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Tuesday
August 16, 1983

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Community Development
Community Services Office

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

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Addition of New Grade Standards for American Upland Cotton on Trial Basis

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is adding two new standards to the official cotton standards of the United States for the grade of American Upland cotton on a trial basis. The new standards will be a Strict Good Ordinary Spotted physical standard and a Strict Good Ordinary Light Spotted descriptive standard. These standards will more accurately describe a portion of cotton now classified as Below Grade.

In addition, references to the size of the boxes used to display standards samples will be deleted from the regulations. The twelve-sample box will be discontinued and the six-sample box used exclusively to represent the physical standards. The six-sample box is less expensive and more convenient to prepare and handle than the twelve-sample box and its use will not adversely affect the classification of cotton.

EFFECTIVE DATE: August 16, 1984.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. (202/447-2167)

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the industry or others.

William T. Manley, Deputy Administrator, AMS, has certified that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Because the changes will affect less than 1 percent of the annual U.S. cotton crop, this final rule will not have the requisite significant economic impact. Further, the changes do not impose any additional duties upon users of the service. Background: Pursuant to the authority contained in the United States Cotton Standards Act (7 U.S.C. 51), the Secretary of Agriculture has established the official cotton standards of the United States for the grades of American Upland cotton. These stantards are used for the classification of American Upland cotton and provide a basis for the determination of value for commercial purposes.

The existing official cotton standards for the grades of American Upland cotton are listed and described in the regulations at 7 CFR 28.402–28.475. Fourteen are physical standards represented by practical forms, and 26 are descriptive standards for which practical forms are not made. Six of the descriptive standards describe the poorest quality cotton and taken together make up the Below Grade classification (7 CFR 28.475).

The volume of cotton designated Below Grade in the United States each year averages less than one percent of the crop submitted for classification. Over the past six years the amount of cotton classified as Below Grade has ranged from 1. 4 to 1.9 percent of the crop. In 1982, 1.2 percent or approximately 139,000 bales fell into the Below Grade category. It is estimated that approximately two-thirds or roughly 93,000 bales would have been described as Strict Good Ordinary Spotted or Strict Good Ordinary Light Spotted if these grades had been in effect.

While the proportion of the national cotton crop falling into the Below Grade category has been low over the years, certain cotton producing areas have had relatively large percentages from time to time. Among them were the Abilene territory with 6 percent Below Grade cotton in 1980; the Corpus Christi territory with 20 percent in 1981; and the Phoenix territory with 9 percent in 1982.

Cotton producer organizations have urged the establishment of two new grade standards for a number of years. The addition of a physical standard for Strict Good Ordinary Spotted cotton and a Strict Good Ordinary Light Spotted cotton descriptive standard on trial basis is intended to provide a more accurate description of certain cotton which is currently classified as Below Grade. Cotton classified in one of the trial grade standards has been found to have better spinning characteristics than Below Grade cotton. AMS conducted processing tests on 330 low grade and Below Grade spinning lots in 1978 and 1980. This cotton was tested for a number of fiber and yarn qualities. The tests showed a wide range of qualities in the cotton now classified as Below Grade. More significantly, the results of the processing test indicate that cotton which will fall within the new standards will have spinning potential equal to the Good Ordinary grade and better than the Low Middling Tinged grade.

Based upon the above, the new standards were proposed. As discussed below, the standards will be adopted on a trial basis. The trial period will include at least two crop seasons so as to develop meaningful additional data.

New Standards

Below Grade cotton contains a broad range of cotton qualities and the higher quality Below Grade cotton can be identified with a more accurate and meaningful classification. The new trial grades are intended to provide a better basis for determining the commercial value of such cotton and to contribute to the overall efficiency of the cotton marketing system.

When these new standards are put into effect on a trial basis they will be used in USDA's classification programs. This will permit the Agency and all other interested parties in the cotton industry to gather more extensive information as to the quantity, quality, and value of the cotton classed in these grades. During the trial period for the new grade standards, further studies will be conducted on the fiber qualities and spinning potential of cotton falling within the new grades. In addition, the classification and trading of cotton on the basis of the trial standards will

provide concrete data and price information needed to determine the commercial value of such cotton. All of this additional information together with the information used to develop the proposal can be used to determine whether to continue these two grade standards on a permanent basis.

Standards Boxes: The Agency will discontinue production of the 12-sample box to represent the physical standards for grade. The six-sample box will become the only size produced for the practical forms of the cotton standards. This applies to the standards for American Upland cotton and for American Pima cotton.

The present 12-sample standards box contains six color positions each of which is represented by two identical samples. The six-sample box contains only one sample for each of the six color positions.

The six-sample boxes have been produced and used since the mid 1950s and are much less expensive to prepare, store, and ship and have proven to be more convenient to use in day-to-day classing operations. Adoption of a six-sample box as the only size for representing the standards will not affect the classification of cotton in any manner and will greatly improve the efficiency of standards preparation and distribution. Furthermore, sales figures compiled from 1976 thru 1983 indicate that the smaller box is widely accepted and used by both domestic and foreign users.

Comments

Proposed rulemaking was published on pages 19721–19722 of the **Federal Register** of May 2, 1983, and invited comments for 60 days ending July 1, 1983. Minor errors in the proposal were corrected in a document published on page 32027 of the **Federal Register** of July 13, 1983, and comments on the corrected proposed rule were invited for 10 more days, ending July 25, 1983.

The proposed standards changes were also presented to cotton industry representatives at the triennial Universal Standards Conference in Memphis, Tennessee, June 7–8, 1983. Twenty-eight delegates from 14 foreign cotton merchants' or spinners' associations attended the conference in addition to representatives from all segments of the U.S. cotton industry affected by changes in the standards. Representing the shippers and exchanges were 17 members of the American Cotton Shippers Association and nine others from seven cotton exchanges. The American Textile Manufacturers Institute was represented by 19 delegates from the textile industry, and 45 delegates from American cotton producer and ginner organizations were present.

AMS solicited comments and answered questions on each of the proposed changes in the standards. Each group of delegates was given an opportunity to examine the supporting data and to caucus in order to discuss their position.

In regard to the proposal to make the six-sample box the only size to represent the physical standards and to discontinue production of the 12-sample box, all of the delegations favored the adoption of this proposal. One written comment was also received by AMS regarding this proposal and it supported the six-sample boxes.

The domestic cotton industry was divided on the proposal to establish two new standards. Cotton producer and ginner representatives spoke in support of the proposal contending that producers would be able to sell cotton within the proposed grades for a higher price than Below grade cotton. Shipper and exchange representatives announced that they were opposed to the introduction of the proposed standards contending that the trading of such low quality cotton would not be facilitated by the proposed standards and that the present descriptive standards were adequate. Manufacturer representatives also opposed the new standards on the same basis.

The foreign cotton associations took a neutral stance and announced that while they were not opposed to the introduction of the proposed standards, they saw no reason to have them.

None of the delegations at the conference offered any additional evidence, studies, or data to support their respective positions. Alternative suggestions were not offered and no new information was revealed.

Written comments supporting the adoption of the proposed standards were received from: Amcot, Inc.; the South Texas Cotton and Grain Association, Inc.; the Texas Association of Cotton Producer Organizations; the Plains Ginners' Association; the American Farm Bureau Federation; the Texas Independent Ginners Association; Calcot, Ltd.; the Arizona Farm Bureau Federation; the Plains Cotton Co-op Association; the Southern Cotton Ginners Association; the Delta Council; and the Arkansas Farm Bureau Federation.

Written comments with objections to the proposed standards were received from the American Cotton Shippers Association and the American Textile Manufacturers Institute, Inc. which reiterated concerns expressed at the Universal Standards Conference.

Conclusion

After carefully evaluating all comments received and all other relevant factors, it has been decided that the two proposed standards will be adopted on a trial basis. Consequently, this final rule requires that the definition of Below Grade cotton also be revised on a trial basis. Presently the two lowest spotted cotton grade standards are Low Middling Light Spotted and Low Middling Spotted. All spotted cotton lower in grade than these two standards is not defined as Below Grade cotton. This final rule establishes the two trial grade standards of Strict Good Ordinary Light Spotted and Strict Good Ordinary Spotted which will become the two lowest spotted cotton grade standards. Spotted cotton lower in grade than the new standards will be by definition, Below Grade cotton.

The Agency is deleting from the regulations any reference to the size of standards boxes representing the official standards of the United States for the grades of American Upland cotton and of American Pima cotton. Therefore, § 28.105 is amended as well as the fee schedule in § 28.123 to delete references to the 12-sample box and its applicable fee, effective (one year from the date of publication).

This final rule does not differ from the proposed rule as corrected, except for the addition of the word tentative to the new standards and an appropriate change in the effective date. The fees for the six-sample boxes and other fees contained in § 28.123 are presently under study and may be revised in the future.

According to the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*), changes in the standards cannot become effective less than one year after publication of a final rule establishing the changes (7 U.S.C. 56). The six-sample box and the new trial grade standards will become effective August 16, 1984.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staples, Market news, Testing.

Accordingly, Subpart A and C, Part 28, of Chapter 1, Title 7 of the Code of Federal Regulations are amended as shown. The Table of Contents is amended accordingly.

PART 28—[AMENDED]

1. The authority citation for Part 28, Subparts A and C reads as follows:

Subpart A:

Authority: Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted.

Subpart C:

Authority: Sections 28.402 to 28.481 issued under Sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply Sec 6, 42 Stat. 1518, Stat. 1519, 7 U.S.C. 61. Interpret or apply Sec. 6, 42 Stat. 1518, as amended, 7 U.S.C. 56.

2. 7 CFR Part 28 is amended by adding new §§ 28.425 and 28.435 to Subpart C to read as follows:

§ 28.425 Strict Good Ordinary Light Spotted. (Tentative).

Strict Good Ordinary Light Spotted is American Upland cotton which in leaf and preparation is Strict Good Ordinary, but which in spot or color, or both, is between Strict Good Ordinary and Strict Good Ordinary Spotted.

§ 28.435 Strict Good Ordinary Spotted. (Tentative).

Strict Good Ordinary Spotted is American Upland cotton which its color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary Spotted (Tentative), effective [August 16, 1984]."

3. Section 28.475 of Subpart C is revised to read as follows:

§ 28.475 Below grade cotton. (Tentative).

Below grade cotton is American Upland cotton which is lower in grade than Good Ordinary, or Strict Good Ordinary Light Spotted, or Strict Good Ordinary Spotted, or Low Middling Tinged, or Middling Yellow Stained, or Strict Low Middling Gray. In cotton classification, the official designation for such cotton is Below Grade. The term Below Good Ordinary, or Below Strict Good Ordinary Light Spotted, or Below Strict Good Ordinary Spotted, or Below Low Middling Tinged, or Below Middling Yellow Stained, or Below Strict Low Middling Gray and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

4. Paragraph (b)(1) of § 28.105 in Subpart A is revised to read as follows:

§ 28.105 Practical forms of cotton standards.

* * * * *

(b) * * *

(1) That no practical form of any of the cotton standards for the grade of American Upland cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: Provided, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

* * * * *

5. Section 28.123 of Subpart A is revised to read as follows:

§ 28.123 Costs of practical forms of cotton standards.

The cost of practical forms of the cotton standards of the United States shall be as follows:

	Dollars each box	
	Domestic shipments f.o.b. Memphis, Tenn.	Shipments delivered outside the continental United States
Grade Standards		
American Upland	80.00	105.00
American Pima	110.00	135.00
Standards for Length of Staple		
American Upland (prepared in one pound rolls for each length)	11.00	14.00
American Pima (prepared in one pound rolls for each length)	12.00	15.00

Dated: August 11, 1983.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 83-22401 Filed 8-15-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 231

Arrival-Departure Manifests and Lists; Supporting Documents

Correction

In FR Doc. 83-21484 appearing on page 36093 in the issue of Tuesday, August 9, 1983, make the following correction.

In the first column, the fifth line of **"SUPPLEMENTARY INFORMATION"** should read " 'aircraft or vessel,' replacing 'aircraft'".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0455]

Bank Holding Companies and Change in Bank Control; Regulation Y; Nonbanking Activity; Discount Securities Brokerage and Securities Credit Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On January 7, 1983, the Board approved the application of BankAmerica Corporation to acquire Charles Schwab & Co., which engages in retail discount securities brokerage, securities credit lending, and certain incidental activities. In its order approving the application, the Board found that Schwab's brokerage and securities credit activities were closely related to banking for purposes of section 4(c)(8) of the Bank Holding Company Act ("BHC Act").

On February 22, 1983, the Board published for comment a proposal to add the activities engaged in by Schwab to the list in Regulation Y of nonbanking activities generally permissible for bank holding companies under section 4(c)(8) of the BHC Act. Approximately 73 comments were received in response to the Board's proposed rulemaking. Except for one comment, all of the comments supported adoption of the proposal. Some of the comments suggested additional revisions to the proposal. After considering all the comments, the Board has adopted the proposed rule, with minor revisions.

EFFECTIVE DATE: September 9, 1983.

FOR FURTHER INFORMATION CONTACT: Richard M. Ashton, Assistant General Counsel, 202/452-3750, or Richard M. Whiting, Senior Attorney, 202/452-3779, Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8) ("BHC Act"), states that bank holding companies may engage in those activities the Board has "determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. 1843(c)(8). In determining whether the performance of nonbanking activities is

"closely related" to banking, the Board has generally taken into consideration the guidelines stated by the Court in *National Courier* v. *Board of Governors of the Federal Reserve System*, 516 F. 2d 1229 (D.C. Cir. 1975): (1) Banks generally have in fact provided the proposed services; (2) banks generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed services; (3) banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form.

The Board's decision approving the acquisition by BankAmerica Corporation of Charles Schwab & Co., a discount securities broker, was preceded by a formal administrative hearing in which the Securities Industry Association ("SIA") and the Department of Justice participated.[1] Additionally, approximately 100 comments, most of which were favorable to the proposal, were filed with the Board. In its order approving the BankAmerica application, the Board noted that banks in fact have generally provided securities brokerage to some extent, and, in providing such brokerage services, have become particularly well equipped to perform the proposed securities brokerage activities. Moreover, the Board determined that, given the similarity between margin lending activities currently engaged in by banks and the proposed margin lending activities engaged in by Schwab, the proposed margin lending activities also are closely related to banking within the meaning of section 4(c)(8) of the BHC Act. The Board made similar findings in connection with its approval of the application of United Jersey Banks to acquire a discount broker.[2]

The Securities Industry Association requested judicial review of the Board's order approving the BankAmerica application. On July 15, 1983, the United States Court of Appeals for the Second Circuit denied SIA's petition and upheld the Board's order.[3] In particular, the Court discussed and supported the Board's conclusion that the proposed activities are "closely related" to banking. Additionally, the Court found that the proposed activities are not prohibited by the provisions of the Glass-Steagall Act, which generally separate commercial from investment banking.[4]

On February 22, 1983, the Board published for comment a proposal to add securities brokerage and margin lending to the list of nonbanking activities generally permissible for bank holding companies pursuant to section 4(c)(8) of the BHC Act. (48 FR 7746 (February 24, 1983)). A total of 73 comments, including those of all 12 Federal Reserve Banks, were received. Of these, 72 commenters generally favored adoption of the proposal and concluded that the proposed activities are "closely related" to banking and consistent with the Glass-Steagall Act. Many commenters specifically referenced the record and Board findings in the BankAmerica/Schwab matter. Other commenters noted that trust departments of banks have engaged in securities brokerage activities for some time, that banks and other financial institutions commonly provide securities brokerage services, and otherwise concluded that the proposed activities are permissible.

Lawfulness of the Proposal. The SIA was the only commenter opposing the proposal, reasserting objections it previously made in the BankAmerica/Schwab matter that the proposed activities violate the Glass-Steagall Act and the BHC Act. As described above, however, these arguments have been rejected by an administrative law judge, the Board, and the United States Court of Appeals for the Second Circuit. The remaining comments overwhelmingly supported the finding that the proposed activities are permissible. Accordingly, the Board finds that adoption of the proposed regulation would not contravene applicable law.

The SIA also states that in light of alleged undue risks to the bank holding company and the uncertainty created by the SIA's judicial challenge to the BankAmerica/Schwab order, the Board should proceed on a case-by-case basis rather than by promulgating the proposed regulation. However, the Board's issuance of a regulation adding a particular activity to the list of permissible nonbanking activities in Regulation Y means the proposed activity meets the first or "closely related to banking" test of section 4(c)(8). Bank holding companies wishing to engage in that activity must also comply with the "public benefits" test of the statute, which the Board applies on a case-by-case basis. The SIA's objections thus do not warrant a decision not to adopt the proposed regulation.

Incidental Activities. In its BankAmerica/Schwab decision, the Board found that a number of services offered by Schwab in connection with carrying accounts of its brokerage customers were permissible incidental activities. A number of commenters on the proposal recommended an express listing of such incidental activities, either in the regulation or in a separate interpretation.

In order to clarify that services incidental to brokerage services are permissible, the proposed rule has been modified to list permissible incidental services. In general, the list includes the permissible incidental services identified by the Board in the BankAmerica/Schwab decision: *i.e.*, custodial services, furnishing individual retirement accounts and cash management services. Cash management services are intended to include customer account-related functions such as paying interest on net free balances awaiting investment, providing arrangements under which free credit balances are automatically invested in money market mutual funds, and establishing arrangements under which access to such balances is provided by debit card or checking accounts.

The list of incidental activities in the regulation as adopted is not intended to be exhaustive. The Board believes that in order to compete effectively with other discount broker's, bank holding companies should have the flexibility to provide a full range of customer account and custodial services, provided such services meet the test for permissible incidental activities under section 4(c)(8). Whether certain types of services not listed in the regulation are permissible will be determined in individual instances.

Provision of Investment Advice. A number of commenters also supported eliminating the provision in the proposed regulation stating that permissible brokerage services may not include investment advice or research services. These commenters note that under § 225.4(a)(5)(ii) of Regulation Y, bank holding companies may furnish to any person investment advice concerning the purchase or sale of securities.

The Board has determined that elimination of this prohibition would not be appropriate at this time. The proposed rule was intended merely to incorporate into the regulation the Board's decision on the BankAmerica/Schwab application, which involved the acquisition of a discount securities broker that does not provide investment

[1] 69 Federal Reserve Bulletin 105 (1983).

[2] *United Jersey Banks/Richard Blackman & Co.*, 69 Federal Reserve Bulletin 565 (1983).

[3] *Securities Industry Assn.* v. *Board of Governors*, No. 83-4019 (2d Cir.).

[4] 12 U.S.C. 24 Seventh, 377, 378.

advice. The proposal did not contemplate the authorization of significant other securities related activities since no record has been developed within which to assess the implications of providing securities brokerage and investment advice services together.

In this regard, the Board notes that the investment advisory services currently permitted pursuant to Regulation Y typically are furnished to sophisticated customers with substantial amounts of funds to invest. These services thus lack the high volume, retail orientation of many brokerage firms, whose investment advice tends to reach a wider segment of the public. More importantly, the investment advisory customers of banking organizations usually pay an explicit fee for investment advice, so that the adviser does not look to commissions for executing transactions as compensation for the advisory services, as full-line brokers typically do. Accordingly, in light of the narrow purpose of the proposed amendment the Board does not believe that it is appropriate at this time to remove the restriction in this proposal against providing investment advice.[5]

Modification of Restriction against Underwriting. In its comments on the proposed rule, the Antitrust Division of the Department of Justice, while supporting the proposal, recommends that the prohibition against underwriting in the proposed rule be modified to permit underwriting as a risk-free principal. The Department states that some legitimate activities of brokers may be considered underwriting and thus impermissible to holding company affiliates under the proposal.

In its *Schwab* decision, the Board found that Schwab's riskless principal transactions with respect to municipal securities appear to be consistent with permissible brokerage activities.[6] However, to adopt the Department's recommendations would appear to contemplate a significantly higher level of activity not within the Board's original proposal. Accordingly, the Board does not believe it appropriate to adopt the Department's recommendation.

Margin Credit Activities. Several commenters questioned whether under the proposal a bank or nonbank affiliate of the securities broker could extend credit for the purchase or carrying of securities to customers of that broker. The amendment contemplates that a bank holding company's or its nonbank subsidiary performing the permitted securities activities would be required to register as a broker/dealer with the Securities and Exchange Commission and that its margin credit activities would therefore be subject to the Board's Regulation T, which governs securities credit by broker/dealers (12 CFR Part 220). Regulation T, in turn, permits a broker to arrange credit for its customers but only upon the same terms and conditions upon which the broker itself could extend or maintain credit under Regulation T. A securities broker could, therefore, subject to the foregoing limitations, arrange for any bank to extend credit for the broker's customers under Regulation U, or any nonbank lender to extend credit to the broker's customers under Regulation G. However, the bank or nonbank lender may not extend any credit that the broker itself could not extend. The principal effect of this "arranging" provision is that the bank or nonbank lender may not extend credit to the broker's customers to purchase any securities on an unsecured basis, or to use any collateral other than securities traded on a national securities exchange or listed on the Board's List of OTC Stocks.

The rule also contemplates that the securities credit lending, as in the case of Schwab, would be carried out in connection with permissible brokerage services and credit would be extended only to brokerage customers. Thus, the proposed regulation would permit securities credit lending only on the condition that such lending be conducted in compliance with Regulation T. However, securities credit activities conducted independently of brokerage services might (although not within the scope of this proposal) also be closely related to banking under section 4(c)(8). Accordingly, while the Board's rule contemplates that securities credit lending would be conducted in accordance with Regulation T, this action is not intended to foreclose further consideration of other applications to conduct securities credit activities under other margin regulations.

Definition of "securities". One commenter asked that the term "securities" be defined in order to avoid ambiguity about the scope of permissible brokerage services and suggested the definition of "security" in the Securities Act of 1933 as an appropriate definition. The Board is aware, however, that, at least in questionable cases, whether a particular instrument is a security for purposes of the federal securities laws often poses difficult questions turning on the facts of each particular case and hence must be resolved on a case-by-case basis.[7] In addition, the Board believes that bank holding companies should have the flexibility to compete with nonbank-affiliated brokers and should thus be free, in individual cases, to execute orders to purchase or sell financial instruments that may not constitute securities for purposes of the federal securities law if nonbank-affiliated brokers execute orders for such instruments. Accordingly, in the Board's view, questions concerning whether particular types of interests may be bought or sold as agent for a customer under the amendment to Regulation Y are best resolved in the context of a particular case.[8]

Technical Modifications. The Board has considered various comments requesting technical modifications in the language of the proposal and believes that the proposal should be modified in certain respects. As suggested by several comments, deletion of the word "certain," which modifies "securities brokerage services," is warranted since the limitations implied by the word "certain" are made explicit elsewhere in the amendment and that word, therefore, is redundant. In addition, to avoid any ambiguity about the agency status of the permitted securities transactions, the restriction in the regulation against conducting securities underwriting is extended to include dealing in securities.

Applications Procedures. Several commenters, including three Federal Reserve Banks, request that all bank holding companies seeking to engage in permissible securities brokerage activities be required, regardless of the method by which the activities would be

[5] One commenter sought additional guidance with respect to what type of incidental activities fall within the prohibition against provision of investment advice. In the Board's view, these questions are best resolved in the context of particular circumstances.

[6] 69 Federal Reserve Bulletin (1983) at 116 n. 55. Similarly, "inadvertent principal" transactions, in which a broker holds securities for its own account as a result of a mistake in executing a customer's order, are not prohibited under the amendment's bar against conducting an underwriting business. *Id.*

[7] *See Marine Bank* v. *Weaver*, 455 U.S. 551, 560 n. 11 (1982). In defining "security" under the federal securities laws, "each transaction must be analyzed and evaluated on the basis of the content of the instrument in question, the purposes intended to be served, and the factual setting as a whole."

[8] The definition of securities in the Securities Act is employed in defining portfolio investment advice in § 225.4(a)(5)(ii) n. 1 of Regulation Y. The purpose of this definition is to prevent bank holding companies from becoming involved in speculative investment enterprises under the guise of providing investment advice. This danger does not appear to be present in connection with discount brokerage, the scope of which seems relatively well-defined in the industry.

initiated, to follow the application procedures applicable to the acquisition of a going concern. 12 CFR 225.4(b)(2). One Reserve Bank further states that applications to engage in these activities should not be approved by the Reserve Banks pursuant to delegated authority.

The Board believes that imposition of a general rule to govern all applications to engage in brokerage services would be undesirable and unduly burdensome. The implications of bank holding company provision of securities brokerage were examined in detail at a contested formal administrative hearing in connection with the BankAmerica/Schwab application and the Board determined that none of the objections raised against the proposal justified disapproval of the application. The majority of the Reserve Banks have not requested that special procedures be adopted for brokerage applications in all cases. The Reserve Banks have the authority to require necessary supplemental information in considering particular applications to offer brokerage services, including applications to commence such activities *de novo*. The Reserve Banks also may decline to exercise their delegated authority in cases that raise significant policy issues. The Board believes that the potential for conflicts of interest, which several comments cited as a reason for not permitting delegation of approval authority can best be considered under this procedure on a case-by-case basis.

Accordingly, with the revisions described above, the Board has adopted the proposal as a final rule. The Board has determined that securities brokerage and margin lending are "closely related" to banking, consistent with the Glass-Steagall Act, and, therefore, should be added to the list in Regulation Y of nonbanking activities that are generally permissible for bank holding companies.

For the purposes of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. Indeed, this rule should facilitate the application process for any company wishing to engage in the activity.

List of Subjects in 12 CFR Part 225

Banks, banking, Holding companies, Securities, Reporting and recordkeeping requirements.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

This action is taken pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8) and 1844(b). In order to implement this rule, 12 CFR 225.4 is amended by adding paragraph (a)(15) to read as follows:

§ 225.4 Nonbanking activities.

(a) * * *

(15) providing securities brokerage services, related securities credit activities pursuant to the Board's Regulation T (12 CFR Part 220), and incidental activities such as offering custodial services, individual retirement accounts, and cash management services, *provided* that the securities brokerage services are restricted to buying and selling securities solely as agent for the account of customers and do not include securities underwriting or dealing or investment advice or research services.

* * * * *

By order of the Board of Governors of the Federal Reserve System, effective August 10, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-22303 Filed 8-15-83; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 300

[Docket No. RM82-6-000; Order No. 323]

Confirmation and Approval of the Rates of the Bonneville Power Administration

Issued: August 9, 1983.

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Final rule and a request for comments.

SUMMARY: The Federal Energy Regulatory Commission is adopting an interim rule as final to establish procedures for the interim and final approval of rates submitted by the Bonneville Power Administration under section 7 of the Pacific Northwest Electric Power Planning and Conservation Act.

Specifically, Part 300 of its rules will provide general procedures, filing requirements and standards for Commission rate review with respect to rate schedules submitted by the Bonneville Power Administration for confirmation and approval. This document also adds new sections that were not previously published in the interim rule. Written public comments are requested on various aspects of the final rule.

DATES: This rule is effective October 17, 1983.

Comments must be submitted on or before September 15, 1983.

ADDRESS: All comments must be mailed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426.

All comments must reference Docket No. RM82-6.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Energy Regulatory Commission (Commission) is issuing a final rule revising an interim rule which established procedures for the approval of interim rates submitted by the Bonneville Power Administration (BPA) under section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act or Act).[1] In addition to establishing procedures for interim approval, the Commission is also establishing procedures for the final confirmation and approval of these rates.

The Northwest Power Act establishes a rate scheme in which responsibility for determining the rates that BPA will charge for power is shared by the BPA Administrator and the Commission. The Administrator establishes rates for sales to various customers after extensive procedures detailed in the Act.[2] The Administrator files these rates with the Commission, which must confirm and approve these rates before they become effective. The Act authorizes the Commission to approve the rates submitted by the Administrator on an interim basis.

The Act differentiates between procedures and the standards of review for reviewing rates for nonfirm power sold outside the region but within the United States (non-regional rates) and rates for all other power sold by BPA (regional rates). For example, the Act states that an opportunity for an "additional hearing" "shall be afforded" by the Commission for non-regional rates. However, the Act is not express

[1] 16 U.S.C. 839-839h (Supp. IV 1980).

[2] Section 7(i)(1)-(5), 16 U.S.C. 839e(i)(1)-(5) (Supp. IV 1980).

as to whether such hearing on non-regional rates should be held before or after the Commission reviews the rates on an interim basis.

On December 4, 1981, the Commission issued an interim rule governing interim approval of BPA rates. 46 FR 60,813 (1981). The rule detailed the procedures for filing an interim rate, the information that must be file, which includes support for the proposed revenue level, six schedules, and standards to be used by the Commission in reviewing the request for interim rate approval. The Commission received seven comments, all of which have been considered during preparation of this final rule.

II. Discussion

A. The Final Rule

With respect to BPA filings under the Northwest Power Act, the Commission is adopting as a final rule the major aspects of the interim rule. Subpart A of the rule establishes the applicability of the Part and various definitions in both the Northwest Power Act and the regulations. Subpart B contains the filing requirements. These filing requirements include the contents of the Administrator's Record of Decision, the administrative record, various statements, and analyses of the filed data. Subpart C establishes the procedures that the Commission adopts for both interim and final confirmation and approval, including public participation requirements, the standards of review, and the range of action open to the Commission when reviewing the rates.

The interim rule provided the filing requirements and the Commission's procedures for granting approval of rates on an interim basis. However, in addition to dealing with interim rate approval, the final rule in § 300.21 also sets forth the procedures that will be used by the Commission to approve BPA's rates on a final basis. These new procedures establish the structure and timing for final Commission action, although the requirements for filing and various rights of participants were already contained in the interim rule.

B. Comments and Special Issues

Two general aspects of the interim rule received extensive comment. First, various commenters propose modifications to the general process for Commission review of a request for approval of interim rates. Second, extensive comment is directed at the interim rule's refund provisions.

1. *Review Process for Approval of Interim Rates.* The interim rule established simple procedures and a limited standard of review for Commission consideration in granting interim approval of rates filed by BPA. Under the interim rule, BPA was required to file its revised rates with the Commission ninety days prior to their proposed effective date. Although not entirely clear in the interim rule, the Commission would then publish notice of the filing and usually allow fifteen days for interested persons to comment on the request for interim approval. If the filing did not fully comply with the Commission's regulations, the interim rule allowed the Director of the Commission's Office of Electric Power Regulation (OEPR) to notify BPA of the non-compliance and to allow thirty days to cure it prior to Commission action on the request for interim approval. After considering these comments and its staff's analysis of the filing, the Commission could grant the request, reject the application if the filing is patently deficient or fails to comply with the relevant provisions of the Northwest Power Act, or deny the request for interim acceptance but review the application for final approval.

The interim rule contained limited procedural prerequisites for acting on the request for interim approval of the rates. Under the interim rule, there was no differentiation between regional rates and non-regional rates with respect to the procedures or standards of review for interim rate approval. Section 7(k) of the Northwest Power Act nevertheless affords an opportunity for a hearing on non-regional rates, but does not specify whether these proceedings should be conducted prior to or after the Commission's decision granting interim approval. In the interim rule, the Commission stated that it would hold any hearings pursuant to section 7(k) after it reviewed the rates for interim approval.[3]

Various commenters disagree as to whether this procedural scheme was more or less restrictive than that contemplated by the Act. Under the interim rule, BPA was required to file its rates ninety days prior to the proposed effective date. BPA comments that the Act anticipates even more limited review than that envisioned by the interim rule and that BPA should be required to file its rates only "4 or 5 days" before they become effective. BPA does not believe that the Commission should ever reject BPA's request for interim acceptance of rates, even when an application is "patently deficient", if the deficiency is cured within a certain time period.

The Commission is reducing to sixty days the amount of time BPA must allow between filing its rates and their effective date. The Commission believes that it can satisfy its statutory review obligations within this time period, although any less time would make the Commission's review perfunctory and would eliminate notice of the filing and an opportunity for interested persons to comment on the filing. Because it is reducing this time period, however, the Commission can no longer give BPA an opportunity to cure deficiencies prior to deciding whether to grant interim approval to BPA's rates. Accordingly, under the final rule, the filing will either be rejected because it is patently deficient or accepted subject to the condition that BPA cure any non-compliance after the rate becomes effective. Despite the shortened period of review, the Commission will retain the practice of publishing a notice of filing in the **Federal Register** and giving interested parties an opportunity for written comment on the request for interim approval.

Other commenters take issue with the proposed extent and format of Commission review. The California Energy Commission (CEC) takes issue with the limited review scheme of the interim rule as it related to non-regional rates. The CEC argued that non-regional rates cannot be approved by the Commission on an interim basis without first giving the non-regional customers an opportunity for a hearing. The CEC relies on section 7(k) of the Northwest Power Act and its legislative history. Section 7(k) states in part that non-regional "rates * * * shall become effective after review" by the Commission, after opportunity for hearing. CEC asserts that "effective" includes effective on an "interim basis".

CEC buttresses its statutory arguments by indicating that non-regional customers will suffer irreparable harm if no hearing is afforded prior to interim approval of the rate. CEC asserts that BPA's non-regional rates have a "price leadership" effect on the rates that other utilities charge California and other non-regional customers for surplus power. In other words, if BPA's non-regional rate is too high, other utilities can charge up to that rate without fearing that they will lose the market to BPA. While the Commission may order BPA to make

[3] *See* section 7(k), 16 U.S.C. 839e(k)(Supp. IV 1980). The Commission relied on the legislative history that states that "interim approval [should] be granted quickly" as a means to resolve this ambiguity in favor of holding any section 7(k) hearings after the grant of interim approval. 46 FR 60,813, 60,815 (1981), *citing* 126 Cong. Rec. H9854 (daily ed. September 29, 1980) (remarks of Rep. Swift).

refunds if the BPA interim rate is found to be too high, the CEC argues that the Commission could not order refunds of other rates charged by these other utilities.

The Commission believes, as it did when promulgating the interim rule, that Congress did not intend that the Commission hold the hearing delineated in section 7(k) of the Act prior to the grant of interim approval. Both the legislative history and public policy considerations support the Commission's authority to grant interim approval for non-regional service established under section 7(k) in the same manner as all other BPA rates. The legislative history of the Act states that:

> the new rate provisions of the Act are different from past rates of BPA and must be implemented very rapidly on a timetable that the Act will set forth. The bill now provided FERC reasonable options to assure that BPA rates can become effective on a timely basis * * *. What matters, given the need for new rates and for BPA to meet its repayment obligations, is that interim approval be granted quickly.[4]

Congress did not differentiate among rates for various services when it stated this desire for the Commission to act expeditiously in granting interim rate approval.

BPA's revenues from both regional and non-regional service contribute to retirement of BPA's repayment obligations. One of the Commission's objectives in affording interim approval for all BPA rates is to minimize any adverse effects to BPA that could result from precluding interim approval for rates for non-regional service. Without interim approval of all its rates, BPA may not be able to bridge immediate revenue deficiencies. Denial of such approval might create serious cash flow problems for BPA. Second, the absence of interim rate approval authority for non-regional service could result in disassociated BPA rates that are not "synchronized" with respect to the period during which such rates would be effective. This lack of synchronization of rates may produce difficulties for both the Administrator's calculation and the Commission's review of the cost evaluation.

In addition, the Commission believes that interim approval of rate schedules for non-regional service by BPA will produce minimal financial burden on all BPA customers. All customers will be protected by the express condition that interim rates will only be approved subject to refund with interest. Any revenues collected by BPA in excess of the rate level finally confirmed and approved would be required by the rule to be returned to BPA's customers.

Regarding the "price leadership" problem raised by CEC, the Commission notes that any utility regulated by the Commission would have to file a change in rates with this Commission prior to "following" BPA's price. The Commission would, of course, review this rate change under its Federal Power Act (FPA) authority, with all the protections attached thereto. The rate could be suspended, collected subject to refund, and would have to meet the "just and reasonable" standard of the Federal Power Act. If rates that are not subject to the Commission's rate review jurisdiction "follow" BPA's "lead", the situation is admittedly different. However, Congress has not provided a way to avoid the kinds of impacts that concern CEC without seriously diminishing the Commission's interim approval authority and contravening Congress' objective of obtaining swift Commission action, which would be the inevitable results of holding a section 7(K) hearing prior to granting interim approval. The issues to be resolved at such a hearing are precisely the issues that have to be resolved in order to confirm and approve the rates on a final basis. It is unlikely that Congress intended that interim rate approval, even for non-regional rates, serve this function. Accordingly, this final rule does not require that a hearing be held prior to approval of rates on an interim basis.

2. *Refund and Interest Rate.* The interim rule required that any rate approved on an interim basis be subject to refund with interest, if the rate finally approved is lower than the interim rate.[5] The interim rule conditioned the grant of interim rate approval upon a commitment by BPA to refund with interest any portion of the interim rate increase finally determined to be excessive. The interim rule also established the rate of interest charged to BPA by the U.S. Treasury as the appropriate interest rate, unless the Commission orders otherwise.

All commenters who discuss this issue support the Commission's authority to order BPA's rates into effect on an interim basis subject to refund with interest. A number of comments suggest specific modifications to both the method of providing refunds established under the interim rule and the interest rate.

BPA requests that the Commission make it clear that the net energy billing method of making refunds should occur over a period not to exceed the period over which the excessive rate was collected. Such a provision, BPA asserts, would ensure that the tremendous impact that refunds might have on BPA would be spread over a reasonable amount of time. The Commission generally agrees with BPA's suggestion, but notes that interest on these amounts would be accrued over the period beginning with the collection of the excessive amounts. Any refunds made beyond thirty days after the date of the Commission's refund order would also accrue interest with the final refund payment. The final rule does not leave the refund procedures entirely to BPA's discretion; however, the Commission will allow BPA maximum flexibility to make refunds in a way that minimizes its cash flow or financial management needs.

There is considerable disagreement among commenters as to the proper interest rate to be charged on refunds. The interim rule establishes the rate of interest charged to BPA by the U.S. Treasury as the presumptively proper interest rate. BPA agrees with this interest provision, but suggests that the Commission should reserve sufficient flexibility to determine an alternative rate of interest where appropriate. Another commenter contends that the proper interest rate should be the interest rate for "new BPA borrowings". A third group of commenters suggests that the Commission should establish an interest rate which will reflect the cost of borrowing to BPA's customers. Under a fourth alternative, the Commission would adopt the same interest rate for BPA that it has adopted for refunds under the Federal Power Act (FPA); that is, the prime interest rate.

