90 days following NPRM published in May/June 1981.
DOJ-CRD Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds	34149	—C—→												FINAL RULE	Public comment period on NPRM (published April 17, 1981) ends June 17, 1981.
DOJ-CRD Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance	34151				←—	—C—	—→							NPRM (REVISED)	Public comment period 90 days following revised NPRM published in July.

COMMENT PERIOD = C MEETING = M HEARING = H OTHER = O

INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
DOT-FAA Flammability Standards for Crewmember Uniforms	34096													OTHER	NPRM or notice of withdrawal will be published in July. If NPRM, comment period 90 to 120 days after issuance.
DOT-FHWA Hours of Service of Drivers	34098						<—		C		—>			NPRM	
DOT-NHTSA Crashworthiness Ratings	34100	<—			C		—>							FINAL RULE	Public comment period on NPRM (published January 22, 1981) ends October 22, 1981.
DOT-USCG Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases	34104									<—	C	—>		NPRM	
TREAS-ATF Labeling and Advertising Regulations Under the Federal Alcohol Administration Act	34164													FINAL RULE	Date of D.C. public hearing preceding Final Rule undetermined at time of publication.
TREAS-CUSTOMS Interest Charges on Delinquent Accounts	34168													NPRM	Public comment period 60 days following publication of NPRM in summer 1981.
TREAS-OCC Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements	34067	<—			C				—>					NPRMS	Total public comment period on multiple actions covers September 1980 to December 1981.
TREAS-OCC Lending Limits; Unimpaired Surplus Fund	34069		<—		C	—>								NPRM	Public comment period June 1 – August 31, 1981.

COMMENT PERIOD = C MEETING = M HEARING = H OTHER = O

INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
TREAS-OCC 34071 Use of Data Processing Equipment and Furnishing of Data Processing Services			<——C——>										NPRM	Public comment period on NPRM from June 30 - August 31, 1981.
EPA-OANR 34105 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes				<——————C——————>									NPRM	Public comment period of 180 days on NPRM published in July. Several public hearings will be announced in Federal Register.
EPA-OANR 34044 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)						<—H—>	<—C—>						NPRM	
EPA-OANR 34050 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers								<—H—>					NPRM	Public comment period to be announced in NPRM.
EPA-OANR-OMSAPC 34051 Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines													NPRM	Public hearing on ANPRM (published January 19, 1981) will be held some time after July 1981. Public comment period ends 30 days after hearing.
EPA-OANR-OMSAPC 34053 Heavy-Duty Diesel Particulate Regulations													FINAL RULE	Public hearings on NPRM (published January 7, 1981) held after July 1981. Public comment period ends 30 days after public hearings.
EPA-OPTS 34113 Pesticide Registration Guidelines														Mutiple actions -- call or write Agency Contact named in entry.
EPA-OPTS 34116 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers											<——C——>		NPRM	Public comment period on NPRM to be published in spring 1982; public hearing in summer 1982.

COMMENT PERIOD = C MEETING = M HEARING = H OTHER = O

INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

AGENCY / TITLE OF REGULATION	PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
EPA-OWWM Control of Organic Chemicals in Drinking Water	34121		<M> <C>											ANPRM	Public technical seminar will be held during summer of 1981.
EPA-OWWM Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Metal Finishing Facilities	34055						<C>								
EPA-OWWM Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	34057	C>												FINAL RULE	Public comment period on NPRM (published January 6, 1981) ends June 9, 1981.
EPA-OWWM Hazardous Waste Regulations: Phase II-C Regulations Applicable to Hazardous Waste Disposal Facilities	34122		<H>											FINAL RULE	Public hearings on NPRM June 8-9, 1981 in Chicago, June 11-12 in Washington, D.C., June 13-16 in Houston, June 18-19 in San Francisco. Public comments due on or before August 1, 1981. Details on hearings in 46 FR 20706.
			C												
GSA-HRO Nondiscrimination in Federally Assisted Programs	34153		<C>											NPRM	
GSA-NARS Freedom of Information Act Requests for National Security Classified Information in the National Archives	34156					<C>								NPRM	
NCUA Group Purchasing Activities of Federal Credit Unions	34072	C>												FINAL RULE	Public comment period on NPRM (published April 15, 1981) ends June 1, 1981.
SBA Revision of Business Loan Policy; Business Loans and Guarantees	34188													NPRM	Public comment period 60 days following publication of NPRM.

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INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
SBA 34157 Revision to Method of Establishing Size Standards and Definitions of Small Business													NPRM	Public comment period 60 days following publication of NPRM.
CPSC 34128 Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products					<——C——> <——H——>								NPRM	
CPSC 34131 Omnidirectional Citizens Band Base Station Antenna Standard				<——C——>									NPRM	
CPSC 34133 Safety Requirements for Chain Saws				<—H—>									NPRM	
FCC 34196 Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79-252)	—C——>												OTHER	Reply comments due June 5, 1981. (Initial comment period closed May 1, 1981.)
FERC 34029 Revised Rules of Practice: Procedures to Expedite Trial-Type Proceedings	—C—>												FINAL RULE	Comment period on NPRM (published March 9, 1981) ends June 1, 1981.
ICC 34202 Revision of Abandonment Regulations (Ex Parte No. 274 (Sub-No.5))		<——C——>											NPRM	
NRC-RES 34142 Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation			<——C——>										NPRM	Public hearing to be determined.
PRC 34203 Postal Rate Commission Docket -- Attached Mail Proceeding, 1981													OTHER	Public comment period open throughout proceeding. Dates and places of public hearings to be announced.

COMMENT PERIOD = C MEETING = M HEARING = H OTHER = O

INDEX III DATES FOR COMMENTS, HEARINGS, OR MEETINGS

AGENCY / TITLE OF REGULATION / PAGE NO.	MAY 81	JUN 81	JUL 81	AUG 81	SEP 81	OCT 81	NOV 81	DEC 81	JAN 82	FEB 82	MAR 82	APR 82	NEXT REGULATORY ACTION	COMMENTS
PRC 34205 Postal Rate Commission Docket -- E-COM Forms of Acceptance, 1980													OTHER	Public comment period open throughout proceeding. Dates and places of public hearings to be announced.
PRC 34206 Postal Rate Commission Docket MC81-3, ZIP + 4 Subclasses of First-Class Mail													OTHER	Public comment period open throughout proceeding. Dates and places of public hearings to be announced.
SEC 34079 Classification of Issuers for Reducing or Modifying Certain Reporting Requirements													NPRM	Public comment period 60 days following NPRM to be published in summer 1981.
SEC 34083 Proposed Revision of Regulation S-K and Guides for the Preparation and Filing of Registration Statements and Reports		<——C——>											FINAL RULE	Reproposal comment period June 14 – August 14, 1981.
SEC 34085 Simplification of Investment Company Prospectuses			<——C——>										NPRM	

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APPENDIX I: EXECUTIVE ORDER 12291

Executive Order 12291 is a major part of the Administration's program for regulatory relief. The Executive Order has three major parts. First, it sets forth the Administration's regulatory principles. These include requirements that if the agency wishes to regulate, it should do so for good reason; the benefits of the regulation should exceed the costs; the agency should choose the least costly way of securing the regulatory objective; and the regulation should maximize net benefits.

Second, the Executive Order establishes the preeminence of the Presidential Task Force on Regulatory Relief in matters concerning regulatory policy.

Third, the Executive Order creates a mechanism through which the Office of Management and Budget (OMB), under the overall direction of the Task Force, is to review proposed regulations and consult with agencies about them. It also calls for a mechanism for OMB to identify existing regulations which agencies must address, and for OMB and the Task Force to coordinate the development of legislative proposals in the regulatory area.

Thus, the Executive Order strengthens agency management, ensures sound analysis, minimizes regulatory burden, and provides for Executive oversight of the regulation development process. We include it below for your information.

Presidential Documents

Executive Order 12291 of February 17, 1981

Federal Regulation

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for presidential oversight of the regulatory process, minimize duplication and conflict of regulations, and insure well-reasoned regulations, it is hereby ordered as follows:

Section 1. *Definitions.* For the purposes of this Order:

(a) "Regulation" or "rule" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency, but does not include:

(1) Administrative actions governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code;

(2) Regulations issued with respect to a military or foreign affairs function of the United States; or

(3) Regulations related to agency organization, management, or personnel.

(b) "Major rule" means any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(c) "Director" means the Director of the Office of Management and Budget.

(d) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), excluding those agencies specified in 44 U.S.C. 3502(10).

(e) "Task Force" means the Presidential Task Force on Regulatory Relief.

Sec. 2. *General Requirements.* In promulgating new regulations, reviewing existing regulations, and developing legislative proposals concerning regulation, all agencies, to the extent permitted by law, shall adhere to the following requirements:

(a) Administrative decisions shall be based on adequate information concerning the need for and consequences of proposed government action;

(b) Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society;

(c) Regulatory objectives shall be chosen to maximize the net benefits to society;

(d) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost to society shall be chosen; and

(e) Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the

particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

Sec. 3. *Regulatory Impact Analysis and Review.*

(a) In order to implement Section 2 of this Order, each agency shall, in connection with every major rule, prepare, and to the extent permitted by law consider, a Regulatory Impact Analysis. Such Analyses may be combined with any Regulatory Flexibility Analyses performed under 5 U.S.C. 603 and 604.

(b) Each agency shall initially determine whether a rule it intends to propose or to issue is a major rule, *provided that,* the Director, subject to the direction of the Task Force, shall have authority, in accordance with Sections 1(b) and 2 of this Order, to prescribe criteria for making such determinations, to order a rule to be treated as a major rule, and to require any set of related rules to be considered together as a major rule.

(c) Except as provided in Section 8 of this Order, agencies shall prepare Regulatory Impact Analyses of major rules and transmit them, along with all notices of proposed rulemaking and all final rules, to the Director as follows:

(1) If no notice of proposed rulemaking is to be published for a proposed major rule that is not an emergency rule, the agency shall prepare only a final Regulatory Impact Analysis, which shall be transmitted, along with the proposed rule, to the Director at least 60 days prior to the publication of the major rule as a final rule;

(2) With respect to all other major rules, the agency shall prepare a preliminary Regulatory Impact Analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director at least 60 days prior to the publication of a notice of proposed rulemaking, and a final Regulatory Impact Analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of the major rule as a final rule;

(3) For all rules other than major rules, agencies shall submit to the Director, at least 10 days prior to publication, every notice of proposed rulemaking and final rule.

(d) To permit each proposed major rule to be analyzed in light of the requirements stated in Section 2 of this Order, each preliminary and final Regulatory Impact Analysis shall contain the following information:

(1) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits;

(2) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs;

(3) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms;

(4) A description of alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of this potential benefit and costs and a brief explanation of the legal reasons why such alternatives, if proposed, could not be adopted; and

(5) Unless covered by the description required under paragraph (4) of this subsection, an explanation of any legal reasons why the rule cannot be based on the requirements set forth in Section 2 of this Order.

(e) (1) The Director, subject to the direction of the Task Force, which shall resolve any issues raised under this Order or ensure that they are presented to the President, is authorized to review any preliminary or final Regulatory Impact Analysis, notice of proposed rulemaking, or final rule based on the requirements of this Order.

(2) The Director shall be deemed to have concluded review unless the Director advises an agency to the contrary under subsection (f) of this Section:

(A) Within 60 days of a submission under subsection (c)(1) or a submission of a preliminary Regulatory Impact Analysis or notice of proposed rulemaking under subsection (c)(2);

(B) Within 30 days of the submission of a final Regulatory Impact Analysis and a final rule under subsection (c)(2); and

(C) Within 10 days of the submission of a notice of proposed rulemaking or final rule under subsection (c)(3).

(f) (1) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary Regulatory Impact Analysis or notice of proposed rulemaking under this Order, and shall, subject to Section 8(a)(2) of this Order, refrain from publishing its preliminary Regulatory Impact Analysis or notice of proposed rulemaking until such review is concluded.

(2) Upon receiving notice that the Director intends to submit views with respect to any final Regulatory Impact Analysis or final rule, the agency shall, subject to Section 8(a)(2) of this Order, refrain from publishing its final Regulatory Impact Analysis or final rule until the agency has responded to the Director's views, and incorporated those views and the agency's response in the rulemaking file.

(3) Nothing in this subsection shall be construed as displacing the agencies' responsibilities delegated by law.

(g) For every rule for which an agency publishes a notice of proposed rulemaking, the agency shall include in its notice:

(1) A brief statement setting forth the agency's initial determination whether the proposed rule is a major rule, together with the reasons underlying that determination; and

(2) For each proposed major rule, a brief summary of the agency's preliminary Regulatory Impact Analysis.

(h) Agencies shall make their preliminary and final Regulatory Impact Analyses available to the public.

(i) Agencies shall initiate reviews of currently effective rules in accordance with the purposes of this Order, and perform Regulatory Impact Analyses of currently effective major rules. The Director, subject to the direction of the Task Force, may designate currently effective rules for review in accordance with this Order, and establish schedules for reviews and Analyses under this Order.

Sec. 4. *Regulatory Review.* Before approving any final major rule, each agency shall:

(a) Make a determination that the regulation is clearly within the authority delegated by law and consistent with congressional intent, and include in the **Federal Register** at the time of promulgation a memorandum of law supporting that determination.

(b) Make a determination that the factual conclusions upon which the rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular.

Sec. 5. *Regulatory Agendas.*

(a) Each agency shall publish, in October and April of each year, an agenda of proposed regulations that the agency has issued or expects to issue, and currently effective rules that are under agency review pursuant to this Order. These agendas may be incorporated with the agendas published under 5 U.S.C. 602, and must contain at the minimum:

(1) A summary of the nature of each major rule being considered, the objectives and legal basis for the issuance of the rule, and an approximate

schedule for completing action on any major rule for which the agency has issued a notice of proposed rulemaking;

(2) The name and telephone number of a knowledgeable agency official for each item on the agenda; and

(3) A list of existing regulations to be reviewed under the terms of this Order, and a brief discussion of each such regulation.

(b) The Director, subject to the direction of the Task Force, may, to the extent permitted by law:

(1) Require agencies to provide additional information in an agenda; and

(2) Require publication of the agenda in any form.

Sec. 6. *The Task Force and Office of Management and Budget.*

(a) To the extent permitted by law, the Director shall have authority, subject to the direction of the Task Force, to:

(1) Designate any proposed or existing rule as a major rule in accordance with Section 1(b) of this Order;

(2) Prepare and promulgate uniform standards for the identification of major rules and the development of Regulatory Impact Analyses;

(3) Require an agency to obtain and evaluate, in connection with a regulation, any additional relevant data from any appropriate source;

(4) Waive the requirements of Sections 3, 4, or 7 of this Order with respect to any proposed or existing major rule;

(5) Identify duplicative, overlapping and conflicting rules, existing or proposed, and existing or proposed rules that are inconsistent with the policies underlying statutes governing agencies other than the issuing agency or with the purposes of this Order, and, in each such case, require appropriate interagency consultation to minimize or eliminate such duplication, overlap, or conflict;

(6) Develop procedures for estimating the annual benefits and costs of agency regulations, on both an aggregate and economic or industrial sector basis, for purposes of compiling a regulatory budget;

(7) In consultation with interested agencies, prepare for consideration by the President recommendations for changes in the agencies' statutes; and

(8) Monitor agency compliance with the requirements of this Order and advise the President with respect to such compliance.

(b) The Director, subject to the direction of the Task Force, is authorized to establish procedures for the performance of all functions vested in the Director by this Order. The Director shall take appropriate steps to coordinate the implementation of the analysis, transmittal, review, and clearance provisions of this Order with the authorities and requirements provided for or imposed upon the Director and agencies under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Paperwork Reduction Plan Act of 1980, 44 U.S.C. 3501 *et seq.*

Sec. 7. *Pending Regulations.*

(a) To the extent necessary to permit reconsideration in accordance with this Order, agencies shall, except as provided in Section 8 of this Order, suspend or postpone the effective dates of all major rules that they have promulgated in final form as of the date of this Order, but that have not yet become effective, excluding:

(1) Major rules that cannot legally be postponed or suspended;

(2) Major rules that, for good cause, ought to become effective as final rules without reconsideration. Agencies shall prepare, in accordance with Section 3 of this Order, a final Regulatory Impact Analysis for each major rule that they suspend or postpone.