The Commission is adopting in its final rule the same interest rate that was adopted in the interim rule. The Commission continues to believe that BPA's position relative to the nation's financial markets is dissimilar to that of public utilities regulated under the FPA. BPA obtains its financing directly from the U.S. Treasury, rather than from traditional capital markets. The interest rate adopted for refunds under the FPA, which reflects the cost of capital governed by private borrowing, would therefore be inappropriate for refunds by BPA. Accordingly, the final rule utilizes the interest rate that would be charged to BPA by the U.S. Treasury during the period of over-collection. The

[4] 126 Cong. Rec. H. 9854 (daily ed. September 29, 1980) (Remarks of Rep. Swift).

[5] The Commission noted in its proposal that the authority to order a refund was not expressly granted to the Commission in the Northwest Power Act, although the legislative history supported Commission refund authority for BPA rates. 46 FR 60,813, 60,815 (1981).

Commission notes, however, that under certain circumstances other rates may better reflect BPA's cost of money, and therefore the final rule also allows the Commission to establish another form of interest.

III. Summary of the Final Rule and Revisions from the Interim Rule

A. Subpart A—General Provisions.

1. *Section 300.1—Applicability and Definitions.* Subpart A contains the general provisions of the rule. Section 300.1(a) establishes the applicability of the new Part 300 to rate schedules of BPA. This section also establishes that the Commission's rules of practice and procedure apply to BPA proceedings before the Commission. A reference to Part 385, which contains the rules of practice, has been added to make clear that this reference relates to procedural regulations and not the general filing requirements under the FPA. Although BPA proceedings should generally be subject to the same procedural requirements applicable to other kinds of rate cases, the final rule renders the Commission's ex parte communications rule (Rule 2201) inapplicable to BPA proceedings, except as provided in individual cases. This acknowledges the difficulty of applying the ex parte restrictions used in public utility rate cases to the rate cases of a fellow federal agency. Notwithstanding this change from the interim rule, the Commission will ensure the fairness of its on-the-record proceedings consistent with the case law and applicable statutes dealing with ex parte communications.[4] The approach adopted reflects only a preference for fashioning appropriate procedural requirements in each case if there exist uncertainties about which restrictions are appropriate generically.

Section 300.1(b) contains several important definitions, most of which derive from the interim rule. There are some changes, however. The definition of "cost evaluation period" in the interim rule has been changed in the final rule to "rate test period" so that the term more accurately reflects its function. The term "interest group" in the interim rule is no longer defined because it has been integrated into a description of the contents of Statement C in § 300.11(a)(3). The definition of "proposed rate approval period" has been amended by limiting the period to five years.

[4] For a discussion of some of the Commission's views of the requirements relating to ex parte communications, *see, Supplemental Opinion Explaining Denial of MEUA Motion,* 23 FERC ¶61,064 (1983).

2. *Section 300.2—Staff Guidance.* Section 300.2 allows BPA to seek guidance from Commission staff prior to submitting an application for confirmation and approval of a rate schedule.

B. Subpart B—Filing Requirements

Subpart B of the final rule lists the documents required to be filed by the Administrator in any application for confirmation and approval of rates. These filing requirements apply to both interim and final rate approval.

There are three categories of documents required to be filed where the Administrator seeks confirmation and approval of rates: a description of general rate schedule information, supporting cost and revenue data, and a description of analytical approaches to the data.

1. *Section 300.10—Application for Confirmation and Approval.* Section 300.10 contains the general filing requirements. The same filing is used for both interim and final approval of BPA's rates. Paragraph (a)(1) delineates the contents of a filing, including a letter of request for approval (paragraph (b)), a notice of filing suitable for publication in the **Federal Register** (paragraph (c)), the rate schedules (paragraph (d)), a statement of revenue and related costs (paragraph (e)), and the Administrator's Record of Decision and supporting documents (paragraph (f)).

Section 300.10(a)(2) of the interim rule allows the incorporation by reference of information that has previously been submitted to the Commission in substantially the same form.

Section 300.10(a)(3) covers the time period for filing rates. It was located in § 300.20(a) in the interim rule. This section requires the Administrator to tender a request for approval of a rate not later than sixty days prior to the requested effective date.

The final rule eliminates two paragraphs from the interim rule. The first related to sending BPA notice of any deficiencies in the filing and giving BPA thirty days to cure these deficiencies. The Commission is shortening the filing period from ninety to sixty days to minimize the time before the filed rates may become effective consistent with Commission review obligations. Shortening this period seriously diminishes any opportunity to cure deficiencies prior to the grant of interim approval, and the opportunity to cure at that stage of the proceeding is therefore eliminated. The second paragraph, relating to public participation, has been relocated in § 300.20(a).

Paragraph (b) governs any BPA letter requesting rate approval. This letter must specify the period for which approval is requested. Because of rapidly changing conditions and escalating costs, recent filings have been on an annual basis. Past practice of this Commission and its predecessor has been to approve rates for periods which do not exceed five years. Although the Commission will continue this practice, the Administrator has the responsibility to review costs and revenues annually and to develop and file new rates if existing rates are found to be deficient in providing adequate revenues for repaying the federal investment. This paragraph also requires that the letter include a brief description of the filed rates, estimates of annual sales, and a description of how the new rate differs from the existing rate.

Paragraph (c) establishes the contents of the notice that BPA is required to file. This notice must be suitable for publication in the **Federal Register** and contain routine information relating to the filing.

Paragraph (d) establishes the content of the rate schedules.

Paragraph (e) is a new paragraph. It requires that BPA file a statement of cost and revenue data for each class of service. In the interim rule, this information was part of the Administrator's Record of Decision.

Paragraph (f) states the contents of the Administrator's Record of Decision. Section 7(i)(5) of the Northwest Power Act requires the Administrator to make a final decision establishing rates "on the record" and to provide a full and complete justification of that decision. Both the interim and final rules require that the Record of Decision contain a calendar history of the filing, a discussion of issues raised, a discussion of all applicable statutory regulatory requirements, and a description of the methodology used for determining revenue requirements. The final rule also requires that BPA file the entire administrative record used in establishing the proposed rate. The interim rule required that the Record of Decision contain any cost-of-service studies used by the Administrator in developing the rates. Cost of service studies are no longer required as part of the Record of Decision, but are separately required under § 300.12(c).

Paragraph (g) of the final rule requires the Administrator to file with the Commission any other materials not specified in subpart B which are otherwise required to be developed by the Administrator, specifically under section 7(i)(5) of the Act. The final rule

also adds a requirement that BPA file copies of all source material referred to in the Record of Decision and any other information requested by the Commission or its staff.

2. *Sections 300.11 and 300.12—Technical Support for the Rate Schedule.* Sections 300.11 and 300.12 establish the technical support required to be filed by the Administrator in support of a request for confirmation and approval. The supporting data are divided into data statements (section 300.11) and analysis of that data (section 300.12). The requirements for each of these categories are found in a separate section.

Section 300.11 specifies the content of six statements which provide the basic information that is necessary to develop a study to demonstrate that the proposed rates are sufficient to assure repayment of the Federal investment and other costs over a reasonable period of years. The data statements are identified as: Statement A—Sales and Revenues; Statement B—Power Resources; Statement C—Capitalized Investments or Costs; Statement D—Interest Expenses; Repayment of Investments and Debt Capital; Statement E—Operation, Maintenance and Other Annual Expenses; and Statement F—Cost Allocations. Although Statement C in the interim rule assumed that all major investments would be kept by means of a separate accounting, the final rule recognizes that repayment of some investments may not have a separate accounting and establishes a procedure for reporting this type of investment.

Section 300.12 (formerly §300.11(b)) requires the Administrator to provide an analysis of the information submitted in Statements A through F. The Administrator is authorized to use any appropriate analytical methodology, including a Power Repayment Study (PRS).

The approach to PRSs in the final rule differs from that of the interim rule. The interim rule gave short, general instructions on the contents of a PRS. The final rule, on the other hand, gives more detailed and specific instructions on the contents of a PRS, if one is used. The substance of both approaches is consistent; the main differences relate to specificity. In addition to more specifically describing a PRS, the final rule also requires that BPA file two other studies—a cost of service study and a revenue recovery study.

3. *Section 300.13—Waiver of Filing Requirements.* The final rule adds a new §300.13. This section requires BPA to file a statement requesting that the Commission waive any non-compliance in the filing or divergence from the Commission's filing requirements. The statement must also give BPA's reasons for such a non-compliance or divergence. The Commission will not, of course, waive requirements that simply are not met through inattention by the Administrator. The Commission will usually act on this request when it issues its decision on whether to grant interim approval.

C. Subpart C—Commission Rate Review and Approval

Subpart C establishes procedures that relate specifically to the approval of rates. Section 300.20 covers interim approval and §300.21 covers final confirmation and approval.

1. *Section 300.20—Interim Confirmation and Approval.* Paragraph (a) notes that the Commission will give interested persons an opportunity to comment on a request for interim approval by filing a notice in the **Federal Register**.

Paragraph (b) sets forth the range of actions the Commission may take on a request for interim rate acceptance. Upon receipt of an application, the Commission may take any of four possible courses of action. For applications that do not fully comply with either the Commission's regulations or the Northwest Power Act, the Commission may either reject the application or accept the application on the condition that BPA cure any deficiencies.

Once it is satisfied that an application complies with the relevant statutory and regulatory requirements, the Commission may order the rate schedule into effect on an interim basis, effective on the date requested by the Administrator or such other time as the Commission may order; or the Commission may deny the Administrator's interim rate approval request and proceed directly to review the application for final confirmation and approval. The interim rule allowed BPA a thirty-day opportunity to cure any non-compliance prior to a Commission decision to grant interim approval. The final rule eliminates this opportunity, but requires BPA to cure any noncompliance after the grant of interim approval.

Paragraph (c) states that the Commission will approve rates on an interim basis only if such rates are subject to refund with interest. The interest rate adopted is the rate or rates of interest charged to the BPA by the U.S. Treasury during the period of overcollection, unless another interest rate is ordered by the Commission.

Paragraph (d) provides for notice of any Commission action specified in paragraph (b) either by publication in the **Federal Register** or by mail. Under the final rule, notice would be mailed only to those entities on the Commission's service list, rather than to those listed in the Administrator's filing.

2. *Section 300.21—Final Confirmation and Approval.* Section 300.21 sets forth the procedures for final confirmation and approval of rates filed by BPA. This is a new section which restates procedures currently applied by the Commission to BPA under the Northwest Power Act. The Commission believes that it will assist BPA and others who have an interest in BPA's rates to codify practices that have become standard.

Paragraph (a) sets forth the Commission's procedures relating to public participation in final approval of BPA's rates. After the Commission grants interim approval of BPA's rates, the Commission will allow interested persons an opportunity to intervene in any proceedings held on the filing and to submit initial and reply comments on substantive issues raised by BPA's filing. Notice of this opportunity will typically be published as part of the Commission's order granting interim approval.

In certain circumstances, the Commission may hold a hearing on non-regional rates under section 7(k). Accordingly, the Commission's notice will provide an opportunity to comment on whether such a hearing should be held and the issues to be resolved at the hearing. Paragraph (b) states that the Commission will publish its decision on whether to grant a hearing under section 7(k) and the issues that should be discussed at the hearing.

Paragraph (c) sets forth the different standards of review for BPA's rates. In September 1982, the Commission determined that Congress intended that the Commission's review of regional rates under section 7(a) should be subjected to a more limited standard of review than its non-regional rates under section 7(k). *Order Resolving Scope of Commission's Jurisdiction, Granting Intervention, and Establishing Further Procedures*, 20 FERC Rep. ¶ 61,292 (1982). The final rule codifies this distinction as follows. The Commission will review regional rates (section 7(a) rates) to make sure that these rates (a) assure reasonable repayment of the federal investment in BPA's facilities (b) are based on BPA's total system costs, and (c) equitably allocate certain transmission costs between federal and non-federal use of the transmission

system. With respect to non-regional rates, the final rule lists the various statutes that set forth the higher standards of review.

Paragraph (d) sets forth the range of actions the Commission may take on final approval of rates filed by BPA.

Paragraph (e) sets forth the procedures to be followed if the Commission disapproves the filed rates. The Administrator will have 120 days to file substitute rates. The interim rate will remain in effect, subject to refund, pending approval of the substitute rates.

Paragraph (f) states that the Commission will publish in the **Federal Register** its decision to approve or disapprove BPA's rates and will mail its decision to those persons on the Commission's service list.

IV. Certification of No Significant Impact

The Regulatory Flexibility Act (RFA)[7] requires certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities".[8] The Commission is not required to make an RFA analysis if it certifies that a rule will not have such an impact.[9]

This final rule imposes requirements only on BPA, which is not a "small entity" under the appropriate RFA definition.[10] The primary purpose of this rule is to establish procedures for the confirmation and approval of BPA rates for compliance with statutory standards. The procedures are designed to avoid delays which in the past have accompanied the filing of PMA rates.

Since this rule applies only to BPA and is procedural in nature, it will have little, if any, impact on small entities. Accordingly, the Commission certifies that this rule will not have "a significant economic impact on a substantial number of small entities."

V. Administrative Procedure and Paperwork Reduction Acts

The Commission's final rule differs from its interim rule in two important respects that require further explanation pursuant to section 553(b) of the Administrative Procedure Act. First, the final rule adds a section (section 300.21) that establishes procedures for final confirmation and approval. The Commission believes that the Administrative Procedure Act does not require that the Commission provide an additional opportunity for comment prior to making this part of the rule final. The final rate approval procedures do not impose new procedural burdens, such as filing requirements, on BPA or interested parties. They are designed only to standardize BPA proceedings before the Commission in terms of notice, opportunities for hearing, and to state the range of actions available to the Commission. The new provisions do not affect the substance of the rate case. As such, these procedural requirements for final confirmation and approval (section 300.21) are clearly matters of "agency organization, procedure, or practice" that do not require notice and comment. 5 U.S.C. 553(b)(A) (1976).

Second, the final rule (section 300.21(c)) sets forth standards of review which the Commission applies to BPA's rates, depending on the nature of the rate. The Commission believes, even though these are substantive additions to the regulations, that notice and comment are not required in this case because the Commission is merely codifying the standards that it set forth in an order issued in September 1982, which clarified how the standards of the Act were to be applied. *Order Resolving Scope of Commission's Jurisdiction . . .*, 20 FERC Rep. ¶ 61,292 (1982). Additionally, the Commission gave interested persons an opportunity to comment on the standard of review issues raised by that order. *Order Directing the Submittal of Briefs on Jurisdictional and Procedural Issues*, 18 FERC Rep. ¶ 61,037, 47 FR 3583 (1982). Accordingly, the Commission believes that since this rule merely codifies settled Commission precedent, further notice and comment is "unnecessary." 5 U.S.C. 553(b)(B) (1976) Moreover, the previous opportunity to comment satisfies the requirements of the APA.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980), requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) (for requests imposed on the public) or the General Services Administration (GSA) (for requests imposed on other agencies). *See* OMB final rule, *Controlling Paperwork Burdens on the Public*, 48 FR 13,666, 13696 (1983) (to be codified at 5 CFR 1320.16). The Commission has consulted with both OMB and GSA and has been informed that prior approval is not necessary, since BPA and FERC are both part of the Department of Energy.

VI. Additional Opportunity for Comment

The Northwest Power Act does not require rehearing to be requested as a jurisdictional prerequisite to judical review of rules. Notwithstanding the "good cause" demonstrated here for promulgating final confirmation and approval procedures without notice and comment, the Commission does not wish to foreclose the opportunity for interested persons to comment on this feature of the final rule since it was not before the public for comment under the interim rule. In addition, the Commission wishes to highlight certain amendments to its filing requirements (Subpart B) that were in part inspired by consultations conducted to develop similar requirements for all other PMA's.[11] Therefore, the Commission will accept written comments on the effect of the final confirmation and approval procedures and the changes made pursuant to the staff-PMA consultations.

Any comments on these issues will be treated procedurally as petitions for reconsideration (18 CFR 385.207) which the Commission may deal with by: (1) Retaining the final rule as issued, without further order, (2) amending or clarifying the rule, or (3) proposing amendments for additional comment. This does not, of course, remove the customary opportunity to petition the Commission for reconsideration with respect to any aspect of the rule.

All comments must be submitted not later than 30 days after publication in the **Federal Register** and must reference Docket No. RM82–6–000. Address all comments to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

VII. Effective Date

The amendments made by this final rule will be effective 60 days after publication in the **Federal Register**.

List of Subjects in 18 CFR Part 300

Electric power rates.

(Pacific Northwest Electric Power and Conservation Act, 16 U.S.C. 839–839h (Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7552 (Supp. IV 1980); Exec. Order 12,009, 3 CFR 142 (1978).

In consideration of the foregoing, the Commission amends Chapter I, Title 18

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[7] 5 U.S.C. 601–612 (Supp. IV 1980).

[8] *Id.* at 603(a).

[9] *Id.* at 605(b).

[10] *Id.* at section 601(3), *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980). Section 3 of the Small Business Act defines "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[11] These changes include:

1. adding to the definition of "proposed rate approval period," a limitation that the period cannot exceed five years (§ 300.1(b)(5)).

2. revisions to Statement C which cover the reporting of investments for which no separate accounting is kept (§ 300.11(b)(3)); and

3. a more detailed explanation of the contents of a power repayment study (§ 300.12(b)).

of the Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

1. In Part 300, the Table of Contents is amended by adding new §§ 300.12, 300.13, and 300.21, and by revising the Authority citation, to read as follows:

PART 300—Confirmation and Approval of the Rates of the Bonneville Power Administration

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Subpart B—Filing Requirements

Sec.

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300.12 Analysis of supporting data.
300.13 Waiver.

Subpart C—Commission Rate Reviews and Approval

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300.21 Final confirmation and approval.

Authority: Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839–839h (Supp. IV 1980); Department of Energy Organization Act, 42 U.S.C. 7101–7552 (Supp. IV 1980); Exec. Order 12,009, 3 CFR Part 142 (1978).

2. Part 300 is revised to read as follows:

Subpart A—General Provisions

§ 300.1 Applicability and definitions.

(a) *Applicability.* This part sets forth procedures governing the filing, review, and disposition of the rate schedules for the sale or transmission of power and energy established by the Administrator of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act). Except as otherwise provided by rule or order, the Commission's General Rules of Practice and Procedure (Part 385 of this Chapter), other than Rule 2201 (Ex Parte Communications), will apply to any filings, hearings, or other procedures under this Part, as applicable.

(b) *Definitions.* For the purposes of this Part, the definitions in section 3 of the Northwest Power Act and the following definitions apply.

(1) *Electric service* means any transmission or sale of electric power and energy by the Bonneville Power Administration, including capacity sales, energy sales, firm power sales, transmission services, or any combination of these services, and the utilization by the Bonneville Power Administration, by means of ownership, contractual arrangements, leasing, or other arrangements, of any facility to provide such sales or services.

(2) *Historic period* means the period commencing with the date of first commercial operation of a powerplant or transmission facility and ending on the last day of the latest year for which actual cost data are available, provided that the period does not end more than 18 months before the date on which the Administrator tenders the rate schedule for filing with the Commission.

(3) *Initial capital investment* means the cost of acquisition or construction of a power facility or non-power facility which has been assigned by the Administrator to be repaid from the power revenues of the Bonneville Power Administration, including but not limited to any cost of planning, design, land acquisition, construction, interest during construction, and testing incurred before the date on which the facility becomes operational or revenue-producing.

(4) *Power repayment study* or *PRS* means a study of the annual repayment of production and transmission investments and other costs through the application of revenues during the repayment period.

(5) *Proposed rate approval period* means the period during which the Administrator proposes to collect revenues for electric service under a rate schedule filed for Commission confirmation and approval under this part. This period must not exceed five years.

(6) *Rate schedule* means a statement by the Administrator describing:

(i) Type of service to which the rate is to be applied;

(ii) Rates and charges which the Bonneville Power Administration establishes for, or in connection with, its electric service; and

(iii) Classifications and other provisions which directly affect such rates and charges.

(7) *Rate test period* means a period, commencing with the end of the historic period, as defined in paragraph (b)(3) of this section, and continuing through the proposed rate approval period as defined in paragraph (b)(5) of this section, during which future estimates of costs and revenues should be modified by the Administrator to reflect changing conditions.

(8) *Replacement* means any substitution of a unit of property with another unit of property with another unit of like character.

§300.2 Staff Guidance.

The Administrator or a designee may seek guidance from Commission staff prior to submitting an application under subpart B, with respect to the appropriate form and content of such application.

Subpart B—Filing Requirements

§300.10 Application for confirmation and approval.

(a) *General provisions.* (1) *Contents of filing.* Any application under this subpart for confirmation and approval of rate schedules must include, as described in this section, a letter of request for rate approval, a notice of filing suitable for publication in the **Federal Register**, the rate schedule, a statement of revenue and related costs, the Administrator's Record of Decision and supporting documents, and the technical supporting information required under § 300.11.

(2) *Incorporation of information by reference.* Any information required under this subpart that has previously been submitted to the Commission in substantially the same form as specified in this section may be incorporated by reference only.

(3) *Time of filing.* Any rate schedule for which the Administrator requests approval must be tendered for filing with the Commission, in the form and with the materials specified in this subpart, not later than 60 days prior to the date such rate schedules are requested to be made effective.

(b) *Letter of request for rate approval.* A letter of request for rate approval must contain the following information:

(1) A description of the period for which the rate is proposed to be effective, delineated by an effective date and an expiration date, and a request, if any, for interim approval of the rate;

(2) A brief description of the proposed rates and charges and estimates of annual sales and revenues for the rate approval period under both existing and proposed rate schedules; and

(3) A description of how the filed rate differs in rate level or rate structure from the rate schedule currently effective.

(c) *Notice of filing.* The notice of filing, suitable for publication in the **Federal Register**, must contain the following information:

(1) The identification number or description of the rate schedule or contract;

(2) If the rate schedule includes changes in rates, the dollar amount and percent increase or decrease in rates;

(3) If the rate schedule includes changes other than rates, a brief description of the changes;

(4) A brief explanation of the reasons for any proposed change in the rate schedule;

(5) a statement whether interim approval is requested;

(6) the proposed effective date of the rate schedule; and

(7) the proposed rate approval period.

(d) *Rate schedules.* A filed rate schedule, as defined in § 300.1(b)(6), must describe the following, as appropriate:

(1) The class of service to which each rate schedule will apply and service areas or zones which will be affected by the filed rate;

(2) The character and conditions of service;

(3) The rate to be applied to capacity and energy services or other services;

(4) The method of computing or a definition of the billing demand;

(5) Special provisions, such as discounts, penalties, power factor adjustments, service interruptions, unauthorized overruns, and other similar provisions which may affect the rates and changes; and

(6) The period during which the rates will be effective.

(e) *Statement of Revenue and Related Costs.* Each filing shall include a statement which includes cost (if available) and revenue data for each class of service as specified in each rate schedule for the proposed period.

(f) *Administrator's Record of Decision and supporting documents.* (1) The Administrator must file the entire record on which the final decision establishing a rate schedule is based.

(2) The Administrator must file a Record of Decision that includes:

(i) A chronological discussion of the procedural history of the filing, including meetings held with the general public, required under section 7(i) of the Northwest Power Act;

(ii) A discussion of issues raised by customers or the public and how such issues were resolved;

(iii) A discussion of all statutory, regulatory, or other requirements which governed the Administrator's decision;

(iv) A description of any methodology used for determining revenue requirements and for developing appropriate rate structures; and

(v) A list identifying all documents submitted for Commission consideration; and

(vi) The names and addresses of any customer of the Bonneville Power Administration and other persons who have requested to be informed of the Commission's decision.

(g) *Additional filing requirements.* (1) The Administrator must file with the Commission any other information required to be developed under section 7(i)(5) of the Northwest Power Act, in relation to the Record of Decision, including all source materials referred to in the Administrator's Record of Decision.

(2) The Administrator must file any other information requested by the Office of Electric Power Regulation as needed for Commission analysis of the rate filing.

§ 300.11 Technical support for the rate schedule.

(a) *Filing requirement.* The Administrator must submit, in conjunction with any application under § 300.10, the technical support data described under paragraph (b) of this section and the analysis of data described under section 300.12 of this subpart.

(b) *Data.* (1) *Statement A—Sales and Revenues.* Statement A must include:

(i) Sales and revenues for each rate schedule for the last five years of the historic period, as defined in section 300.1(b)(2);

(ii) For the rate test period, the estimated annual sales and revenues for the existing and each proposed rate schedule, including a separate aggregation of any revenues from sources not covered by the rate schedule according to general classifications of such revenues; and

(iii) Brief explanations of how sales and revenue estimates are prepared and explanations of any changes in sales or revenues during the last five years of the historic period.

(2) *Statement B—Power Resources.* Statement B must contain a list of the capacity and energy resources for the last five years of the historic period and for the rate test period, used to support the sales and revenues figures contained in Statement A. The statement should identify resources according to the powerplant and any purchase or exchange agreement.

(3) *Statement C—Capitalized Investments or Costs.* (i) Statement C must account for all capitalized investments which have been assigned by the construction agency to be repaid from power revenues.

(ii) The statement shall include a listing, by year, of the following:

(A) All initial investments and additions to plant, including interest during construction, that produced revenue during the historic period or are expected to produce revenue during the rate test period;

(B) Capitalized deferred expenses; and

(C) Replacements made during the historic period and replacements projected to be made during the balance of the repayment period.

(iii) For each such investment, the statement shall specify:

(A) Whether the investment is an initial investment, an addition, a replacement, or a capitalized deferred annual expense;

(B) The date the investment was made;

(C) The year in which repayment is due to be completed;

(D) Whether the investment was financed through the issuance of revenue bonds, and the appropriate interest rate; and

(E) The authority or administrative procedure used for the adoption of such interest rate.

(iv) If available, the amount repaid on each investment to date shall be stated, however, if repayment on individual investments is not recorded, the amount repaid to date on each group of investments having common interest rates should be stated.

(v) For each year, the sum of unpaid individual investments or the unpaid portion of interest groups shown above must equal the unamortized investment shown in the power repayment study for that year.

(vi) The statement must describe the methods used to forecast replacements and the price level used to estimate replacement costs.

(4) *Statement D—Interest Expenses; Repayment of Investments and Debt Capital.* (i) For each capitalized investment and cost listed in Statement C, Statement D must describe, by interest group:

(A) The total unpaid balance outstanding at the end of the historic period;

(B) Payments made on principal and interest during each of the last five years of the historic period; and

(C) Annual payments expected to be made through the cost evaluation period.

(ii) The statement must describe how the interest expense was determined for each type of investment and include examples of such computations.

(5) *Statement E—Operation, Maintenance and Other Annual Expenses.* (i) Statement E must contain, for the last five years of the historic period and for the rate test period, as appropriate, a tabulation of actual and projected operation and maintenance, administrative and general, purchased power, wheeling, and any other expenses, other than interest. Statement E must:

(A) list expenses for each individual source, if purchased power and other similar expenses are derived from more than one source;

(B) explain any significant deviations from trends in expenses or any extraordinary expenses; and

(C) explain the price level used for estimating expenses.

(6) *Statement F—Cost Allocations.* (i) Statement F must contain, for each multiple-purpose reservoir project, unit, division, or system, a table or other summary showing total investments costs, the total annual operation and maintenance costs, and the allocation of all such costs among the various authorized purposes.

(ii) The statement must show the amount of power costs suballocated to irrigation functions, any changes from previous allocations, and the procedure used in allocating such costs. Currently valid allocations previously submitted to the Commission need not be furnished, if referenced.

§ 300.12 Analysis of supporting data.

(a) An analysis of the data provided under section 300.11 must be supported by an appropriate methodology developed by the Administrator.

(b) *Power Repayment Study.* (1) Any Power Repayment Study (PRS) submitted for this purpose must be developed using currently approved rates for estimating future revenues. If the filed rates differ from the current rates, the Administrator must provide a PRS which uses the level of revenues produced by the proposed rates. Unless otherwise required by statute, a PRS must contain only those investments in plant which will be in commercial operation during the proposed rate approval period, except replacements. Forecasts of costs beyond the rate test period must be based on conditions prevailing during the period, unless unusual circumstances warrant otherwise.

(2) A PRS must include, but need not be limited to, those items listed below:

(i) Operating revenues;

(ii) Operating expenses;

(iii) Interest expense;

(iv) Investment placed in service (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading); including the initial project, additions, replacements, and the total investment;

(v) Investment amortized;

(vi) Remaining unamortized investment;

(vii) Allowable unamortized investment (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading), including initial project, additions replacements, and total investment;

(viii) Irrigation investment assigned to be repaid from power revenues (using totals if the supporting statement annually shows a breakdown into the appropriate subcategories under each major heading), including irrigation investment assigned to power, investment repaid, remaining unpaid investment, and allowable unpaid investment;

(ix) Cumulative status of repayment.

(c) *Cost of Service Study.* For any project or system which provides more than one class of service for which differing rates are proposed, a cost of service study, if available, must be provided which shows how the costs of providing each service have been determined.

(d) *Revenue Recovery Study.* (1) A study must be provided which supports the filed rate and charges, including a narrative statement that explains how the rates and charges meet the objective of recovering the revenue necessary to repay the Federal investment and other costs in a reasonable period of time.

(2) If rates and charges have not been formulated on a cost related basis, the basis for each rate or charge should be explained.

§ 300.13 Waiver.

The Administrator must request waiver of any requirement of this subpart if an application that does not fully comply with the requirement is not to be considered deficient. The request must state the Administrator's reasons for such noncompliance and show good cause for any waiver.

Subpart C—Commission Rate Review and Approval

§ 300.20 Interim acceptance and review.

(a) *Opportunity to Comment.* The Commission will publish in the **Federal Register** notice of any filing made under this part, for which interim approval is requested. This notice will give interested persons an opportunity to submit written comments on whether interim approval should be granted.

(b) *Action on request for interim rate acceptance.* (1) *Deficient Applications.* Upon receipt of an application that does not comply with the requirements of this part, the Commission may:

(i) Accept the application and order the rate schedule into effect on an interim basis, effective on the date requested by the Administrator or at such time as the Commission may otherwise order, on the condition that any deficiencies in the filing are corrected by the Administrator to the satisfaction of and within such time specified by the Director of the Office of Electric Power Regulation; or

(ii) Deny the Administrator's interim rate request and reject the application, if the Commission determines that the Administrator's application:

(A) is patently deficient with respect to the filing requirements of this part; or

(B) fails to comply with the applicable provisions of the Northwest Power Act or such other Acts as may be applicable.

(2) *Applications that are in compliance.* Upon receipt of an application that complies with the requirements of this Part, the Commission may:

(i) Order the rate schedule into effect on an interim basis, effective on the date requested by the Administrator or at such time as the Commission may otherwise order; or

(ii) Deny the Administrator's interim rate request and review the application for final confirmation and approval of the rate schedule pursuant to the provisions of this part.

(c) *Condition of acceptance.* (1) *Condition.* Any rate schedule the Commission allows to become effective on an interim basis under paragraph (b) of this section, is subject to refund with interest under this paragraph.

(2) *Refund.* If any rate which the Commission makes effective on an interim basis exceeds the rate which is confirmed and approved by the Commission as a final rate, the Administrator, pursuant to any conditions established by the Commission, must refund with interest any portion of the rate increase collected during the interim period which exceeds the final rate. The Administrator may make refund under this part by means of a net energy billing which reflects the value of any overcharge or by other appropriate methods.

(3) *Interest.* Except as otherwise provided by the Commission, the Administrator must compute any amount of interest based on the revenues collected subject to refund and required to be refunded under paragraph (c)(2) by using the rate of interest or a weighted average of all rates of interest charged to the Bonneville Power Administration by the U.S. Treasury during the period for which the computation is made.

(d) *Notice of action on interim approval.* The Commission will publish in the **Federal Register** a notice of any action taken under paragraph (b) of this section and will mail notice to any person on the Commission's service list.

§ 300.21 Final confirmation and approval.

(a) *Opportunity to comment and intervene.* (1) The Commission will publish notice in the **Federal Register** giving interested persons an opportunity:

(i) To submit initial and reply comments on any filing made under Subpart B; and

(ii) To intervene in any proceeding held on such filing.

(2) Such notice will also give interested persons an opportunity to comment on whether it is necessary to hold a hearing on non-regional rates under section 7(k) of the Northwest Power Act and the issues to be resolved at such a hearing.

(3) This notice may be part of any Commission order granting interim approval under section 300.20 of this part.

(b) *Proceedings under section 7(k).* The Commission will publish a separate order if it determines that a hearing is necessary under section 7(k) of the Northwest Power Act. This order will, if appropriate, delineate the issues to be resolved at such hearing.

(c) *Standards of Review.* (1) *Rates under section 7(a).* The Commission will review any rate established by the Administrator under section 7(a) of the Northwest Power Act for compliance with the following standards:

(i) The rates must be sufficient to ensure repayment of the federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs.

(ii) The rates must be based upon the Administrator's total system costs.

(iii) With respect to transmission rates, the rates must equitably allocate the costs of the federal transmission system between federal and non-federal power utilizing such system.

(2) *Rates under section 7(k).* The Commission will review any rate established by the Administrator under section 7(k) of the Northwest Power Act for compliance with the requirements of the Bonneville Project Act, the Flood Control Act of 1944, the Federal Columbia River Transmission System Act, and the standards set forth in paragraph (c)(1) of this section.

(d) *Action on request for final confirmation and approval of rates.* Filed rates established by the Administrator will be considered for final confirmation and approval if the relevant filing complies with the filing requirements of Subpart B of these regulations. The Commission may take any of the following actions:

(1) Confirm and approve the rate schedule(s) for the period beginning with the date such rates were placed in effect on an interim basis to the expiration date requested in the application but not to exceed a five year period, or for such lesser period as the Commission deems appropriate;

(2) Remand the filing for further development of the record to support the filed rate schedules;

(3) Order an evidentiary hearing if there are questions of fact which can not be resolved from the record or through staff evaluation;

(4) Disapprove the filed rates; or

(5) Take such other action that the Commission considers appropriate.

(e) *Procedures upon disapproval.* (1) If the Commission disapproves the rates, the Administrator will be provided a 120-day period, or other period as the Commission may deem appropriate, to prepare substitute rates that resolve the Commission's concerns. If the filed rates have been approved on an interim basis, the rates will continue in effect on an interim basis until the Commission takes final action.

(2) If the Commission confirms and approves on a final basis rates that are lower than the filed rates, any charges made in excess of the finally-approved rates during the period that interim rates were in effect are subject to refund with interest under § 300.20(c).

(f) *Notice of action on final approval.* The Commission's Secretary will publish in the **Federal Register** a notice of any action taken under paragraph (d) of this section and will mail the notice to the persons on the Commission's service list.

[FR Doc. 83-22156 Filed 8-15-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Social Security Benefits; Disability Insurance Benefits; Deductions, Reductions, and Nonpayments of Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rules with comment period.

SUMMARY: These regulations amend the existing regulations under which Social Security benefits payable to a disabled worker and his or her family may be reduced because of the worker's concurrent entitlement to workers' compensation benefits. They provide that entitlement to certain other public disability benefits may reduce the disability benefits paid by Social Security; that the reduction applies to the first month of concurrent entitlement regardless of the month in which we are notified of entitlement to the public disability benefit; and that the reduction applies to all months of concurrent entitlement until the disabled worker attains age 65. These regulations also provide that where a public disability law or plan provides for reduction of the public disability benefit on the basis of entitlement to Social Security disability insurance benefits, that provision will preclude reduction of the Social Security benefits, but only if it was in effect on February 18, 1981. These regulations implement section 2208 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

DATE: These regulations are effective beginning August 16, 1983. We will consider any comments we receive by October 17, 1983, and will revise these regulations later if public comment warrants.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Room 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7951.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) contains Social Security amendments to improve the cost effectiveness of the Social Security programs. These regulations implement the provisions of the amendments providing for the reduction of Social Security disability insurance benefits.

Prior to these amendments, Social Security disability insurance benefits could be reduced if the worker was also receiving a workers' compensation benefit. The reduction was applied to the total Social Security benefits paid to the disabled worker and to the worker's family. This reduction was imposed for the months after the month that the Social Security Administration was notified of the worker's entitlement to a

workers' compensation benefit and before the month that the worker attained age 62. To the extent that the workers' compensation law or plan provided for the reduction of the workers' compensation benefit because of entitlement to a Social Security disability insurance benefit, the Social Security reduction was not applicable.

Because only workers' compensation benefits and not other types of public disability benefits were considered for the reduction, the total benefits to the disabled worker and the worker's family could and often did exceed the income the worker earned prior to becoming disabled. Section 2208 of the Omnibus Budget Reconciliation Act expands the previous provisions for reducing Social Security disability insurance benefits to include other public disability benefits. Certain public disability benefits, in addition to workers' compensation benefits, can reduce Social Security disability insurance benefits. The amount of the reduction due to the receipt of the public disability benefit will be computed in the same way as was the reduction due to the receipt of workers' compensation benefits alone. The amendment excludes from the reduction Veterans Administration benefits, public disability benefits based on employment covered under Social Security, public benefits based on need, and wholly private pension or private insurance benefits. The reduction applies to all months the disabled worker is concurrently entitled to Social Security disability insurance benefits and to a public disability benefit. The age of the disabled worker at which the reduction does not apply has been extended from the attainment of age 62 to the attainment of age 65 (the age at which disability insurance benefits are converted to retirement insurance benefits).

To the extent that the public disability benefit law or plan provides for a reduction when there is concurrent entitlement to a Social Security disability insurance benefit, the reduction of the Social Security disability insurance benefit will not apply, but only if the law or plan that provides for the reduction of the public disability benefit was in effect on February 18, 1981.

These amendments are effective with respect to beneficiaries who became disabled as defined under the Social Security Act on March 1, 1981, or later and whose first month of entitlement to disability insurance benefits was September 1981 or later.

Federal agencies must provide any information in the agency's possession that the Secretary may require for the purpose of making a timely determination of the amount of the reduction or verifying other information necessary in carrying out the reduction provisions. The Secretary is authorized to enter into agreements with States, political subdivisions and other organizations that administer a law or plan subject to these provisions to obtain information required for administration of the offset provision.