(b) Agencies shall report to the Director no later than 15 days prior to the effective date of any rule that the agency has promulgated in final form as of the date of this Order, and that has not yet become effective, and that will not be reconsidered under subsection (a) of this Section:

(1) That the rule is excepted from reconsideration under subsection (a), including a brief statement of the legal or other reasons for that determination; or

(2) That the rule is not a major rule.

(c) The Director, subject to the direction of the Task Force, is authorized, to the extent permitted by law, to:

(1) Require reconsideration, in accordance with this Order, of any major rule that an agency has issued in final form as of the date of this Order and that has not become effective; and

(2) Designate a rule that an agency has issued in final form as of the date of this Order and that has not yet become effective as a major rule in accordance with Section 1(b) of this Order.

(d) Agencies may, in accordance with the Administrative Procedure Act and other applicable statutes, permit major rules that they have issued in final form as of the date of this Order, and that have not yet become effective, to take effect as interim rules while they are being reconsidered in accordance with this Order, *provided that*, agencies shall report to the Director, no later than 15 days before any such rule is proposed to take effect as an interim rule, that the rule should appropriately take effect as an interim rule while the rule is under reconsideration.

(e) Except as provided in Section 8 of this Order, agencies shall, to the extent permitted by law, refrain from promulgating as a final rule any proposed major rule that has been published or issued as of the date of this Order until a final Regulatory Impact Analysis, in accordance with Section 3 of this Order, has been prepared for the proposed major rule.

(f) Agencies shall report to the Director, no later than 30 days prior to promulgating as a final rule any proposed rule that the agency has published or issued as of the date of this Order and that has not been considered under the terms of this Order:

(1) That the rule cannot legally be considered in accordance with this Order, together with a brief explanation of the legal reasons barring such consideration; or

(2) That the rule is not a major rule, in which case the agency shall submit to the Director a copy of the proposed rule.

(g) The Director, subject to the direction of the Task Force, is authorized, to the extent permitted by law, to:

(1) Require consideration, in accordance with this Order, of any proposed major rule that the agency has published or issued as of the date of this Order; and

(2) Designate a proposed rule that an agency has published or issued as of the date of this Order, as a major rule in accordance with Section 1(b) of this Order.

(h) The Director shall be deemed to have determined that an agency's report to the Director under subsections (b), (d), or (f) of this Section is consistent with the purposes of this Order, unless the Director advises the agency to the contrary:

(1) Within 15 days of its report, in the case of any report under subsections (b) or (d); or

(2) Within 30 days of its report, in the case of any report under subsection (f).

(i) This Section does not supersede the President's Memorandum of January 29, 1981, entitled "Postponement of Pending Regulations", which shall remain in effect until March 30, 1981.

(j) In complying with this Section, agencies shall comply with all applicable provisions of the Administrative Procedure Act, and with any other procedural requirements made applicable to the agencies by other statutes.

Sec. 8. *Exemptions.*

(a) The procedures prescribed by this Order shall not apply to:

(1) Any regulation that responds to an emergency situation, *provided that,* any such regulation shall be reported to the Director as soon as is practicable, the agency shall publish in the **Federal Register** a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency shall prepare and transmit as soon as is practicable a Regulatory Impact Analysis of any such major rule; and

(2) Any regulation for which consideration or reconsideration under the terms of this Order would conflict with deadlines imposed by statute or by judicial order, *provided that,* any such regulation shall be reported to the Director together with a brief explanation of the conflict, the agency shall publish in the **Federal Register** a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency, in consultation with the Director, shall adhere to the requirements of this Order to the extent permitted by statutory or judicial deadlines.

(b) The Director, subject to the direction of the Task Force, may, in accordance with the purposes of this Order, exempt any class or category of regulations from any or all requirements of this Order.

Sec. 9. *Judicial Review.* This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person. The determinations made by agencies under Section 4 of this Order, and any Regulatory Impact Analyses for any rule, shall be made part of the whole record of agency action in connection with the rule.

Sec. 10. *Revocations.* Executive Orders No. 12044, as amended, and No. 12174 are revoked.

Ronald Reagan

THE WHITE HOUSE,
February 17, 1981.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

This appendix provides information about those regulations that appeared as entries in the November 1980 edition of the **Calendar of Federal Regulations** but are not repeated in this June 1981 edition.

Many entries from the last edition repeat in this edition because the agencies are still developing those regulations. However, some entries do not repeat; for example, a regulation which an agency was developing in November may have been issued as a final rule, or the agency may have withdrawn it or taken some other action that makes it inappropriate to include in this edition of the **Calendar.** This appendix notes the actions the agencies have taken on such regulations. In addition, it notes any significant word changes in the titles of the regulations to help the reader locate entries that have been retitled and appear as entries in both editions of the **Calendar.**

The appendix also includes the page number on which the entry appeared in the November 1980 **Federal Register** edition of the **Calendar** (45 FR 77701, November 24, 1980).

The appendix lists 93 regulations that appeared in the November 1980 edition of the **Calendar** but that do not repeat in this edition.

Twenty-nine (or 31 percent) of those 93 regulations were withdrawn from the **Calendar** pending policy review. Twelve (13 percent) were withdrawn because the agency expects no further action; nine (10 percent) because the agency expects no further action in the next 12 months. Six (6 percent) regulations were withdrawn because the agency no longer considered them major under E.O. 12291—in some cases because the agency narrowed the scope of its previous proposal. Three (3 percent) regulations were rescinded or superseded by Executive order and thirty-one (33 percent) regulations went final. Two regulations involve multiple rulemaking actions, parts of which may have been issued as final rules, while other parts reappear in the revised entry in this edition of the **Calendar.**

This appendix also lists three regulations with title changes from the last edition.

The appendix is organized alphabetically by agency, unit within the agency, and then by title of the regulation.

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
USDA-AMS	Amendments to Federal Seed Act Regulations	77924	Withdrawn from Calendar--USDA determined is non-major under E.O. 12291.
USDA-AMS	Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders	77926	No further activity--USDA denied petition for hearing on April 7, 1981.
USDA-FSQS	Proposed Net Weight Regulations	77928	Postponed pending policy review.
USDA-FSQS	Proposed Polychlorinated Biphenyls (PCBs) Regulation--Existing Equipment	77805	Deferred indefinitely due to court case involving EPA's existing rules.
USDA-SCS	Watershed Protection and Flood Prevention Program	77747	Withdrawn from Calendar--no action scheduled during next 12 months.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States	77751	Final Rule--46 FR 27489, May 20, 1981.
ED-OCR	Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964	77898	Withdrawn pending agency review--Withdrawal Notice, 46 FR 10516, February 3, 1981.
DOE-CE	Emergency Building Temperature Restrictions	77714	Rescinded by Presidential Proclamation Number 4820--46 FR 12941, February 19, 1981.
DOE-CE	Federal Price Support Loan Program for Energy From Municipal Waste Resource Recovery Facilities	77718	Withdrawn from Calendar--preliminary analysis indicates this rule does not meet criteria for major regulation.
DOE-CE	Standby Federal Emergency Conservation Plan	77719	Proposed Rule and Notice of Proposed Rulemaking Withdrawn--46 FR 13517, February 23, 1981. Proposal was amended and no longer meets E.O. 12291 criteria for major regulation.
DOE-ERA	Amendments to Puerto Rican Naphtha Entitlements Regulations	77721	Final Rule--46 FR 5722, January 19, 1981.
DOE-ERA	Crude Oil Resales Pricing Revisions	77722	Final Rule--45 FR 74432, November 7, 1980.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOE-ERA	Domestic Crude Oil Entitlements	77723	Notice of Intent Not to Issue Final Rule--46 FR 5722, January 19, 1981.
DOE-ERA	Gasohol Marketing Regulations	77724	Final Rule will not be issued due to E.O. 12287, "Decontrol of Crude Oil and Petroleum Products."
DOE-ERA	Maximum Lawful Price for Unleaded Gasoline	77726	Final Rule--46 FR 3827, January 16, 1981.
DOE-ERA	Motor Gasoline Allocation Regulations Revisions	77727	Final Rule--45 FR 82586, December 15, 1980.
DOE-ERA	Motor Gasoline -- Downward Certification	77729	Final Rule will not be issued due to E.O. 12287, "Decontrol of Crude Oil and Petroleum Products."
DOE-ERA	Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption	77733	Further action is pending Departmental review expected to be completed by fall 1981.
DOE-FE	Outer Continental Shelf (OCS) Sequential Bidding Regulations	77734	Further action is pending Departmental review expected to to be completed by fall 1981.
DOE-RA	Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales	77736	Final Rule--45 FR 84928, December 23, 1980.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
HHS-FDA	Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)	77816	Withdrawn from Calendar pending agency review.
HHS-FDA	Food Labeling Initiatives	77813	Withdrawn from Calendar pending agency review.
HHS-HCFA	Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities	77814	Withdrawn from Calendar pending agency review.
HHS-HCFA	Consolidation of Survey and Certification Requirements for Medicare and Medicaid	77816	Withdrawn pending agency review.
HHS-HCFA	Life Safety Code in Hospitals, Nursing Facilities, and Intermediate Care Facilities	77818	Final Rule--45 FR 50264, July 28, 1980.
HUD-FHA	Coinsurance for Private Mortgage Lenders (New Construction)	77902	Withdrawn from Calendar--no action anticipated in next 12 months.
HUD-NVACP	Lead-Based Paint--Chewable Surfaces	77821	Withdrawn--no action anticipated in next 12 months; may be reintroduced after internal legal and policy review.
HUD-OS	Solar Energy and Energy Conservation Bank	77737	Withdrawn--no longer under consideration.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOI-OSM	Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"	77759	Withdrawn from Calendar pending agency review.
DOI-OSM	Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds	77760	Withdrawn from Calendar pending agency review.
DOI-WPRS	Rules and Regulations for Acreage Limitation Under Federal Reclamation Law	77762	Withdrawn from Calendar pending agency review.
DOJ-INS	Employment Authorization	77907	Final Rule--46 FR 25079, May 5, 1981 (effective June 4, 1981).
DOJ-OJARS-LEAA	Equal Service Evaluation Guidelines	77908	Action suspended indefinitely.
DOL	The Department of Labor is submitting a list of regulations for the May 1981 Calendar of Federal Regulations rather than the detailed entries appearing in previous Calendars. The Department is currently reviewing all regulatory actions to assure that they are consistent with current admininistration policy and the goals of the Executive Order on regulatory reform. The regulations are listed here for informational purposes only, pending resolution of their status.		
DOL-ESA	Sex Discrimination Guidelines--Employee Benefits	77910	
DOL-LMSA-PWBP	Definition of Plan Assets and Establishment of Trust	77911	
DOL-LMSA-PWBP	Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans	77912	

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOL-LMSA-PWBP	Individual Benefit Reporting and Recordkeeping for Single Employer Plans	77913	
DOL-MSHA	Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines	77822	No further action anticipated.
DOL-MSHA	Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers	77823	No further action anticipated.
DOL-MSHA	Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines	77824	
DOL-MSHA	Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations	77825	
DOL-MSHA	Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines	77826	
DOL-OSHA	Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation	77827	
DOL-OSHA	Identification and Labeling of Hazardous Materials in the Workplace	77829	

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOL-OSHA	Occupational Noise Exposure Hearing-Conservation Amendment	77831	
DOL-OSHA	OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standards for Ladders and Scaffolding, Floor and Wall Openings, and Stairways	77833	
DOL-OSHA	Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations	77835	
DOL-OSHA	Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry and in Construction	77837	
DOL-OSHA	Safety and Health Standard for Conveyors	77838	
DOL-OSHA	Standard for Occupational Exposure to Asbestos	77840	
DOL-OSHA	Standard for Occupational Exposure to Chromium	77842	
DOL-OSHA	Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities	77844	
DOT-FHWA	Minimum Cab Space Dimensions	77848	Withdrawn from Calendar--no significant action expected during next 12 months.
DOT-FRA	Alerting Lights Display--Locomotives	77849	Withdrawn from Calendar--no longer meets criteria for major regulation.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOT-NHTSA	Fuel Economy Standards for FY 1983-85 Light Trucks	77738	Final Rule--45 FR 81593, December 11, 1980.
DOT-NHTSA	Pedestrian Protection	77852	Withdrawn from Calendar--the scope of this proposed rulemaking has been significantly narrowed and it is no longer considered to meet the criteria for a major regulation.
TREAS-ATF	Accelerated Payment of Certain Tobacco Products Excise Taxes	77934	Withdrawn--no present plan to propose again.
TREAS-ATF	Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer	77935	Final Rule--46 FR 2999, January 13, 1981. Riders on fiscal year 1981 Supplemental Appropriations Act prohibit EFT in fiscal year 1981. Rule expected to take effect October 1, 1981.
TREAS-CUSTOMS	Accelerated Duty Payment	77940	Project withdrawn.
TREAS-CUSTOMS	Administrative Rulings	77942	Final Rule--45 FR 80100, December 3, 1980.
TREAS-CUSTOMS	Valuation of Imported Merchandise for Customs Purposes	77946	Final Rule--46 FR 2597, January 12, 1981.
TREAS-OCC	Adjustable Rate Mortgages	77782	Final Rule--46 FR 18932, March 29, 1981, Docket No. 81-9.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
TREAS-OCC	Description of Office Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; and Policy Statements	77783	Parts of this proceeding went final; parts remain in Calendar. Supplemental Application Procedures--Final Fules, 46 FR 16659, March 13, 1981, Docket No. 81-7 and 46 FR 16661, Docket No. 81-8. Assessment of Fees--Final Final Rule, 46 FR 16656, March 13, 1981, Docket No. 81-6.
EPA-OPTS	Chemical Hazard Warning Labels	77861	Withdrawn--no further action anticipated.
EPA-OPTS	Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards	77863	Title Change--is now Toxic Substances Control Act (TSCA) Section 4 Test Rules.
EPA-OWWM	Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal	77872	Various Final Rules either published or effective on January 16, 1981, 46 FR 4614.
EPA-OWWM	Water Quality Standards Regulations	77780	Withdrawn from Calendar--EPA will not take action on this regulation during the next 12 months.
EEOC-OGC	Employee Benefit Plans; Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans	77915	Withdrawn from Calendar pending agency review.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
EEOC-OGC	Proposed Rule on the Application of the Age Discrimination in Employment Act of 1967 to Apprenticeship Programs	77916	Withdrawn--no further action anticipated.
EEOC-OPI	Interpretive Guidelines on Employment Discrimination and Reproductive Hazards	77917	Withdrawn--no further action anticipated.
EEOC-OPI	Proposed Revision of the Guidelines on Discrimination Because of National Origin	77918	Final Guidelines--45 FR 85632, December 29, 1980.
GSA-FPRS	National Defense Stockpile Acquisition Regulations	77948	Final Rule--46 FR 21602, April 13, 1981.
GSA-HRO	Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance	77919	Title Change--is now Nondiscrimination in Federally Assisted Programs.
VA-DMA	State Cemetery Grants	77922	Withdrawn from Calendar--no action anticipated during next 12 months.
VA-OHG	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the Veterans Administration	77922	Withdrawn--no action anticipated during next 12 months.
CPSC	Chronic Hazards Associated with Formaldehyde	77881	Withdrawn from Calendar--no significant regulatory activity expected in the next 12 months.
FCC	Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation	77975	Report and order adopted January 14, 1981, released February 24, 1981, 46 FR 13888.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
FDIC	Applications, Requests, Submittals, and Notices of Acquisition of Control; and Disclosure of Information	77794	Final Rule--45 FR 79410, December 1, 1980.
FDIC	Securities of Insured State Nonmember Banks	77795	Final Rule--46 FR 25204, May 5, 1981.
FERC	Rate of Return: Electric	77743	Title Change--is now Rate of Return on Common Equity for Electric Utilities.
FERC	Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part 1 of the Federal Power Act	77893	Final Rule--46 FR 9029, January 28, 1981.
FHLBB	Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980	77797	Final Rules-- Investment in Consumer Loans, Commercial Paper, and Corporate Debt Securities, 45 FR 76104, November 18, 1980. Mutual Capital Certificates, 45 FR 82154, December 15, 1980. Reserve Accounts, 45 FR 76111, November 18, 1980. Revision of Real Estate Lending Regulations, 45 FR 76095, November 18, 1980. Trust Powers Authorization, 45 FR 82162, December 15, 1980.
FMC	Amendments to Tariff Filing Requirements for Controlled Carriers	77977	Final Rule--46 FR 13217, February 20, 1981.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
FMC	Revision of Commission General Order 4, Licensing of Independent Ocean Freight Forwarders	77979	Final Rule--46 FR 24565, May 1, 1981.
FRS	Truth in Lending	77798	Final Rule--46 FR 20848, April 7, 1981.
FTC	Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans	77953	The Commission decided on April 23, 1981 to not undertake any rulemaking. Future action will be based upon a case-by-case review of the legality of physician-groups' control of medical prepayment plans.
ICC	Elimination of Gateway Restrictions and Circuitous Route Limitations; Removal of Restrictions from Authorities of Motor Carriers of Property (Ex Parte No. 142; Ex Parte No. 142 (Sub-No. 1))	77981	Final Rules Adopted--45 FR 86741 and 86747, December 31, 1980.
ICC	Rules Governing Applications for Operating Authority (Ex Parte No. 55 (Sub-No. 43)) and Acceptable Forms of Requests for Operating Authority (Ex Parte No. 55 (Sub-No. 43A))	77982	Final Rules Adopted--45 FR 86771 and 86798, December 31, 1980.
NRC-OSD	Decommissioning of Nuclear Facilities Regulation	77894	Withdrawn from Calendar because economic impact appears to be less than $100 million per year.