A clarification of existing policy has been included in these regulations. One of the examples in these regulations illustrates the longstanding Social Security policy regarding the effects of changes in the amount of the public disability benefit after the initial reduction. The policy is to recalculate the reduction each time there is a change in the amount of the public disability benefit.

These regulations reflect and apply (generally by example) clear provisions in the Omnibus Budget Reconciliation Act of 1981 and in one example clarifies existing Social Security policy. They do not grant or deny rights or do not impose obligations which do not already exist under the statute. Accordingly, we find that there is "good cause" in that it is "unnecessary" to publish these regulations with Notice of Proposed Rule Making in accordance with section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)).

Regulatory Procedures

Executive Order 12291

For the most part, cost savings from the reductions of Social Security disability insurance benefits because of the receipt of certain other disability benefits provided under Federal, State, or local laws or plans are not the result of this regulation, but rather are due to decisions made in the legislative process. Cost impacts directly resulting from the regulations themselves are minor. For this reason, the Secretary has determined that this rule is not a "major rule" under Executive Order 12291, and a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, survivors, and disability insurance.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance)

Dated: March 3, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: July 13, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart E of Part 404 reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 407, and 1302, unless otherwise noted.

2. Section 404.401 is amended by revising paragraph (a)(4) as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

* * * * *

(a) * * *

(4) An individual under age 65 is concurrently entitled to disability insurance benefits and to certain public disability benefits (see § 404.408);

* * * * *

3. Section 404.402 is amended by revising paragraphs (b)(1)(iv), the introductory text of (b)(2), and (b)(3) as follows:

§ 404.402 Interrelationship of deductions, reductions, adjustments, and nonpayments of benefits.

* * * * *

(b) * * *

(1) * * *

(iv) Before reduction because of entitlement to certain public disability benefits provided under Federal, State, or local laws or plans (see § 404.408);

* * * * *

(2) Reduction of benefits because of entitlement to certain public disability benefits (see § 404.408) is made before deduction:

* * * * *

(3) Reduction of the benefit of a spouse who is receiving a Government pension (see § 404.408(a)) is made after

the withholding of payments as listed in paragraph (d)(1) of this section and after reduction because of receipt of certain public disability benefits (paragraph (b)(2) of this section).

* * * * *

4. Section 404.408 is amended by changing the section heading and by revising paragraphs (a), (b), introductory text of (c)(1) and (c)(3), (c)(5), (d), (e), (f), (g), (h), (i), (j), (k), (l) and examples to read as follows:

§ 404.408 Reduction of benefits based on disability on account of receipt of certain other disability benefits provided under Federal, State, or local laws or plans.

(a) *When reduction required.* Under section 224 of the Act, a disability insurance benefit to which an individual is entitled under section 223 of the Act for a month (and any monthly benefit for the same month payable to others under section 202 on the basis of the same earnings record) is reduced (except as provided in paragraph (b) of this section) by an amount determined under paragraph (c) of this section if:

(1) The individual first became entitled to disability insurance benefits after 1965 but before September 1981 based on a period of disability that began after June 1, 1965, and before March 1981, and

(i) The individual entitled to the disability insurance benefit is also entitled to periodic benefits under a workers' compensation law or plan of the United States or a State for that month for a total or partial disability (whether or not permanent), and

(ii) The Secretary has, in a month before that month, received a notice of the entitlement, and

(iii) The individual has not attained age 62, or

(2) The individual first became entitled to disability insurance benefits after August 1981 based on a disability that began after February 1981, and

(i) The individual entitled to the disability insurance benefit is also, for that month, concurrently entitled to a periodic benefit (including workers' compensation or any other payments based on a work relationship) on account of a total or partial disability (whether or not permanent) under a law or plan of the United States, a State, a political subdivision, or an instrumentality of two or more of these entities, and

(ii) The individual has not attained age 65.

(b) *When reduction not made.* (1) The reduction of a benefit otherwise required by paragraph (a)(1) of this section is not made if the workers' compensation law or plan under which the periodic benefit is payable provides for the reduction of such periodic benefit when anyone is entitled to a benefit under title II of the Act on the basis of the earnings record of an individual entitled to a disability insurance benefit under section 223 of the Act.

(2) The reduction of a benefit otherwise required by paragraph (a)(2) of this section is not to be made if:

(i) The law or plan under which the periodic public disability benefit is payable provides for the reduction of that benefit when anyone is entitled to a benefit under title II of the Act on the basis of the earnings record of an individual entitled to a disability insurance benefit under section 223 of the Act and that law or plan so provided on February 18, 1981. (The reduction required by paragraph (a)(2) of this section will not be affected by public disability reduction provisions not actually in effect on this date or by changes made after February 18, 1981, to provisions that were in effect on this date providing for the reduction of benefits previously not subject to a reduction); or

(ii) The benefit is a Veterans Administration benefit, a public disability benefit (except workers' compensation) payable to a public employee based on employment covered under Social Security, a public benefit based on need, or a wholly private pension or private insurance benefit.

(c) *Amount of reduction*—(1) *General.* The total of benefits payable for a month under sections 223 and 202 of the Act to which paragraph (a) of this section applies is reduced monthly (but not below zero) by the amount by which the sum of the monthly disability insurance benefits payable on the disabled individual's earnings record and the other public disability benefits payable for that month exceeds the higher of:

* * * * *

(3) *Average current earnings defined.* (i) Beginning January 1, 1979, for purposes of this section, an individual's "average current earnings" is the largest of either paragraphs (c)(3)(i) (*a*), (*b*) or (*c*) of this section (after reducing the amount to the next lower multiple of $1 when the amount is not a multiple of $1):

* * * * *

(5) *Computing disability insurance benefits.* When reduction is required, the total monthly Social Security disability insurance benefits payable after reduction can be more easily computed by subtracting the monthly amount of the other public disability benefit from the higher of (c)(1) (i) or (ii). This is the method employed in the examples used in this section.

* * * * *

(d) *Items not counted for reduction.* Amounts paid or incurred, or to be incurred, by the individual for medical, legal, or related expenses in connection with the claim for public disability payments (see § 404.408 (a) and (b)) or the injury or occupational disease on which the public disability award or settlement agreement is based, are excluded in computing the reduction under paragraph (a) of this section to the extent they are consonant with the applicable Federal, State, or local law or plan and reflect either the actual amount of expenses already incurred or a reasonable estimate, given the circumstances in the individual's case, of future expenses. Any expenses not established by evidence required by the Administration or not reflecting a reasonable estimate of the individual's actual future expenses will not be excluded. These medical, legal, or related expenses may be evidenced by the public disability award, compromise agreement, a court order, or by other evidence as the Administration may require. This other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of expenses; or

(4) Any combination of the foregoing evidence from which the amount of expenses may be determinable.

(e) *Certification by individual concerning eligibility for public disability benefits.* Where it appears that an individual may be eligible for a public disability benefit which would give rise to a reduction under paragraph (a) of this section, the individual may be required, as a condition of certification for payment of any benefit under section 223 of the Act to any individual for any month, and of any benefit under section 202 of the Act for any month based on such individual's earnings record, to furnish evidence as requested by the Administration and to certify as to:

(1) Whether he or she has filed or intends to file any claim for a public disability benefit, and

(2) If he or she has so filed, whether there has been a decision on the claim. The Secretary may rely, in the absence of evidence to the contrary, upon a certification that he or she has not filed and does not intend to file such a claim, or that he or she has filed and no

decision has been made, in certifying any benefit for payment pursuant to section 205(i) of the Act.

(f) *Verification of eligibility or entitlement to a public disability benefit under paragraph (a).* Section 224 of the Act requires the head of any Federal agency to furnish the Secretary information from the Federal agency's records which is needed to determine the reduction amount, if any, or verify other information to carry out the provisions of this section. The Secretary is authorized to enter into agreements with States, political subdivisions, and other organizations that administer a law or plan of public disability benefits in order to obtain information that may be required to carry out the provisions of this section.

(g) *Public disability benefit payable on other than a monthly basis.* Where public disability benefits are paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, such as a compromise and release settlement, the reduction under this section is made at the time or times and in the amounts that the Administration determines will approximate as nearly as practicable the reduction required under paragraph (a) of this section.

(h) *Priorities.* (1) For an explanation of when a reduction is made under this section where other reductions, deductions, etc., are involved, see § 404.402.

(2) Whenever a reduction in the total of benefits for any month based on an individual's earnings record is made under paragraph (a) of this section, each benefit, except the disability insurance benefit, is first proportionately decreased. Any excess reduction over the sum of all the benefits, other than the disability insurance benefit, is then applied to the disability insurance benefit.

Examples:

Example 1: Effective September 1981, Harold is entitled to a monthly disability primary insurance amount of $507.90 and a monthly public disability benefit of $410.00 from the State. Eighty percent of Harold's averge current earnings is $800.00. Because this amount ($800.00) is higher than Harold's disability insurance benefit ($507.90), we subtract Harold's monthly public disability benefit ($410.00) from eighty percent of his average current earnings ($800.00). This leaves Harold a reduced monthly disability benefit of $390.00.

Example 2: In September 1981, Tom is entitled to a monthly disability primary insurance amount of $559.30. His wife and two children are also entitled to monthly benefits of $93.20 each. The total family benefit is $838.90. Tom is also receiving a monthly workers' compensation benefit of $500.00 from the State. Eighty percent of Tom's average current earnings is $820.10. Because the total family benefit ($838.90) is higher than 80 percent of the average current earnings ($820.10), we subtract the monthly workers' compensation benefit ($500.00) from the total family benefit ($838.90), leaving $338.90 payable. This means the monthly benefits to Tom's wife and children are reduced to zero, and Tom's monthly disability benefit is reduced to $338.90.

(i) *Effect of changes in family composition.* The addition or subtraction in the number of beneficiaries in a family may cause the family benefit to become, or cease to be, the applicable limit for reduction purposes under this section. When the family composition changes, the amount of the reduction is recalculated as though the new number of beneficiaries were entitled for the first month the reduction was imposed. If the applicable limit both before and after the change is 80 percent of the average current earnings and the limitation on maximum family benefits is in effect both before and after the change, the amount payable remains the same and is simply redistributed among the beneficiaries entitled on the same earnings record.

Examples:

Example 1: Frank is receiving $500.00 a month under the provisions of a State workers' compensation law. He had a prior period of disability which terminated in June 1978. In September 1981, Frank applies for a second period of disability and is awarded monthly disability insurance benefits with a primary insurance amount of $370.20. His child, Doug, qualifies for benefits of $135.10 a month on Frank's earnings record. The total family benefits is $505.30 monthly.

Frank's average monthly wage (as used to compute the primary insurance amount) is $400.00; eighty percent of his average current earnings (computed by using the 5 consecutive years in which his earnings were highest) is $428.80 (80% of $536.00); eighty percent of Frank's average current earnings (computed by using the 1 calendar year in which his earnings were highest) is $509.60 (80% of $637.00). The highest value for 80 percent of average current earnings is therefore $509.60 (80%). Since this is higher than the total family benefit ($505.30), the $509.60 is the applicable limit in determining the amount of the reduction (or offset). The amount payable after the reduction is—

80% of Frank's average current earnings	$509.60
Frank's monthly workers' compensation benefit	−500.00
Monthly benefit payable to Frank	9.60

No monthly benefits are payable to Doug because the reduction is applied to Doug's benefit first. In December 1981, another child, Mike, becomes entitled on Frank's earnings record. The monthly benefit to each child before reduction is now $109.10, the amount payable when there are two beneficiaries in addition to the wage earner. Thus, the total family benefit becomes $588.40. Because this is now higher than $509.60 (80% of Frank's average current earnings), $588.40 becomes the applicable limit in determining the amount of reduction. The amount payable after the increase in the total family benefit is—

The new total family benefit	$588.40
Frank's monthly workers' compensation rate	−500.00
Monthly benefit payable to Frank	88.40

No monthly benefits are payable to either child because the reduction (or offset) is applied to the family benefits first.

Example 2: Jack became entitled to disability insurance benefits in December 1973 (12/73), with a primary insurance amount (PIA) of $220.40. He was also receiving a workers' compensation benefit. An offset was imposed against the disability insurance benefit. By June 1977 (6/77), Jack's PIA had increased to $298.00 because of several statutory benefit increases. In December 1977 (12/77), his wife, Helen, attained age 65 and filed for unreduced wife's benefits. (She was not entitled to a benefit on her own earnings record.) This benefit was terminated in May 1978 (5/78), at her death. Helen's benefit was computed back to 12/73 as though she were entitled in the first month that offset was imposed against Jack. Since there were no other beneficiaries entitled and Helen's entire monthly benefit amount is subject to offset, the benefit payable to her for 12/77 through April 1978 (4/78), would be $38.80. This gives Helen the protected statutory benefit increases since 12/73. The table below shows how Helen's benefit was computed beginning with the first month offset was imposed.

Month of entitlement/ statutory increase	Jack's PIA	Helen's benefit prior to offset	Helen's statutory increase
December 1973	$220.40	$110.20	
March 1974	236.00	118.00	$7.80
June 1974	244.80	122.40	+4.40
June 1975	264.40	132.20	+9.80
June 1976	281.40	140.70	+8.50
June 1977	298.00	149.00	+8.30
December 1977 through April 1978 [1]	"	"	38.80

[1] Monthly benefit payable to Helen.

(j) *Effect of social security disability insurance benefit increases.* Any increase in benefits due to a recomputation or a statutory increase in benefit rates is not subject to the reduction for public disability benefits under paragraph (a) and does not change the amount to be deducted from the family benefit. The increase is simply added to what amount, if any, is payable. If a new beneficiary becomes entitled to monthly benefits on the same earnings record after the increase, the amount of the reduction is redistributed among the new beneficiaries entitled

under section 202 of the Act and deducted from their current benefit rate.

Example: In March 1981, Chuck became entitled to disability insurance benefits with a primary insurance amount of $362.40 a month. He has a wife and two children who are each entitled to a monthly benefit of $90.40. Chuck is receiving monthly disability compensation from a worker's compensation plan of $410.00. Eighty percent of his average current earnings is $800.00. Because this is higher than the total family benefit ($543.60), $800.00 is the applicable limit in computing the amount of reduction. The amount of monthly benefits payable after the reduction is—

Applicable limit	$800.00
Chuck's monthly disability compensation	-410.00
Total amount payable to Chuck and the family after reduction	$390.00
Amount payable to Chuck	-362.40
Total amount payable to the family	$27.60
$9.20 payable to each family member equals	$27.60
	3

In June 1981, the disability benefit rates were raised to reflect an increase in the cost-of-living. Chuck is now entitled to $403.00 a month and each family member is entitled to $67.20 a month (an increase of $6.80 to each family member). The monthly amounts payable after the cost-of-living increase are now $403.00 to Chuck and $16.00 to each family member ($9.20 plus the $6.80 increase).

In September 1981, another child becomes entitled to benefits based on Chuck's earnings record. The monthly amount payable to the family (excluding Chuck) must now be divided by 4:

$6.90 payable to each family member equals	$27.60
	4

The June 1981 cost-of-living increase is added to determine the amount payable. Chuck continues to receive $403.00 monthly. Each family member receives a cost-of-living increase of $5.10. Thus, the amount payable to each is $12.00 in September 1981 ($6.90 plus the $5.10 increase). [See Example 2 under (i).]

(k) *Effect of changes in the amount of the public disability benefit.* Any change in the amount of the public disability benefit received will result in a recalculation of the reduction under paragraph (a) and, potentially, an adjustment in the amount of such reduction. If the reduction is made under paragraph (a)(1) of this section, any increased reduction will be imposed effective with the month after the month the Secretary received notice of the increase in the public disability benefit (it should be noted that only workers' compensation can cause this reduction). Adjustments due to a decrease in the amount of the public disability benefit will be effective with the actual date the decreased amount was effective. If the reduction is made under paragraph (a)(2) of this section, any increase or decrease in the reduction will be imposed effective with the actual date of entitlement to the new amount of the public disability benefit.

Example: In September 1981, based on a disability which began March 12, 1981, Theresa became entitled to Social Security disability insurance benefits with a primary insurance amount of $445.70 a month. She had previously been entitled to Social Security disability insurance benefits from March 1967 through July 1969. She is receiving a temporary total workers' compensation payment of $227.50 a month. Eighty percent of her average current earnings is $610.50. The amount of monthly disability insurance benefit payable after reduction is—

80 percent of Theresa's average current earnings	$610.50
Theresa's monthly workers' compensation payment	-227.50
Total amount payable to Theresa after reduction	383.00

On November 15, 1981, the Secretary was notified that Theresa's workers' compensation rate was increased to $303.30 a month effective October 1, 1981. This increase reflected a cost-of-living adjustment granted to all workers' compensation recipients in her State. The reduction to her monthly disability insurance benefit is recomputed to take this increase into account—

80 percent of Theresa's average current earnings	$610.50
Theresa's monthly workers' compensation payment beginning October 1, 1981	-303.30
Total new amount payable to Theresa beginning October 1981 after recalculation of the reduction	$307.20

Effective January 1, 1982, Theresa's workers' compensation payment is decreased to $280.10 a month when she begins to receive a permanent partial payment. The reduction to her monthly disability insurance benefit is again recalculated to reflect her decreased workers' compensation amount—

80 percent of Theresa's average current earnings	$610.50
Theresa's monthly workers' compensation payment beginning January 1, 1982	-280.10
Total new amount payable to Theresa beginning January 1982 after recalculation of the reduction	$330.40

If, in the above example, Theresa had become entitled to disability insurance benefits in August 1981, the increased reduction to her benefit, due to the October 1, 1981 increase in her workers' compensation payment, would have been imposed beginning with December 1981, the month after the month she notified the Social Security Administration of the increase. The later decrease in her workers' compensation payment would still affect her disability insurance benefit beginning with January 1982.

(l) *Redetermination of benefits*—(1) *General.* In the second calendar year after the year in which reduction under this section in the total of an individual's benefits under section 223 of the Act and any benefits under section 202 of the Act based on his or her wages and self-employment income is first required (in a continuous period of months), and in each third year thereafter, the amount of those benefits which are still subject to reduction under this section are redetermined, provided this redetermination does not result in any decrease in the total amount of benefits payable under title II of the Act on the basis of the workers' wages and self-employment income. The redetermined benefit is effective with the January following the year in which the redetermination is made.

(2) *Average current earnings.* In making the redetermination required by paragraph (1)(l) of this section, the individual's average current earnings (as defined in paragraph (c)(3) of this section) is deemed to be the product of his average current earnings as initially determined under paragraph (c)(3) of this section and:

(i) The rate of the average of the total wages (as defined in § 404.1049) of all persons for whom wages were reported to the Secretary of the Treasury or his delegate for the calendar year before the year in which the redetermination is made, to the average of the total wages of all person reported to the Secretary of the Treasury or his delegate for calendar year 1977 or, if later, the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability); and

(ii) In any case in which the reduction was first computed before 1978, the ratio of the average of the taxable wages reported to the Secretary of Health and Human Services for the first calendar quarter of 1977 to the average of the taxable wages reported to the Secretary of Health and Human Services for the first calendar quarter of the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability). Any amount determined under the preceding two sentences which is not a multiple of $1 is reduced to the next lower multiple of $1.

(3) *Effect of redetermination.* Where the applicable limit on total benefits previously used was 80 percent of the average current earnings, a redetermination under this paragraph may cause an increase in the amount of benefits payable. Also, where the limit

previously used was the total family benefit, the redetermination may cause the average current earnings to exceed the total family benefit and thus become the new applicable limit. If for some other reason (such as a statutory increase or recomputation) the benefit has already been increased to a level which equals or exceeds the benefit resulting from a redetermination under this paragraph, no additional increase is made. A redetermination is designed to bring benefits into line with current wage levels when no other change in payments has done so.

Example: In October 1978, Alice became entitled to disability insurance benefits with a primary insurance amount of $505.10. Her two children were also entitled to monthly benefits of $189.40 each. Alice was also entitled to monthly disability compensation benefits of $667.30 from the State. Eighty percent of Alice's average current earnings is $1340.80, and that amount is the applicable limit. The amount of monthly benefits payable after the reduction is—

Applicable limit	$1,340.60
Alice's State disability compensation benefit	−667.30
Total benefits payable to Alice and both children after reduction	$673.50
Alice's disability insurance benefit	−505.10
Payable to the children	$168.40
$84.20 payable to each child after reduction equals	$168.40
	2

In June 1979 and June 1980, cost-of-living increases in Social Security benefits raise Alice's benefit by $50.10 (to $555.20) and $79.40 (to $634.60) respectively. The children's benefits (before reduction) are each raised by $18.80 (to $208.20) and $29.80 (to $238.00). These increases in Social Security benefits are not subject to the reduction (i.e., offset).

In 1980, Alice's average current earnings are redetermined as required by law. The offset is recalculated, and if the amount payable to the family is higher than the current amount payable to the family, that higher amount becomes payable the following January (i.e., January 1981). The current amount payable to the family after the reduction is recalculated—

Alice's 1978 benefit after reduction	$505.10
Alice's cost-of-living increase in June 1979	+50.10
Alice's cost-of-living increase in June 1980	+79.40
One child's 1978 benefit after reduction	+84.20
That child's cost-of-living increase in June 1979	+18.70
That child's cost-of-living increase in June 1980	+29.70
The other child's 1978 benefit after reduction	+84.20
The other child's cost-of-living increase in June 1979	+18.70
The other child's cost-of-living increase in June 1980	+29.70
Total amount payable to the family after reduction in January 1981	899.80

The amount payable to the family after reduction is then recalculated using the redetermined average current earnings—

Average current earnings before redetermination	$1,676.00
Redetermination ratio effective for January 1981	×1.174
Redetermined average current earnings	$1,967.00
	×80%
80% of the redetermined average current earnings	$1,573.60
Alice's State disability compensation benefit	− 667.30
Total benefits payable to the family after offset	$906.30

We then compare the total amount currently being paid to the family ($899.80) to the total amount payable after the redetermination ($906.30). In this example, the redetermination yields a higher amount and, therefore, becomes payable the following January (i.e., January 1981). Additional computations are required to determine the amount that will be paid to each family member—

Total benefits payable to the family using the redetermined average current earnings	$906.30
Total cost-of-living increases to both children	×96.80
Balance payable	809.50
Alice's current benefit amount before reduction	−634.60
Payable to the children	174.90
Total cost-of-living increases to both children	+96.80
Total payable to children after reduction	271.70
$135.90 rounded from $135.85) payable to each child equals	$271.70
	2

(Sec. 224 of the Social Security Act; 79 Stat. 406, as amended; 42 U.S.C. 424)

[FR Doc. 83-22379 Filed 8-15-83; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 74

[Docket No. 83C-0130]

[Phthalocyaninato(2-)] Copper; Listing as a Color Additive for Coloring Contact Lenses

Correction

In FR Doc. 83-20798, beginning on page 34946 in the issue of Tuesday, August 2, 1983, the "Docket No." in the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

21 CFR Part 109

[Docket No. 75N-0013]

Polychlorinated Biphenyls in Paper Food-Packaging Material; Reduction of Tolerances; Settlement of Hearing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing a settlement of the formal hearing in this final rule concerning a tolerance for polychlorinated biphenyls (PCB's) in paper food-packaging material. The settlement, as embodied in the final rule set forth below, permits the use of paper packaging material containing more that 10 parts per million (ppm) PCB's, if separated from food by a barrier that would limit PCB migration to the level that would result if no barrier were used and the PCB level in the packaging material were at the permitted level of 10 ppm.

DATES: Effective December 14, 1983; requests for reconsideration on or before September 15, 1983. The Director of the **Federal Register** approves the incorporation by reference of certain publications in 21 CFR 109.30 effective on December 14, 1983.

ADDRESS: Requests for reconsideration to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Allen H. Heim, Office of Science Coordination (HF-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1587.

SUPPLEMENTARY INFORMATION: On March 18, 1972, FDA proposed in the **Federal Register** to establish a tolerance for PCB's in all food-packaging material (37 FR 5705). On the basis of comments received, which in part indicated that of material used for food packaging, PCB contamination occurs only in recycled paper products, FDA on July 6, 1973, published a final rule establishing a 10 ppm tolerance for PCB's in paper food-packaging material (38 FR 18096). The regulation provided that paper food-packaging material would be exempt from the 10 ppm tolerance if separated from food by a barrier impermeable to PCB migration. Under section 406 and 701(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 346 and 371(e)), the final rule was subject to objections and requests for hearing.

Several paper companies and a trade association objected to the tolerance and requested a hearing. Under section 701(e)(2) of the act, the filing of objections operated to stay the effective date of the final rule (August 24, 1973; 38 FR 22794). On March 12, 1975, FDA published a notice of hearing and listed the issues to be considered at the hearing (40 FR 11563).

In November 1978, FDA's Bureau of Foods and the industry parties signed a proposed settlement agreement that, if approved by the Commissioner of Food and Drugs, would obviate a hearing. That proposed settlement agreement, and subsequent correspondence

between the Commissioner and the hearing parties, is part of the record of this final rule, and may be examined at the Dockets Management Branch (address above), from 9 a.m. to 4 p.m., Monday through Friday.

The proposed settlement agreement would have relaxed the final rule's barrier requirement to permit the use of a barrier that, although not impermeable to PCB's, would limit PCB migration to the level that would result if no barrier were used and the PCB level in the packaging material were at the permitted level of 10 ppm. The agreement provides for premarket approval of barrier by the Bureau of Foods using a specified test procedure.

In October 1979, the Commissioner requested that the parties to the proposed settlement agreement provide further explanation of some of its provisions. The parties filed a joint response in August 1980, which did not change the proposed agreement but explained certain of its provisions.

In October 1981, the Commissioner wrote to the parties and suggested certain changes to the test procedure, to include testing with high fat and liquid foods. The purpose of the suggested change was to ensure that a barrier would adequately prevent PCB contamination of all foods likely to be packaged in paperboard, and not just those foods that are so packaged today. The Commissioner was concerned about possible changes in food-packaging practices and new technology.

On May 11, 1983, the parties responded jointly to the Commissioner's suggested changes. The parties agreed that the original proposed settlement agreement was deficient because it did not provide for testing with high fat and liquid foods. They pointed out, however, that the proposed test procedure embodied in the settlement agreement is not appropriate for use with liquid receptor foods. They suggested alternative solid dry test foods and explained why their use would ensure that the PCB barrier is appropriate for use with high fat and liquid foods.

The Commissioner has reviewed the parties' submission, and has concluded that the revised settlement agreement should be accepted. The Commissioner believes that the parties are correct scientifically in stating that use of the test procedure proposed in the settlement agreement with liquid test foods would not be practicable because of the nature of the paperboard and the particular liquids suggested for testing, and that the results of tests with the new solid test receptor foods would also apply to liquid foods. The Commissioner believes that the revised settlement agreement would promote the public health by providing greater protection against PCB contamination of food, while not increasing regulatory burdens.

The Commissioner concludes that it is proper to accept the settlement agreement in lieu of holding a hearing. The Commissioner further concludes that it is appropriate to publish the terms of the settlement agreement as a final rule, rather than as a proposal, because the revised final rule set forth below, original final rule, and proposal have the same goal—ensuring that foods are not contaminated by PCB's in packinging material. The revised final rule is "in character with the original scheme" (*South Terminal Corp.* v. *Environmental Protection Agency*, 504 F.2d 646, 658 (1st Cir. 1974)); the changes made are "logical outgrowths" of the comments received in response to the proposal (*AFL–CIO* v. *Marshall*, 617 F.2d 636, 676 (D.C. Cir. 1979)). Thus, FDA concludes that a revised proposal is not necessary because it has provided the public "a reasonable and meaningful opportuntiy to participate in the rulemaking process" (*McCulloch Gas Processing Corp.* v. *Department of Energy*, 650 F.2d 1216, 1221 (Em. Appl. 1981)).

The Commissioner is providing for the submission of requests for reconsideration pursuant to 21 CFR 10.33. Unless FDA receives a timely request for reconsideration on or before September 15, 1983 and decides to grant that request, the final rule will become effective on December 14, 1983.

FDA's original final rule to establish a tolerance for PCB's in food-packaging material was the subject of a final environmental impact statement issued on December 18, 1972, and a supplement to the final environmental impact statement issued on July 2, 1973. The environmental considerations and conclusions contained in the final and supplemental environmental impact statements are applicable to the evaluation of the environmental effects of the settlement embodied in this revised final rule. The settlement does not appreciably change the environmental effects predicted and considered in agency decisionmaking at the time the original final rule was issued. Therefore, no further environmental review was conducted.

Section 109.30(d) of this final rule contains information collection requirements. The public is not required to comply with the information collection requirements until the Office of Management and Budget (OMB) approves these requirements under section 3507 of the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained.

List of Subjects in 21 CFR Part 109

Contaminants, Incorporation by reference, Polychlorinated biphenyls (PCB's).

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 701(e)), 52 Stat. 1049 as amended, 70 Stat. 919 as amended (21 U.S.C. 346, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 109.30 is amended by adding paragraphs (c) and (d) to read as follows:

§ 109.30 Tolerances for polychlorinated biphenyls (PCB's).

* * * * *

(c) A barrier is functional for purposes of paragraph (a)(9) of this section if the barrier limits migration of PCB's from the packaging material to food to a level not exceeding the migration which occurs under the same test conditions from packaging material containing 10 parts per million PCB without the use of a barrier. A class of barrier material is functional for purposes of paragraph (a)(9) of this section if a representative barrier of the class limits migration of PCB's from the packaging material to food to a level not exceeding the migration which occurs under the same test conditions from packaging material containing 10 parts per million PCB without the use of a barrier. Migration levels shall be determined for purpose of this paragraph solely by use of testing conditions described in "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983", which is incorporated by reference. Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20204. A class of barrier material shall be deemed functional only if the definition of the class and the designation of one or more representative barriers has been approved by the Director, Bureau of Foods, Food and Drug Administration. In the event that the Director, Bureau of Foods, does not approve a proposal made to the Bureau regarding the definition of a class of barrier material or the designation of representative

barriers, the Director shall advise the person making the proposal of the reasons for the Bureau's disapproval within 90 days of receipt of the proposal. All proposals for definition of classes and determinations of the Food and Drug Administration regarding such proposals shall be on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

(d) Any person who asserts that a barrier or class of barriers is functional shall submit the results of tests conducted to determine the functionality of the barrier or class of barriers to Program Manager for Chemical Contaminants (HFF–421, or its successor), Food and Drug Administration, 200 C St. SW., Washington, DC 20204. All barriers or classes of barriers shall be tested with the four solid food receptors specified in "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983", which is incorporated by reference. The availability of this reference is given in paragraph (c) of this section. The test results as to each barrier shall be accompanied by (1) a description of the barrier's composition adequate to enable identification; and (2) a specific definition of the barrier by relevant technical characteristics. The Bureau of Foods shall review submitted test results promptly. Within 60 days of the receipt of test results, the Director, Bureau of Foods, shall notify the person submitting the test results whether the tests were conducted in accordance with the "Analytical Methodology for Polychlorinated Biphenyls; June 1979", which is incorporated by reference, or the "Test Procedures for Determination of PCB Permeability of Food Packaging, Inner-Wraps, September 1976, revised May 1983" and whether, therefore, the barrier or class of barriers is deemed functional within the meaning of paragraph (c) of this section. The test results and any response of the Food and Drug Administration shall be placed on file with the Dockets Management Branch, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Interested persons may, on or before September 15, 1983, submit to the Dockets Management Branch (address above) written requests for reconsideration. Two copies of any such requests are to be submitted, except individuals may submit one copy. Each copy should identify the docket number found in brackets in the heading of this document. Received requests for reconsideration may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective December 14, 1983.

(Secs. 406, 701(e), 52 Stat. 1049 as amended, 70 Stat. 919 as amended (21 U.S.C. 346, 371(e)))

Dated: August 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-22168 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 610

[Docket No. 83N-0054]

General Biological Products Standards; Constituent Materials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending a regulation concerning constituent materials used in a biological product to specify that a preservative is not required in a multiple-dose container of an Allergenic Product in 50 percent or more glycerin. The final rule reflects agency policy and will clarify the regulation.

DATES: Effective August 16, 1983; comments by October 17, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 610.15 (21 CFR 610.15) of FDA's general biological product standards regulations provides general requirements for constituent materials in biological products, including requirements concerning use of preservatives in products in multiple-dose containers. The regulation does not identify the specific preservatives that are approved for use in the manufacture of products. Rather, the manufacturer of the licensed product must identify the preservative used and its concentration in its application for a product license and on the label affixed to each package containing the product (21 CFR 610.61(e)).

For over 20 years the agency has approved the use of glycerin in Allergenic Products to increase the stability of the allergens. Although glycerin is not universally recognized as an antifungal or antimicrobial preservative, the use of 50 percent glycerin in Allergenic Products for many years has shown it to have bacteriostatic activity. In addition, published data relating to this matter has been placed on file with the Dockets Management Branch (address above). Accordingly, the Office of Biologics has approved manufacturers' amendments to license applications that provide for the use of 50 percent glycerin in multiple-dose containers of Allergenic Products without requiring inclusion in the product of a universally recognized preservative (e.g., thimerosal). The final rule will clarify the regulation to reflect this agency policy.

Therefore, FDA is amending § 610.15 *Constituent materials* by adding a new phrase to the third sentence of paragraph (a) to specify that a preservative need not be added to a multiple-dose container of an Allergenic Product in 50 percent or more glycerin and by making certain other clarifying changes in the sentence.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (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 envionmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The amendment clarifies the regulation but does not change the agency's policy regarding use of preservatives in Allergenic Products. Therefore, the agency concludes that this final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory

Flexibility Act. This rule does not impose any paperwork requirements.

List of Subjects in 21 CFR Part 610

Biologics, Labeling.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 610 is amended in the introductory text of § 610.15(a) by revising the third sentence to read as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.15 Constituent materials.

(a) * * * Products in multiple-dose containers shall contain a preservative, except that a preservative need not be added to Yellow Fever Vaccine; Polio Virus Vaccine, Live, Oral; viral vaccines labeled for use with the jet injector; dried vaccines when the accompanying diluent contains a preservative; or to an Allergenic Product in 50 percent or more glycerin. * * *

* * * * *

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 610.15 because it does not impose an additional duty or burden on any person but rather clarifies a current interpretation of an existing regulation to avoid misinterpretation.

Interested persons may, on or before October 17, 1983, submit to the Dockets Management Branch (address above), written comments regarding this rulemaking. Two copies of any comments are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether the clarification made in this document should be modified. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective August 16, 1983.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: July 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22313 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 868

[Docket No. R-83-1105]

Comprehensive Improvement Assistance Program

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

ACTION: Interim rule.

SUMMARY: The rule amends the Comprehensive Improvement Assistance Program regulations by revising the definition of Special Purpose Modernization to eliminate: (1) The one-time limitation on filing an application for Special Purpose Modernization for an individual project and (2) the deadline on Public Housing Agencies (PHAs) for filing such applications. These revisions are intended to allow PHAs to make energy-related improvements which are cost-effective.

DATES: Effective Date: October 11, 1983. Comment due date: October 17, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each set of comments submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Pris Buckler, Room 4224, Office of Public Housing, Department of Housing Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5595. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Limitations on Special Purpose Modernization Removed

The Comprehensive Improvement Assistance Program (CIAP), which was established by section 14 of the United States Housing Act (USHA of 1937) (42 U.S.C. 1437*l*), provides assistance to Public Housing Agencies (PHAs), including Indian Housing Authorities, to improve the physical condition of existing public housing projects, and to upgrade the management and operation of such projects.

One form of assistance provided under CIAP is special purpose modernization which is a project modernization program that is limited to cost-effective energy conservation work items which will not be adversely affected by any subsequent Comprehensive Modernization.

Under § 868.3 of the current CIAP regulations, special purpose modernization may be approved only on a one-time basis for a particular project. This limitation is unduly restrictive in certain situations, for example, when:

1. In a prior year, the energy audit was funded under special purpose modernization and the PHA is now requesting funds under special purpose modernization to implement the results of the audit at the same project;

2. Energy conservation devices which were not on the market when the special purpose modernization was first approved are now available and the PHA is requesting funds under special purpose modernization for these items;

3. Energy conservation work which was not previously determined to be cost-effective is now determined to be cost-effective because of a large reduction in the cost of an energy conservation device or a large increase in the cost of energy; or

4. Special purpose modernization was approved for certain items with the greatest cost-savings and the PHA is now requesting funds for other items which are cost-effective, but have a slightly longer payback period.

In addition, the current § 868.3 provides that special purpose modernization may now be approved only in the first two years of a PHA's five-year plan. The Department believes that this limitation is inappropriate, since lack of funding may have prevented a PHA from completing all energy conservation work in the first two years of its five-year plan. Therefore, in order to facilitate cost-effective energy conservation improvements, the Department is revising the definition of "special purpose modernization" in § 868.3 to eliminate (1) the one-time limit on filing a request for funding of an individual project and (2) the deadline for filing such requests by a PHA.

Other Matters

This rule also corrects typographical errors in §§ 868.3 and 868.4 of the current rule.

This rule amends the requirements for applying for special purpose modernization in Federal Fiscal Year (FFY) 1984 and thereafter. Since PHAs must be provided sufficient time to prepare their FFY 1984 applications, the Department has determined that notice and prior public comments are impracticable and contrary to the public

interest and that good cause exists for making this rule effective as soon after publication as possible. However, public comments are invited and will be considered in adopting a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule should have no different economic impact on small PHAs than it does on large PHAs. Any economic impact should be beneficial since the rule provides PHAs greater flexibility in using special purpose modernization.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18054), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title is 14.158—Public Housing—Modernization of Projects.

List of Subjects in 24 CFR Part 868

Loan programs: Housing and community development, Public housing, Reporting and recordkeeping requirements.

Part 868—[AMENDED]

Accordingly, the Department amends 24 CFR Part 868 as follows:

1. In § 868.3, the definition of "special purpose modernization" is revised to read as follows:

§ 868.3 Definitions.

* * * * *

"Special purpose modernization" means a modernization program for a project that is limited to cost-effective energy conservation work items which will not be adversely affected by any subsequent Comprehensive Modernization. For such projects, management improvements are not eligible modernization costs. Special purpose modernization also means the approval of additional contract or budget authority to meet increased interest costs, or to effect the transfer of modernization funds between projects with modernization programs approved before July 1, 1978.