APPENDIX II: STATUS OF REGULATIONS FROM NOVEMBER 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 11/24/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
NRC-OSD	Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation	77896	Final Rule (Procedural Requirement), "Disposal of High-Level Radioactive Waste in Geologic Repositories: Licensing Procedures"--46 FR 13971, February 25, 1981. The entry describing the rule outlining the technical criteria for siting is in this edition of the Calendar.
PRC	Experimental Classification--Rulemaking Docket No. RM80-2	77983	Final Rule--45 FR 83222, December 18, 1980.
PRC	Postal Rate Commission Docket R80-1--Postal Rate and Fee Changes, 1980	77987	Commission issued Opinion and Recommended Decision, February 19, 1981. Governors of USPS remanded decision to PRC for reconsideration on March 10, 1981.
SEC	Proposed Rules Exempting the Acquisition and Ownership of Interests in Power Generation and Transmission Companies and Exempting Certain Non-Utility Subsidiaries of Registered Holding Companies	77802	Final Rules--46 FR 5867, January 21, 1981.

APPENDIX III: PUBLICATION DATES FOR AGENCY SEMIANNUAL REGULATORY AGENDAS

This appendix lists publication dates for the semiannual regulatory agendas that agencies prepare each April and October in response to Executive Order 12291, Federal Regulation (46 FR 13193, February 17, 1981). It provides the dates of each agency's last published semiannual agenda and the Federal Register citation to enable interested parties to gain quick access to the list of regulations the agency is considering or reviewing in addition to those it describes in the Calendar.

The appendix also lists the date the agency expects to publish its next agenda. All executive agencies, and those independent agencies that choose to, publish these agendas. Each agenda entry describes, at a minimum, the regulations agencies are considering and their objectives; the legal basis of the action the agency is taking; an approximate schedule for issuing the rules; and an agency contact. The Calendar describes more fully only the most important of these regulations.

AGENCY	PUBLICATION DATE OF LAST AGENDA	FEDERAL REGISTER CITATION	PUBLICATION DATE OF NEXT AGENDA
Executive Agencies			
Department of Agriculture	April 28, 1981	46 FR 23871	October 1981
Department of Commerce	April 29, 1981	46 FR 24096	October 1981
Department of Education	April 30, 1981	46 FR 24412	October 1981
Department of Energy	April 30, 1981	46 FR 24498	October 1981
Department of Health and Human Services	April 30, 1981	46 FR 24424	October 1981
Department of Housing and Urban Development	September 15, 1980	45 FR 59062	Early June 1981
Department of the Interior	April 30, 1981	46 FR 24458	October 30, 1981
Department of Justice	April 29, 1981	46 FR 24128	October 26, 1981
Department of Labor	April 28, 1981	46 FR 23884	October 1981
Department of Transportation	April 2, 1981	46 FR 20036	October 1, 1981
Department of the Treasury:			
Alcohol, Tobacco, and Firearms	April 15, 1981	46 FR 22133	October 15, 1981
Comptroller of the Currency	April 15, 1981	46 FR 22112	October 15, 1981
Customs	April 15, 1981	46 FR 22116	October 15, 1981
Internal Revenue Service	April 15, 1981	46 FR 22121	October 15, 1981
Environmental Protection Agency	April 27, 1981	46 FR 23692	October 1981
Equal Employment Opportunity Commission	April 3, 1981	46 FR 20228	October 1981
Federal Emergency Management Agency	April 24, 1981	46 FR 23271	October 15, 1981
General Services Administration	April 30, 1981	46 FR 24503	October 30, 1981
National Credit Union Administration	April 30, 1981	46 FR 24514	October 30, 1981
Small Business Administration	May 4, 1981	46 FR 24955	October 1981
Veterans Administration	April 23, 1981	46 FR 23081	October 1981
Independent Regulatory Agencies			
Civil Aeronautics Board	April 30, 1981	46 FR 24201	October 1981
Commodity Futures Trading Commission	April 30, 1981	46 FR 24209	October 1981
Consumer Product Safety Commission	May 1981	Not available at time of publication	October 1981
Federal Communications Commission	May 4, 1981	46 FR 24969	October 1981
Federal Deposit Insurance Corporation	May 14, 1981	46 FR 26654	October 1981
Federal Election Commission	Not Applicable	- - -	- - -
Federal Energy Regulatory Commission	Not Applicable	- - -	- - -
Federal Home Loan Bank Board	October 14, 1980	45 FR 67674	Summer 1981
Federal Maritime Commission	Not Applicable	- - -	- - -
Federal Reserve System	April 1, 1981	46 FR 19824	October 1981
Federal Trade Commission	May 7, 1981	46 FR 25468	October 1981
Interstate Commerce Commission	April 30, 1981	46 FR 24217	October 1981
Nuclear Regulatory Commission	- - -	- - -	October 1981
Postal Rate Commission	Not Applicable	- - -	- - -
Securities and Exchange Commission	April 21, 1981	46 FR 23942	October 1981

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APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

This appendix provides information about regulations that agencies are reviewing according to their internal review procedures or as part of the review requirements of Executive Order 12291, "Federal Regulation." Many agencies periodically review their existing regulations to determine whether the regulations are still achieving their intended goals effectively.

In some cases, **Calendar** entries describe regulatory actions that the agencies initiated as a result of a review process. Because these regulations appear in the text, this appendix does not list such actions.

In addition, on March 25, 1981, the Presidential Task Force on Regulatory Relief released a list of final regulations whose effective date will be postponed (indicated on the following appendix by a dagger (†)) and a list of existing regulations that will be reassessed and possibly modified (indicated by an asterisk (*)). The regulations on both of these lists will undergo the review procedures outlined in E.O. 12291 and these regulations are included below. Review of two of the regulations on the Task Force's list has been completed and the regulations have been published. These two regulations are the Department of Justice's "The Effect of a Strike on the Admission and Continued Employment of Certain Nonimmigrants" (46 FR 4856) and the Environmental Protection Agency's "Pesticides: Classification of Uses of Active Ingredients and State Registration of Pesticide To Meet Local Needs" (46 FR 2008 and 5696).

The appendix is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

For a more complete list of regulations under review, readers should refer to each agency's Semiannual Regulatory Agenda.

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
USDA-AMS	*Marketing Orders for Fruits and Vegetables	7 CFR Parts 900-999	5/81	9/81
USDA-APHIS	Animal Welfare Act	9 CFR Parts 1-3	5/80	7/82
USDA-APHIS	Importation of Fruits and Vegetables (for prevention of introduction into U.S. of insects)	7 CFR. 319.56	5/81	10/82
USDA-FmHA	†Revision and Redesignation of Section 502 Rural Housing Loan Policies, Procedures, and Authorization (Farmers Home Administration, 46 FR 4681) (Excluding income limits and interest credit subsidy)	7 CFR Part 1822, Subpart A	3/81	11/81
USDA-FNS	Food Distribution Program	7 CFR Part 250	7/80	9/81

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
USDA-FS	*National Forest System (NFS) Land and Resource Management Planning	36 CFR Part 219	5/81	7/81
USDA-FSQS	*Mechanically Processed (Species) Product	9 CFR Parts 317, 317, 318, 319	2/81	6/81
USDA-FSQS	Standards and Labeling of Meat and Poultry Products	9 CFR Parts 312, 316, 317, 319, 381	9/79 8/80	7/80 (screening) 8/83 (actual review)
DOC-NOAA	*Atlantic Mackerel Fishery Management Plan	50 CFR Part 656	Under Review	6/81
DOC-NOAA	†The Channel Islands National Marine Sanctuary (45 FR 65198). (These regulations went final excepting the section relating to hydrocarbon activity, which is suspended pending Department review.)	15 CFR Parts 935, 936	6/81	9/81
DOC-NOAA	*Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (Fishing Year 1981)	50 CFR Part 661	Under Review	6/81
DOC-NOAA	Marine Mammals: Pribilof Islands	50 CFR Part 215, Subparts A and C	Summer 1981	Fall 1981
DOC-NOAA	†The Point Reyes-Farallon Islands National Marine Sanctuary (46 FR 7936). (These regulations went final excepting the section relating to hydrocarbon activity, which is suspended pending Department review.)	15 CFR Parts 935, 936	6/81	9/81

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOC-PTI-OPSP	†Federal Interaction with Voluntary Standards Bodies; Procedures (46 FR 1574)	15 CFR Part 19	2/81	6/81
ED-OCR	*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and Assistance to †States for Education of Handicapped Children	34 CFR Parts 104, 300	3/27/81	9/30/81
ED-OERI	Arts in Education	34 CFR Part 753	3/27/81	9/30/81
ED-OERI	Law-Related Education Program	34 CFR Part 757	3/27/81	9/30/81
ED-OERI	Library Career Training Program	34 CFR Part 776	3/27/81	9/30/81
ED-OERI	Minority Institutions Science Improvement Program	34 CFR Part 735	3/27/81	9/30/81
ED-OERI	Strengthening Research Library Resources Program	34 CFR Part 778	3/27/81	9/30/81
ED-OESE	Asbestos Detection and Control: Local Educational Agencies; Asbestos Detection and State Plan; State Educational Agencies	34 CFR Parts 230, 231	3/27/81	9/30/81
ED-OESE	Special Impact Aid Provisions for Local Educational Agencies that Claim Entitlements Based on the Number of Children Residing on Indian Lands	34 CFR Part 223	3/27/81	9/30/81

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
ED-OM	Selection Criteria for Fiscal Year 1981	34 CFR Parts 211, 215, 305, 307, 315, 318, 324, 338, 408, 525, 526, 527, 624, 643, 644, 645, 646, 726, 740	3/27/81	9/30/81
ED-OPE	Graduate and Professional Study Fellowships	34 CFR Part 649	3/27/81	9/30/81
ED-OPE	Guaranteed Student Loan Program (Deferments, and Refund of Tuition Charges and Other Fees)	34 CFR Part 682	3/27/81	6/30/82
ED-OPE	International Education Programs	34 CFR Parts 655, 656, 658, 660, 667	3/27/81	9/30/81
ED-OPE	Pell Grants Program	34 CFR Part 690	3/27/81	6/30/82
ED-OPE	Student Assistance General Provisions	34 CFR Part 668	3/27/81	6/30/82
ED-OS	Educational Appeal Board	34 CFR Part 78	3/27/81	9/30/81
ED-OS	Education Department General Administrative Regulations (EDGAR); Annual Funding Priorities	34 CFR Part 75	3/27/81	9/30/81
ED-OS	Education Department General Administrative Regulations (EDGAR); Grant Programs Without Specific Regulations	34 CFR Parts 75, 76	3/27/81	9/30/81

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
ED-OSERS	Centers for Independent Living	34 CFR Part 366	3/27/81	9/30/81
ED-OSERS	Instructional Media for the Handicapped	34 CFR Part 332	3/27/81	9/30/81
ED-OSERS	Rehabilitation Training	34 CFR Parts 385, 386, 387, 388, 389, 390	3/27/81	9/30/81
ED-OSERS	State Vocational Rehabilitation and Independent Living Rehabilitation Programs	34 CFR Parts 361, 365	3/27/81	9/30/81
ED-OSERS	Training Programs for Teachers of Handicapped Children in Areas With a Shortage	34 CFR Part 322	3/27/81	9/30/81
ED-OSERS	Vocational Rehabilitation Service Projects	34 CFR Parts 362, 369, 370, 371, 372, 373, 374, 375, 378, 379, 395	3/27/81	9/30/81
DOE	On 2/6/81 the Secretary of Energy established a task force and a process to completely review all of the Department's regulations with the exception of those related to the decontrol of crude oil and petroleum products. Upon completion of the review, the Department will issue the appropriate notices of proposed action in the Federal Register.	Departmental Memorandum dated 2/6/81	2/6/81	9/81
DOE-CE	*Residential Conservation Service (See Calendar entry, "Commercial and Apartment Conservation Service Program")	10 CFR Part 458	Ongoing	Ongoing

*Existing Regulations To Be Reviewed

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOE-ERA	*Coal Conversion Program	10 CFR Parts 500, 501, 502, 507	Ongoing	Ongoing
HHS-FDA	*Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use (See Calendar entry)	21 CFR Part 314	Ongoing	Ongoing
HHS-HCFA	*All Medicaid Regulations	42 CFR-Various Parts	Ongoing	Ongoing
HHS-HCFA	*Consolidation of Survey and Certification Requirements for Medicare and Medicaid	42 CFR Parts 405, 431	Ongoing	Ongoing
HUD-HOUS	*Minimum Property Standards for One- and Two-Family Dwellings and Multi-Family Dwellings (See Calendar entry for One - and Two-Family Dwellings)	24 CFR Part 200	Ongoing	Ongoing
DOI-BIA	†Tribal Government Elections (46 FR 1668, and 1674)	25 CFR Parts 52, 53	Ongoing	Ongoing
DOI-BLM	*Federal Coal Management Program	43 CFR Part 3400	Ongoing	Ongoing
DOI-BLM	†FLPMA Exchange Authority for Public Land (46 FR 1634)	43 CFR Part 2200	Ongoing	Ongoing
DOI-BLM	†Land Withdrawal Procedures Amendments (46 FR 5794)	43 CFR Parts 2090, 2300, 2310, 2320, 2340, 2350	Ongoing	Ongoing

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOI-FWS	†Gypsum Wild Buckwheat and Todsens Pennyroyal (46 FR 5730)	50 CFR Part 17	Ongoing	Ongoing
DOI-FWS	†Hawaiian Tree Snail (46 FR 3178)	50 CFR Part 17	Ongoing	Ongoing
DOI-NPS	†Glacier Bay National Monument; Protection of Humpback Whale (45 FR 85741)	36 CFR Part 7	Ongoing	Ongoing
DOI-NPS	†Leases, Permits, Easements Through Public Lands (46 FR 5773)	36 CFR Part 14	Ongoing	Ongoing
DOI-OSM	†Extraction of Coal, Two Acres or Less (46 FR 7902)	30 CFR 700.11	Ongoing	Ongoing
DOI-OSM	†Prime Farmlands (46 FR 7208 and 7894)	30 CFR 716.7	Ongoing	Ongoing
DOI-OSM	*Surface Mining Rules	30 CFR Part 700, Various Sections	Ongoing	Ongoing
DOJ-CRD	*Leadership and Coordination of Nondiscrimination Laws	28 CFR 42.401-.415	Ongoing	Ongoing
DOL-ESA	†Government Contractors: Affirmative Action Requirements (46 FR 9084)	41 CFR Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250, 60-741	Ongoing	Ongoing
DOL-ESA	†Labor Standards Provisions: Construction Contracts (46 FR 4380)	29 CFR Part 1-5	Ongoing	Ongoing