* * * * *

2. In FR Doc. 82–13898, appearing in the **Federal Register** issue of May 21, 1982 at page 22315, § 868.3, the definition "HUD office" is corrected by changing "of" to read "or."

3. In FR Doc. 82–13898, appearing in the **Federal Register** issue of May 21, 1982 at page 22316, § 868.4, the introductory text to paragraph (b)(1) is corrected by changing "of" to read "or."

(United States Housing Act of 1937 (42 U.S.C. 1437), sec. 7(d), Dept. of HUD Act (42 U.S.C. 3535(d))

Dated: July 21, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary of Housing—Federal Housing Commissioner.

[FR Doc. 83–22346 Filed 8–15–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to the Washington State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This notice approves various supplements to the Washington State Plan including modifications to its administrative rules, policies, and field procedures in accordance with formal assurances provided. These amendments were adopted in response to assurances made by the State at the time of approval of the plan supplements. The amendments have been determined to satisfy those State assurances.

EFFECTIVE DATE: August 12, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the **Federal Register** of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision and describing the plan.

On February 9, 1982, notices were published in the **Federal Register** describing and approving several developmental plan supplements (47 FR 5889) and certifying completion of all developmental steps of its plan (47 FR 5889). As a condition of approval of the supplements, the State adopted interim procedures and provided assurances that it would take prompt action to formally remedy several procedural concerns identified by Federal review. By letters of August 27, 1982, October 7, 1982, October 18, 1982, and March 8, 1983, the State provided supplements which fulfilled the assurances.

Description of Plan Supplements

1. Washington Adminstrative Rules (WAC 296 Chapters 350 and 360). The State added provisions requiring posting of notices of redetermination issued when contested citations are modified by administrative review, settlement agreements, notices of appeals, conferences, and hearings of the State appeals board. The notice of redetermination form was modified to reflect the posting requirement and employee appeal rights. The extension of abatement rules had incorrectly included a reference to administrative hearing rules used in workers compensation cases, which has been deleted. An added provision specifies that settlement agreements relating to appeals must, if applicable, include an abatement date and statement of payment of penalty. A requirement that

discrimination complaints be filed in writing was deleted.

2. Washington Poster. The State submitted its revised poster which now specifies that public employees can only file discrimination complaints with the State since Federal jurisdiction under 11(c) of the Act does not apply to State and local public employees.

3. Operations Manual. The State modified its procedures to clarify the difference between temporary and permanent variances.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copies made during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98501.

Public Participation

Under 29 CFR 1953.2 the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that revisions to Washington administrative rules were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary. The other plan supplements are in accordance with previous assurances which relate to approved developmental steps and good cause is therefore found for approval of those supplements without further public comment and notice.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

After careful consideration, the Washington plan supplements outlined above are approved under Part 1953 of this Chapter.

Accordingly, § 1952.124 of 29 CFR Part 1952 is amended to reflect the approval of the plan supplements by revising paragraphs (b), (c), and (j) as follows:

PART 1952—[AMENDED]

§ 1952.124 Completed developmental steps and certification

* * * * *

(b) In accordance with the requirements of § 1952.10, the Washington State Poster submitted on October 6, 1975, was approved by the Assistant Secretary on December 17, 1975. In accordance with the State's formal assurance, the poster was revised, effective June 1, 1982, to specify that public employees can only file discrimination complaints with the State because Federal jurisdiction under section 11(c) of the Act does not apply to State public employees. This revised poster was approved by the Assistant Secretary on August 3, 1983.

(c) The Washington State Compliance Operations Manual, modeled after the Federal Field Operations Manual, was developed by the State and was approved by the Assistant Secretary on March 19, 1976. The manual was subsequently revised on July 23, October 20, and December 1980, and was approved by the Assistant Secretary on January 26, 1982. A March 1, 1983, revision to the manual which provided clarification of the difference between temporary and permanent variances in accordance with State formal assurances was approved by the Assistant Secretary on August 3, 1983.

* * * * *

(j) In accordance with 29 CFR 1952.123(c), the Washington Department of Labor and Industries adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints of hazards and discrimination, posting of citations and notices, effective May 14, 1975, and revisions effective December 31, 1980, and July 22, 1981. Likewise, the Washington Board of Industrial Insurance Appeals adopted rules effective April 4, 1975, governing practice and procedure for contested cases with revision effective March 26, 1976. These regulations and rules were approved by the Assistant Secretary on January 26, 1982. In accordance with State formal assurances the State added provision to the regulations effective July 11, 1982, to require posting of redetermination notices, settlements, notices related to appeals; deleting an incorrect reference to administrative hearing procedures used in workers compensation cases; requiring settlement agreements to address abatement dates and penalty payments; and deleting a requirement to put discrimination complaints in writing. These changes were approved by the Assistant Secretary on August 3, 1983.

* * * * *

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 3rd day of August, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-22226 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1956

Approval of Supplements to the Connecticut Public Employee Only State Plan

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

ACTION: Final rule.

SUMMARY: This notice approves supplements to the approved Connecticut Occupational Safety and Health Public Employee Only State plan consisting of a completely revised State plan document which includes: a revised plan narrative; regulations for inspections, citations, and proposed penalties; regulations for recording and reporting occupational injuries and illnesses; regulations for variances; rules of procedure for the Connecticut Occupational Safety and Health Review Commission; procedures for enforcing employee nondiscrimination provisions; Field Operations and Industrial Hygiene Manuals; documentation on promulgation of basic safety and health standards identical to the Federal standards; a revised occupational safety and health poster; and an amended Uniform Administrative Procedure Act which governs the State's standards promulgation process. These supplements were adopted in accordance with developmental commitments made by the State at the time of plan approval. The supplements have been determined to satisfy those developmental commitments.

EFFECTIVE DATE: August 12, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

Under Part 1902 of Title 29, Code of Federal Regulations, a State plan for the

enforcement of occupational safety and health standards in Connecticut was approved by the Assistant Secretary on December 28, 1973, and published on January 4, 1974 (39 FR 1013; 29 CFR 1952.300 et seq.). This plan covered private workplaces as well as public employees. By an Act of the Connecticut General Assembly, effective July 1, 1978 (P.A. 77–610), the Connecticut Occupational Safety and Health Act was amended to exclude coverage of private sector employees. This change in the scope of State safety and health coverage resulted in withdrawal of the prior 18(b) plan. Connecticut then submitted for the Assistant Secretary's approval, a State plan covering public employees only under Part 1956 of Title 29, Code of Federal Regulations. On November 3, 1978, a notice was published in the **Federal Register** (43 FR 51389) of the approval of the Connecticut developmental plan for Public Employees Only and the adoption of Subpart E of 29 CFR Part 1956 containing the decision and description of the plan. 29 CFR 1956.2(b)(3) provides that where a State plan approved under Part 1902 of this chapter is discontinued, except for its public employee component, the developmental period applicable to the public employee component of the earlier plan will be controlling unless an additional period of time is required to make adjustments from one type of plan to another. The State of Connecticut Public Employee Only plan was approved with a one year developmental period.

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1956. On September 27, 1979, the State of Connecticut submitted a revised plan supplement documenting the completion of various developmental steps. Following regional review, the revised plan supplement was forwarded to the Assistant Secretary for Occupational Safety and Health (the Assistant Secretary) for a determination as to whether it should be approved. On October 7, 1980, a notice was published in the **Federal Register** (45 FR 66475) inviting public comment on the revised plan supplement. No public comments were received. In response to Federal review, the State on July 20, 1981, and November 15, 1982, submitted a revised safety and health poster and additional amendments to its Review Commission procedures. In addition, on December 21, 1982, the State submitted a State-initiated program change involving amendments to its Uniform Administrative Procedure Act.

Description of the Supplements

Revised Plan

One of the developmental commitments given by Connecticut at the time of plan approval was that a completely revised plan would be submitted in accprdance with the format of the OSHA public employee plan outline. On September 27, 1979, in accordance with the developmental step set forth in 29 CFR 1956.43(f), the State of Connecticut submitted a completely revised and reformatted occupational safety and health public employee only plan which meets the outline format. The revised State plan included a narrative description and other background information on program operation; enacted legislation; Attorney General's legal opinion; Governor's letter of designation; inspection scheduling system; prodedures for on-site consultation; agreement with the Health Department for laboratory services; recordkeeping instructions; organization chart; job descriptions; State personnel Act; affirmative action plan; budget; and incorporates the following specific procedural documents:

1. *State poster.* On September 27, 1979, July 20, 1981, and on November 15, 1982 in accordance with the developmental step set forth in 29 CFR 1956.43(a), Connecticut submitted a revised poster reflecting coverage of public sector employees only. The Connecticut safety and health poster contains, among other things, provisions notifying employees of their obligations and protections under the Connecticut Occupational Safety and Health Act; their right to request inspections, and their right to remain anonymous as a result of such requests; their right to participate in inspections; their protection against discharge or discrimination under State law; and their right to file complaints about the administration of the State program with OSHA. The poster also contains provision for sanctions and for prompt notice to employers and employees when alleged violations are identified.

2. *Standards promulgation.* In accordance with the developmental step set forth in 29 CFR 1956.43(b), the State was to have adopted occupational safety and health standards identical to the Federal standards by February 1, 1979. On September 27, 1979, the State submitted standards which were identical to 29 CFR Parts 1910, 1926, and 1928 including all additions, revisions, amendments, and corrections thereto. In addition, Connecticut occupational safety and health standards have been subsequently amended to be identical to Federal standards, and were approved by the Regional Administrator on July 20, 1982 (47 FR 30326).

3. *Revised rules and operating procedures.* In accordance with the developmental step set forth in 29 CFR 1956.43(c), Connecticut on September 29, 1979, submitted revised regulations to show coverage of the public sector only and to accurately reflect the current program. Subsequently, on July 20, 1981, and November 15, 1982, the State submitted additional revisions to its Review Commission rules of procedures. The revised rules include: Administrative Regulation Section 31–371–1 through 20—Inspections, Citations, and Proposed Penalties (equivalent to 29 CFR Part 1903); Administrative Regulation Section 31–374–1 through 15—Recording and Reporting Occupational Injuries and Illnesses (equivalent to 29 CFR Part 1904); Administrative Regulation Section 31–372–1 through 51—Rules of Practice for Variances (equivalent to 29 CFR Part 1905) and; Administrative Regulation Section 31–376–1 through 61—Review Commission Procedures (equivalent to 29 CFR Part 2200). In addition, Connecticut adopted revised Field Operations and Industrial Hygiene Manuals. All revised regulations became effective on October 5, 1979. The regulations and compliance manuals are identical to comparable Federal regulations and compliance manuals.

4. *Discrimination provisions.* On September 27, 1979, in accordance with the developmental step set forth in 29 CFR 1956.43(d), Connecticut submitted revised provisions dealing with employee discrimination. The revised discrimination procedures (Administrative Regulation Section 31–379–1 through 22) include provisions for: (1) Filing of a complaint within 30 days; (2) notification to the complainant and employer, within 90 days of complaint receipt, of the commissioner's determination; (3) ability of the State Department of Labor to initiate compensatory actions, including backpay and reinstatement of the employee; (4) employee walkaround pay; and (5) employer retention of exposure records and employee access to the log. The State's discrimination provisions are equivalent to 29 CFR Part 1977.

5. *Comprehensive governmental identification list.* On September 27,

1979, in accordance with the developmental step set forth in 29 CFR 1956.43(e), Connecticut submitted a comprehensive list of governmental entities whose employees are covered by the plan, giving the number of employees for each entity, describing the work performed, and assigning for each entity a standard industrial classification (SIC) code related to the major function performed at the worksite.

6. *Amended uniform administrative procedure act.* On December 21, 1982, the State of Connecticut submitted a state initiated change involving an amendment to its Uniform Administrative Procedure Act which governs the State's standards promulgation process. The amendent extends the timeframe required for the promulgation of State standards and requires the Commissioner of Labor to prepare a Fiscal Impact statement and submit it along with an Attorney General's statement of legal sufficiency to the Office of Fiscal Analyses and the Legislative Regulations Review Committee (LRRC). The LRRC has approval authority.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements are available for inspection and copying during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7242

Office of the Regional Administrator, Occupational Safety and Health Administration, 16-18 North Street, 1 Dock Square Building, 4th Floor, Boston, Massachusetts 02109 (617) 223-6712

Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109 (203) 566-5123

Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. On October 7, 1980, the Assistant Secretary sought public comment on the following supplements: The State's revised plan narrative, regulations for inspections, citations, and proposed penalties; regulations for recording and reporting occupational injuries and illnesses; regulations for variances; rules of procedure for the Review Commission; provisions for employee discrimination; Field Operations and Industrial Hygiene Manuals; and promulgation of safety and health standards. No public comments were received. In addition to the supplements put out for public comment, the State of Connecticut submitted revisions to previous submissions in response to Federal and State developments and a State-initiated change supplement involving an amendment to its Uniform Administrative Procedure Act which governs its standards promulgation process. The Assistant Secretary finds that these plan supplements are consistent with commitments contained in the approved plan and supplements which were previously made available for public comment. Accordingly, further notice and public comment is not necessary.

List of Subjects in 29 CFR Part 1956

Intergovernmental relations, Law enforcement, Occupational safety and health.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Decision

After careful consideration, the Connecticut revised public employee only plan supplements outlined above are approved under Part 1953 of this Chapter. In addition, Subpart E of 29 CFR Part 1956 is amended to reflect the completion of developmental steps.

PART 1956—[AMENDED]

Accordingly, a new § 1956.44 is added to Subpart E to read as follows:

§ 1956.44 Completed developmental steps.

(a) In accordance with 29 CFR 1956.43(f), Connecticut's reformatted and revised public employee only plan and narrative description (including background information on program operations) were approved by the Assistant Secretary on August 3, 1983.

(b) In accordance with 29 CFR 1956.43(a), Connecticut's safety and health poster for public employees only was approved by the Assistant Secretary on August 3, 1983.

(c) In accordance with 29 CFR 1956.43(b), Connecticut has promulgated standards identical to all basic Federal standards in 29 CFR Parts 1910, 1926, and 1928. The State has continued to adopt Federal standards, amendments and corrections as noted in separate standards approval notices.

(d) In accordance with 29 CFR 1956.43(c), Connecticut promulgated rules for inspections, citations, and proposed penalties (Administrative Regulation Section 31-371-1 through 20) parallel to 29 CFR Part 1903; recording and reporting occupational injuries and illness (Administrative Regulation Section 31-374-1 through 15 parallel to 29 CFR Part 1904; rules of practices for variances (Administrative Regulation Section 31-372-1 through 51) parallel to 29 CFR Part 1905; and review commission procedures (Administrative Regulation Section 31-376-1 through 61) parallel to 29 CFR Part 2200. In addition, Connecticut adopted Field Operations and Industrial Hygiene Manuals identical to the Federal. These supplements were approved by the Assistant Secretary on August 3, 1983.

(e) In accordance with 29 CFR 1956.43(d), Connecticut's employee discrimination provisions (Administrative Regulation Section 31-379-1 through 22) were approved by the Assistant Secretary on August 3, 1983.

(f) In accordance with 29 CFR 1956.43(e), Connecticut's comprehensive list classifying governmental entities covered by the plan was approved by the Assistant Secretary on August 3, 1983.

(Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C. 657) Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed in Washington, D.C., this 3rd day of August 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-22209 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-26-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Payment of Premiums and Employer Liability for Single Employer Plan Terminations; Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment notifies the public of a change in the interest charges that are imposed on late premium payments and unpaid employer liability. The change in the interest charges is provided for and required by the Tax Equity and Fiscal Responsibility Act of 1982.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254-6476. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended (the "Act"), provides for a comprehensive pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC"). Under the statutory scheme, covered plans pay annual premiums which are used to help finance the program by funding benefits guaranteed by the PBGC. The premiums—currently $2.60 per participant for single-employer plans and $1.40 per participant for multi-employer plans—are kept in two separate funds.

Upon termination of a single-employer plan, if the assets of the plan plus amounts collectible as employer liability under section 4062 of the Act are insufficient to fund benefits guaranteed under section 4022 and 4022B of the Act, the PBGC uses premiums in the single-employer fund to provide for those benefits. Employer liability is the amount by which the value of the terminated plan's guaranteed benefits exceeds plan assets at the date of plan termination, but not more than 30% of the employer's net worth. Premiums in the multiemployer funds are, similarly, used to provide for the payment of benefits guaranteed under section 4022A and 4022B of the Act, should a multiemployer plan terminate with assets insufficient to fund those guaranteed benefits. The employer liability provisions in section 4062 do not apply to multi-employer plans.

Section 2610.3(a)(4) of 29 CFR provides that premiums for both single-employer plans and multiemployer plans are, in general, due on the last day of the seventh month following the close of the prior plan year. Section 2622.7 of 29 CFR provides that the liability imposed by section 4062 on an employer who terminates a single-employer plan is due on the date of plan termination.

Under section 4007 of the Act and 29 CFR Parts 2610 and 2622, the PBGC charges interest on late premium payments and deliquent employer liability payments at the rate established under sections 6601(a) and 6621 of the Internal Revenue Code ("Code"). Section 6601(a) provides for interest at an annual rate established under section 6621. Section 6621 sets forth the method of computing the interest rate and the time period for which the established rate applies.

The Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324, Pub. L. 97-248 ("TEFRA"), revised the method of calculating the late payment interest charge and the time period for which the new rate applies. Code section 6621, as amended by TEFRA, provides that the interest rate is to be set by the Internal Revenue Service ("IRS") semiannually by October 15 and April 15 of each year and be based on the average prime interest rate for the 6-month period ending on March 31 and September 30, respectively. In compliance with TEFRA, the IRS, on April 15, 1983 (IR-83-65), announced a new annual interest rate of 11% to be effective July 1, 1983. See, also, Revenue Ruling 83-76, Internal Revenue Bulletin No. 1983-18, 37 (May 2, 1983).

Accordingly, this amendment revises Appendix A of 29 CFR Part 2610 to reflect the lower interest rate charge on overdue premiums of 11% that will be effective beginning July 1, 1983. In addition, the term "interest charges" is changed to "interest rates" since charges that may be due by reason of compounding, as set forth in § 2610.7(a), are not reflected in the table; and "to" is changed to "thru" in the table in order to more accurately reflect the effective time periods for the interest rates.

This amendment adds a similar Appendix and table of past and current interest rates to 29 CFR Part 2622. PBGC believes this Appendix will serve the public in its computation of interest on employer liability payments since the specific interest rate established by the IRS pursuant to Code sections 6601 and 6621 is not otherwise readily available to the public.

Normally, the interest rate imposed on late payment of premiums and employer liability payments will be in effect for no less than a six-month period since TEFRA requires the IRS to review the interest rate semiannually. Therefore, the current rate of 11% will be in effect at least through December 31, 1983 and the Appendices reflect that date. Should an interest rate be continued for longer than the expected 6-month period, the Appendices will be revised accordingly.

In addition to the changes discussed above, this rule amends §§ 2610.7(a) and 2622.7(b)-(d) to add appropriate cross-references to Appendix A in each section and to clarify the effective date of the compounding rules established by TEFRA.

Because this amendment simply announces statutorily imposed changes in the interest charges and clarifies previously published rules, general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Moreover, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the interest rate charge is effective by law on July 1, 1983. Accordingly, the PBGC finds that good cause exists for issuing this regulation in final form without notice and opportunity for public comment and for making it effective before the 30 day period set forth in 5 U.S.C. 553.

The PBGC has also determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

PART 2610—[AMENDED]

In consideration of the foregoing, Parts 2610 and 2622 of Chapter XXVI of Title 29, Code of Federal Regulations, are hereby amended as follows:

1. The authority citation for Part 2610 reads as follows:

Authority: Secs. 4002(b)(3), 4006, and 4007, Pub. L. 93-406, 88 Stat. 829, 1004, 1010, and 1013, as amended by Secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96-364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. In § 2610.7, paragraph (a) is revised to read as follows:

§ 2610.7 Late payment interest charges.

(a) If any premium payment due under this part is not paid by the last date prescribed for payment in § 2610.3, an interest charge will accrue on the unpaid

amount at the rate imposed under section 6601(a) of the Internal Revenue Code of 1954, as amended, for the period from the date payment is due to the date payment is made. Late payment interest charges will accrue as simple interest before January 1, 1983 and thereafter will be compounded daily. The interest rates for specified time periods are set forth in Appendix A to this Part.

* * * * *

3. Appendix A to Part 2610 is revised to read as follows:

Appendix A—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

Time period	Interest rate (percent)
Sept. 2, 1974 through June 30, 1975	6
July 1, 1975 through Jan. 31, 1976	9
Feb. 1, 1976 through Jan. 31, 1978	7
Feb. 1, 1978 through Jan. 31, 1980	6
Feb. 1, 1980 through Jan. 31, 1982	12
Feb. 1, 1982 through Dec. 31, 1982	20
Jan. 1, 1983 through June 30, 1983	16
July 1, 1983 through Dec. 31, 1983	11

PART 2622—[AMENDED]

4. The Authority citation for Part 2622 reads as follows:

Authority: Secs. 4002(b)(3), 4062, 4063, 4064, 4067, and 4068, Pub. L. 93-406, 88 Stat. 829, 1004, 1029, 1030, 1031, 1032, as amended by Secs. 403(l), 403(g), 403(h), and 403(i), Pub. L. 96-364, 94 Stat. 1208, 1302, and 1301 (29 U.S.C. 1302(b)(3), 1362, 1363, 1364, 1367, and 1368).

5. Section 2622.7, paragraphs (b)—(d) are revised to read as follows:

§ 2622.7 Interest on employer liability and refunds of overpayments.

* * * * *

(b) *Refunds of employer liability.* If an employer pays the PBGC an amount that exceeds the employer's full liability under this part (including any interest owed pursuant to paragraph (a) of this section), the PBGC shall refund the excess amount of the employer liability, with interest on that amount at the rate set forth in paragraph (c) of this section. Interest on the overpayment will accrue from the later of the date of the overpayment or 10 days prior to the date of plan termination until the date of the refund and will be compounded as provided in paragraph (d) of this section.

(c) *Interest rate.* The interest rate on employer liability and refunds of employer liability is the annual rate prescribed in section 6601(a) of the Internal Revenue Code of 1954 as amended, and will change whenever the interest rate under section 6601(a) of the Code changes. The interest rates for specified time periods are set forth in Appendix A to this Part.

(d) *Compounding of interest.* Beginning January 1, 1983, interest on unpaid employer liability and refunds of employer liability will be compounded daily. Interest on unpaid employer liability and refunds of employer liability due or accruing on or before December 31, 1982, will be compounded annually except as provided in § 2622.8, relating to deferred payment terms for payment of employer liability.

6. Part 2622 is amended by adding an Appendix at the end thereof to read as follows:

Appendix A—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

Time period	Interest rate (percent)
Apr. 1, 1981 through Jan. 31, 1982	12
Feb. 1, 1982 through Dec. 31, 1982	20
Jan. 1, 1983 through June 30, 1983	16
July 1, 1983 through Dec. 31, 1983	11

Effective date: This regulation is effective on July 1, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-22429 Filed 8-15-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS McCLUSKY (FFG 41) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has found that USS McCLUSKY (FFG 41) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. § 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS McCLUSKY (FFG 41) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b), regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS McCLUSKY (FFG 41) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(i) Annex I
* * * * *		
USS McClusky	FFG 41	1.6
* * * * *		

—

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

* * * * *

USS McClusky (FFG 41)

* * * * *

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
* * * * *		
USS McClusky	FFG 41	2.75
* * * * *		

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: August 1, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83-22291 Filed 8-15-83; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS BUFFALO (SSN 715) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS BUFFALO (SSN 715) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone Number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS BUFFALO (SSN 715) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) requiring that the sternlight show an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; Annex I, Section 2(a)(i) pertaining to the height of the masthead light; 72 COLREGS, Annex I, Section 2(k) pertaining to the height and relative positions of the anchor lights; 72 COLREGS, Annex I, Section 3(b) pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS BUFFALO (SSN 715) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3 are equally applicable to USS BUFFALO (SSN 715). Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

§706.2 [Amended]

1. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
*	*	*	*	*	*	*	*	
USS Buffalo	SSN 715			209°	4.2	6.1	3.5	1.7 below
*	*	*	*	*	*	*	*	

2. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessels	Number	Distance in meters of forward masthead light below minimum required height, §2(a)(i) Annex I
USS Buffalo	SSN 715	3.5
*	* * * * *	

Authority: E.O.11964; 33 U.S.C. 1605

Dated: August 1, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83-22292 Filed 8-15-83; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing Legislation

Correction

In FR Doc. 83-20673, beginning on page 34471 in the issue of Friday, July 29, 1983, the following paragraph should appear between the introductory paragraph and paragraph (b) of § 3.31 in column one of page 34472:

§ 3.31 [Corrected]

* * * * *

(a) *Increased award defined.* For the purposes of this section the term "increased award" means an award which is increased because of an added dependent, increase in disability or disability rating, or reduction in income. The term also includes elections of Improved Pension under section 306 of Pub. L. 95-588 (92 Stat. 2508) and awards pursuant to §§ 4.29 and 4.30 of this chapter.

* * * * *

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 71]

ADP Contracting

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation raises the dollar thresholds for blanket delegations of procurement authority (DPA) for Federal agencies to acquire ADP resources; grants authority to the GSA Assistant Administrator of Information Resources Management to issue letters establishing thresholds and conditions for the acquisition of ADP resources by individual Government agencies; changes the definition of automatic data processing equipment CADPE) to reflect equipment classification changes agreed to by a Joint GSA/DoD Classification Review Group in 1981 and reflected in GSA Bulletin FPMR A-79, dated October 23, 1981; adds conditions under which the award decision for low cost computers can be based on lowest offered purchase price; removes the requirement to submit copies of solicitations and contracts to GSA; and makes other clarifying changes regarding the use of ADP schedule contracts.

The purpose of this regulation is to bring the regulatory definition of ADPE into conformance with recent classification changes agreed to by GSA and DoD; to reflect GSA's change in emphasis from precontract to post contract review; to clarify the procedures for using ADP schedule contracts; and to simplify the procedures for buying low cost computers.

DATES:

Effective date: This regulation is effective September 1, 1983, but may be observed earlier.

Expiration date: This regulation will expire September 30, 1984.

Comments are due: October 1, 1983.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone 202 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government-wide procurement regulation that will have little or no effect on society.

In 41 CFR Chapter 1, FPR Temporary Regulation 71 is added to the Appendix at the end of the Chapter.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

July 22, 1983.

Federal Procurement Regulations Temporary Regulation 71

To: Heads of Federal agencies

Subject: Changes to Federal Procurement Regulations Subparts 1-4.11 and 1-4.12

1. *Purpose.* This temporary regulation:

a. Raises the dollar thresholds for blanket delegations of procurement authority (DPA) for Federal agencies to acquire ADP resources;

b. Grants authority to GSA's Assistant Administrator of Information Resources Management to issue letters establishing thresholds and conditions for the acquisition of ADP resources by individual Government agencies;

c. Changes the definition of ADPE to reflect equipment classification changes agreed to by a Joint GSA/DoD Classification Review Group in 1981 and reflected in GSA Bulletin FPMR A-79, dated October 23, 1981;

d. Adds conditions under which the award decision for low cost computers can be based on the lowest offered purchase price;

e. Removes the requirement to submit copies of solicitations and contracts to GSA; and

f. Makes other clarifying changes regarding the use of ADP schedule contracts.

2. *Effective date.* The provisions of this regulation are effective September 1, 1983, but may be observed earlier.

3. *Expiration date.* This regulation expires September 30, 1984.

4. Background.

a. The DPA thresholds are being raised to reduce paperwork, to extend greater autonomy to Federal agencies in meeting their ADP resources needs, and to reflect GSA's shift in emphasis from precontract to postcontract review of agency ADP procurements.

b. In April 1981, a GSA/DoD Joint Classification Review Board agreed that special purpose minicomputer and microcomputer controlled systems designed to process only the office information application would be classified as Federal Supply Classification (FSC) 7435, Office Information Systems Equipment. General purpose ADPE capable of being programmed to process a variety of applications was excluded from FSC 7435 and remained in FSC Group 70. These changes were explained in FPMR Bulletin A-79 and are reflected in the Cataloging Handbook H2-1, dated May 1982. This regulation changes the definition of ADPE in Subpart 1-4.11 to conform to this classification change.

c. A subsequent GSA/DoD Joint Classification Review Board has recommended that the special purpose equipment classified as FSC 7435 be designated as 7435 "A" and that general purpose ADPE capble of being programmed to process a variety of applications, but used primarily as a word processor, be designated as 7435 "B" in nonmandatory ADP schedule contracts negotiated by GSA's Office of Information Resources Management (OIRM). This approach has been adopted as a temporary measue to help ease management, jurisdictional, and funding problems in some agencies and departments regarding these equipment types. The "A" and "B" designations do not affect basic equipment classifications or regulatory definitions. Equipment designated at 7435 "B" remains general purpose ADPE governed by all applicable ADP procurement and management regulations.

d. A common general criticism of the ADP regulations has been that they are oriented toward large, centralized equipment systems and are therefore too cumbersome and complex to be used when acquiring small, low cost end user computers. Specific criticisms center on the requirements to apply life cycle costing to small requirements, to obtain a DPA from GSA for requirements above the blanket regulatory thresholds, and to report low cost items to the ADP Management Information System (ADP/MIS). A number of changes are being made in this temporary regulation to address these perceptions, including:

(1) Adding recognition that the administrative costs of conducting a life cycle cost analysis to determine the lowest overall cost alternative should be commensurate with the cost or price of the item being acquired;

(2) Adding conditions under which ADPE priced at $25,000 or less may be acquired on the basis of lowest offered purchase price;

(3) Excluding special purpose office information system equipment designated in ADP schedule contracts as 7435 "A" equipment, from the definition of ADPE, thereby generally exempting such equipment from the ADP procurement regulations; and

(4) Raising the blanket DPA thresholds.

d. Related changes are being made in an FPMR Temporary Regulation that will exempt ADP equipment systems costing $50,000 or less from the ADP/MIS reporting requirements; and will merge the existing regulations governing word processing into the ADP management regulations.

e. An FPMR Bulletin is also planned that will announce the availability of a recently completed report titled "Managing End User Computing in the Federal Government" and that will include recommended agency policies and procedures regarding information resources management.

5. *Explanation of Changes.*

a. The following changes are made in Subpart 1–4.11.

(1) Section 1–4.1100 is amended to recognize that use of GSA nonmandatory schedule contracts covers certain office automation equipment related to ADP equipment, as follows:

§ 1–4.1100 Scope of subpart.

This subpart sets forth policies and procedures relating to the procurement of all automatic data processing equipment (ADPE), commercially available software, maintenance services, and related supplies by Federal agencies (see also § 1–4.1109–1) and by Government contractors as directed by agencies. Use of GSA nonmandatory ADP schedules for certain office automation equipment not defined as ADP equipment is also included.

(2) Section 1–4.1102–1 is amended to clarify office automation and telecommunications equipment definitions regarding automatic data processing equipment in paragraphs (a) and (b) as follows:

§ 1–4.1102–1 Automatic data processing equipment.

* * * * *

(a) Included are:

(1) Main-frame, mini, and micro digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybird computer equipment, either cable or modem connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines that can be used in conjunction with or independently of digital, analog or hybird computers;

(4) Devices used to control and transfer data and/or instructions to and from a central processing unit (CPU), including data transmission terminals, batch terminals, display terminals, modems, sensors, multiplexors, and concentrators;

(5) Storage devices that are designed to be cable connected for use on line in which data can be inserted, retained, and retrieved for later use;

(6) General purpose mini or micro computers used as control mechanisms where computer technology is essential in controlling, monitoring, measuring, and directing processes, devices, instruments, or other equipment (see also FPR § 1–4.1109–18 and FPMR § 101–35.207–1); and

(7) Equipment used in office automation applications that is designed to be controlled by a general purpose data processing language primarily to be applied through the internal execution of a series of instructions, not limited to specific key stroke functions, and designed to process a variety of applications. (See also FPR § 1–4.1104(c)(3).)

(b) Excluded are:

(1) ADPE systems and components specially designed as (opposed to configured) and produced to perform computational, data manipulation, or control functions, but which have no general purpose applicability;

(2) ADPE that is modified at the time of production to the extent that:

(i) It no longer has a commercial ADP market; or

(ii) It cannot be used to process a variety of applications; or

(iii) It can be used only as an integral part of a non-ADP system.

(3) Section 1–4.1102–10 is revised to reflect that the cost to the agency of determining the lowest overall cost alternative should be commensurate with the cost or price of the item being acquired, as follows:

§ 1–4.1102–10 Lowest overall cost.

"Lowest overall cost" means the least expenditure of funds over the system/item life, price and other factors considered. Lowest overall costs shall include purchase price, lease or rental prices, or service prices of the contract actions involved, other factors, and other identifiable and quantifiable costs that are directly related to the acquisition and use of the system/item; e.g., personnel, maintenance and operation, site preparation, energy consumption, installation, conversion, system start-up, contractor support, and the present value discount factor (see also FPMR § 101–35.210). However, the administrative costs of conducting an analysis to determine the lowest overall cost alternative shall be commensurate with the cost or price of the item being acquired and with the benefits expected to be derived from conducting the analysis. (Also see § 1–4.1103–6

regarding ADPE priced at $25,000 or less.)

(4) Section 1–4.1103–6 is added to allow award based on lowest offered purchase price for ADPE priced at $25,000 or less, as follows:

§ 1–4.1103–6 Award criteria for low cost purchases.

Agencies may acquire ADPE on the basis of lowest offered purchase price when all of the following conditions are met:

(a) The purchase price of each system or item of equipment (including associated software) being acquired does not exceed $25,000;

(b) The total purchase price of all of the equipment and software being acquired under the procurement is $300,000 or less;

(c) The requirements are not fragmented to circumvent the thresholds in § 1–4.1103–6 (a) and (b);

(d) The purchase method is likely to be the lowest overall cost acquisition alternative (see FPMR §§ 101–35.209 and 101–35.210); and

(e) The agency determines, based on the requirements analysis, determination of system/item life, and comparative cost analysis, that award based on lowest offered purchase price is consistent with the lowest overall cost policy objective. (See FPMR §§ 101–35.207, 208 and 209.)

(5) Section 1–4.1104 is revised to provide the following changes: (1) To restate the provisions now in paragraph (a); (2) to broaden the provisions now in paragraph (b) to encompass the entire subpart in new paragraph (c)(2); (3) to delete the requirements now in paragraphs (c) and (d) for agencies to furnish copies of solicitations and contracts to GSA; (4) to change paragraph (a) to add a provision authorizing GSA's Assistant Administrator for Information Resources Management to change the blanket thresholds (up or down) or change other specific conditions regarding the exercise of procurement authority by an agency or component thereof upon written notice; (5) to repeat the changes made as paragraphs (a)(2) and (a)(3) in Temporary Regulation 64 in regard to responsibilities and accountability of agency senior designated officials in new paragraphs (b)(1) and (b)(2); (6) to place the requirement now in paragraph (a) for compliance with FPMR Subchapter F in new paragraph (c)(1); and (7) to delete paragraph (d), as follows:

§ 1–4.1104 Procurement authority.

(a)(1) To allow for the orderly implementation of a program for the economical and efficient acquisition of ADPE, commercially available software, maintenance services, and related supplies, agencies are authorized to acquire by contracting for these items—

(i) In accordance with the provisions of this § 1–4.1104, or

(ii) When a specific delegation of procurement authority has been provided by GSA in accordance with the provisions of §§ 1–4.1105 and 1–4.1106.

(2) Specific changes in thresholds or conditions regarding the exercise of procurement authority by a particular agency or component thereof may be authorized by the GSA Assistant Administrator for Information Resources (K). The changes will be in writing, will cite this paragraph (a)(2) of § 1–4.1104, will state effectivity and scope of applicability, and will be directed to the designated senior official of the applicable agency.

(3) Requirements shall not be fragmented in order to circumvent the established blanket delegation of procurement authority thresholds.

(b)(1) The provisions of Pub. L. 96–511 (the Paperwork Reduction Act of 1980) direct each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official is assigned responsibility for the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) (See 44 U.S.C. 3506 (c)(4)).

(2) The designated senior official in each agency shall advise GSA in writing of the position title and organizational identity of those officials who have been authorized to submit agency procurement requests to GSA (see also § 1–4.1105 and § 1–4.1107). The designated senior official shall keep the listings current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to GSA (KMA), Washington, DC 20405.

(c)(1) Agencies shall comply with the applicable provisions of FPMR Subchapter F before initiating procurement action on an approved requirement.

(2) Agencies shall accomplish procurement actions in accordance with the provisions of this Subpart 1–4.11.

(6) Section 1–4.1104–1 is revised to provide the following changes: (1) To remove the phrase "unless procurement authority has been specifically withdrawn" in the opening paragraph (but see new paragraph (a)(2) of § 1–4.1104); (2) to revise upward the blanket thresholds for competitive ADPE procurements made by "normal solicitation procedures" from $500,000 purchase price or $150,000 annual rental charges to $2,500,000 purchase price or $1,000,000 annual rental charges; and (3) to revise upward the blanket threshold for sole source or specific make or model ADPE procurements made by "normal solicitation procedures" from $50,000 purchase price or $18,000 annual rental charges to $250,000 purchase price or $100,000 annual rental charges, as follows:

§ 1–4.1104–1 Automatic data processing equipment.

Except as indicated in § 1–4.1104–5 regarding potential use of the ADP Fund, FPMR Subpart 101–36.2 regarding sharing, and FPMR subpart 101–36.3 regarding the use of excess ADPE, agencies may procure ADPE without prior approval of GSA when either paragraphs (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order against a GSA schedule contract provided that the following three conditions are met:

(1) The order is within the maximum order limitation (MOL) of the applicable contract;

(2) The total purchase price (even though the item(s) are to be rented or leased) of the item(s) covered by the order does not exceed $300,000;

(3) The requirements set forth in § 1–4.1109–6 on the use of GSA schedule contracts are met.

(c) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evauated optional features) does not exceed:

(1) $2,500,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $1,000,000 for competitive procurements; or

(2) $250,000 purchase price or basic monthly rental charges (including attendant maintenance costs) that do not exceed an annual rate of $100,000 for sole source or specific make and model procurements.

(7) Section 1–4.1104–2 is revised to provide the following changes to clarify that the blanket thresholds apply irrespective of method or time period (e.g., purchase, perpetual license, or

annual services), and to revise upward the blanket thresholds for procurements made by "normal solicitation procedures" from $100,000 competitive and $50,000 sole source to $1,000,000 for competitive procurements and $100,000 for sole source procurements, as follows:

§ 1-4.1104-2 Software.

Except for software available through the Federal Software Exchange Center as covered by FPMR Subpart 101-36.16 and software provided with and not separately priced from the ADPE, agencies may procure commercially available software without prior approval of GSA when either (a), (b), or (c) applies.

(a) The procurement is to be made by placing a purchase/delivery order against an applicable GSA requirements-type contract.

(b) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract [see § 1-4.1109-6].

(c) The procurement (regardless of method or time period) is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the value of the procurement (including evaluated optional features) does not exceed:

(1) $1,000,000 for competitive procurements; or

(2) $100,000 for sole source procurements.

(8) Section 1-4.1104-3 is revised to raise the blanket thresholds for procurements made by "normal solicitation procedures" from $200,000 per year competitive and $50,000 per year sole source, to $1,000,000 per year competitive and $100,000 per year sole source, as follows:

§ 1-4.1104-3 Maintenance services.

Agencies may procure maintenance services without prior approval of GSA when either paragraph (a) or (b) of this § 1-4.1104-3 applies.

(a) The procurement is to be made by placing a purchase/delivery order under the terms and conditions of an applicable GSA schedule contract [see § 1-4.1109-6].

(b) The procurement is to be made by solicitation procedures other than use of GSA requirements-type or schedule contracts and the monthly charges do not exceed:

(1) An annual rate of $1,000,000 for competitive procurements; or

(2) An annual rate of $100,000 for sole source procurements.

(9) Section 1-4.1109-6 is amended to provide the following changes: (1) Paragraph (a)(1) is revised to indicate that § 1-4.1109-6 is to be used in context with the regulations; (2) paragraph (a)(2) is revised to limit the use of "only new" and "all or none" requirements unless justified; (3) paragraph (a)(3) is revised to indicate that administrative costs in relation to the value of the requirement should be considered when determining the number of schedule offerings to be considered; (4) paragraph (a)(3)(ii) is revised to indicate that "third party" suppliers should be considered when determining whether a requirement should be satisfied by a schedule order or by issuing a solicitation document; (5) paragraph (a)(4) is added to place the requirement to synopsize schedule orders in the Commerce Business Daily (CBD) in the opening paragraph; (6) paragraph (a)(5) is added to recognize that the nonmandatory ADP schedules offer special purpose (FSC 7435 "A") equipment as well as general purpose ADPE; (7) paragraphs (b), (c), and (d) are revised to remove the references to the CBD synopsis, which is now more fully explained in paragraphs (a) and (f); (8) subparagraphs (b) (3) and (4) are deleted; (9) paragraph (c) is rewritten to combine paragraphs (c) (1) and (2) with the introductory paragraph; (10) paragraph (d) is rewritten to combine subparagraphs (d) (1) and (2) with the introductory paragraph; (11) paragraph (e) is rewritten to combine paragraphs (e) (1) and (2) with the introductory paragraph; (12) paragraph (f) is revised to redesignate paragraphs (f) (1) and (2) as (f) (2) and (3); to add a new paragraph (f)(1) to extend the CBD synopsis requirement to schedule orders for software and maintenance and to change the CBD synopsis thresholds to $50,000 purchase price instead of $50,000 per schedule order; and to state in new paragraph (f)(2) that the CBD synopsis shall reflect system life, net purchase price if converting from lease, any restrictive requirements, any requirements unique to software or maintenance, and that the notice is not to be considered a formal solicitation document; and (13) paragraph (g) is revised to clarify in (g)(2) that CBD responses are encouraged from both schedule vendors and nonschedule vendors, and to add guidance in (g)(2)(ii) regarding the analysis of CBD responses from schedule vendors offering schedule prices, and in (g)(2)(iii)(B) to clarify that a competitive procurement resulting from responses to a CBD synopsis must be publicized, as follows:

§ 1-4.1109-6 Use of GSA schedule contracts.

(a) *General.* (1) In addition to the requirements of Subpart 1-4.11 and FPMR Subchapter F, orders placed against GSA nonmandatory schedule contracts under § 1-4.1104 are subject to the provisions of this § 1-4.1109-6. When a schedule contract is used pursuant to a § 1-4.1104 blanket delegation of procurement authority, a specific delegation of procurement authority from GSA is not required even though the order is for a noncompetitive (sole source) requirement as defined in § 1-4.1102-8.

(2) The existence of nonmandatory ADP schedule contracts shall not preclude or waive the requirement for maximum practicable competition in obtaining ADP or related equipment, software, or maintenance services. In addition, the availability of those items under an ADP schedule contract shall not preclude or otherwise detract from procuring the items, including peripheral equipment or items for augmenting an existing system, from a number of different sources if this action will be in the best interest of the Government. Accordingly, an "all or none" requirement or a requirement for "only new" equipment shall not be used unless specifically justified.

(3) Suitable equipment must be considered whether or not this equipment is on an ADP schedule contract. Accordingly, when an agency is procuring under the blanket delegation of procurement authority provisions of § 1-4.1104, maximum practicable competition shall be sought. When using ADP schedules, the offerings of a sufficient number of schedule contractors that might satisfy the agency's requirements shall be considered. (See also § 1-1.302-1(b) for policy intent.) Alternatively, the agency may choose to prepare a solicitation package in an effort to secure appropriate products and related services at lower overall costs to the Government. Even though the solicitation process consumes time and resources, it may be in the best interest of the Government when:

(i) The expected cost reduction will exceed the added costs of acquisition; or

(ii) There is a reasonable expectation that better offers will be received from suppliers other than the schedule contractor (e.g., the "third party" suppliers) for suitable items; or

(iii) The agency requirements cannot be satisfied reasonably by any ADP schedule contractor; e.g., the agency's requirement calls for a customized package of equipment, training services, or other features not offered commercially.

(4) Agencies shall comply with the synopsis requirements of paragraphs (f) and (g) of this section before placing

orders, as outlined in paragraphs (b), (c), (d), and (e) of this section, against GSA nonmandatory schedule contracts.

(5) Special purpose equipment is available under GSA nonmandatory ADP schedule contracts. These items are designated as FSC 7435 "A" equipment in the schedule contracts. This Subpart 1–4.11 does not apply to these special purpose items, except that agencies must follow the provisions of this § 1–4.1109–6 before ordering such equipment from a nonmandatory ADP schedule contract. However, in no case is a delegation of procurement authority from GSA required for equipment designated as 7435 "A". (Note that the 7435 "A" and "B" designations will not be used after FY 1984.)

(b) *Initial acquisition of ADPE.* Orders for the initial acquisition of ADPE, whether for purchase or rental, may be placed against the ADP schedule contracts provided that all of the following conditions are met.

(1) The order does not exceed the contract's maximum order limitation (MOL).

(2) When the purchase price of the items covered (even though the items are rented or leased) exceeds $300,000, a specific delegation of procurement authority is obtained. (See §§ 1–4.1104–1(b)(2) and 1–4.1105.)

(c) *Continued rental or lease of installed ADPE and software.* ADP schedule contracts may be used for the continued lease or rental of installed equipment and software under the provisions of the schedule contract. However, when orders are for or include the continued lease of an installed central processing unit (CPU), a specific delegation of procurement authority under § 1–4.1105 shall be obtained before issuing the renewal order if the schedule purchase price exceeds $300,000 and the results of the Commerce Business Daily (CBD) synopsis indicates that the equipment is available from a source other than the schedule contract.

(d) *Conversion from lease to purchase of installed ADPE.* A specific delegation of procurement authority shall be obtained before issuing an order to purchase previously leased ADPE with a net purchase order price of more than $300,000 when identical (specific make and model) or suitable substitute equipment is available from a supplier other than the schedule contractor.

(e) *Acquisition of software and maintenance services.* Orders may be placed against ADP schedule contracts for software and maintenance services provided that the value of the order does not exceed the MOL of the applicable schedule contract.

(f) *Synopsis requirements.*

(1) The intent to place an order for ADPE, software, or maintenance services against a nonmandatory ADP schedule contract shall be synopsized in the CBD at least 15 calendar days before placing the order, when the purchase price of the equipment (whether purchased or leased) exceeds $50,000, or when the software or maintenance charges exceed an annual rate of $50,000. (Note.—This synopsis requirement is applicable to the conversion from lease to purchase of ADPE, but it is not applicable to the continued lease of installed ADPE that does not include a CPU.) This synopsis requirement applies notwithstanding the exemption in § 1–1.1003–2(a)(5) or, if applicable, DAR 1–1003.1(c)(v)).

(2) These synopses should include sufficient information to permit the agency analyses required by § 1–4.1109–6(g). They shall be prepared and forwarded in accordance with Subpart 1–1.10 (or, if applicable, DAR Part 1–10). As a minimum, and as applicable, these synopses shall state:

(i) Quantities, dates required, any restrictive (e.g., bundled) requirements that have been justified, and a point of contact, including phone number, for further information;

(ii) Specific make and model, system/item life, and support requirements (e.g., hours of maintenance coverage, response times) of any equipment to be ordered or maintained;

(iii) The name, functional description, and operating environment of any software packages to be ordered;

(iv) A request for pricing data; and

(v) A statement that no contract award will be made on the basis of any response to the notice, because the synopsis of intent to place an order against a schedule contract shall not be considered a formal solicitaion document.

(3) Publication of contract award information in the CBD is not required when an order is placed against an ADP schedule contract, whether or not it follows a competitive solicitation, since the schedule contract was publicized in accordance with § 1–1.1004.

(g) *Actions after the CBD synopsis.* The schedule order synopsis technique provides agencies with both the GSA negotiated schedule prices (derived from discounting prices in the competitive commercial marketplace) and such additional product and cost information as might be submitted by potential nonschedule suppliers in response to the CBD notification. After consideration of the affirmative responses received in response to the CBD notice, the contracting officer must decide whether ordering from an ADP nonmandatory schedule, or conducting a competitive acquisition, is most advantageous to the Government. Accordingly, the contracting officer shall take one of the following actions:

(1) When no responses are received, the procurement file shall be documented with the results of the CBD synopsis and the order placed in accordance with the terms and conditions of the applicable schedule contract.

(2) When a response to the CBD notice is received from either a nonschedule vendor or a schedule vendor (expressing an interest either on or off schedule) for an item(s) that meets the user's requirement, the contracting officer shall take one of the following actions:

(i) Document the procurement file with an analysis that indicates that the respondent's item(s) would not meet the requirement, or that the synopsized schedule item(s) provides the lowest overall cost alternative, and place the order against the synopsized schedule contract; or

(ii) Document the procurement file with an analysis that indicates that a responding vendor's schedule offering will meet the requirement at the lowest overall cost and place an order against that ADP schedule contract; or

(iii) Document the procurement file with an analysis that indicates that a competitive acquisition would be more advantageous to the Government. When this is the case, the contracting officer normally should issue a formal solicitation. In this event:

(A) The solicitation should contain terms and conditions substantially the same as those contained in the schedule contract in which the order was to be placed. The addresses of the solicitation shall include the schedule vendor for the purpose of ascertaining the vendor's interest in furnishing the item(s) off the schedule. This procedure will permit the schedule vendor to discount the schedule item(s) price since a discount under a separate proposal would not be a "price reduction" as provided in the schedule contracts.

(B) The agency shall publicize the procurement in accordance with the provisions of FPR § 1–1.1003–2 (or, if applicable, DAR 1–1003).

(C) The contracting officer shall evaluate the offers received. It should be noted that some vendors may not agree to the solicitation terms and conditions that schedule vendors have accepted and that have been incorporated in their schedule contracts. The contracting officer shall act in a manner most

advantageous to the Government by either awarding a contract based on the offers received in response to the solicitation or placing an order with a vendor under a schedule contract. The procurement file shall be documented to justify the action taken.

* * * * *

b. The following change is made in Subpart 1–4.12. Section 1–4.1203 is amended to provide the following changes in paragraph (d): (1) Blanket thresholds now in subparagraphs (1) and (2) are revised upward in new subparagraph (1) from $300,000 per year for competitive procurement and $50,000 per year for a sole source procurement to $2,000,000 per year for a competitive procurement and $200,000 per year for a sole source procurement; (2) a new provision is added in paragraph (d)(2) authorizing GSA's Assistant Administrator for Information Resources to change the blanket thresholds (up or down) or change other specific conditions regarding the exercise of procurement authority by an agency or component thereof upon written notice; and (3) some provisions now in paragraphs (d)(1) and (d)(2) are restated in paragraphs (d)(3) and (d)(4), as follows:

§ 1–4.1203 Authorization for commercial ADP services contracting.

* * * * *

(d)(1) Agencies may procure commercial ADP services without prior approval of GSA when the monthly charges (including evaluated optional features) do not exceed:

(i) An annual rate of $2,000,000 for a competitive procurement; or

(ii) An annual rate of $200,000 for a sole source procurement.

(2) Specific changes in thresholds or conditions regarding the exercise of procurement authority by a particular agency or component thereof may be authorized by the GSA Assistant Administrator for Information Resources Management. The changes will be in writing, will cite this paragraph (d)(2) of § 1–4.1203, will state effectivity and scope of applicability, and will be directed to the designated senior official of the applicable agency.

(3) Agencies shall comply with the requirements regarding the sharing or use of existing Federal ADP resources and the use of GSA sources of supply before initiating procurement action under authority of this § 1–4.1203(d).

(4) Requirements shall not be fragmented in order to circumvent the established blanket delegation of procurement authority thresholds.

* * * * *

6. *Effect on other directives.* This temporary regulation supersedes paragraph 5d of FPR Temporary Regulation 64, dated February 3, 1982.

7. *Agency actions.* Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall follow the policies and procedures in this temporary regulation.

8. *Information and assistance.* Inquiries should be directed to Mr. David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, Telephone 202, or FTS, 566–0194.

9. *Submission of comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received before October 1, 1983, will be considered. Comments should be addressed to GSA (KMPP), Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–22165 Filed 8–15–83; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 71

Implementation of Coastal Barrier Resources Act

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Final rule.

SUMMARY: This rule implements section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) which prohibits new flood insurance coverage on or after October 1, 1983, for new construction or substantial improvements of structures located on coastal barriers within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, Telephone: (202) 287–0380.

SUPPLEMENTARY INFORMATION: Section 11 of the Coastal Barrier Resources Act of 1982 (Pub. L. 97–348) (CBRA) amends section 1321 of the National Flood Insurance Act of 1968 (Pub. L. 90–448) by providing in pertinent part:

> No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

It is the intention of this regulations to define the key terms of section 11 of CBRA, and to identify the documentation which will be required to demonstrate that a structure is not covered by the terms of CBRA and is eligible to receive new flood insurance coverage.

Summary of Changes

On May 25, 1983, FEMA published a proposed rule implementing section 11 of CBRA. The Agency received over 240 comments on the proposed rule, almost all of which were critical of FEMA's approach to CBRA. The focal point of the comments was the definition of "new construction." Under the proposed rule, FEMA would provide flood insurance to a structure on an undeveloped coastal barrier provided that the start of construction took place before October 1, 1983 and the structure was completed by April 1, 1984. There was virtual unanimity among the comments that the April 1, 1984 date was not consistent with CBRA.

FEMA has reviewed the proposed rule in light of the comments received. The Agency has determined that it was the intent of Congress that structures, the construction of which began on or after October 18, 1982 (the date CBRA became law), must be completed by October 1, 1983 in order to be eligible for flood insurance. A structure, the construction of which started before October 18, 1982, may be completed at any time in the future to be eligible for flood insurance.

A number of comments raised problems with the documentation required, and in particular the documents required to demonstrate that the start of construction took place prior to a given date. Pursuant to these comments and our own perspective, affidavits will be replaced by written statements signed by the responsible community official.

Under a new sub-section, any policy issued where the terms of this section have not been complied with is void *ab initio* and without effect. That sub-section also makes clear that false statements or false representations may be punishable by fine or imprisonment.

The Proposed Rule

The proposed regulation defined "new construction" as structures other than those fully completed prior to October 1, 1983, which do not meet 3 specified criteria. It was not the intent of CBRA to deny flood insurance to a structure which was fully completed prior to October 1, 1983, unless, subsequent to September 30, 1983, it is substantially improved. Absent substantial improvement, there can be no question but that the structure was existing construction rather than new construction, and section 11 of CBRA would not apply.

Under the proposed rule, if construction had not yet started on October 1, 1983, then the structure was to be considered "new construction." However, if the start of construction (see 44 CFR 59.1 for complete definition) had taken plaee prior to October 1, 1983, but the structure was not fully completed as of that date, an allowance would be made. If the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation, took place prior to October 1, 1983, the structure was to be eligible for the sale of flood insurance provided that: (1) A legally valid building permit or its equivalent was obtained prior to October 1, 1983, for the construction; and (2) the structure constituted an insurable building, having walls and a roof no later than April 1, 1984.

CBRA also prohibits new flood insurance coverage for substantial improvements of structures occurring on or after October 1, 1983. The regulations of the National Flood Insurance Program define "substantial improvement" in pertinent part as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damage occurred. For the purpose of this definition in the proposed rule, "substantial improvement" was considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure (see 44 CFR 59.1 for complete definition).

Under the proposed rule, where a structure is substantially improved either by expansion, or by restoration when it has been damaged, no new flood coverage was to be provided for such structure. Since a new policy and a renewal policy constitute new coverage (and include a new policy year in a 3 year policy), the substantially improved structure would not be eligible for either. If a structure is expanded by 50 percent or more, or is damaged and the repairs equal or exceed 50 percent of its pre-damage value, such structure would not be eligible to receive a new or renewed policy of flood insurance.

To enable FEMA to implement these provisions in a responsible manner, the Agency was to require some basic documentation.

In order to obtain flood insurance coverage on or after October 1, 1983, for a structure the construction of which was commenced prior to October 1, 1983, are completed by April 1, 1984, the owner was to submit the following documentation:

a. A legally valid building permit or its equivalent for the construction of the structure, dated prior to October 1, 1983. If the community did not have a building permit system at the time the structure was built, a sworn and notarized affidavit to this effect by the responsible community official would be accepted in lieu of the building permit. If the community had a building permit system in effect but the permit was lost or destroyed, a sworn and notarized affidavit to this effect by the responsible community official would be sufficient. This latter affidavit was also to include a certification stating that the official had inspected the structure and found no evidence that the structure is not in compliance with the building code at the time the structure was built;

b. A sworn and notarized affidavit signed by the community official responsible for building permits, attesting to the fact that he/she knows of his/her own knowledge or from official community records that:

(1) The start of construction of such structure took place prior to October 1, 1983;

(2) The structure has not been substantially improved since September 30, 1983; and

(3) The structure constituted an insurable building, having walls and a roof permanently in place no latter than April 1, 1984.

c. A community issued final certificate of occupancy or other use permit, or equivalent proof, certifying that the building was completed (walled and roofed) by April 1, 1984. Equivalent proof would include, for example, evidence of final inspection of the building's electrical system; a deed, together with closing or settlement documents establishing that the title was transferred as to the land and improvement by April 1, 1984, etc.

Response to Comments

Over 240 comments were received. All but a handful of these comments opposed what they termed the "6—month extension" of the availability of flood insurance on undeveloped coastal barriers. Many of these comments elaborated that a structure should be fully completed, and insurable by October 1, 1983. Many also explained that it was necessary to hold to this deadline in order to meet the intent of CBRA, to protect the environment of undeveloped coastal barriers and to save tax dollars by limiting flood insurance in these hazardous areas.

Although the Agency did not intend in issuing the proposed rule to provide an extension of the statutory deadline, we do agree with the primary point being made—that flood insurance should only be available to structures on undeveloped cosastal barriers if such structures are insurable buildings by October 1, 1983; in our view, this represents the intent of Congress.

A few comments also identified October 18, 1982, the date CBRA became law, as the cut-off for start of construction. If a structure was begun before that date, it should be entitled to flood insurance at any time in the future. If a structure was started on or after October 18, 1982 but completed before October 1, 1983, it too should be eligible for flood insurance.

We agree with this position and recognize that there is support for it in the legislative history of CBRA and the Omnibus Budget Reconciliation Act (OBRA), in which the flood insurance prohibition was first enacted into law. In a statement which was "cleared with the Chairman and ranking members and represent[s] our joint interpretation of the flood insurance provision," Congressman Thomas Evans, the author of the Coastal barriers bill in the House of Representatives (H.R. 3252), explained that, "The terms of new construction and substantial improvements are standard terms defined by regulations issued by the Federal Insurance Administration (44 CFR Part 59)." Mr. Evans went on to state that structures "erected" prior to October 1, 1983 will still be eligible for flood insurance. Later in this statement, the Congressman explained that structures "erected" after an area has been designated as an undeveloped coastal barrier but before October 1, 1983, will be eligible for flood insurance 127 Cong. Rec. H. 57923 (July 31, 1981).

Among those advocating this position in comments to FEMA were Senators Chafee, Stafford, Randolph, Moynihan, and Mitchell, and Congressman Evans. Senator Chafee was the author and chief sponsor of S. 1018, the Senate version of the bill, and he, along with Senators Stafford, Randolph, and Moynihan were members of the Conference Committee which reported out the coastal barriers bill. In addition to being the author and primary sponsor of H.R. 3252, the House version of the bill, Congressman Evans was also a conferee.

In interpreting the term "new construction" as used in CBRA, we must reconcile the potentially divergent approaches of the Agency's regulatory definitions and the Congressman's repeated use of the term "erected" in his floor statement. The Agency's definition refers to a structure for which the start of construction has not taken place as of a critical date. The use of term "erected" indicates, however, that there must be a completed structure by a certain date. These two concepts can be merged by recognizing Congress' intent to establish two categories of structures which would be excluded from the definition of new constrution and therefore be eligible for flood insurance: those "erected after an area has been designated as an undeveloped coastal barrier but before October 1, 1983," and those started before October 18, 1982. Ibid. Mr. Evans has impliedly identified the critical date by which construction must have been started (in order to be excluded from the category of "new construction") as the date of designation of the undeveloped coastal barrier. That date is October 18, 1982, when CBRA became law. If a structure is started on or after that date, the grace period built into OBRA and CBRA allows until October 1, 1983, for the structure to be erected.

In justifying the more restrictive approach of having a structure be completed by October 1, 1983 in order to be eligible for flood insurance, one commenter points out that ample notice had been provided to developers and other property owners well in advance of the coming prohibitions. OBRA was passed in August 1981, more than two years in advance of the effective date of the insurance prohibition. There was extensive congressional consideration of the measure, both before and after OBRA, in the form of committee hearings, and floor debates. Further, in its proposed fule of May 25, 1983, FEMA acknowledged that it was making an allowance by imposing April 1, 1984 as the final date for completion of structures. FEMA believes that ample notice has been provided to developers and other property owners. Nevertheless, we have been and will continue to notify those who will be most directly affected by this regulation.

Two comments also suggest that flood insurance should only be available up until October 1, 1983 for any structure on which construction had not begun as of October 18, 1982. In our view, denying flood insurance for structures completed but not insured prior to October 1, 1983 was not the intent of Congress.

A few comments, representing pro-development and pro-environment interests agreed that the proposed rule's April 1, 1984 deadline for completing structures started before October 1, 1983 is arbitrary and without foundation in CBRA or its legislative history. Though we believe this to be overstated, we accept the essential concern raised. As described above, the October 1, 1983 date for completion of structures best reflects the intent of Congress. Though we recognize that this is not the course the pro-development interests were suggesting that FEMA take in criticizing the April 1, 1984 deadline, we are concerned with the legislative basis for selecting April 1, 1984.

There were a number of specific concerns raised with the April 1, 1984 cut-off date. Two comments asserted that it was unlikely that property owners would put down foundations with no present intent of building, in order to circumvent CBRA. It was explained that once construction begins, the financial commitments to build have already been made. It was also stated that the April 1, 1984 deadline does not consider circumstances beyond the property owner's control which might delay construction. A few alternatives to the April 1, 1984 deadline were offered; these included its elimination (no cut-off at all), providing a review process for construction to ensure that it is moving along, and allowing one (1) year from October 1, 1983 (as opposed to the 6 months). As is indicated above, FEMA determined that a post-October 1, 1983 cut-off date for completion of structures is inappropriate.

A few comments agreed that an allowance should be made for construction started but not completed by October 1, 1983; they contended that a building permit dated prior to October 1, 1983 should suffice to demonstrate that construction was stated before that date. We have accommodated this concern in part. The relevant date by which construction must have been started has been changed from prior to October 1, 1983 to prior to October 18, 1982. Also, there must be a building permit dated prior to October 18, 1982. A written statement signed by the community official stating that construction started before October 18, 1982, rather than a sworn affidavit to that effect will be required. We have made this change throughout the regulation to be consistent with program practice and to eliminate any undue burdens. It should be explained that if construction had not started prior to October 18, 1982, the structure is still eligible for flood insurance provided that construction is completed by October 1, 1983.

One comment raised concerns regarding the definitions of "substantial improvement" and "elevation" in the regulations of the National Flood Insurance Program. The points made do not concern the proposed regulation. The same commenter suggested that "grandfathering" of insurance eligibility should apply to property and not individuals. We agree and believe that this is in the rule. One comment suggests that FEMA revise its flood insurance manual to reflect this rule. This will be done.

The Final Rule

Under the final rule a structure is not considered "new construction" if a building permit or its equivalent was obtained for its construction prior to October 18, 1982 and the start of construction took place prior to that date. The definition of "start of construction" will be the one in effect at the time CBRA became law, October 18, 1982 (see 44 CFR 59.1, October 1, 1982). A structure is also not considered new construction if the structure constitutes an insurable building by October 1, 1983 and a building permit or its equivalent was obtained prior to that date.

The definition of "substantial improvements" in the proposed rule has not been changed. A structure is considered to be a "substantial improvement" if the substantial improvement (see 44 CFR Part 59) of such structure took place on or after October 1, 1983. The definition of "new flood insurance coverage" also has not been changed, and means a new or renewed policy of flood insurance (including a new policy year in a 3 year policy).

As indicated above, the documentation required by the proposed rule has been modified slightly. For structures the construction of which started before October 18, 1982, the building permit or its equivalent must be dated prior to October 18, 1982. For these structures, a written statement signed by the community official is now

required and it must state the date the start of construction took place, and attest that the structure has not been substantially improved since September 30, 1983. For a structure the construction of which started on or after October 18, 1982, but was completed before October 1, 1983, there must be a building permit or its equivalent, dated before October 1, 1983. There must also be signed statements that the structure has not been substantially improved since September 30, 1983, and the structure constituted an insurable building by October 1, 1983. Finally, there must be a community issued final certificate of occupancy or other use permit or equivalent proof that the building was completed (walled and roofed) by October 1, 1983.

To clarify what should have been understood, if a flood insurance policy is issued where a provision of this regulation has not been complied with or is otherwise inconsistent with the provisions of this section, the policy is void upon issuance; this is so even if the failure to comply is not discovered until the time of loss.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), the Federal Emergency Management Agency (FEMA) prepared an environmental assessment of the issuance by FEMA of the Proposed rule. FEMA has prepared a revised environmental assessment to reflect the provisions of the final rule.

The revised assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the definitions in the rule or the documentation to be required.

It is, therefore, found that the action will not have a significant impact on the natural or manmade environment. On this basis, an Environmental Impact Statement will not be prepared.

Copies of the revised environmental assessment are available for inspection at the Federal Emergency Management Agency, Room 840, 500 C Street, S.W., Washington, D.C. 20472, telephone (202) 287–0395.

This regulation will not have a significant impact on a substantial number of small entities, and thus no regulatory flexibility analysis will be prepared. Further, the rule is not a major rule for purposes of Executive Order 12291, and thus no regulatory impact analysis will be prepared.

The documentation requirement in § 71.4 are collections of information, and were submitted to OMB for review and approved under section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 71

Flood insurance, Coastal zone.

Accordingly, Chapter I of Title 44, Code of Federal Regulations is amended by adding a new Part 71 as follows:

PART 71—IMPLEMENTATION OF COASTAL BARRIER RESOURCES ACT

Sec.

71.1 Purpose of Part.
71.2 Definitions.
71.3 Denial of Flood Insurance.
71.4 Documentation.
71.5 Violations.

Authority: Section 1306, 82 Stat. 575 (42 U.S.C. 4013). Reorganization Plan No. 3 of 1978 (43 FR 41943), E.O. 12127, dated March 31, 1979 (44 FR 19367), sec. 11, Pub. L. 97–348.

§ 71.1 Purpose of Part.

This part implements section 11 of the Coastal Barrier Resources Act (Pub. L. 97–348) as that act amends the National Flood Insurance Act of 1968 (42 U.S.C. 400a *et seq.*).

§ 71.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in Part 59 of this subchapter are applicable to this part.

(b) For the purpose of this part a structure is "new construction" *unless* it means the following criteria:

(1) (i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to October 18, 1982; and

(ii) The start of construction (see part 59) took place prior to October 18, 1982; *or*

(2) (i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to October 1, 1983; and

(ii) The structure constituted an insurable building, having walls and a roof permanently in place no later than October 1, 1983.

(c) For the purpose of this part, a structure is a "substantial improvement" if the substantial improvement (see part 59) of such structure took place on or after October 1, 1983.

(d) For the purpose of this part, "new flood insurance coverage" means a new or renewed policy of flood insurance.

§ 71.3 Denial of Flood Insurance.

No new flood insurance coverage may be provided on or after October 1, 1983, for any new construction or substantial improvement of structure located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act.

§ 71.4 Documentation

(a) In order to obtain flood insurance for a structure which is not covered by a policy of flood insurance as of October 1, 1983, the owner of the structure must submit the documentation described in this section in order to show that such structure is eligible to receive flood insurance.

(b) The documentation must be submitted to the Federal Insurance Administration.

(c) Where the start of construction of the structure took place prior to October 18, 1982, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure dated prior to October 18, 1982;

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permt. This statment must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his/her own knowledge or from official community records, that:

(i) The start of construction took place prior to October 18, 1982; and

(ii) The structure has not been substantially improved since September 30, 1983.

(d) Where the start of construction of the structure took place on or after October 18, 1982, but the structure was completed (walls and roof premanently in place) prior to October 1, 1983, the documentations shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure dated prior to October 1, 1983;

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has

inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his/her own knowledge or from official community records, that:

(i) The structure constituted an insurable building, having walls and a roof permanently in place no later than October 1, 1983; and

(ii) The structure has not been substantially improved since September 30, 1983; and

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying the the building was completed (walled and roofed) by October 1, 1983.

(Approved by the Office of Management and Budget under Control No. 3067–0120)

§ 71.5 Violations.

(a) Any flood insurance policy which has been issued where the terms of this section have not been complied with or is otherwise inconsistent with the provisions of this section, is void *ab initio* and without effect.

(b) Any false statements or false representations of any kind made in connection with the requirements of this part may be punishable by fine or imprisonment under 18 U.S. Code section 1001.

Dated: August 12, 1983.

Lois O. Giuffrida,

Director.

[FR Doc. 83–22540 Filed 8–15–83; 9:25 am]

BILLING CODE 6718–02–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

Law Enforcement; Updating Areas of Responsibility and Addresses of District Offices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors which appeared in FR Doc. 83–761 in the issue of January 12, 1983 (48 FR 1313), relating to the addresses and telephone numbers of district offices of the Service's Division of Law Enforcement. The address for the district office located in Massachusetts and the telephone number for the district office in Anchorage, Alaska need to be corrected.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Washington, D.C. 20240, Telephone: (202) 343–9242.

The following corrections should be made:

§ 10.22 [Corrected]

1. In the first column of page 1313, § 10.22, the address for the district office whose area of responsibility is Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5), should read "P.O. Box 129, New Town Branch, Boston, MA 02258."

2. In the first column of page 1313, § 10.22, the telephone number for the district office in Alaska should read "907–786–3311."

Dated: July 14, 1983.

F. Eugene Hester,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 83–22335 Filed 8–15–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 30810–156]

Groundfish of the Gulf of Alaska

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

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close a portion of the Southeast Outside and Yakutat Districts in the Eastern Regulatory Area of the Gulf of Alaska to fishing for sablefish by vessels of the United States on August 10, 1983. The closure is necessary to limit the harvest of sablefish stocks to the desired harvest level and is intended as a conservation measure to promote the rebuilding of sablefish stocks for the benefit of the sablefish fishery.

DATES: This notice is effective from 12:00 noon Pacific Daylight Time (PDT), August 10, 1983, until 12:00 midnight p.s.t., December 31, 1983. Public comments on this notice of closure are invited until August 25, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Regional Management Biologist, National Marine Fisheries Service, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), governing the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments of fishing seasons and areas. Implementing rules at 50 CFR 672.22 specify that these orders will be issued by the Secretary of Commerce under criteria set out in those sections.

The FMP specifies the optimum yield (OY) for sablefish in the Gulf of Alaska to be 13,000 metric tons (mt). The total OY is apportioned among the Western, Central, and Eastern Regulatory Areas on the basis of historical catches. The Eastern Regulatory area is subdivided into the Yakutat, Southeast Outside, and Southeast Inside Districts for the purpose of better managing local sablefish stocks. The optimum yields for the Yakutat, Southeast, and Southeast Inside Districts are established in the FMP at 3,400, 3,000, and 700 mt respectively.

The relative abundance of sablefish in the Southeast Outside District and the eastern portion of the Yakutat District has declined from that anticipated in the FMP. This decline is indicated by results of sablefish index abundance surveys conducted by the NMFS in 1981 and 1982. The 1981 survey showed a 50 percent decline in abundance; the 1982 survey indicated that stock abundance had declined further. The NMFS survey includes sampling sites in both the Southeast Outside District and that portion of the Yakutat District east of 140° W. longitude.

Based on the NMFS surveys, the 1982 domestic sablefish fishery was closed by a rule-related notice in the Southeast Outside District on August 2, 1982; about 1,300 mt had been harvested. The catch in the Yakutat District east of 140° E. longitude was about 580 mt for a combined area catch of approximately 1,880 mt. It was anticipated at the beginning of the 1983 fishing season that the 1983 stock abundance would approximate the 1982 level.

Preliminary data from the 1983 NMFS sablefish index abundance survey indicates an overall modest increase in abundance of sablefish of marketable

size with either no change or a slight increase in abundance from 1982 levels at the two sites nearest the area of highest fishing concentration. The 1983 preliminary survey results combined with steadily improving catch per unit of effort and average weight during the June and July 1983 fishery justify a modest increase in harvest over the 1982 harvest level (1,880 mt). These same data do not, however, justify a harvest level as high as that established by the FMP.

The North Pacific Fishery Management Council (Council) has approved an amendment (Amendment 11) to the FMP which further subdivides the Yakutat District into the West and East Yakutat Districts and establishes new OY's on the basis of the 1981 and 1982 NMFS sablefish index abundance surveys. These OY's are 850–1,135 mt for the East Yakutat, 470–1,435 mt for the Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, and 500 mt for the Southeast Inside Districts. Amendment 11 is currently being reviewed by the Director, Alaska Region, NMFS (Regional Director). The Alaska Board of Fisheries has set a guideline harvest range of 275–901 mt of sablefish within the Southeast Inside District, which lies within the territorial sea off Alaska's coast. The ADF&G has announced its intent to manage the Southeast Inside District for a 1983 harvest of 500 mt.

Most of the sablefish harvested in the East Yakutat District are taken close to the FMP's boundary between the Yakutat and Southeast Alaska Districts. Because current ADF&G statistical reporting areas do not provide an adequate separation of catches between the two areas, ADF&G and the Regional Director have found it necessary to manage the Yakutat District, east of 140° W. longitude, and Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, as a single unit in 1983. Based on the 1983 NMFS index abundance survey and the 183 fishery performance, the Regional Director has therefore determined that (1) the relative abundance of sablefish in the Southeast Outside District, exclusive of ADF&G regulatory districts 9 and 14, and that portion of the Yakutat District east of 140° W. longitude, is substantially different than was anticipated at the beginning of the year, and (2) that difference justifies a 1983 harvest level for the combined areas coincident with the upper end of the combined OY ranges (2,570 mt) as recommended by the Council in Amendment 11, but lower than the current OY level.

The 1983 sablefish fishery off southeast Alaska opened January 1, 1983. As of July 26, 1983, 2,100 mt have been harvested in the combined East Yakutat and Southeast Outside Districts by 70–80 vessels. At the current catch rate, the Regional Director has determined that a catch of 2,570 mt will be achieved on August 10, 1983.

In accordance with 50 CFR 672.22, the Regional Director closes that portion of the Yakutat District East of 140° W. longitude (East Yakutat) and the Southeast Outside District, except for that portion lying within ADF&G regulatory districts 14 and 9, to all fishing for sablefish from 12:00 noon PST, August 10, 1983, until 12:00 midnight PST, December 31, 1983. That portion of the Southeast Outside District excluded from this closure is managed as part of the Southeast Inside District.

This closure will be effective upon filing of this notice for public inspection with the Office of the Federal Register and after publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 672.22(a)(2). Under 50 CFR 672.22(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Region Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. The necessity of this closure will be reconsidered in view of comments received, and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The sablefish stock in the affected districts will be subject to harm unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 672.22, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: August 10, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-22309 Filed 8-11-83; 11:19 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 159
Tuesday, August 16, 1983

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 HEALTH AND HUMAN SERVICES

Office of Community Services

12 CFR Part 705

Community Development Credit Union Program

AGENCY: Office of Community Services, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of Community Services, Department of Health and Human Services (HHS) proposes to revise regulations governing the Community Development Credit Union Program to reflect that the program has been reenacted by the Omnibus Budget Reconciliation Act of 1981, and that the authority for administering the program has been transferred to the Secretary of HHS. The proposed rule would also make certain substantive changes; one being that CDCU Federal funds must be matched on a one-to-one basis, and secondly, that the interest rate on loans to credit unions will be set by the Secretary of HHS at four (4) percent below the Five Year Treasury Note rate but at a rate no lower than 5 percent. The old regulation specified a 2 percent rate.

DATES: Comments must be submitted on or before September 15, 1983.