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOL-ESA	*Office of Federal Contract Compliance Policy	41 CFR Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250, 60-741	Ongoing	Ongoing
DOL-ESA	†Payment of Membership Fees (46 FR 3892)	41 CFR Part 60-1	Final Rule Proposed to be Withdrawn	
DOL-ESA	*Prevailing Wage	29 CFR Part 1-5	Ongoing	Ongoing
DOL-ESA	†Procedures for Pre-determination of Wage Rate under Davis-Bacon (46 FR 4306)	29 CFR Part 1-5	Ongoing	Ongoing
DOL-ESA	†Salary Test Levels to Determine Eligibility for Exemption from Overtime Provisions (46 FR 3010)	29 CFR Part 541	Ongoing	Ongoing
DOL-ESA	†Service Contract Act (46 FR 4398)	29 CFR Part 4	Ongoing	Ongoing
DOL-ETA	†Certification Process and Adverse Effect Wage Rate (46 FR 4568)	20 CFR Part 655.207	Final Rule Proposed to be Withdrawn	
DOL-OSHA	†Occupational Exposure to Lead (46 FR 6134)	20 CFR 1910.1025	Ongoing	Ongoing
DOL-OSHA	*Occupational Noise	29 CFR 1910.95	Ongoing	Ongoing
DOL-OSHA	*OSHA Carcinogen Policy	29 CFR Part 1990	Ongoing	Ongoing

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOL-OSHA	*Personal Protective Devices	29 CFR 1910.143, 1926.103, 1915.83, 1916.82, 1917.82, 1918.102	Ongoing	Ongoing
DOL-OSHA	†Walkaround Compensation (46 FR 3582)	29 CFR 1903.8	Final Rule Proposed to be Withdrawn	
DOT-FAA	Air Carrier Certification, Operating and Maintenance Rules	14 CFR Part 121	3/81	7/81
DOT-FAA	Deregulation of Sport Aviation	14 CFR Parts 21, 91	3/81	7/81
DOT-FAA	General Operating and Flight Rules	14 CFR Part 91	3/81	7/81
DOT-FAA	Normal, Utility, and Acrobatic Category Airworthiness Rules	14 CFR Part 23	3/81	7/81
DOT-FAA	Pilot Certification, Ground Instructor, and Pilot School Rules	14 CFR Parts 61, 141	3/81	7/81
DOT-FAA	Production and Quality Control System Rules	14 CFR Part 21	3/81	7/81
DOT-FAA	Repair Station Rules	14 CFR Part 145	3/81	7/81
DOT-FAA	Rotorcraft Certification and Operating Rules	14 CFR Parts 27, 29, 91, 127	3/81	7/81
DOT-FHWA	Air Quality Guidelines/Environmental Impact Procedures	23 CFR Parts 770, 771	3/81	7/81

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOT-FHWA	†Carpool and Vanpool Projects (46 FR 2298)	23 CFR Part 656	Withdrawn to ensure with E.O.	for review compliance 12291
DOT-FHWA	Civil Rights Requirements	23 CFR Parts 200, 230	3/81	7/81
DOT-FHWA	Commercial Vehicle Inspection, Repair, and Maintenance	49 CFR Part 396	3/81	7/81
DOT-FHWA	Guidelines for the Development of Environmental Action Plans	23 CFR Part 795	3/81	7/81
DOT-FHWA	†Traffic Control Devices (46 FR 2038)	23 CFR Part 655, Subpart F	Withdrawn to ensure with E.O.	for review compliance 12291
DOT-FHWA/ UMTA	†Urban Transportation Planning (46 FR 5702)	23 CFR Part 450, Subparts A and C	Ongoing	Ongoing
DOT-FRA	Movement of Defective Cars	45 U.S.C. §13	3/81	7/81
DOT-FRA	Power Brake Rules	49 CFR Part 232	3/81	7/81
DOT-FRA	Regulations on Hours of Service of Railroad Employees	49 CFR Part 228	3/81	7/81
DOT-NHTSA	Fields of Direct View	49 CFR 571.128	3/81	7/81
DOT-NHTSA	Head Restraints	49 CFR 571.202	3/81	7/81
DOT-NHTSA	Light Truck Hydraulic Brakes	49 CFR 571.105-75	3/81	7/81

†Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOT-NHTSA	Seat Belt Comfort and Convenience	49 CFR 571.208	3/81	7/81
DOT-NHTSA	Side Impact Protection	49 CFR 571.214	3/81	7/81
DOT-NHTSA	Theft Protection	49 CFR 571.114	3/81	7/81
DOT-NHTSA	Uniform Tire Quality Grading	49 CFR 575.104	3/81	7/81
DOT-OST	Minority Business Enterprise	49 CFR Part 23	3/81	7/81
DOT-OST	*Nondiscrimination on the Basis of Handicap (new legislation being proposed as a result of departmental review)	49 CFR Part 27	Ongoing	Ongoing
DOT-RSPA	†Addition of Water to Pipelines Transporting Anhydrous Ammonia (47 FR 39)	49 CFR 195.418 (e)	Ongoing	Ongoing
DOT-RSPA	Data Collection and Reporting: Gas Pipeline Reporting	49 CFR Part 191	3/81	10/81
DOT-RSPA	Data Collection: Liquid Pipeline Nondestructive Weld Tests	49 CFR 195.234 (g)	3/81	7/81
DOT-RSPA	Highway Routing of Radioactive Materials	49 CFR Parts 171, 172, 173, 177	3/81	7/81
DOT-RSPA	Line Markers for Mains and Transmission Lines	49 CFR 192.707 (a)	3/81	7/81
DOT-RSPA	Monitoring of External Corrosion Control	40 CFR 192.465 (a)	3/81	7/81
DOT-RSPA	Regulation of Paint	49 CFR 173.128	3/81	7/81

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOT-RSPA	Repair and Removal of Defects	49 CFR 192.245, 195.232	3/81	7/81
DOT-UMTA	Advanced Design Bus Specification	DOT Document call 426-1428	3/81	7/81
DOT-UMTA	†Bus Rehabilitation Program Policy and Procedures (46 FR 9862)	49 CFR Part 640	Withdrawn--nonregulatory guidance will be published in future	
DOT-UMTA	Buy America Regulations	49 CFR Part 660	3/81	7/81
DOT-UMTA	†Emergency Stockpiling of Buses (46 FR 5480)	49 CFR Part 639	Withdrawn--nonregulatory guidance will be published in future	
DOT-UMTA	†Urban Initiatives Program (46 FR 5820)	49 CFR Part 654	Withdrawn--program no longer funded	
DOT-USCG	Documentation and Admeasurement of Vessels	46 CFR Parts 66, 67	3/81	7/81
DOT-USCG	Marine Sanitation Devices on Vessels	33 CFR Part 159	3/81	8/81
DOT-USCG	Navigation Safety Regulations	33 CFR Part 164	3/81	7/81
DOT-USCG	Pollution Prevention Regulations	33 CFR Part 157	3/81	7/81
DOT-USCG	Puget Sound Vessel Traffic Service Rule	33 CFR Part 161, Subpart B and Appendix A	3/81	11/81

†Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOT-USCG	Vessel Reporting Requirements	33 CFR Part 161	3/81	7/81
TREAS-ATF	Recodification of Wine Regulations	27 CFR Parts 240, 231, 170	5/79	12/81
TREAS-IRS	*LIFO Indexing	26 CFR 1.472-8	Ongoing	Ongoing
TREAS-OCC	Assessment of Fees, National Banks, District of Columbia Banks	12 CFR Part 8	9/80	6/81
TREAS-OCC	Fair Housing Home Loan Data System	12 CFR Part 27	6/81	12/81
TREAS-ORS	†Revenue Sharing Handicapped Discrimination Regulations (46 FR 1120)	46 FR 1120 1/5/81; 46 FR 19468, 3/31/81 Extends Effective Date to 6/1/81	Ongoing	Ongoing
EPA-OE	†General Pretreatment Regulations (46 FR 9404) (this includes the Electroplating *Pretreatment Regulations)	40 CFR Part 403 40 CFR Part 413	Ongoing	Ongoing
EPA-OWWM	*Best Conventional Pollutant Control Technology	40 CFR Parts 405-09, 411, 412, 418, 422, 424, 426, 427, 432	Ongoing	Ongoing
EPA-OWWM	†Effluent Guidelines for Timber Products; BCT (46 FR 8260)	40 CFR Part 429	Ongoing	Ongoing
EPA-OWWM	*Identification and Listing of Hazardous Waste (RCRA 3001)	40 CFR Part 261	Ongoing	Ongoing

*Existing Regulations To Be Reviewed †Rules Designated for Postponement

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
EPA-OWWM	*Standards Applicable to Generators of Hazardous Waste (RCRA 3002)	40 CFR Part 262	Ongoing	Ongoing
EPA-OWWM	*Standards Applicable to Owners and Operators of Hazardous Waste Treatment and Disposal Facilities (RCRA 3004)	40 CFR Parts 264, 265, 266, 267	Ongoing	Ongoing
EPA-OWWM	*Standards Applicable to Transporters of Hazardous Waste	40 CFR Part 263	Ongoing	Ongoing
GSA	GSA is re-evaluating its regulation review program to conform with Executive Order 12291 of February 17, 1981. A new review schedule has not yet been established.			
NCUA	Investments and Deposits	12 CFR Part 703	12/80	7/81
NCUA	Lending Regulations	12 CFR 701.21-1 - 701.21-6	5/1/81	7/31/81
OMB	*Cost Sharing on University Research	OMB Circular 73-3	In progress	
OMB	*University Research	OMB Circular 73-7	In progress	
OMB	*Urban/Community Impact Analyses	OMB Circular A-116	5/81	7/81
SBA	Business Loans	13 CFR Part 122	3/81	10/81
SBA	Disaster Loans	13 CFR Part 123	3/81	10/81

*Existing Regulations To Be Reviewed

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
SBA	Small Business Investment Companies	13 CFR Part 107	1/81	10/81
CAB	The CAB's regulations scheduled for agency review are listed in its Semiannual Agenda, which was last published at 46 FR 24201 on April 30, 1981.	46 FR 24201	Ongoing	Ongoing
CFTC	Amendments to Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	17 CFR 1.17	Ongoing	Fall 1981
CFTC	Proficiency Examinations for Applicants for Registration as Associated Persons	17 CFR Parts 3 and 140	Ongoing	Ongoing
CFTC	Reform of Reparations System	17 CFR Part 12	Ongoing	Ongoing
CFTC	Regulation of Domestic Exchange Traded Commodity Options	17 CFR Part 33	Ongoing	Ongoing
CFTC	Regulation of Gold and Silver Leverage Transactions	17 CFR Part 31	Ongoing	Ongoing
CFTC	Revision of Commodity Pool Operation and Commodity Trading Advisor Regulations	17 CFR Parts 4, 140	Ongoing	Spring 1981
CFTC	Speculative Position Limits	17 CFR Part 1	Ongoing	Ongoing
FCC	Franchise Standards	47 CFR 76.31	Ongoing	Summer 1981
FCC	Television Broadcast Translator Station	47 CFR Part 74 Subpart G	8/78	Summer 1981

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
FRS	Bank Holding Companies and Changes in Bank Control (Regulation Y)	12 CFR Part 225	Ongoing	Ongoing
FRS	Credit by Banks for the Purposes of Purchasing or Carrying Margin Stocks (Regulation U)	12 CFR Part 221	Ongoing	Ongoing
FRS	Credit by Brokers and Dealers (Regulation T)	12 CFR Part 220	Ongoing	Ongoing
FRS	Rules Governing Borrowers who Obtain Securities Credit (Regulation X)	12 CFR Part 224	Ongoing	Ongoing
FRS	Securities Credit By Persons Other Than Banks, Brokers, or Dealers (Regulation G)	12 CFR Part 207	Ongoing	7/81
FTC	Cooling Off Period for Door to Door Sales	16 CFR Part 429	11/79	9/81
FTC	Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures	16 CFR Part 436	11/79	3/82
FTC	Retail Food Store Advertising and Marketing Practices	16 CFR Part 424	1/77	7/81
ICC	Classification of Brokers and Motor Carriers (Investigation into Motor Carrier Classifications)	49 CFR Part 1040	In progress	8/81
ICC	Detention of Motor Vehicles--Nationwide	49 CFR 1310.15	In progress	8/81

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
ICC	Payment of Rates and Charges of Motor Carriers	49 CFR Part 1320	In progress	Fall 1981
ICC	Procedures to be Followed in Motor Carrier Revenue Proceedings	49 CFR Part 1104	In progress	Fall 1981
ICC	Regulations for Payment of Rates and Charges	49 CFR 1320.1	In progress	Fall 1981
NRC	In the Three Mile Island Action Plan (NUREG 0660, May 1980) the Commission directed the staff to review each NRC regulation within 5 years. We are doing so.		Ongoing	Ongoing
PRC	We are not listing any regulations here because our regulations primarily involve agency organization, procedure, and practice and therefore do not have a significant effect on the general public or the economy.			
SEC	Disclosure Study -- Review of Disclosure Requirements Under the Securities Act of 1933 and Investment Company Act of 1940	17 CFR Part 270	8/79	Unknown
SEC	Financial Responsibility Rules for Broker-Dealers	17 CFR 240.15c3-1 and 240.15c3-3	9/80	Unknown
SEC	Investment Advisers Act Study	17 CFR Part 275	12/78	Unknown

[FR Doc. 81-19044 Filed 6-29-81; 8:45 am]
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REGULATORY INFORMATION SERVICE CENTER

COMMENT CARD

JUNE 1981 CALENDAR OF FEDERAL REGULATIONS

The Calendar is intended to help readers learn about important regulations under development in the Federal Government, and to help government decisionmakers better manage the development of these regulations. This is the fifth edition of the Calendar, which is published every six months. We hope to make each edition more useful to readers, and therefore are asking for your comments. Please take a moment to answer the few questions below. We designed this comment card as a self-mailer—simply fold the page as indicated, so that our address is on the outside, staple, and mail.

Mark G. Schoenberg
Executive Director

Name _____ Title _____

Organization _____ Telephone No. _____

Address _____

_____

What is the nature of your organization if you represent one? For example: labor union, chemical manufacturing, educational institution, etc. _____

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(FOLD HERE)

Please answer the questions below by circling the appropriate number unless otherwise instructed. (Please circle only one reply to each question.)

	Very useful	Useful	No opinion	Not very useful	Not at all useful
• Overall, how useful is the Calendar for you or your organization? . . .	1	2	3	4	5
• How useful are specific sections in the Calendar?					
• Descriptions of regulations under development	1	2	3	4	5
• Index I—Sectors Affected by Regulatory Action	1	2	3	4	5
• Index II—Date of Next Regulatory Action	1	2	3	4	5
• Index III—Dates for Comments, Hearings, or Meetings	1	2	3	4	5
• Appendix II—Status of Regulations from November 1980 Edition .	1	2	3	4	5
• Appendix III—Publication Dates for Agency Semiannual Regulatory Agendas	1	2	3	4	5
• Appendix IV—Important Regulations Scheduled for Agency Review	1	2	3	4	5
• We have used the Standard Industrial Classification (SIC) terms to identify sectors of the economy affected by the proposed regulations. How useful are these terms to you?	1	2	3	4	5
• We are considering adding the SIC *number* to the terms we use. How useful would this be to you?	1	2	3	4	5

(OVER)

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(CONTINUED)

- In what specific way is the Calendar useful to you? (Please check (✓) as many as apply.)

  ____ A source of regulatory information.

  ____ A tool to help set work priorities and tasks.

  ____ Helps us to know in which rulemaking procedures we want to become involved.

  ____ Other (please write in) _____

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Please add any other comments you have about the Calendar.

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