ADDRESSES: Comments may be mailed to:

Office of Community Services, Office of State and Project Assistance, Division of Discretionary Programs, Room 436, 1200 19th Street NW., Washington, D.C. 20506, Attn: Community Development Credit Union Program

or

hand delivered to Room 436, between 8:45 am–5:30 pm.

FOR FURTHER INFORMATION CONTACT: Mr. John C. Finley, Telephone: (202) 254–6840.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Opportunity Act of 1964, the Community Services Administration (CSA) operated the Community Development Credit Union Revolving Loan Fund to qualified credit unions in low income areas to assist in providing member services. The Omnibus Budget Reconciliation Act of 1981 repealed this authority, but Section 681 of that Act reenacted the CDCU program and transferred authority for administering the program to the Secretary of Health and Human Services. These proposed regulations reflect both changes, and make certain substantive policy revisions.

While these new regulations are generally similar to the old 12 CFR 705, they contain two significant policy changes. First, in § 705.22(a), the loan requirement is that a one-to-one match of new funds be obtained and maintained by the credit union receiving a CDCU loan. The previous match was two-to-one of new funds. Due to the limited resources available, the matching requirement will not be waived. Secondly, in § 705.22(c) loans made under this rule shall bear interest at a rate of four (4) percent below the Five Year Treasury Notes as of the date the program recipients are selected by OCS for participation. However, in no case shall the rate be less than 5% per annum. The old regulation specified a 2 percent rate. This change in policy is consonant with current Government-wide policy that interest rates on loans provided by the Federal Government shall more nearly reflect market rates and the cost of borrowing to the Federal Government.

This proposed rule does not affect loans previously issued by the Community Services Administration under 12 CFR 705.1 through 705.12. Those regulations remain in effect for loans obligated prior to fiscal year 1983. The regulations proposed herein, however, will govern the use of the CDCU Revolving Loan Fund monies made available subsequent to the date of the publication of this rule in its final form.

Regulatory Impact and Regulatory Flexibility Act

This proposed rule governs a program with availability of Fiscal Year 1983 funds of no more than $2.0 million. Consequently, the rule is not major, based on the criteria of Executive Order 12291, and a regulatory impact analysis is not required. In addition, the proposed rule will affect only a small number of credit unions and will not impose an additional burden on them. Accordingly, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis as defined by the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6) is, therefore, not required.

List of Subjects in 12 CFR Part 705

Loan programs, Low-income residents, State credit union regulatory agencies, Economic development, Community revitalization, Field of membership, Chartering, Community needs plan.

PART 705—[AMENDED]

For the reasons set forth in the preamble, the Secretary proposes to amend 12 CFR Part 705 as follows:

1. By revising the authority citation for Part 705 as follows:

Authority: Pub. L. 97–35, Secs. 623, 633, 681, 95 Stat. 494, 498, 518; 42 U.S.C. 9812, 9822, 9910.

2. By revising Part 705 by adding §§ 705.13 through 705.24 to read as follows:

§ 705.13 Applicability.

CDCU Revolving Loan Fund monies obligated prior to the effective date of this regulation are governed by § 705.1 through 705.12. Funds obligated after the effective date are governed by § 705.14 through 705.24.

§ 705.14 Purpose and scope.

The purpose of this part is to implement the Community Development Credit Union (CDCU) program under the direct administration of the Office of Community Services (OCS) of the Department of Health and Human Services. Legislative changes in 1981 resulted in the assumption of federal administrative responsibility of OCS of the CDCU program as authorized by Sections 623, 633, and 681 of the Omnibus Budget Reconciliation Act of 1981.

§ 705.15 Definition.

For the purposes of this regulation, a Community Development Credit Union (CDCU) is a credit union which has been chartered by the National Credit Union Administration (NCUA) or a state credit union regulatory agency; which has as a basic purpose the stimulation of

economic development activities and community revitalization efforts aimed at benefitting low income residents of the community it serves; and which has a field of membership as described in § 705.20.

§ 705.16 Purpose of program.

The CDCU program is intended to support community based credit unions in the efforts to—

(a) Stimulate economic development activities in the communities they service which result in increased income ownership, and employment opportunities for low income residents; and

(b) To stimulate community revitalization efforts which result in improved community facilities, housing, transportation, etc.; and

(c) To provide needed financial and related services to residents of their comunities.

§ 705.17 Eligible applicants.

The CDCU program is available to existing credit unions and organizations proposing to form a credit union, which meet the criteria established in this regulation.

§ 705.18 Program activities.

In order to meet the objectives of the CDCU Program, an applicant selected for participation must provide a variety of financial and related services designed to meet the particular needs of the low income community served. These activities may include, but are not limited to the following:

(a) Activities aimed at supporting and stimulating economic development and revitalization efforts within the low income community, such as:

(1) Efforts to improve housing conditions and increase home ownership through a variety of mechanisms, including "self-help" and co-op housing development projects, assistance in securing and leveraging mortgages, site development and construction financing;

(2) Efforts to increase employment opportunities by aiding existing, and starting new small businesses. Applicants are encouraged to use funds available through the CDCU Program to serve as a catalyst to attract and stimulate the investment of capital from other private and public sources to promote economic development activities within the community.

(b) Activities aimed at providing member services such as financial counseling.

(c) Activities aimed at increasing the membership and the capitalization base such as:

(1) Membership drives;

(2) Campaigns to encourage members to increase their share deposits through systematic savings, utilizing such methods as payroll deductions, allotments, etc;

(3) Activities aimed at getting businesses and other organizations serving the community to maintain share deposits or contribute financially in other ways to projects supported by the credit union.

§ 705.19 Applicaiton for chartering.

Applications for chartering of developing and/or non-chartered credit unions, in order to participate in the CDCU program, should be sumbitted to the appropriate Regional Office of the National Credit Union Administration or a state credit union regulatory agency.

§ 705.20 CDCU field of membership.

(a) A CDCU will serve a total community. Therefore, the CDCU's field of membership should correspond geographically to the designated program area described in an application, and may include employees who regularly work in the area, businesses located within the area, and the residents of the area.

(b) In particular cases, the community served may include a number of contiguous neighborhoods constituting a target area. A target area is defined as that area designated by the Economic Development Administration or another Federal agency or by a State or local government agency for special assistance to low-income residents such as special impact areas, enterprise zones, etc.

(c) A typical CDCU field of membership may read as follows:

Persons who reside or work in that part of Small Town, Any State, designated (e.g. by the Economic Development Administration) as the "Special Impact Area" (SIA), bounded on the north by Baker Avenue, on the east by Interstate 85, on the south by First Street, and on the west by Grand Road; employees of this credit union and members of their immediate families; organizations of such persons; individual proprietorships, partnerships, or corporations located within the above SIA and actively engaged in a business practice within the community; and incorporatedd or unincorporated associations located in the above SIA.

(d) An existing credit union may elect to participate in the CDCU program upon a majority vote of its board of directors and upon approval of its application for participation. Any credit union field of membership change, to conform with a target area as previously described, must be approved by the credit union's board of directors and the appropriate State of Federal regulatory agency in accordance with established procedures.

§ 705.21 Community Development Committee.

The organizational structure of the CDCU will be the same as for all other credit unions, except that each CDCU shall have, in addition, a Community Development Committee. The responsibilities of the Community Development Committee fall into two interrelated categories: coordination (liaison) and identification of community needs.

(a) *Coordination.* The Community Development Committee must establish and maintain liaison with all government agencies and others having developmental projects in the community. This liaison will insure a united effort at redeveloping the community with a minimum of duplication.

(b) *Community Needs Plan.* Within 90 days after a credit union has been notified by the Director of OCS of approval of its participation in the CDCU program, the Community Development Committee of that credit union will prepare and present to the CDCU's board of directors a CDCU Community Needs Plan. This plan will set forth the coordination contacts established and the details of these initiatives. The plan will also contain, in priority sequence, a list of community needs which the credit union may or may not be able to fulfill. The credit union's board of directors will make the decisions on what services can be provided and when.

§ 705.22 Loans to CDCUs.

(a) *Amount of loan.* (1) The Director of OCS will make loans to approved CDCUs in accordance with these regulations and the provisions of a notice of availability of funds published in the **Federal Register.**

(2) The amount of a loan will be based on financial need and a demonstrated capability of an applicant CDCU to provide financial and related services to the Community as set forth in an application made in response to a notice of availability of funds. Existing credit unions selected for participation will be eligible to receive up to $200,000 in loans and new credit unions up to $100,000 in loans. The funds will be released when matching requirements and other requirements of these regulations and the associated notice of availability of funds are met.

(3) Funds will be available on a one-for-one match. That is, for every OCS dollar made available under this

program, the credit union must secure one dollar in the form of additional member share deposits. Funds will not be released to an applicant without documentation of this match. No waiver of this matching requirement will be granted.

(b) *Terms and repayment.* (1) Assistance made available in this program is in the form of a loan and must be repaid to OCS. All loans will be scheduled for repayment within the shortest time compatible with sound business practices and with the objectives of the program, but in no case will the term exceed five years. The policy of OCS is to resolve these funds as often as practical, in order to gain maximum economic impact and improve the organizational capacity of participating CDCUs.

(2) Semi-annual interest payments (beginning six months after the granting of a loan) and semi-annual principal payments (beginning one year after the granting of a loan) will be required.

(3) Immediate repayment will be required of any balance of the funds for improper use, or if the loan funds remain unused for an unreasonable or unjustified period of time.

(c) *Interest rates.* Loans made under this rule shall bear interest at a rate of four (4) percent below the Five Year Treasury Notes as of the date the program recipients are selected by OCS for participation. However, in no case shall the rate be less than 5% per annum.

(d) *Collateral/security.* Loan funds from OCS will be placed in accounts insured by the NCUA Share Insurance Fund or comparable state funds. Conditions attached to each loan agreement will require immediate repayment for breach or default in the performance by the participating CDCU of the terms or conditions of the deposit. This will include misrepresentations, default in making interest/principal payments, failure to report, insolvency, etc.

(e) *Default, collections, and adjustments.* OCS's monitoring procedures and covenants in the loan agreement will require regular financial and business status reports. The provision of such reports should ensure advance notice of a participant's inability to meet payment schedules.

§ 705.23 State chartered credit unions.

State chartered credit union applicants approved for participating by OCS must obtain written concurrence from their respective state regulatory authority to participate in the CDCU loan program.

§ 705.24 Application for Participation in the CDCU Program.

Application for participation in this program will only be accepted in response to a notice of the availability of funds published in the **Federal Register.**

Dated: July 12, 1983.

Harvey R. Vieth,

Director, Office of Community Services.

Dated: July 29, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-22367 Filed 8-15-83; 8:45 am]

BILLING CODE 4150-04-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Variable Rate Loan Regulation Changes

AGENCY: Small Business Administration.

ACTION: Notice of proposed rule.

SUMMARY: Lenders, small business persons, and advisory groups to SBA have commented that they feel lenders may be charging a rate above what they normally would have charged in order to cover fluctuations in the money markets during the quarterly adjustment periods and immediately after disbursement but before rate fluctuations commence. The Small Business Administration (SBA) is seeking comments on several proposed changed in its regulations governing variable interest rates on SBA guaranteed loans. The regulations deal with the time period between rate fluctuations and the base rate that may be used. In addition the regulations propose a pilot program of an alternative maximum interest rate policy for Regions II, VII and IX.

DATE: Comments must be received on or before October 17, 1983.

ADDRESS: Comments should be addressed to Associate Administrator for Finance and Investment, Room 800, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Financial Analyst, 202-653-6268, Room 720, 1441 L Street NW., Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: Current regulations provide for rate fluctuations no more frequently than the first day of the calendar quarter. Furthermore, the loan must remain at the initial rate for at least one full fluctuation period after first disbursement.

Lenders, small business persons, and advisory groups to SBA have commented that they feel lenders may be charging a rate above what they normally would have charged in order to cover fluctuations in the money markets during the quarterly adjustment periods and immediately after disbursement but before rate fluctuations commence.

SBA is proposing two rule changes to address this situation. The first would permit interest rate fluctuations as frequently as monthly, on the first business day of the month. The second would eliminate the requirement that the initial note rate remain in effect for one full fluctuation period. By decreasing the market risk to the lender, SBA hopes to lower the overall cost of a variable rate loan to the borrower. The Agency does not feel small business would be hurt by this change. Even though the note rate would escalate faster when interest rates are rising, it will also decline faster when interest rates are decreasing. It should be noted that only the minimum fluctuation period is being shortened. Borrowers and lenders are free to agree on a fluctuation period longer than monthly (i.e., quarterly, semi-annually, etc.). The third proposed rule change for variable rate notes is the choice of base rate. Current regulations permit the use of the prime rate as published in the daily public print media or the SBA Optional Peg Rate. The Optional Peg Rate is a weighted average of seven-year Treasury obligations.

SBA is proposing to eliminate the Optional Peg Rate as a base rate for loans made after the effective date of this regulation. SBA will continue to publish an Optional Peg Rate for those loans that use the Peg Rate as a base. SBA is also proposing to require the use of the low New York Prime Rate, as published in a daily national financial newspaper, as the base rate for all variable rate loans. The purpose of this minor change is to eliminate confusion on the part of borrowers when the prime rate listed in other daily publications might differ. The wide availability of a prime rate in a national financial newpaper will simplify the task of verification of the current interest rate by small business persons and SBA employees. Furthermore, the national financial publication selected must identify the date on which the published rate was in effect in order to eliminate the confusion of whether the rate listed in the publication is effective on the date of publication or is the reporting of the rate during the previous business day.

SBA considers the two above-described amendments to constitute a major rule for the purposes of E.O. 12291 and to have a significant economic

impact on a substantial number of small entities. Therefore, for the purposes of the Regulatory Flexibility Act and E.O. 12291, the following analysis of these amendments is offered.

1. Reason for Action

The Small Business Administration has been told by lenders, investors, small business owners, and advisory groups that certain aspects of the variable interest rate regulations are confusing to the public and may be leading to a higher interest cost to the small business owners. The changes are being proposed to alleviate these problems.

2. Objective of Action

By decreasing the fluctuation period for variable rate loans and thereby decreasing the market risk to the lender, SBA is hoping that the interest rate to the borrower will be lower. The requirement that the initial note rate remain in effect for one full fluctuation period is being eliminated for the same reason. In some cases, lenders have been prohibited from adjusting variable rate loans for up to six months after disbursement.

The requirement that all variable rate loans be tied to the low New York Prime as published in a national financial newspaper is designed to eliminate confusion when the prime may be listed as a split rate and to provide small business with a reliable, easily located source to find the prime rate.

Due to very limited use, the SBA Optional Peg rate will no longer be permissible as a base rate. It will continue to be published for those loans that currently use this rate as a base.

3. Number of Businesses Involved

It is impossible to estimate precisely the number of businesses that will be affected by these regulations; however, if the regulations had been in effect in fiscal years 1982 and 1981, the maximum number of businesses that would have been affected was 15,435 and 28,740, respectively.

4. Additional Recordkeeping Requirements

There are no additional recordkeeping requirements as a result of these regulations.

5. Alternatives

The primary alternatives would be to permit daily fluctuation of the interest rate and let lenders use their own prime rate as a base. This was rejected because:

(1) Daily fluctuations would be administratively difficult to monitor for both small business owners and SBA. Reconstructing a payment history in order to determine if the loan payments were properly credited would become extremely difficult.

(2) Permitting lenders to use their own prime rate as a base would (1) eliminate public access to the rate as few lenders publish their prime rate in a daily public print media and (2) permit lenders to tie the interest rate on SBA loans to a rate that is not necessarily reflective of capital market conditions.

6. Dollar Amount of Loans Affected

The dollar amount of loans affected cannot be precisely estimated, however, if the regulations had been in effect in fiscal years 1982 and 1981, the maximum dollar amount of loans that would have been affected was $1.63 billion and $2.90 billion, respectively.

7. Cost/Benefit Analysis of the Rule

The benefit of this rule is expected to be a lower interest rate and easier access to the prime rate for borrowers. There are no costs associated with these changes as they will only affect loans made on or after the implementation date. Loans made prior to that date will not have to comply with these regulations.

SBA is also proposing regulations that would permit the Agency to run a pilot program in three regions to test an alternative maximum interest rate. The proposed regulation would permit lenders located in the states of New York and New Jersey, the Commonwealth of Puerto Rico (Region II), the states of Kansas, Missouri, Iowa, Nebraska (Region VII), Arizona, California, Nevada, Hawaii, Guam and the Trust Territories (Region IX), to use the legal rate in the state as the maximum acceptable rate for an SBA loan. This experiment is being conducted in response to criticism that many lenders use the maximum permissible spread above the base rate on variable rate loans as the recommended spread rather than a ceiling. It is anticipated that competition among lenders will lower the typical spread charged on an SBA-guaranteed loan.

A second part of this pilot program will be a three percentage point limitation (300 basis points) on the servicing fee that a lender may retain if the loan is sold within six months of full disbursement. This limitation was suggested by the Small Business Committee on Capital Access as a means of encouraging lenders to pass through to the borrower some of the benefits of the lower rates typically found on long-term, government guaranteed instruments.

The Small Business Administration is seeking comments on the calculation of the servicing fee. One alternative would be to subtract the coupon rate received by the investor from the note rate paid by the borrower. A second alternative would be to subtract the yield to maturity received by the investor (including any discount or premium involved in the transaction) from the note rate paid by the borrower. On variable rate loans, rates in effect at the time of the sale would be assumed to remain constant during the life of the loan for the yield to maturity calculation. Comments should address the positive and negative aspects of these two servicing fee calculation methods.

SBA considers the two above-described amendments relating to the proposed pilot program to constitute a major rule for the purposes of E.O. 12291 and to have a significant economic impact on a substantial number of small entities. Therefore, for the purposes of the Regulatory Flexibility Act and E.O. 12291, the following analysis of these amendments is offered.

(1) Reason for action

SBA desires to test the hypothesis that many lenders use the maximum permissible spread above the base rate on variable rate loans as a recommended spread instead of a ceiling.

(2) Objective of action.

The objective is to accumulate empirical evidence in order to test the hypothesis.

(3) Number of businesses involved

It is impossible to estimate precisely the number of businesses that will be affected by these regulations; however, if the regulations had been in effect in fiscal year 1982, the maximum number of businesses that would have been affected was 4048.

(4) Additional recordkeeping requirements

There are no additional recordkeeping requirements as a result of these regulations.

(5) Alternatives

The primary alternative would be to maintain the status quo.

(6) Dollar amount of loans affected

The dollar amount of loans affected cannot be precisely estimated, however, if the regulation had been in effect in

fiscal year 1982, the maximum dollar amount of loans that could have been affected was $489,832,000.

(7) Cost/benefit analysis of the rule

The benefit of this rule is anticipated to be a lower interest rate charged to small businesses on variable rate loans.

List of Subjects in 13 CFR Part 120

Loan programs/business, Small businesses.

PART 120—[AMENDED]

Accordingly, pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 634(b)(6)), it is proposed to amend Part 120, Chapter I, Title 13, Code of Federal Regulations by adding paragraphs (C) and (D) to § 120.3(b)(2)(iii) to read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) *Fees and interest rates* * * *

(2) * * *

(iii) * * *

(C) Subject to paragraph (b)(2)(ii) of this section, and for loans approved on or after [effective date of this paragraph] a participating lender may utilize a fluctuating rate of interest. The fluctuations may occur not more often than monthly, and must rise and fall on the same basis. Fluctuation periods commence on the first business day of the month following full disbursement. The initial interest rate on the loan shall not exceed SBA's maximum acceptable rate as of the date the loan application was approved by SBA. Thereafter, the publication of, or variations in, SBA's maximum acceptable rate shall have no further effect or application when the interest rate on the note fluctuates as the base rate fluctuates. The base rate for fluctuation interest shall be the low New York prime rate in effect on the first business day of the month, as published in a national financial newspaper published each business day. For loans with maturities under seven (7) years, the increase in interest to be added to the base rate may be established by the lender up to, but connot exceed, two and one-quarter (2¼) percentage points. For loans with maturities of seven (7) or more years, the increase in interest to be added to the base rate may be established by the lender up to, but not to exceed, two and three quarter (2¾) percentage points, without regard to SBA's maximum acceptable rate, except as to the limitation on the initial interest rate as provided in this subparagraph. Amortization of the loan may be either by fixed principal amounts plus interest at the specified rate for the particular fluctuation period, or by equal payments combining principal and interest: *Provided, however,* That the equal payment may be based on an interest rate higher than the note rate to insure that future payments will be sufficient to pay interest on the outstanding principal.

(D) For a period of one year from [the effective date of this provision] and only for the States of New Jersey, New York, the Commonwealth of Puerto Rico (Region II); Iowa, Kansas, Missouri, Nebraska (Region VII); and Arizona, California, Hawaii, Nevada (Region IX), the maximum initial interest rate on a fluctuating rate loan shall be the State legal rate applicable to such loan. Thereafter, the rate may fluctuate and the loan be amortized as set forth in paragraph (b)(2)(iii)(C) of this section. If the guaranteed portion of a loan made pursuant to this subparagraph is transferred as provided in § 120.5(a)(3) of this Part to a third party within six months following full disbursement, such transfer shall be at a price which will not result in a differential greater than three percentage points (three hundred basis points) between the interest rate paid by the borrower and the yield (calculation to be supplied in final regulations) received by the transferee. The yield to maturity calculation on variable rate loans shall assume that the base rate [as defined in paragraph (b)(2)(iii)(B) of this section will not change during the term of the loan.

* * * * *

The remainder of § 120.3 shall remain unchanged.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated August 4, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-22153 Filed 8-15-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

Law and Order on Indian Reservations; Listing of Courts of Indian Offenses

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to update the listing of Courts of Indian Offenses. Accordingly, the Menominee (Wisconsin), Sault Ste. Marie (Michigan), Isabella (Michigan), Fort Mohave (Arizona), Yavapai-Prescott (Arizona), Reno Sparks (Nevada), Pleasant Point and Indian Township (Maine), and Winnemucca (Nevada) are being removed from the listing because these courts are now tribal courts. These adjustments will provide and updated, accurate listing of Courts of Indian Offenses.

DATE: Comments must be received no later than September 15, 1983.

ADDRESS: Written comments should be addressed to Chief, Branch of Judicial Services, Division of Tribal Government Services, Bureau of Indian Affairs, Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Allen L. Davis or George T. Skibine, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343-7885.

SUPPLEMENTARY INFORMATION: Eight courts are being deleted from the listing of Courts of Indian Offenses under 25 CFR 11.1(a) (also known as CFR courts). The Branch of Judicial services, Bureau of Indian Affairs conducted a survey of those tribes and has determined that these tribal entities derive the core of their substantive law from tribal law and order codes, or have ceased operations for other reasons. Menominee (Wisconsin), Isabella (Michigan), Fort Mohave (Arizona), Yavapai-Prescott (Arizona), Reno Sparks (Nevada), Pleasant Point and Indian Township (Maine) have adopted tribal law and order codes, and should be deleted from the listing of Courts of Indian Offenses. Sault Ste. Marie (Michigan), is presently served by the Bay Mills Tribal Court and will also be deleted. Winnemucca (Nevada) is presently served by the Fort McDermitt Tribal Court, and will therefore also be deleted from the listing.

The authority to issue rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. The intended effect of this proposed rule is to advise

affected communities, interested parties, and the public at large of the number and names of courts which are operating under this part. The listing is compiled for information purposes only and is therefore not a major rule under Executive Order 12291, and does not have any economic effect.

The primary authors of this document are Allen L. Davis and George T. Skibine, Office of Indian Services, Bureau of Indian Affairs, telephone number (202) 343-7885.

This proposed rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.*

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement and penalties.

It is proposed to revise paragraph (a) of § 11.1 of Part 11 of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations to read as follows:

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, §§ 11.1–11.87 of this part apply to the following Indian reservations:

(1) Omaha (Nebraska).
(2) Flandreau (South Dakota).
(3) Yankton (South Dakota).
(4) Wind River (Wyoming).
(5) Bois Forte (Minnesota).
(6) Red Lake (Minnesota).
(7) Cocopah (Arizona).
(8) Kaibab (Arizona).
(9) Hopi (Arizona) (Tribal court enforcement of special grazing regulations).
(10) Fallon (Nevada).
(11) Goshute (Nevada).
(12) Lovelock (Nevada).
(13) Te-Moak (Nevada).
(14) Walker River (Nevada).
(15) Washoe (Nevada).
(16) Yomba (Nevada).
(17) Duckwater Shoshone (Nevada).
(18) Kootenai (Idaho).
(19) Shoalwater Bay (Washington).
(20) Hoopa (California) (Jurisdiction limited to special fishing regulations).
(21) Anadarko Area Tribes (Western Oklahoma).
(22) Choctaw (Mississippi).
(23) Eastern Cherokee (North Carolina).

* * * * *

Dated: July 8, 1983.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-22299 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

29 CFR Part 1550

Rules and Regulations for Fiduciary Responsibility; Eligible Individual Account Plans

AGENCY: Pension and Welfare Benefit Programs.

ACTION: Withdrawal of notice of intent to propose a regulation.

SUMMARY: This document withdraws a preliminary notice of the Department of Labor's consideration of a proposed regulation which would define the term "eligible individual account plan" as it is used in the Employment Retirement Income Security Act of 1974 (ERISA). The Department has decided to terminate its rulemaking proceeding concerning the definition of that term and this document is intended to provide interested persons with notice of such termination.

FOR FURTHER INFORMATION CONTACT: Carol D. Gold of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, U.S. Department of Labor, (202) 523-8671. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1979, the Department of Labor (the Department) published a Notice of Intent to Propose a Regulation (the notice), regarding the definition of the term "eligible individual account plan" under section 407(d)(3) of ERISA.[1] Under ERISA, an eligible individual account plan is not subject to certain limitations, applicable to other employee benefit plans, which limit the plan's investment in qualifying employer securities and qualifying employer real property to 10 percent of the plan's assets.[2]

The Department has decided not to propose a regulation dealing with the definition of the term "eligible individual account plan" at this time. Accordingly, the Department is withdrawing the Notice thereby terminating its rulemaking proceeding in this area.

Withdrawal of Notice of Intent To Propose a Regulation

In view of the foregoing, the Notice of Intent to Propose a Regulation under Section 407(d)(3) of ERISA (44 FR 34517, June 15, 1979) is hereby withdrawn.

Signed at Washington, D.C., this 9th day of August, 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-22388 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-29-M

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[1] 44 FR 34517. Section 407(d)(3) of ERISA defines "eligible individual account plan" as follows:

(A) The term "eligible individual account plan" means an individual account plan which is (i) a profit-sharing, stock bonus, thrift, or saving plan; (ii) an employee stock ownership plan; or (iii) a money purchase plan which was in existence on the date of enactment of this Act and which on such date invested primarily in qualifying employer securities. Such term excludes an individual retirement account or annuity described in section 408 of the Internal Revenue Code of 1954.

(B) Notwithstanding subparagraph (A), a plan shall be treated as an eligible individual account plan with respect to the acquisition or holding of qualifying employer real property or qualifying employer securities only if such plan explicitly provides for the acquisition and holding of qualifying employer securities or qualifying employer real property (as the case may be). In the case of a plan in existence as of the date of enactment of this Act, this subparagraph shall not take effect until January 1, 1976.

Section 3(34) of ERISA defines the term "individual account plan" as "a pension plan which provides for an individual account for each participant and for benefits based solely upon the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeiture of accounts of other participants which may be allocated to such participant's account."

[2] *See* section 407(a) of ERISA. "Qualifying employer securities" are securities issued by an employer of any participant in a plan, or any affiliate of such an employer, that meet certain criteria established in section 407(b)(5) of ERISA, and "qualifying employer real property" is real property leased to such an employer or affiliate that meets criteria established in section 407(d)(4).

Notices

Federal Register
Vol. 48, No. 159
Tuesday, August 16, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Broad River Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request by Broad River Electric Cooperative, Inc. (BREC), for approval of contract documents for a long term wholesale power purchase arrangement to purchase the output of the Cherokee Falls Hydroelectric Facility, to be owned by Cherokee Falls Hydroelectric Associates. Approval of the contract may include approval of a lien accommodation to facilitate financing assistance by a non-REA lender.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and BREC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southeast Area—Electric, Room 0262, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–8436, or at the Office of Broad River Electric Cooperative, Inc. (R. C. Carroll, Manager), P.O. Box 790, Gaffney, South Carolina 29340, telephone (803) 489–5737, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by BREC and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The existing Cherokee Falls dam will be rehabilitated along with other ancillary facilities. A new powerhouse will be constructed to generate 3.5 MW output. This power will be linked into the existing distribution system of BREC by a short (less than 1 mile) 12.5 kV distribution line. The project has been reviewed by the Federal Energy Regulatory Commission and a license was issued on August 12, 1981.

REA determined that the proposed project is not likely to affect threatened or endangered species or critical habitat, and will have no effect on important farmland, forestland, wetlands, or cultural resources. Due to the nature of the generating facility, there are no practicable alternatives to locating the facility in a floodplain. The reservoir, however, will have a very small storage capacity and the dam will be equipped with automatic tilt gates, so impacts to the floodplain should be minimal.

Alternatives were considered, including no action, energy conservation and alternative generation facilities. REA determined that the proposed project is an acceptable way for BREC to provide service to its members.

Based upon the BER and supporting documents, REA prepared an EA concerning the proposed project and its impacts. In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, BREC advertised and requested comments on the environmental aspects of the proposed project. No comments were received. REA concluded that if the project is approved, the approval would not be a major Federal action that would significantly affect the quality of the human environment. An environmental impact statement is not necessary.

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

Dated: August 9, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83–22272 Filed 8–15–83; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Turkey Creek Watershed, Oklahoma; Availability of Record of Decision

AGENCY: Soil Conservation Service.

ACTION: Notice of availability of a record of decision.

SUMMARY: Roland R. Willis, responsible Federal official for projects administered under the provisions of Public Law 83–566, 16 U.S.C. 1001–1008, in the State of Oklahoma, is hereby providing notification that a record of decision to proceed with the installation of the Turkey Creek Watershed project is available. Single copies of this record of decision may be obtained from Roland R. Willis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone (405) 624–4360.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. 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: August 2, 1983.

Donald R. Vandersypen,

Assistant State Conservationist

[FR Doc. 83–22163 Filed 8–15–83; 8:45 am]

BILLING CODE 3410–16–M

Oil Creek Basin Public Water Based Fish & Wildlife RC&D Measure, Indiana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, IN 46224, telephone 317/248–4350.

SUPPLEMENTARY INFORMATION: 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 Guidleines (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 Oil Creek Basin Public Water Based Fish & Wildlife RC&D Measure, Perry County, Indiana.

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, Robert L. Eddleman, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for wetland wildlife habitat development. The planned works of improvement include constucting four dikes to create approximately eight acres of shallow water impoundments and a spring development to provide additional fresh water. Approximately 4.0 acres will be seeded and fertilized following construction.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contactin Robert L. Eddleman. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Robert L. Eddleman,

State Conservationist.

August 1, 1983.

[FR Doc. 83-22302 Filed 8-15-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 83-8-54, Docket 41441]

Denham Aircraft Services Corp. I. Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Denham Aircraft Services Corp. II Fitness Investigation:* Order 83-8-54, Docket 41441.

SUMMARY: The Board is instituting the *Denhan Aircraft Services Corp. II Fitness Investigation* (1) to determine the fitness of the applicant to operate overseas and foreign charter air transportation of persons, property, and mail and to comply with the Act and our rules, regulations and requirements; and (2) to approve, exempt, or disclaim jurisdiction over any interlocking or control relationships which may exist under sections 408 and 409 of the Act. The complete text of Order 83-8-54 is available as noted below.

DATES: Requests for additional evidence and petitions for leave to intervene shall be filed by September 6, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41441.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-8-54 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-54 to that address.

By the Civil Aeronautics Board: August 11, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22377 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-8-34]

Fitness Determination of Flight Line, Inc.; Commuter Air Carrier Fitness Determination

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-8-34, Order To Show Cause.

SUMMARY: The Board is proposing to find that Flight Line, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tenative fitness determination shall serve their responses on all persons listed below no later than August 29, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-8-84 is available from the Distribution Service, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-34 to that address.

By the Civil Aeronautics Board: August 10, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22374 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41553]

Martinair Holland, N.V. Enforcement Proceeding; Change of Date of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to begin on August 12, 1983, is changed to August 30, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 9, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-22372 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41453]

Midwest Express Airlines, Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to commence on August 25, 1983, at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., August 10, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-22371 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-8-43]

Minerve, Compagnie Francaise De Transports Aeriens, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 83-8-43.

SUMMARY: The Board proposes to approve the following application:

Applicant: MINERVE, COMPAGNIE FRANCAISE DE TRANSPORTS AERIENS, S.A.

Application Date: October 5, 1982, December 22, 1982 (supplement), January 20, 1983 (supplement), June 22, 1983 (amended); Docket: 41025.

Authority Sought: An initial foreign air carrier permit authorizing charter foreign air transportation of persons and property between any point or points in France and Corsica and any point or points in the United States.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 6, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of France in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

Addresses for objections: Docket 41025, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: Minerve, Compagnie Francaise de Transports Aeriens, S.A., c/o Mr. Andrew T. A. Macdonald or Mr. Andrew B. Weissman, Wilmer, Cutler & Pickering, 1666 K Street, NW., Washington, D.C. 20006.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For further information, contact Regis P. Milan, Jr., Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5880.

By the Civil Aeronautics Board: August 10, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22376 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

Northeast Imperial Airlines, Inc. Fitness Investigations; Hearing

[Docket 41048]

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on September 1, 1983, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. before the undersigned Administrative Law Judge.

Dated at Washington, D.C., August 11, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83-22370 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-8-44]

Spantax, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 83-8-44.

SUMMARY: The Board proposes to approve the following application:

Applicant: SPANTAX, S.A.; Docket: 39529.

Application Date: April 10, 1981, as amended July 1, 1981 and May 12, 1983.

Authority Sought: Renewal amendment of foreign air carrier permit for charter authority between points in Spain and points in the United States.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 6, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Spain in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the board's tentative findings and conclusions and issue the proposed permit.

Addresses for objections: Docket 39529, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Howard S. Boros, Boros and Garofalo, P.C., General Counsel, North America for Spantax, Suite 460, 1120 Connecticut Avenue, NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For further information, contact Regis P. Milan, Jr., Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5880.

By the Civil Aeronautics Board: August 10, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22375 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-8-46, Docket 41638]

Spokane-Alberta Service Case

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting Investigation: Order 83-8-46, Docket 41638.

SUMMARY: The Board is instituting the *Spokane-Alberta Service Case* to select primary and back-up carriers to provide scheduled service between Spokane, Washington, and Edmonton and Calgary, Alberta, Canada. (Route F.5 of the U.S.-Canada Air Transport Services Agreement). The proceeding will also consider whether Republic Airlines' certificate authority for these routes should be deleted under section 401(g) of the Act. The complete text of Order 83-8-46 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by August 29, 1983. Answers shall be filed by September 9, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41638, *Spokane-Alberta Service Case.*

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown, Bureau of International Aviation, Civil Aeronautices Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The Complete text of Order 83-8-46 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue,

NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-8-46 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 10, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-22373 Filed 8-15-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Utah Advisory Committee, Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:30 p.m., on August 31, 1983, at the Howard Johnson Motor Lodge, Unitah Room, 122 W. South Temple Street, Salt Lake City, Utah. The purposes of this meeting are to discuss the affirmative action report; and review the social indicators report.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Ms. Linda Dupont-Johnson, State Office Building, Suite 6270, Salt Lake City, Utah 84117, (801) 533-4061; or the Rocky Mountain Regional Office, Brooks Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 327-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 11, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-22369 Filed 8-15-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Affirmative Countervailing Duty Determination; Canned Tuna From the Philippines

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna, as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are 1.30 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants.

If this investigation proceeds normally, we will make our final determination by October 24, 1983.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377-3464 or 377-3530.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("The Act"), are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are 1.30 percent *ad valorem*.

Case History

On March 11, 1983, we received a petition in proper form from the Tuna Research Foundation, Inc., on behalf of the U.S. industry producing canned tuna. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in the Philippines of canned tuna.

Since the Philippines is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 31, 1983 we initiated a countervailing duty investigation (48 FR 15505).

On April 20, 1983, we presented a questionnaire concerning the allegations to the government of the Philippines at its embassy in Washington, D.C. Subsequently, on May 23, 1983, we determined that the case was "extraordinarily complicated" within the meaning of 703 (c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (48 FR 22976). On June 17, 1983, we received the responses to the questionnaire. Verification of the responses was conducted July 5-20, 1983, in the Philippines.

Of the eight producers which responded to the questionnaire, we selected for verification the six companies which accounted for 85 percent, by value, of exports to the U.S. The six companies were: Century Canning Corp., Judric Canning Corp., Philippine Tuna Canning Corp., Pure Foods Corp., Sancanco Canning Corp., and Premier Canning Coporation. We verified at the company and government levels the responses of the six companies, except Premier, which refused to cooperate. Any additional information provided for use in the final determination will be subject to verification. One additional exporter, Ayala was discovered during verification and information for that company was collected.

Scope of Investigation

The product covered by this investigation is tuna packed or preserved in any manner, not in oil, in airtight containers. The merchandise is currently classified under item numbers 112.3020, 112.3040, and 112.3400 of the *Tariff Schedules of the United States Annotated* (TSUSA).

The Ayala Corporation, Century Canning Corp., Judric Canning Corp., Mar Fishing Corp., Philippine Tuna Canning Corp., Premier Canning Corp., Pure Foods Corp., Sancanco Canning Corp., and South Pacific Export Company are the only known producers and exporters in the Philippines of the subject product exported to the United States. Two companies alleged in the petition (Diamond Seafoods Corp. and Santa Monica Canning Corp.) were not producers or exporters of tuna during the period for which we are measuring subsidization, which is the 1982 calendar year or 1982 corporate fiscal year, as appropriate.

Analysis of Programs

Based upon our analysis to date of the petition, the responses to our questionnaire and verification, we have preliminarily determined the following:

I. Programs Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna under the programs listed below.

A. *Preferential Loans.* Petitioners alleged benefits in the form of preferential loans provided through the Central Bank's operation of a rediscounting facility for selected loans. The Department requested from each of the companies under investigation information on all loans outstanding during the period for which we are measuring subsidization.

1. *Export Packing Credits.* The export packing credit (EPC) program is a rediscounting program offered by the Central Bank of the Philippines, which provides credit on eligible paper with original maturity of one year or less. Upon receipt of a letter of credit, an exporter may request from a commercial bank a loan predicated on the letter of credit, to finance working capital and other requirements. Exporters are charged a maximum interest rate of 12 percent, including fees. The Central Bank rediscounts up to 80 percent of the letter of credit at a rate of three percent. During the period of investigation, the maximum commercial interest rate for non-rediscounted paper was 18 percent. Since this program is available solely to exporters, and interest rates are less than those for comparable commercially available loans, we preliminarily determine that this program confers a bounty or grant upon exporters of canned tuna.

The benefit provided by this program was calculated by taking the difference between the actual interest paid by the companies and the amount of interest they would have paid using a comparable commercial interest rate. Since we could not identify a national average commercial interest rate, we used as our benchmark the average of the alternate rates (had rediscounting not been available) specifically set forth in each loan document. This benchmark was then applied to the principal amount for the average number of days which the loans were outstanding for each company, with the exception of Premier. Due to the lack of cooperation by Premier, we assumed that Premier borrowed the maximum amount for which they are eligible under the program. We applied the ceiling rate for short-term loans to this amount of EPC principal for the maximum allowable length of these loans. We allocated the amount of the benefit over the value of all exports of canned tuna, because packing credits are available only to exporters. On this basis, we calculated an *ad valorem* benefit of 1.03 percent.

3. *Food Production Credits.* Another type of loan for which rediscounting through the Central Bank if available is food production credit. Loans which are rediscounted by commercial banks with the Central Bank under this program are available to producers of canned tuna at a ceiling interest rate of 12 percent, including fees. As provided in Central Bank circular 784, this program is available only to members of the food industry. Since this program appears to be limited to an industry or group of industries within the meaning of section 771(5)(B) of the Act, we preliminarily determine that this program confers a bounty or grant upon the canned tuna industry. We calculated the benefit from these loans by applying the difference in the interest actually paid versus the interest that would have been paid using a generally available commercial interest rate. As we were unable to identify a national average commercial interest rate, we used as a benchmark the average alternate rate of interest specifically listed on each of the loan documents of the companies investigated. Because this program is available for both domestic and export food production, we allocated the benefit over total sales of canned tuna. The use of the food production credit resulted in a net bounty or grant of 0.06 percent *ad valorem.*

B. *Tax Incentives Available Under the Omnibus Investment Code.* The petition alleges that the Omnibus Investments Code—which provides a variety of investment incentives only to registered enterprises—confers bounties or grants. The allegation includes: (1) Incentives to registered enterprises (Article 45 of the Code); (2) incentives to registered export producers (Article 48 of the Code); and (3) incentives to registered export traders (Article 49 of the Code).

The Omnibus Investments Code, Presidential Decree 1789, establishes various tax incentives for the purpose of accelerating development of the economy of the Philippines by encouraging domestic and foreign investments in projects to develop various sectors of the economy, achieving self-reliance in basic requirements, and encouraging exports of Philippine products and services.

The Board of Investments (BOI) is responsible for the administration of the Omnibus Investments Code. In this regard, the BOI prepares an annual Investment Priorities Plan (IPP) listing the "preferred areas of investment" entitled to incentives under the Omnibus Investments Code. In order to become registered with the BOI, and thus entitled to the incentives offered in the Code, a company must be in an industry included in the IPP. Processed food (fish and other seafood), which includes canned tuna, is included in the 1982 Investment Priorities Plan. Because registration is limited by government direction to industries included in the IPP, and the criteria for such inclusion are not clear, we preliminarily determine that the following incentives provided for in the Omnibus Investments Code either are provided to a specific industry or group of industries or, as indicated, are tied to exports, and therefore confer bounties or grants.

One or more of the canned tuna producers/export traders benefitted from the following BOI incentives during the period of investigation:

1. Article 45(i) provides for a tax deduction for expansion reinvestment. This tax deduction is allowable when a registered enterprise reinvests its undistributed profit or surplus by transfer thereof to its capital account for procurement of machinery, equipment and spare parts, under a plan previously approved by the BOI or for expansion of machinery and equipment used in production or for the construction of buildings, improvements and equipment. The amount so reinvested, to the extent of 25, 37½ or 50 percent (37½ percent for canned tuna) is allowed as a deduction from its taxable income in the year in which such reinvestment is made subject to the conditions in the Code. One canned tuna producer used this incentive. The beneift measured is the tax savings which were claimed on the tax return filed during the period of investigation.

2. Article 48(b) provides for a tax deduction of direct labor costs and local raw materials. A registered export producer may, for the first five years from its registration of commercial operations, deduct from its taxable income from domestic and export sales and from all registered operations an amount equivalent to the direct labor cost of the product and the local raw material cost of its export products. This deduction may not exceed 25 percent of a company's total export revenue. One canned tuna producer used this incentive during the period for which we are measuring subsidization. The benefit measured is the tax savings which were claimed on the tax return during the period of investigation.

3. Article 48(f) provides for export producers, a tax exemption on imported capital equipment in the amount of: 50 percent of the tariff duties and compensating tax payable on the imported capital equipment and accompanying spare parts for domestic producers; and 100 percent of the tax for imports within seven years from the date of registration with the BOI for export producers, respectively. One canned tuna producer used this benefit during the period for which we are measuring subsidization. Because this is an import tax exemption, the benefit is comprised of exemptions occuring during the year for which we are measuring subsidization.

4. Article 49(d) provides for a tax deduction to export trading companies. For the first five years from the date of registration of its commercial operations, a registered export trading company may deduct an amount equal to 20 percent of its total export sales. This deduction is made from taxable income attributable to all registered operations fo the firm. However, the BOI may apportion up to one half of this deduction to the registered export producer which is exporting through the registered trader. One canned tuna producer and one export trading company shared this benefit. The benefit measured is the tax savings which were claimed on the tax return filed during the period of investigation.

Because Article 45(i) is available to all registered producers, not merely registered export producers, we allocated the benefit received under this article over total sales of canned tuna. The benefits received under Articles 48(b) and 49(d), because they are available only to registered producers or registered export traders, constitute export subsidies and were allocated over total export sales of canned tuna. The use of these BOI domestic and export incentives resulted in a net bounty or grant of 0.07 percent and 0.14 percent *ad valorem*, respectively.

II. Program Preliminarily Determined not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in the Philippines of canned tuna under the following programs.

A. *Articles of the Omnibus Investments Code.* 1. The petition alleges that Article 45(b) of the Omnibus Investments Code—which allows registered enterprises to use accelerated depreciation—confers bounties or grants. Some companies depreciate their equipment over half its estimated useful life, as allowed under the Code, and others depreciate in the same manner using the Philippines Bureau of Internal Revenue regulations. Since these regulations have an identical provision for accelerated depreciation which is generally available, we preliminarily determine that Article 45(b) of the Code does not confer bounties or grants.

2. The petition alleges that Article 48(a) of the Omnibus Investments Code—which allows registered export producers to receive tax credits equal to the sales, compensating and specific taxes and duties paid on the supplies, raw materials and semi-manufactured products used in production, even if not physically incorporated in the exported products—confers bounties or grants. In its response the government of the Philippines stated that tax credits made available under this article are only for raw materials and semi-manufactured products used in production and actually forming a part of the product. They further stated that supplies that are not physically incorporated in the product are not eligible for this tax credit. On verification, we found companies which used Article 48(a) had received this tax credit for taxes paid on materials which are physically incorporated in the exported product. Since the tax credit does not exceed taxes actually paid, and the materials are physically incorporated in the product, we preliminarily determine that Article 48(a) of the Code does not confer bounties or grants.

B. *Marginal Deposit Requirements.* The petition alleges that the Central Bank's relaxed cash deposit requirements on letters of credit opened by Philippine importers confers bounties or grants. The Philippine government's response states that the relaxed marginal deposit requirements is a guideline issued by the Bankers Association of the Philippines (BAP), which is not a government owned or controlled entity. On verification, we found that the BAP is an independent association which is not owned or controlled by the government. Since the BAP operates independently of the government and the Central Bank, and the guidelines reflect the commercial considerations of the BAP, we preliminarily determine that the BAP's guideline on relaxed marginal deposits does not confer bounties or grants.

C. *Philippine Export and Foreign Loan Guarantee Corporation.* The petition alleges that the Philippine Export and Foreign Loan Guarantee Corporation (PHILGUARANTEE)—through which the government of the Philippines guarantees both local and foreign banking and financial institutions against **any** loss that may be incurred in connection with the grant of loans or credit accommodations to exporters or producers of export products—confers bounties or grants in that the guarantees lower the cost of credit available for Philippine exports. In its response the government of the Philippines stated that PHILGUARANTEE provides guarantees on bid, performance and advance payment bonds, as well as working capital loans. On verification, we found that guarantees are available from private institutions at the same charges as from PHILGUARANTEE. Also, these guarantees are generally available. Thus, we preliminarily determine that guarantees provided by PHILGUARANTEE do not confer bounties or grants.

D. *Development Bank Loans.* The petition alleges that loans are granted at preferential interest rates to companies producing the products under investigation by the Development Bank of the Philippines (DBP), a government-owned bank.

The Development Bank of the Philippines has the power to grant loans to any company in the agricultural or industrial sectors. In addition, their charter also allows them to grant loans to municipalities and individuals. On verification we found that in practice the loans are generally available, and that the bank granted loans only on the basis of commercial considerations. Thus, we preliminarily determine that loans from the Development Bank of the Philippines are generally available and therefore, do not confer bounties or grants.

III. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that the following programs which were identified in the notice of "Initiation of Countervailing Duty Investigation, Canned Tuna from the Philippines" are not being used by the manufacturers, producers, or exporters in the Philippines of canned tuna.

A. *Articles of the Omnibus Investments Code.* 1. The petition alleges that Article 45(a) of the Omnibus Investments Code confers a bounty or grant. Under this article, all enterprises registered with the Board of Investments may take a deduction from taxable income of all capitalized organizational and pre-operating expenses, over a period not more than ten years from the beginning of operations. From the responses and verification, we found that none of the companies deduct organizational and pre-operating expenses under 45(a) of the Code. Those companies which did take a deduction

for pre-operating expenses did so under the Philippine Bureau of Internal Revenue regulations. Thus, we preliminarily determine that Article 45(a) of the Code has not been used.

2. The petition alleges that Article 45(c) of the Omnibus Investments Code confers a bounty or grant. Under this article, a registered enterprise may carry forward all net operating losses incurred in any of the first ten years of operation. Such losses may be carried forward for six years immediately following the year in which the loss was incurred, and may be used as a deduction from taxable income. In their responses, the government of the Philippines and the companies stated that this program has not been used by any of the companies under investigation. On verification we found that no company has taken a deduction under this article. Thus, we preliminarily determine that Article 45(c) of the Code has not been used.

3. Article 45(d) allows registered producers a tax exemption on imported capital equipment in the amount of 50 percent of the tariff duties and compensating tax payable on imported capital equipment and accompanying spare parts. Article 48(f) provides registered export producers with a simlilar exemption. Although one producer did receive a tax exemption on imported capital equipment, we were not able to ascertain at verification under which article it took this exemption due to its lack of cooperation. Therefore, the exemption was allocated to Article 48(f) and we preliminarily determine that Article 45(d) was not used.

4. The petition alleges that Article 45(e) of the Omnibus Investments Code confers bounties or grants. Under this article, a registered enterprise which has purchased domestically produced equipment and received prior Board approval may take a tax credit equivalent to 100 percent of the value of compensating tax and customs duties that it would have paid had it imported the machinery, equipment and spare parts. In their response, the government of the Philippines and the companies stated that this program had not been used by any of the companies during 1982. On verification we found that none of the companies had taken this tax credit on domestically purchased capital equipment. Thus, we preliminarily determine that Article 45(e) of the Code had not been used.

5. The petition alleges that Article 45(f) of the Omnibus Investments Code confers bounties or grants. This Article allows a registered enterprise to take a tax credit for taxes withheld on interest payments on foreign loans when no such credit is available to the lender-remittee in its own country and the registered enterprise has assumed the liability for payment of the tax due from the lender remittee.

The government of the Philippines and the companies stated in their responses that Article 45(f) of the Code had not been used. Thus, we preliminary determined that Article 45(f) of the Code has not been used.

6. The petition alleges that Article 45(l) of the Omnibus Investments Code confers bounties or grants. This allows registered enterprise to take an additional deduction from taxable income of 50 percent of all expenses for labor training incurred for upgrading the productivity and efficiency of unskilled labor, provided that such deduction does not exceed 10 percent of all direct labor wages for a given year. The responses of the government of the Philippines and the companies stated that they had not used this program. Thus, we preliminarily determine that Article 45(l) of the Code has not been used.

7. The petition alleges that Article 48(e) of the Omnibus Investments Code confers a bounty or grant. This Article allows a registered export producer an additional deduction from taxable income equal to one percent of the annual increase in its exports when it uses a new brand name that distinguishes its products from non-Philippine products. In their responses the government of the Philippines and the companies stated that none of the companies used this program. Thus, we preliminarily determine that Article 48(e) of the Code has not been used.

8. The petition alleges that Article 51 of the Omnibus Investments Code confers bounties or grants. This article provides for financial assistance to registered enterprises through the preferential granting of government loans. In its response, the government of the Philippines stated that Article 51 of the Code merely sets forth a policy that government financial institutions should accord priority to applications for financing made by BOI registered firms. However, this policy is not binding on either government or other financial institutions. On verification we found that the policy Article 51 is a policy which in practice is not always followed. In addition, there is no evidence on the record that any company had access to loans as a result of this Article. Thus, we preliminarily determine that Article 51 has not been used.

9. The petition alleges that Article 52 of the Omnibus Investments Code confers bounties or grants. This Article provides for financial assistance to registered enterprises through preference for private financial assistance. Article 52 also authorizes the Insurance Commissioner to allow insurance companies to invest in new issues of stock of registered enterprises. In their responses the companies stated they had not received any preferential loans. On verification we found that none of the outstanding company stock was held by any insurance companies. Thus, we preliminarily determine that Article 52 of the Code has not been used.

10. The petition alleges that Article 53 of the Omnibus Investments Code confers bounties or grants. This Article provides for financial assistance to employees of registered enterprises through government loans for the purchase of shares of stock in registered enterprises, at a rate not to exceed six percent per annum. This article provides a benefit to private individuals who wish to purchase stock. Thus, it is preliminarily determined not to be used by any of the companies which produce or export canned tuna.

11. The petition alleges that Article 54 of the Omnibus Investments Code confers bounties or grants. This Article provides for the creation of an Institute of Export Development which promotes exports by providing government funded assistance. The government of the Philippines stated in its response that the Institute of Export Development has not been operational in the last three years. It further stated that the tuna producers had never received any assistance from the Institute. In their responses, the companies stated that they had not received any assistance from the Institute. On verification, we found that the Institute had not been active for the past three years. Thus, we preliminarily determine that Article 54 of the Code has not been used.

12. In addition to the articles discussed above, we investigated the remaining articles which comprise Book I of the Omnibus Investments Code. Based on information received in the responses and on verification, we preliminarily determine that the articles of the Code which are not discussed *supra* are not used by the producers, manufacturers or exporters of canned tuna from the Philippines.

B. The petition alleges the government of the Philippines confers bounties or grants through the Export Credit Insurance and Guarantee Corporation which issues insurance policies and certificates of guarantee against credit risks arising our of or in connection with export transactions. In its response the

government of the Philippines stated that although the corporation was established, it has never become operational. Thus, we preliminarily determine that the Export Credit Insurance and Guarantee Corporation has not been used.

Verification

In accordance with section 776(a) of the Act, all data used in making our final determinations subject to verification. We verified the data for five of the eight company responses used in making our preliminary determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of tuna as defined in the "Scope of Investigation," *supra*, which are entered, or withdrawn from warehouse, for consumption, on or after date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond for each such entry of the merchandise in the amount of 1.30 percent *ad valorem* of exports of canned tuna from the Philippines.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 8, 1983, at the U.S. Department of Commerce, Conference Room D, 14th Street and Constitution Avene, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration Room 3099B, at the above address within ten days of this notice's publication. Request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by September 1, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: August 8, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-22329 Filed 8-15-83; 8:45 am]

BILLING CODE 3510-25-M

Final Determination of Sales at Less Than Fair Value: Shop Towels of Cotton From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value: Shop towels of cotton from the People's Republic of China.

SUMMARY: We have determined that shop towels of cotton from the People's Republic of China are being sold, or are likely to be sold, in the United States at less than fair value. Therefore, we have notified the United States International Trade Commission (ITC) of our determination, and the ITC will determine whether these sales at less than fair value have caused injury to a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of our preliminary determination on March 28, 1983 and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Michael Ready, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3963 or 377-2613.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that shop towels of cotton (shop towels) from the People's Republic of China (PRC) are being sold, or are likely to be sold, in the United States at less than "fair value", as provided in section 735 of the Tariff Act of 1930, as amended (the Act).

For the shop towels sold by China National Textiles Import and Export Corporation (Chinatex) and China National Arts and Crafts Import and Export Corporation (CNART) the only exporters of the subject merchandise, we have found that the foreign market value exceeded the United States price on 100.0 percent of sales compared. These margins ranged from 2.6 percent to 52.6 percent. The weighted-average margin on all sales compared is 38.8 percent.

Case History

On August 24, 1982, we received a petition in proper form from Counsel for Milliken and Company filed on behalf of the United States industry producing shop towels of cotton. The petitioner alleged that shop towels of cotton from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such sales are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation on shop towels of cotton. We notified the ITC of our action and initiated this investigation on September 13, 1982 (47 FR 41149). The ITC informed the Department on October 8, 1982, that there is a reasonable indication that imports of shop towels of cotton from the People's Republic of China are materially injuring, or are threatening to materially injure, a United States industry. Therefore, we proceeded with this investigation. On December 9, 1982, we determined this case to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination from January 31, 1983, until March 22, 1983 (47 FR 56377).

On March 28, 1983, we preliminarily determined that cotton shop towels from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value (48 FR 12764). On April 19, 1983, we postponed the date for making a final determination in this investigation until August 10, 1983 (48 FR 16729).

Scope of Investigation

The product covered by this investigation is shop towels of cotton from the People's Republic of China, which are currently classified under item number 366.2740 of the Tariff Schedules of the United States Annotated. Since Chinatex and CNART are the only exporters of shop towels from the People's Republic of China we limited our investigation to them.

This investigation covers the period from March 1, 1982 through August 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent United States price because sales by both Chinatex and CNART were made to unrelated purchasers prior to the importation of the merchandise into the United States. We calculated purchase price based on the C & F or CIF price to the unrelated purchasers. Where appropriate, we made deductions for inland freight, ocean freight, warehousing, and marine insurance.

Foreign Market Value

Petitioners alleged that the economy of the People's Republic of China is state-controlled to the extent that sales of the subject merchandise from that country do not permit a determination of foreign market value under 19 U.S.C. 1677b(a). After an analysis of the PRC's economy, and careful consideration of the briefs submitted by the parties, the Commerce Department concluded that the PRC is a state-controlled-economy country for purposes of this investigation.

Among the factors that were involved in determining the state-controlled issue were the fact the major raw material, cotton, has production targets and prices set or heavily influenced by the state, and that the textile industry has a dual pricing structure that is heavily influenced by the state.

As a result, § 353.8 of the Commerce Regulations requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled-economy" country or the constructed value of such or similar merchandise based on the factors of production in the state-controlled-economy country valued in a non-state-controlled economy country to determine foreign market value.

For purposes of the preliminary determination, we attempted to secure the cooperation of a surrogate country whose home market sales (or in the absence of home market sales, export sales) we could use to determine foreign market value. It was determined, after an analysis of countries which produce shop towels, that Pakistan would be the most appropriate surrogate. However we were unable to obtain information on Pakistani home market sales of the product.

Other countries which we considered as possible surrogates were India, Indonesia, Thailand, Singapore, the Dominican Republic, Colombia, and Hong Kong. We were unable to obtain information on prices or costs of manufacture of shop towels in India, Indonesia, Thailand, Singapore, the Dominican Republic, Colombia or Hong Kong. In many of those countries no shop towels were produced during the period of investigation.

Therefore, for purposes of the preliminary determination pursuant to § 353.8(a)(1) of our Regulations, we based foreign market value on the average fob price of all imports of shop towels into the United States from May 1982 through October 1982, except those imported from the PRC. This information was gathered from Department of Commerce imports statistics, which was the best information available.

Since we were unable to secure the cooperation of a surrogate who produced shop towels during the period of investigation, for purposes of the final determination, we based foreign market value on the constructed value of the Merchandise, which was calculated pursuant to the provisions of § 353.8(c) of the Commerce regulations. Specifically, we gathered and verified information concerning the factors of production pertinent to the production of shop towels in the PRC. We then valued these factors in a non-state-controlled economy country (Indonesia) which we determined to be reasonably comparable in economic development to the PRC. To these values we added an amount for general expenses and profit as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

Verification

In accordance with section 776(a) of the Act, we verified data used in making this determination in this investigation, by using verification procedures, which included on-site inspection of manufacturer's facilities and examination of company records and selected original source documentation containing relevant information.

Submitted Comments

Petitioner's Comments

The following written comments were submitted by petitioners in response to our preliminary determination:

Comment 1

Petitioners argue that for the final determination, the Department should base foreign market value on United States producer costs.

The petitioner bases this argument on the following points:

(1) "The U.S. antidumping law expressly provides for the use of U.S. producer prices/costs to establish foreign market value in a non-market-economy."

DOC Position

We agree that the Act does provide for the use of United States producer prices or costs as a basis for foreign market value, but it is our opinion that such prices or costs should be used only as a last resort when no other information is available. Such is not the case here.

(2) "Petitioner has produced the only detailed and verifiable information on the record."

DOC Position

We disagree. In our opinion the information we have gathered and verified in the PRC concerning factors of production is sufficient to form the basis for foreign market value.

(3) "In this case, it is particularly appropriate to determine foreign market value on the basis of U.S. Cost of Production Data." In support of this allegation petitioner alleges that "prices now being offered by all major foreign suppliers are substantially below fully allocated production costs."

DOC Position

The allegation of sales below cost is unsubstantiated and unverified. Moreover, even if the allegation were proven true, such fact would not affect our methodology in this investigation. As noted above we are basing foreign market value on *constructed value*, not selling prices.

Comment 2

"The reliance on section 353.8(c) of the Department's regulations would raise serious legal and practical problems." The petitioner argues against the constructed value methodology outlined in section 353.8(c) on the grounds that it is not provided for in the Act itself.

DOC Position

This methodology was provided for by regulation and was used in investigations prior to enactment of the Trade Agreements Act of 1979, the most recent version of the antidumping law. Inasmuch as Congress did not express

disapproval of this methodology when it enacted the Trade Agreements Act, we consider this methodology legally valid.

Comment 3

The petitioner argues that we cannot use the § 353.8(c) methodology because the respondent's information on PRC production is inadequate.

DOC Position

The information submitted by the respondent together with information we gathered and verified in the PRC is sufficient to form the basis for foreign market value.

Comment 4

Petitioner argues that if the Department does use the § 353.8(c) methodology it should add amounts for general expenses and profit experienced by a company in a surrogate country if said amounts are greater than the statutory minimums of 10 percent and 8 percent respectively.

DOC Position

We agree with this comment. However, we found that the surrogate producer in Indonesia experienced general expenses and profit of less than the statutory minimums of 10 and 8 percent. We therefore added the statutory minimums.

Comment 5

The petitioner argues that if the Department uses the § 353.8(c) methodology it should adjust upward the yarn input factor supplied by the PRC and make allowance (an addition) for machinery "wear and tear" in the PRC. According to the petitioner, machinery wear and tear should be accounted for by factors for depreciation and long- and short-life supplies.

DOC Position

We agree with this comment and have increased the yarn input factor and developed factors for depreciation and long- and short-life supplies.

Comment 6

The petitioner argues that an "allocation must be made for indirect material cost not reported, or understated by respondents." Specifically the petitioner asserts that the respondents have omitted any factor for ink usage (ink used to mark each towel "made in China") and have provided incomplete information concerning packing materials.

DOC Position

We agree with this comment and have made allowance for ink usage and have adjusted the production factor submitted by the respondent for packing materials to include each item of material observed as part of PRC shop towel packing.

Comment 7

The petitioner argues that "allocations for internal and transoceanic freight must be based on surrogate country prices."

The petitioner goes on to state there are three items of freight which should be valued in a surrogate country: transportation of raw materials to the mills, transportation of finished towels from the mills to the ports of export (inland freight), and transportation of the towels from the ports of export to the ports of entry in the United States (ocean freight).

DOC Position

Only the first category, raw material transportation, is a factor to be considered in calculating foreign market value. We have accounted for this factor by valuing all raw material factors in Indonesia on a delivered price basis. With regard to the other types of transportation cited by the petitioner, inland and ocean freight, these are items which are deducted in the calculation of United States price pursuant to section 772(d)(2)(A) of the Act. There is no provision in this section or elsewhere in the Act which authorizes the use of surrogate country information in determining deductions for inland and ocean freight.

Respondent's Comments

The following written comments were submitted by respondents in response to our preliminary determination:

Comment 1

The respondent argues that "foreign market value should be based on Pakistani sales to the United States".

DOC Position

Information gathered by the American Consulate in Karachi, Pakistan, from the Towel Manufacturers Association of Pakistan indicates that there may be significant sales of shop towels for consumption in the home market of Pakistan. The Act and Regulations establish an order of preference according to which we must examine a surrogate country producer's home market sales before examining their sales to other countries, including the United States. However, the Government of Pakistan did not grant the Department permission to contact Pakistani shop towel producers. It is the Department's policy not to make such contacts without government permission. The refusal of the Government of Pakistan to grant us permission to contact Pakistani shop towel producers precludes us from examining home market sales in Pakistan. Because of the statutory and regulatory preference for home market as opposed to export sales, in the absence of information concerning home market sales of shop towels in Pakistan, it is inappropriate to use Pakistani sales of shop towels to the United States as the basis for foreign market value in this investigation.

Comment 2

The petitioner argues that in the absence of information concerning home market sales in Pakistan, we should use information regarding Pakistani sales to the United States as the basis for foreign market value because such information would qualify as the best information available within the meaning of section 776(b) of the Act.

DOC Position

It is inappropriate to use information regarding Pakistani sales of shop towels to the United States as the best information available in view of the recent determination by the Commerce Department that the Government of Pakistan subsidizes exports of textile mill products *(Certain Textiles and Textile Mill Products from Pakistan: Final Countervailing Duty Determination 45 FR 37873, June 5, 1980).*

Foreign market value based on subsidized export prices would not be an accurate reflection of the normal costs, expenses, and profits of the producer as required by section 773(c) of the Act.

Moreover, the constructed value methodology employed by the Department in this current investigation is in accordance with section 773(c) of the Act and § 353.8 of the Regulations, and the information relied upon has been verified in accordance with section 776(a) of the Act. Therefore, we have no need to resort to use of best information available (under section 776(b) of the Act) here.

Comment 3

The respondent argues that "Commerce is under an affirmative obligation to seek available information respecting Pakistani sales to the United States". The respondent suggests that Department should obtain such

information from the import records of the United States Customs Service.

DOC Position

As explained above, the methodology employed by the Department is in accordance with the Act and Regulations and the information used has been verified. In addition, as noted above in our response to respondent's comment 1, we consider Pakistani sales of shop towels to the United States an inappropriate basis for foreign market value for purposes of this final determination.

Comment 4

The respondent argues that "In valuing the PRC production factors, Commerce must ensure that costs reflect production at a level of economic development comparable to that in PRC shop towel factories".

Specifically, the respondent argues that not only must the surrogate country from which information is gathered be at a level of economic development comparable to the PRC, but that also the sector in the surrogate country from which information is gathered must be comparable in economic development to the PRC shop towel industry.

DOC Position

Under § 353.8(c) of the Commerce Regulations, the Department must determine that a non-state-controlled-economy country is comparable in terms of economic development to the state-controlled economy country. We therefore compared the sectoral infrastructure development in the PRC with the sectoral infrastructure development in Indonesia in the course of determining that Indonesia is at a stage of economic development comparable to the PRC. Under § 353.8(c), after a country is determined to be at a comparable level of economic development to the state-controlled-economy country under investigation, no separate analysis of the shop towel industry in the two countries is required.

Suspension of Liquidation

On March 28, 1983, we instructed the United States Customs Service, in accordance with section 733(d) of the Act, to suspend liquidation of all entries of shop towels of cotton from the People's Republic of China subject to this investigation. As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse for consumption of this merchandise will continue to be suspended. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins, shown as percentages of the FOB China price, are as follows:

Exporter	Weighted-average margin (percent)
China National Textiles Import & Export Corp.	31.3
China National Arts & Crafts Import & Export Corp.	40.0
All Others	38.8

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department made its preliminary affirmative determination or 45 days after the Department made its final affirmative determination.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on shop towels of cotton from the People's Republic of China, entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

August 10, 1983.

[FR Doc. 83-22378 Filed 8-15-83; 8:45 am]

BILLING CODE 3510-25-M

Certain High-Capacity Pagers From Japan; Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Antidumping Duty Order—Certain High-Capacity Pagers from Japan.

SUMMARY: In separate investigations, the U.S. Department of Commerce ("the Department") and the U.S. International Trade Commission ("ITC") have determined that certain high-capacity pagers from Japan are being sold at less than fair value and that these sales are materially injuring a U.S. industry. Therefore, all entries, or warehouse withdrawals, for consumption of this merchandise made on or after February 1, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, or withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: August 16, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-3464.

SUPPLEMENTARY INFORMATION: For the purpose of this antidumping duty order the term "certain high-capacity pagers" covers tone-only paging signal receivers, 3,000 or more of which can be operated in a paging system on a single radio frequency channel. This covers all tone-only high-capacity pagers regardless of tariff classifications. The merchandise is currently classified under item numbers 685.24 (solid-state (tubeless) radio receivers), 685.2475 (radio receivers above 30 MHz, but not over 400 MHz), 685.2480 (receivers above 500 MHz, but not over 1,000 MHz), and 685.7035 (other sound signalling apparatus) of the *Tariff Schedules of the United States Annotated (TSUSA)*. Display pagers are not subject to this order.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on February 1, 1983, the Department preliminarily determined that there was a reasonable basis to believe or suspect that high-capacity pagers from Japan were being sold at less than fair value (47 FR 243). On June 23, 1983, the Department made

its final determination that imports of this merchandise were being sold at less than fair value (48 FR 28682). On August 2, 1983, in accordance with section 735(b) of the Act (19 U.S.C. 1673d(b)), the ITC determined and notified the Department that importations of tone-only high-capacity pagers from Japan are materially injuring a U.S. industry.

Therefore, the Department directs U.S. Customs officers to assess, upon further instruction from the Department, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the U.S. price for all entries of certain high-capacity pagers from Japan, with the exception of display pagers. These antidumping duties will be assessed on all of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the Federal Register, and all future entires of said merchandise.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time that importers deposit their estimated normal customs duties on the merchandise, an additional cash deposit of estimated antidumping duties equal to the following rates:

Manufacturer/seller/exporter	Weighted-average margin (percent)
Matsushita Communication Industrial Co	109.56
Nippon Electric Co., Ltd	70.35
All other manufacturers	89.97

This determination constitutes an antidumping duty order with respect to certain high-capacity pagers from Japan pursuant to section 736 of the Act (19 U.S.C. 1673e) and 353.48 of the Commerce Regulations (19 CFR 353.48). The Department intends to conduct an administrative review within twelve months of publication of this order, as provided in section 751 of the Act (19 U.S.C. 1675). We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 8, 1983.

[FR Doc. 83-22328 Filed 8-15-83; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A meeting of the Subcommittee on Export Administration will be held August 24, 1983, 9:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session: 9:30–11:30 a.m. Discussion of renewal of Export Administration Act: H.R. 3231 and S. 979, Insurance against losses due to export controls, paperwork burden issue, bulk licensing issue, and OEA automation update.

Executive Session: 1:30–3:30 p.m. Discussion of matters properly classified under Executive Order 12356, dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act. A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 522b(c)(1) was approved on February 2, 1983, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information, contact Debbie Kappler (202) 377–1455.

Dated: August 10, 1983.

Lawrence J. Brady,

Assistance Secretary for Trade Administration.

[FR Doc. 83-22330 Filed 8-15-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Orientation Program for Prospective Offerors for the U.S. Civil Space Remote Sensing Satellite Systems

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Orientation Program for Prospective Offerors for the U.S. Civil Space Remote Sensing Satellite Systems.

SUMMARY: The Source Evaluation Board for Civil Space Remote Sensing (SEB/CSRS) was established by the Secretary of Commerce to evaluate the transfer of the operational civil weather and land remote sensing satellites to the private sector. The SEB/CSRS will develop and issue a Request for Proposals (RFP). Prior to the issuance of the RFP, the Government will conduct an orientation program and on-site tours for prospective offerors to enable firms to learn the operational procedures involved in managing the civil remote sensing satellite systems.

Schedule

Sept 1 Overview and Ground Rules—World Weather Building, Room 707; 5200 Auth Road, Camp Springs, MD
Sept 2 Landsat Briefing—Spacecraft, R&D, and Ground—World Building, Room 707
Sept 6 Landsat Tour—Building 28, Goddard Space Flight Center, Greenbelt, MD
Sept 7 Preparation Day
Sept 8 Landsat Questions & Answers—World Weather Building, Room 707
Sept 9 Polar Metsat Briefing—Spacecraft, R&D, and Ground—World Weather Building, Room 707
Sept 10 Polar Metsat Tour—Federal Building #4, Suitland, MD
Sept 12 Polar Metsat Questions & Answers—World Weather Building, Room 707
Sept 13 GOES Briefing—Spacecraft, R&D, and Ground—World Weather Building, Room 707
Sept 14 GOES Tour—Federal Building #4 & World Weather Building
Sept 15 Preparation Day
Sept 16 GOES Questions & Answers—World Weather Building, Room 707
Sept 19 Tour of Wallops CDA Station—Wallops, Virginia
Sept 20 Cost of Operation Briefing—World Weather Building, Room 707
Sept 21 Preparation Day
Sept 22 Wallops CDA and Cost Q&As—World Weather Building, Room 707
Sept 26 Tour of EROS Data Center (EDC)—Sioux Falls, South Dakota
Sept 27 EDC Questions & Answers—Sioux Falls, South Dakota
Sept 28 & 29 Travel Days

Sept 30 Tour of Gilmore CDA Station—Gilmore Creek, Fairbanks, Alaska

FOR FURTHER INFORMATION CONTACT: Source Evaluation Board (ELH), Room 300, NBOC–1, 11420 Rockville Pike, Rockville, Maryland 20852, Telephone: (301) 443–3925 (This is not a toll-free call).

SUPPLEMENTARY INFORMATION: The Department of Commerce currently owns and operates the United States' civil operational satellite remote sensing systems. Included are the Geostationary Operational Environmental Satellites (GOES), the polar-orbiting meteorological satellites (NOAA), and the land observing satellites (Landsat). Taken together, the GOES and NOAA satellites make up the metsat systems.

On March 8, 1983, President Reagan announced his decision to transfer these satellite systems, together with their associated ground command and control systems and preprocessing centers to the private sector. Pursuant to this Presidential Decision, the Secretary has appointed a Source Evaluation Board for Civil Space Remote Sensing (SEB/CSRS). The SEB/CSRS will prepare a Request for Proposal (RFP), evaluate submitted bids, and deliver recommendations for a decision by the Secretary of Commerce. The SEB plans to release a draft RFP to industry for comment by the end of September. Industry comments will be due 30 days after the release. The formal RFP is scheduled to be issued in early December. Prior to the issuance of the RFP, the Government will conduct an orientation program for prospective offerors to enable firms to learn the current status of the civil system including the various command, control, and processing centers. The program will include a presentation of the overall system plus opportunities for on-site observation of the Government's satellite operations.

Scope of the Potential Offers

The Source Evaluation Board has determined that potential offerors may propose to undertake one or more of three components of the overall system. These components consist of the Landsats, geostationary metsats, and polar metsats. Each component consists of (1) spacecraft; (2) ground stations for command and control, tracking and data transfer; and (3) ground stations for preprocessing the data which includes timing, rectifying, earth locating and calibrating. Offers may also be submitted for any combination of the three components including the entire system. Offerors are required to be U.S. firms.

Registration

Interested offerors should submit, in writing by August 24, 1983, an indication of their intent to participate in the program together with brief (one page) resumes of persons who will attend. Participation will be limited depending upon response to this notice. Notice of the number of permitted participants will be given on August 26, 1983, by telephone. For this reason applications for participation cannot be accepted after close of business August 24, 1983, and all responses must give a single telephonic point of contact.

The program will be conducted September 1–30, 1983, at various facilities of the National Environmental Satellite, Data, and Information Service (NESDIS), an agency of the Department of Commerce's National Oceanic and Atmospheric Administration. Notices of intent to participate must arrive by August 24, 1983, at: Source Evaluation Board for Civil Space Remote Sensing (ELH), Room 300, NBOC–1, 11420 Rockville Pike, Rockville, Maryland 20852.

Description of Activities

Documentation: Documentation on the Landsat program will be available August 24, 1983. Copies can be picked up in Room 300, NBOC–1; 11420 Rockville Pike, Rockville, Maryland, on that day. The Metsat documents will be distributed at the Overview Briefing on September 1, 1983.

Overview Briefing: On September 1, 1983, a briefing on all aspects of the Government's satellite operations will be given. This briefing will cover the technical aspects of the satellites and ground systems. Participation will be limited (See paragraph above on "Registration").

Visits to Operational Facilities: Arrangements have been made for prospective offerors to visit the seven (7) sites at which civil remote sensing satellite operations are currently carried out. These are:

Satellite Operations Control Center (SOCC)—This is the center which performs command and control of the GOES (geostationary) and NOAA (polar-orbiting) Metsats.

Central Data Distribution Facility (CDDF)—This is the facility which reformats and transmits GOES imagery data to National Weather Service field offices for use in preparing severe weather and other forecasts.

Wallops Station (CDA–W)—This facility is the command and data acquistion station for GOES satellites and one of the two command and data acquisition (CDA) stations for the NOAA satellites.

Building 28, GSFC (Bldg. 28)—This is the facility at which command, control, and data processing for the Landsat satellite is carried out.

Gilmore Creek (CDA–AK)—This facility is the other CDA station for the NOAA satellites.

Data Processing Subsystem (DPSS)—This is the facility at which data preprocessing for the NOAA polar Metsats is performed.

EROS Data Center (EDC)—This is the facility, operated by the U.S. Department of the Interior, which performs data preprocessing and product production for NOAA's Landsat system.

Conditions of Participation

In addition to the limit on number of observers mentioned above, participants must agree to the following conditions of participation:

a. Because the facilities to be visited are not designed to accommodate visitors and the staff are engaged in the operational control of satellites, observers must refrain from any interference with personnel in the performance of their duties.

b. The Government will designate points-of-contact who will be the interface for all questions of procedure. The designated Government representatives will be empowered to constrain the location and activities of participants while on Government premises, including exclusion from operational areas, when in their opinion such presence represents a threat to the system.

c. Questions concerning operations should not be directed to operational personnel, but may be asked during scheduled question and answer sessions.

Dated: August 11, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

[FR Doc. 83-22385 Filed 8-15-83; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the

Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

(1) Army Foster Care Needs Assessment Project.

(2) Behavior Problem Checklist.

This is an assessment of number of children of Army members and demographic data concerning child, family, and agencies providing services to be used by Health Services Command and Department of Army in respect to decisions related to Army Community Service Centers.

State Social Service Departments, Foster Care Units: 900 respondents, 585 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1c535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

August 11, 1983.

[FR Doc. 83-22366 Filed 8-15-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-CERT-274, et al.]

Allied Corp., et al.; Applications for Certification of Eligible Use of Natural Gas to Displace Fuel Oil

In the matter of Allied Corp. [ERA Docket No. 83–CERT–274], Anchor Glass Container Corp. [ERA Docket No. 83–CERT–275], Ross Laboratories [ERA Docket No. 83–CERT–276] and American Laundry Machinery Inc. [ERA Docket No. 83–CERT–277].

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding these applications is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

1. 83–CERT–274

Applicant: Allied Corp., Morristown, N.J.
Date Filed: July 22, 1983
Facility location: Baltimore, Md.
  Gas Volume: 876,000 Mcf per year
  Oil Displacement: 106,000 barrels of No. 6 fuel oil (2.8% sulfur)
Facility location: Hopewell, Va.
  Gas Volume: 5,500,000 Mcf per year
  Oil Displacement: 870,000 barrels of No 6 fuel oil (2.8% sulfur)
Facility location: Ironton, Ohio
  Gas Volume: 705,000 Mcf per year
  Oil Displacement: 112,000 barrels of No. 6 fuel oil (1.0% sulfur)
  Totals: Gas Volume 7,081,000 Mcf per year Oil Displacement 1,088,000 barrels of No. 6 fuel oil
Eligible Sellers: Ashland Exploration, Inc., Ashland, Ky., and Glen L. Haught & Sons, Smithville, W. Va.
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va., Baltimore Gas & Electric Co., Baltimore, Md., Commonwealth Gas Pipeline Corp., Richmond, Va., and Columbia Gas of Ohio, Inc., Portsmouth, Ohio

2. 83–CERT–275

Applicant: Anchor Glass Container Corp., Lancaster, Ohio
Date Filed: July 22, 1983
Facility location: Winchester, Ind.
  Gas Volume: 1,225,000 Mcf per year
  Oil Displacement: 200,000 barrels of No. 6 fuel oil (2.0% sulfur)
Eligible Sellers: Excalibur Energy Corp., Nashville, Tenn., Exxon U.S.A., Houston, Tex., Cheyenne Petroleum Co., Oklahoma City, Okla., and Graham Resources, Metairie, La.
Transporter: Panhandle Eastern Pipe Line Co., Houston, Tex.

3. 83–CERT–276

Applicant: Ross Laboratories, a Div. of Abbott Laboratories, Inc., Columbus, Ohio
Date Filed: July 22, 1983
Facility location: Altavista, Va.
  Gas Volume: 217,000 Mcf per year
  Oil Displacement: 1,440,000 gallons of No. 6 fuel oil (1.0% sulfur)
Eligible Seller: Gabriel Oil & Gas, Inc., Columbus, Ohio
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va., and Lynchburg Gas Co., Lynchburg, Va.

4. 83–CERT–277

Applicant: American Laundry Machinery Inc., Norwood, Ohio
Date Filed: July 27, 1983
Facility location: Norwood, Ohio
  Gas Volume: 44,875 ,Mcf per year
  Oil Displacement: 307,363 gallons of No. 2 fuel oil (.3% sulfur)
Eligible Sellers: Exxon U.S.A., Houston, Tex., Texas Gas Corp., Owensboro, Ky., and Ohio Gas Marketing Corp., Newark, Ohio
Transporters: Columbia Gas Transmission Corp., Charleston, W. Va., Texas Gas Transmission Corp., Owensboro, Ky., Cincinnati Gas & Electric Co., Cincinnati, Ohio, and The Union Light, Heat & Power Co., Covington, Ky.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning any of these applications to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register**. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of any of the above applications may be requested by any interested person in writing within the ten-day comment period. The request should state the

person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register.**

Issued in Washington, D.C., on August 9, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-22295 Filed 8-15-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board, Materials R&D Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Materials R&D Panel of the Energy Research Advisory Board (ERAB).

Date and time: September 12, 1983 from 8 am to 4 pm.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A-110, Washington, DC 20585.

Contact: William Woodard, U.S. Department of Energy, Office of Energy Research (ER-6), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide longrange guidance in these areas to the Department.

Tentative Agenda:

- Discussion of Initial Working Draft Report on DOE's Materials R&D Programs.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on August 9, 1983.

Ira M. Adler,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 83-22294 Filed 8-15-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-2-1-006]

Alabama-Tennessee Natural Gas Company; Compliance Filing

August 10, 1983.

Take notice that on August 4, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing Second Substitute Forty-First Revised Sheet No. 3-A, and Second Substitute Forty-Second Revised Sheet No. 3-A, as part of its FPC Gas Tariff, Third Revised Volume No. 1. These tariff sheets are proposed to become effective May 31, and July 1, 1983, respectively.

Alabama-Tennessee states that the revised tariff sheets are submitted as a result of compliance with the Commission's letter order of July 15, 1983.

Second Substitute Forty-First Revised Sheet No. 3-A provides for the following rates:

Rate schedule	Rates after current adjustment
G-1:	
Demand	$8.37
Commodity	371.97¢
SG-1: Commodity	433.12¢
I-1: Commodity	399.49¢

Second Substitute Forty-Second Revised Sheet No. 3-A provides for the following rates:

Rate schedule	Rates after current adjustment
G-1:	
Demand	$8.37
Commodity	342.50¢
SG-1: Commodity	403.65¢
I-1: Commodity	370.02¢

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with *Rules 211 and 214* of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214)." All such petitions or protests should be filed on or before August 19, 1983. Protests will be considered by the Commission 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 must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22353 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-625-004]

Boston Edison Company; Compliance

August 11, 1983.

Take notice that on July 13, 1983, Boston Edison Company ("BEC"), submitted for filing the "Rate S-7B" for service to the Towns of Concord, Norwood and Wellesley, Massachusetts. The Rate S-7B was filed pursuant to a Commission Order of July 8, 1983, which approved the Settlement Agreement. The affected FPC Rate Schedules are Nos. 47, 48 and 51.

BEC states that Article 2.2 of the Settlement Agreement provides that the S-7B rate will replace the S-7A rates as of the effective date of the G-3 increase.

BEC states that the effective date is May 31, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 19, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22354 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-717-000]

Connecticut Yankee Atomic Power Company; Refund Report

August 11, 1983.

Take notice that on July 25, 1983, Connecticut Yankee Atomic Power Company submitted for filing a refund report pursuant to Opinion No. 148. The company states that no refunds have been made as none were mandated by Opinion No. 148.

Therefore, the company requests that the Commission formally terminate this proceeding.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 19, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22355 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-120-000]

El Paso Natural Gas Company; Tariff Filing

August 11, 1983.

Take notice that on August 4, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, Twenty-Sixth Revised Sheet No. 8 and Fourth Revised Sheet Nos. 9 and 34-A to its FERC Gas Tariff, Original Volume No. 1.

El Paso states that on April 1, 1983 it placed in effect a two-part rate (fixed monthly and Commidity) for sales under its Rate Schedules ABD-L and A-1-X pursuant to the "Stipulation and Agreement in Settlement of Rate Proceedings" filed March 15, 1983 at Docket No. RP82-33, *et al.*, and approved by Commission letter order dated May 31, 1983. The fixed monthly charge consists, in part, of a unit amount in dollars per dth multiplied by Buyer's billing determinant for the month as specified in Section 4.2 of the rate schedule, which monthly billing determinants were derived by distributing Buyer's sales quantity incorporated in the settlement at Docket No. RP82-33, *et al.*, over twelve months using historical and forecast data for the period July 1982 through June 1983.

El Paso is proposing to revise the monthly billing determinants for Arizona Public Service Company ("APS") and Southwest Gas Corporation ("Southwest") under the ABD-L Rate Schedules and Southwest's monthly billing determinants under Rate Schedule A-1-X to reflect a redistribution of those Buyers' settlement sales quantities. El Paso states that APS' settlement sales quantity has been redistributed to take into account El Paso sales to APS during July 1982 through June 1983 which were offset by APS purchases from Clay Basin Storage Company under the Clay Basin Interim Storage Arrangements, and to eliminate nonjurisdictional sales by El Paso to APS from the allocation factors. Southwest's settlement sales quantities have been redistributed based on their foreccast purchase requirements for the period April 1983 through March 1984 rather than the historical and forecast data for July 1982 through June 1983 used in the settlement at Docket No. RP82-33, *et al.*

The proposed revisions do not change the rate levels or settlement sales quantities agreed to by the parties at Docket No. RP82-33, *et al.*, but only reflect a redistribution, by month, of the settlement quantities for APS and Southwest. Thus, the total annual fixed charges to those two customers will also remain the same.

El Paso requests, pursuant to Section 154.51 of the Commission's Regulations, that the Commission grant waiver of the notice requirements of § 154.22 of its Regulations as necessary to permit the tendered revised tariff sheets to become effective on April 1, 1983, the date monthly billing determinants for APS and Southwest were placed in effect under the provisions of the settlement at Docket No. RP82-33, *et al.* This filing only affects the timing of the annual payment of fixed charges by APS and Southwest and El Paso is authorized to state that APS and Southwest concur in this filing and the proposed effective date of April 1, 1983.

El Paso states that copies of the instant filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before August 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22356 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-50-002]

Houston Pipe Line Co.; Extension Reports

August 11, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before September 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

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 party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-50-002	Houston Pipeline Co., P.O. Box 1188, Houston, TX 77001	El Paso Natural Gas Co	7/25/83	C	10/26/83
ST80-59-002	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 7701	El Paso Natural Gas Co	7/25/83	C	10/26/83
ST80-64-002	Phillips Petroleum Co., Bartlesville, OK 74004	United Gas Pipe Line Co	7/29/83	C	11/2/83
ST82-54-001	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77252	Louisiana Intrastate Gas Corp	7/29/83	B	11/2/83
ST82-59-001	Houston Pipe Line Co., P.O. Box 1188, Houston TX 7701	Northern Natural Gas Co	7/28/83	C	10/30/83
ST82-60-001	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Northern Natural Gas Co	7/28/83	C	10/30/83
ST82-87-001	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251	United Gas Pipe Line Co	7/19/83	G	12/3/83
ST82-143-001	Nothern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Southern Natural Gas Co	7/25/83	G	12/17/83

Note: The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.

[FR Doc. 83-22358 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-39-000]

Kansas Corporation Commission and Pan Eastern Exploration Co.; Preliminary Finding

In the matter of Kansas Corporation Commission Section 108 NGPA Determinations, Pan Eastern Exploration Company Weese 1-1 Well, *et al.* [*See* Appendix A] JD Nos. 83-17367, *et al.* State Docket Nos. K-82-0249, *et al.*)

Issued: August 3, 1983.

I. Background

On January 10, 1983, the Kansas Corporation Commission (Kansas) filed with the Federal Energy Regulatory Commission (Commission) notices of determination that the 23 Pan Eastern Exploration Company (Pan Eastern) wells referenced in the attached Appendix A qualified as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. V 1982). Notice of the Kansas determinations was published in the **Federal Register** on February 9, 1983. By letter dated February 23, 1983, Commission Staff advised Kansas and the parties that the Kansas notices of determination, filed on January 10, 1983, were incomplete.[1]

In order to obtain stripper well classification under section 108 of the NGPA, § 274.206(a) of the regulations, 18 CFR 274.206(a) (1982), requires that an applicant submit, among other things, proof that the maximum efficient rate of flow (M.E.R.) for the well for which the determination is sought is 60 Mcf or less per production day. The methods by which the M.E.R. may be determined are set forth at 18 CFR 271.807 (1982).

Section 271.807(a) provides as follows:

Determination under recognized conservation practice. If a maximum efficient rate of flow for a well, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas, has been established by a jurisdictional agency, production of natural gas at that rate shall be deemed to be production at the maximum efficient rate of flow.

The determinations submitted by Kansas, however, do not set forth a determination of the M.E.R. but state instead, for each well, that "[t]he subject well is capable of producing natural gas at a rate in excess of 60 Mcf per day but has been assigned a minimum well allowable under the provisions of the Basic [Proration] Order for the Hugoton Field. This assigned allowable permits the well to produce 50 Mcf per day."

In light of the statement that the wells are capable of producing more than 60 Mcf per day and the fact that actual production against actual line pressure, during the test months used, resulted in production rates substantially in excess of 60 Mcf per production day for most of the wells, the February 23, 1983 letter of Commission Staff requested Kansas to explain why the deliverability tests were a valid measure of the subject wells' actual ability to deliver natural gas.

By letter dated May 26, 1983, Pan Eastern responded that, in its view, "the allowable under the Basic Prorartion Order constitutes a maximum efficient rate of flow as anticipated by section 108 of the Natural Gas Policy Act of 1978 and FERC regulations § 271.807(a)."

By letter dated June 22, 1983, however, Kansas stated that it did not feel that the granting of a minimum allowable is equivalent to the determination of a M.E.R. for purposes of an NGPA section 108 classification. Kansas stated further that "[a]t this time, [Kansas] has not defined the term, maximum efficient rate of flow. The minimum allowable established by the provision in the Basic Order for the Hugoton Field was not determined for the purpose of establishing a M.E.R."

II. Discussion

Since Kansas has explicitly stated that the minimum allowable for the Hugoton Field is not a determination of the well's M.E.R., the M.E.R. must be determined by utilizing the alternative methods set forth in 18 CFR 271.807(b)(1) (1982).[2]

Section 271.807(b)(1) provides for determining the M.E.R. when a well has produced nonassociated gas at an average rate of 60 Mcf per production day or less for a 90-day production period, and when prior production data is available, as follows:

(1) *Prior production data available.* If production data are available for the 12-month period ending concurrently with such 90-day production period, the applicant shall submit such data.

(i) If such 12-month's production data established that the well produced natural gas at a rate which did not exceed an average of 60 Mcf per production day for such 12-month

[1] This letter tolled the commencement date of the 45-day review period within which the Commission must act to prevent the jurisdictional agency determination from becoming final under NGPA section 503. *See* § 275.202(b) of the Commission's regulations, 18 CFR 275.202(b) (1982).

[2] Since Kansas indicates it has not established an M.E.R. for the subject wells, and a determination of M.E.R. under § 271.807(a) appears to be unavailable, the alternative methods of determination under § 271.807(b) must be used. Since Kansas and Pan Eastern agree that the subject wells are capable of producing more than 60 Mcf per day, § 271.807(b)(3), which allows a qualifying M.E.R. to be based on "other substantial evidence," such as "flow tests, which measure the capability of the well to produce natural gas under normal operating conditions," would not serve to qualfiy the wells. Nor would the wells qualify under § 271.807(b)(2), which operates only when prior production data is not available.

period, there is a rebuttable presumption that the well produced at its maximum efficient rate of flow.

(ii) If such 12-month's production data established that the well produced natural gas at a rate which did not exceed an average of 70 Mcf per production day for such 12-month period, the jurisdictional agency shall make a deferred determination in accordance with paragraph (c).

The actual production from the subject wells is set forth in Appendix B. The actual production from these wells during deliverability test months ranges from 50 Mcf per day to 830 Mcf per day. Moreover, during the 12-month period ending concurrently with the designated 90-day production period, production from these wells ranges from 72 Mcf per day to 780 Mcf per day. thus, the wells do not qualify pursuant to § 271.807(b).[3]

Presented with similar factual circumstances in another case, the Commission issued on August 6, 1979, a Notice of Preliminary Finding in Docket No. GP79-75, 44 FR 47,799 (1979), and held that the mere fact that a well's production was lowered "to meet the requirements of a State 'allowables' program" was not necessarily "substantial evidence that the well produced at its maximum efficient rate of flow to meet the test established in NGPA section 108(b)(1)(B)."

The NGPA definition of stripper well natural gas requires more than merely 60 Mcf or less per production day during the preceding 90-day period (NGPA section 108(b)(1)(A)); it requires, in addition, that "during such period such well produced at its maximum efficient rate of flow, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas." (NGPA section 108(b)(1)(B).)

Accordingly consistent with the foregoing discussion, we do not find substantial evidence that the subject wells produced at their M.E.R., thereby meeting the test established in section 108(b)(1)(B) of the NGPA.

III. Finding

The Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determinations submitted by Kansas for the wells referenced in Appendix A, are not supported by substantial evidence in the record upon which these determinations were made.

By direction of the Commission.

[3] To date, Pan Eastern has filed notices of disqualification for eight of the subject wells due to excess production. (See Appendix B.)

Commissioner Hughes dissented.

Kenneth F. Plumb,

Secretary.

APPENDIX A

Well name	FERC JD No.	State Docket No.
Weese 1-1	83-17367	K-83-0249
Stout 1-35	83-17368	K-82-0250
Barker 1-27	83-17369	K-82-0251
Spalding 1-25	83-17370	K-82-0252
Morgan 2-27	83-17371	K-82-0277
Low 1-17	83-17372	K-82-0278
Beckley 1-21	83-17373	K-82-0143
Hoffman 1-29	83-17374	K-82-0139
Hayward 1-25	83-17375	K-83-0141

APPENDIX A—Continued

Well name	FERC JD No.	State Docket No.
Holt 1-17	83-17376	K-82-0142
Fithian 1-9	83-17377	K-82-0140
Fouts 1-11	83-17378	K-82-0279
Simons 1-23	83-17381	K-82-0253
Shafer 1-7	83-17382	K-82-0190
Reed 1-15	83-17383	K-82-0191
Phillips 1-1	83-17384	K-82-0193
Ramey 1-11	83-17385	K-82-0192
Perry 1-9	83-17386	K-82-0194
Nix 1-3	83-17990	K-82-0182
Leeper 1-21	83-17991	K-82-0184
Jensen 1-17	83-17992	K-82-0185
Kelly 1-15	83-17993	K-82-0183
Morgan 1-33	83-17994	K-82-0186

APPENDIX B

Well name	Date of deliverability test	Result of test	Actual Mcf/d during test month	Mcf/d 12 month period ending concurrently with 90 day period [1]	Mcf/d past 24 months [2]	Mcf/d 90 day/ period [3]
Weese 1-1	October 1980	0	406.5	550.5	681	34
Stout 1-35	do	0	203.2	330.4	443	40
Barker 1-27	December 1980	49	65.0	71.9	95	30
Spalding 1-25	November 1980	0	81.3	212.0	840	45
Morgan 2-27	do	15	561.1	660.5	821	42
Low 1-17	December 1980	105	96.6	80.7	100	28
Beckley 1-24 [4]	February 1981	0	409.0	441.6	830	40
Hoffman 1-29	October 1980	0	439.9	583.5	956	42
Hayward 1-25 [4]	December 1980	0	361.1	270.0	366	43
Holt 1-17	November 1980	0	69.6	116.4	666	37
Fithian 1-9 [4]	October 1980	0	357.0	522.7	1,074	44
Fouts 1-11	do	89	185.7	309.1	365	49
Simons 1-23	do	0	210.2	331.8	461	35
Shafer 1-7 [4]	do	0	830.2	779.8	1,271	33
Reed 1-15	do	0	284.0	540.9	1,028	31
Phillips 1-1	do	0	266.7	579.1	1,202	41
Ramey 1-11	do	0	63.7	296.6	910	39
Perry 1-9 [4]	February 1981	0	683.4	729.3	1,160	28
Nix 1-3 [4]	November 1980	0	729.9	673.2	1,196	47
Leeper 1-21	October 1980	0	425.7	621.6	931	49
Jensen 1-17 [4]	do	0	131.8	272.9	365	25
Kelly 1-15	do	0	672.9	677.7	1,098	46
Morgan 1-33	do	0	50.3	255.3	1,098	43

[1] Assuming 365 Days/year.
[2] As given by Applicant.
[3] Wells under a 50 Mcf/d allowable.
[4] Wells which have disqualified to date.

[FR Doc. 83-22351 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-746-000]

Lockhart Power Company; Refund Report

August 11, 1983.

Take notice that on July 20, 1983, Lockhart Power Company ("LPC"), submitted for filing a refund report, pursuant to a Commission Letter Order of March 2, 1983.

LPC states that the amount of the total refund is $14,302.80 and includes interest of $723.80.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 19, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22359 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-107-015]

Natural Gas Pipeline Company of America; Filing of Report of Refunds

August 10, 1983.

Take notice that Natural Gas Pipeline Company of America (Natural), on August 4, 1983, tendered for filing its verified report of distributions of refunds for the period December, 1980 through March, 1981. The refund reflected the effect of Article VI of the

Docket No. RP80–107 Stipulation and Agreement pertaining to emergency sales and "Order Denying All Motions for Stay of Refund Obligation and Establishing Refund Procedure", issued July 14, 1983 at Docket No. RP80–107.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protecst with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before August 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83–22390 Filed 8–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–2–27–000]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

August 11, 1983.

Take notice that North Penn Gas Company (North Penn) on August 8, 1983 tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1 pursuant to its PGA Clause for rates to be effective September 1, 1983.

Specifically, North Penn has included in its semi-annual PGA, to be effective September 1, 1983, the following:

(1) A decrease of 45.410¢ per Mcf to reflect changes in the cost of gas purchased.

(2) A surcharge credit of 19.626¢ per Mcf resulting from amounts accumulated in the Unrecovered Purchased Gas Cost Account for the period January 1, 1983 through June 30, 1983; the jurisdictional portion of supplier refunds received by North Penn for the same six month period; carrying charges computed in accordance with the Federal Energy Regulatory Commission's (Commission) Regulations; and a carry-over balance from the surcharge effective for the period September 1, 1982 through February 28, 1983.

As part of this filing, North Penn has also included Eighth Revised Sheet No. 15H which reflects no incremental pricing surcharges under Section 15 of the General Terms and Conditions of its tariff.

On June 29, 1983, a settlement in Docket No. RP82–132 was certified to the Commission. Since none of the parties thereto, including Commission Staff, have objected to the terms of the settlement, this PGA filing has been prepared on the assumption that the settlement will be approved.

North Penn respectfully requests waiver of the 30 day notice requirement contained in the Commission's Rules and Regulations so that this filing may become effective September 1, 1983 as proposed. North Penn states that it did not receive notice of its supplier rate changes in order to make a timely filing.

While North Penn believes that no other waivers are necessary in order to permit this filing to become effective September 1, 1983, as proposed, North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective September 1, 1983.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.11, 385.214). All such petitions or protests should be filed on or before August 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83–22381 Filed 8–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER83–555–000, ER83–556–000, and ER83–557–000]

Northern States Power Company; Application

August 11, 1983.

Take notice that on July 18, 1983, Northern States Power Company ("NSP (M)"), submitted for filing a revision of its one-time fee obligation of NSP(M)'s application for approval of a change in the accounting and ratemaking treatment of the recovery of spent nuclear fuel disposal costs.

NSP(M) states that as a result of a more detailed audit by the Company's external auditing firm, the information indicates that the one-time fee obligation is $94.57 million, rather than the $93.40 million as originally estimated. Thus, this change represents a $450,000 deficit to NSP(M). The Company, therefore, proposes that the $450,000 be recovered through the Company's existing sinking fund accrual procedures for interim away-from-reactor storage.

NSP(M) states that the filings of NSP(W) and LSDP in Docket Nos. ER83–555–000 and ER83–556–000 are contingent on and in conjunction with the Commission's acceptance of the filing in Docket No ER83–557–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 or the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83–22382 Filed 8–15–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP83–38–000]

State of Oklahoma et al.; Preliminary Finding

Issued: August 3, 1983.

In the matter of State of Oklahoma, Section 103 NGPA Determinations; Robert A. Mason, McGuire #1 Well, JD #83–05766; Jimmy W. Gray, Maness #1–19 Well, JD #83–13758; Landers & Musgrove, Andrews #1 Well, JD #83–13768; Woods Petroleum, McDaniel #15–2 Well, JD #83–14791; Roy Edwards and Company, Edwards A #5 Well, JD #83–14820; Western States Oil and Gas, Cermak #1 Well, JD #83–21823; Tuthill and Barbee, Simpson Walker #1–31 Well, JD #83–21793; Docket #GP83–38–000; Preliminary Finding.

Background

Between October 27, 1982 and February 11, 1983, the Oklahoma Corporation Commission Oil and Gas Conservation Division (Oklahoma) filed

with the Federal Energy Regulatory Commission (Commission) seven separate notices of its determination that natural gas produced from the McGuire #1 Well, the Maness #1 Well, the Andrews #1 Well, the McDaniel #15-2 Well, the Edwards A #5 Well, the Cermak #1 Well, and the Simpson Walker #1-31 Well (Subject Wells) qualifies as gas produced from new, onshore production wells under section 103 of the Natural Gas Policy act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982). Notices of the Oklahoma determination were published in the **Federal Register.**[1] The Commission Staff concluded that the notices were incomplete, requested Oklahoma to provide an explanatory statement of its reasons for an affirmative determination, in accordance with § 274.104(a)(6) of the Commission's regulations (18 CFR 274.104(a)(6) (1982)), and tolled the running of the 45-day Commission review period until a response was received (18 CFR 275.202(a) (1982)).

In Oklahoma's response to the tolling letters, received by the Commission on June 22, 1983, Oklahoma reaffirmed its determinations on the basis of: (1) the decision in *L&B Oil Co.*, v. *Federal Energy Regulatory Commission*, 665 F.2d 758 (5th Cir. 1982); (2) the Commission's orders in Docket Nos. GP83-9-000 and GP83-10-000, issued May 27, 1983; and (3) a prior determination by the New York State Department of Environmental Conservation involving a section 103 determination for a reentered dry hole, which became final when the Commission took no action within the 45-day review period.

The relevant facts, as submitted by Oklahoma, for each of the Subject Wells, are as follows:

McGuire #1 Well

The McGuire #1 Well, located in Noble County, Oklahoma, was initially spudded in on March 20, 1975, by Robert A. Mason, applicant, and drilled to a depth of 4645 feet. Perforations were made at a depth between 4595 and 4600 feet in the Oswego Formation. There is no evidence in the record to indicate that this well was plugged and abandoned or reentered, or that the well was a dry hole. Additionally, there is no record evidence of the total depth to which this well was drilled on reentry, whether it was sidetracked on reentry, or whether gas was produced after reentry from portions of the well other than the original wellbore.

Maness No. 1-19 Well

The Maness No. 1-19 Well, located in Garvin County, Oklahoma was initially spudded in on July 5, 1956, by Midland Operating Company, and drilled to a depth of 5,423 feet. No production resulted, and the well was plugged and abandoned on September 11, 1956, as a dry hole. Jimmy W. Gray, applicant, reentered the well on December 11, 1981, drilled out the cement plug, and set the production casing, since no production casing was set in the original hole. The total depth of the well on reentry was not increased nor was there any directional drilling. Perforations were made between 4,970 to 5,010 feet in the Viola Formation.

Andrews No. 1 Well

The Andrews No. 1 Well, located in Kay County, Oklahoma, was initially spudded in on August 26, 1953, by Amerada Petroleum Corporation, and drilled to a total depth of 3,822 feet. Perforations were made between 3,580 to 3,607 feet in the Red Fork Formation. According to the well completion report dated October 9, 1953, the well was classified as a gas well and had an initial production test of 380 Mcf (24 hour rate flowing through open tubing). The applicant, Landers and Musgrove, included a statement by a consulting engineer, Lloyd C. Taylor, dated April 29, 1982, that the well was deemed a dry hole and was plugged, and that the well did not produce gas that was sold prior to plugging. However, the plugging report indicates that the well last produced 40 Mcf of gas on January 20, 1955, and that plugging commenced on June 3, 1955, because gas was depleted. It appears that the well produced some gas prior to plugging but there is no information on the total volume of production or the disposition of the gas. Reentry operations were performed by Landers & Musgrove on October 6, 1981. The total depth of the well on reentry was not increased nor was there directional drilling. Perforations were made between 3,593 to 3,601 feet in the Red Fork Formation and 3,764 to 3,768 feet in the Mississippi Chat Formation.

McDaniel No. 15-2 Well

The McDaniel No. 15-2 Well, located in Garvin County, Oklahoma was initially spudded in on October 18, 1963, by Pawnee Production Company, and drilled to a total depth of 6,904 feet. No production resulted from this entry, and the well was plugged on April 1, 1965 as a dry hole. The well was reentered by Woods Petroleum, applicant, on March 18, 1981, and no additional drilling was performed beyond the depth originally drilled. Perforations were made between 5,771 to 5,784 feet in the 1st Bromide Formation.

Edwards A No. 15 Well

The Edwards A No. 5 Well, located in Payne County, Oklahoma, was initially spudded in on May 11, 1973, by Ketal Oil Producing Company, and drilled to a total depth of 4,500 feet. The well was abandoned as a dry hole, and an application to convert the well into a salt water disposal well was granted by Oklahoma on September 13, 1973. Reentry operations were performed by Roy Edwards and Company, applicant, on April 25, 1982, and the well was slightly deepened to a total depth of 4,535 feet. Perforations were made between 4,487 to 4,514 feet in the Bartlesville Formation.

Cermak No. 1 Well

The Cermak No. 1 Well, located in Noble County, Oklahoma, was initially spudded in on November 23, 1953, by Western States Oil and Gas Company, applicant, and drilled to a total depth of 5,344 feet. No production resulted from this entry and the well was plugged and abandoned on December 15, 1953, as a dry hole. Reentry operations were also performed by Western States Oil and Gas Company in June 1981, and no additional drilling was performed beyond the depth originally drilled. Perforations were made between 4,492 to 4,496 feet and 4,554 to 4,574 feet in the Checkerboard Formation (oil), 4,776 to 4,782 feet and 4,781 to 4,793 feet in the Skinner Formation (oil), and 5,107 to 5,212 feet in the Viola Lime Formation (oil).

Simpson Walker No. 1-31 Well

The Simpson Walker No. 1-31 Well, located in Woodward County, Oklahoma, was initially spudded in on August 22, 1961, by Union Oil of California, and drilled to a depth of 6,238 feet. No production resulted from this entry, and the well was plugged on August 31, 1961 as a dry hole. Reentry operations were performed by S. Keith Tuthill and Bill J. Barbee, applicant, on April 28, 1978, and no additional drilling was performed beyond the depth originally drilled. Perforations were made from between 5,610 to 5,944 feet in the Oswego Formation and 6,068 to 6,080 feet in the Mississippi Formation.

[1] *See* Appendix A for the respective notice dates and **Federal Register** citations.

Discussion

Section 103(c)(1) of the NGPA defines a new, onshore production well as, *inter alia*, a well "the surface drilling of which began on or after February 19, 1977." The prior Commission interpretation of this definition which equated "spur date"[2] with surface drilling, was modified by the holding in the *L&B* case. In the *L&B* decision, the Fifth Circuit found the Commission rule limiting surface drilling to a single event in any wellbore, was too strict. Accordingly, the court stated that, in *certain circumstances*, surface drilling of a well should not be limited to the spudding in of that well. The court concluded that based on the facts before it in the *L&B* case, such a limitation was inappropriate. The court further stated:

> The foregoing discussion should not be interpreted as implying that the spudding in date is irrelevant to the determination of what is a new, onshore production well. On the contrary, we merely hold that in certain circumstances a state agency can correctly grant new, onshore production well status to a well that was not literally spudded in on or after February 19, 1977.

In reviewing the facts surrounding L&B's reentry, the court noted the following factors were relevant in finding that the determination made by the jurisdictional agency was supported by sustantial evidence: (1) Surface drilling commenced when L&B drilled out the thirty foot cement plug which the original entering operator left in the dry hole; (2) L&B did not merely reactivate or deepen a previously spudded well; (3) L&B only used a few hundred feet of the original wellbore before deviating to a total depth of over 7,000 feet; (4) L&B incurred almost the entirety of normal exploration costs and all of the production efforts; and (5) L&B discovered and produced gas where there was none before.

Since the *L&B* decision the Commission has addressed two applications for well determination, where wells were initially entered prior to February 19, 1977, plugged and abandoned, and later reentered after that date. Oklahoma relies on these orders to support its affirmative determinations. The cases are *TXO Production Corporation*, Docket No. GP83-9-000, 23 FERC ¶61,299 (1983) and *Sun Exploration and Production Company, Sun Gas Division*, Docket No. GP83-10-000, 23 FERC ¶61,300 (1983).

In the *TXO* reentry case, the Commission reconsidered its position on reentries in light of the Fifth Circuit's decision in *L&B*, and reversed a Kansas determination that the subject well qualified under NGPA section 102(c)(1)(B)(i). The Commission recognized that the *L&B* case, which was a NGPA section 103 well eligibility case, was applicable to the *TXO* case, a section 102(c)(1)(B) well eligibility case, since both qualifications depended in part on whether the well was a "new well" the surface drilling on which commenced on or after February 19, 1977. Likewise, the Commission stated that *L&B* was equally applicable to NGPA section 107(c)(1). On review of the record, the Commission found that there was not substantial evidence in the record to support the determination that the subject well qualified under NGPA section 102(c)(1)(B), since "there was no additional drilling, more than minimal use of the existing wellbore was made. TXO did not make exploration and production efforts similar to those that would be required in a new well, and the gas was produced from a portion of the wellbore that existed prior to the reentry."

In the *Sun Exploration and Production Company* (Sun) case, the Commission reversed a Mississippi determination that gas produced from the Ross Beatty No. 1 Well qualified under NGPA section 107(c)(1) on reconsideration of its position with regard to reentered wells in light of *L&B*. In that case, the Commission found there was not substantial evidence in the record to support the NGPA section 107(c)(1) determination for the subject well, since Sun made more than minimal use of the existing wellbore, and that upon reentry Sun did not incur almost the entirety of normal exploration and production efforts.

The standards set forth in *TXO* and *Sun* will be applied to the Subject Wells.[3] Of the seven wells in this docket, one well, the McGuire No. 1, does not appear to have been plugged and abandoned or reentered after it was spudded in on March 20, 1975. However, the applicant, Robert A. Mason, included an affidavit stating, among other things, "that the surface drilling of the well for which the determination is sought was begun on or after February 19, 1977." Even assuming that this well was plugged and abandoned and then reentered after February 19, 1977, it appears that Mason made complete use of the existing wellbore and did not incur almost the entirety of normal exploration and production efforts.

Five of the remaining six wells[4] were plugged and abandoned as dry holes, although there is evidence in the record indicating that Andrews No. 1 Well produced some gas prior to plugging. The remaining well, Edwards A No. 5, was classified as a salt water disposal well prior to reentry. When all of these wells were reentered, the applicants utilized the existing wellbore, and completed in zones penetrated by the originally drilled wellbore. In only one case, the Edwards A No. 5 Well, was a well deepened after reentry, and the total depth of this well was not substantially increased, as only 35 additional feet were drilled.

Review of the records for the Subject Wells reveals that there is not substantial evidence that the reentering operators: (1) Did not merely reactivate or deepen a previously spudded well; (2) made only minimal use of the existing wellbore before deviating to a depth deeper than the original completion; (3) produced gas from portions of the wellbore that did not exist prior to the reentry; and (4) incurred almost the entirety of normal exploration and production efforts.

Accordingly, the surface drilling of these wells cannot be deemed to have commenced after February 19, 1977. The Commission hereby makes a preliminary finding, based on existing precedent, that there is not substantial evidence in the record to support Oklahoma's determinations that the Subject Wells qualify under section 103(c) of the NGPA.

By direction of the Commission. Commissioner Hughes dissented.

Kenneth F. Plumb,

Secretary.

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[2] "Spudding in" is defined as "the initial boring of the hole in the drilling of an oil or gas well." H. WILLIAMS & C. MYERS, MANUAL OF OIL & GAS TERMS, 564 (4th ed. 1976).

[3] To support its affirmative determinations for the Subject Wells under NGPA section 103 in light of *L&B*, Oklahoma stated that the Commission "approved the New York State Department of Environmental Conservation determination a few months subsequent to the * * * *L&B* case. In said New York determination there was no additional drilling and all of the existing wellbore was used." (Responsive Letter to the Commission dated June 17, 1983).

The case to which Oklahoma presumbly refers to is *K&G Gas Corporation*, FERC No. JD82-06453. The New York State affirmative NGPA section 103 determination became final when the Commission did not act before the 45-day review period lapsed on February 25, 1982. This well determination became final before the Commission took a position on reentries in light of *L&B* in *TXO* and *Sun* on May 27, 1983, discussed above, and therefore we do not believe that this case acts as a binding precedent on the Commission in the instant docket.

[4] These wells are the: Maness No. 1 Well, Andrew No. 1 Well, Mc Daniel No. 15-2 Well, Cermak No. 1 Well, and the Simpson Walker No. 1-31 Well.

APPENDIX A.—OKLAHOMA CORPORATION COMMISSION NOTICES OF DETERMINATION UNDER NGPA SECTION 103

Applicant FERC control No.	Well name	Date notice of determination received by FERC	Date notice published	FEDERAL REGISTER Citation	Date tolling letter sent
Robert A. Mason, JD No. 83-05766	McGuire #1	10-27-82	11-26-82	47 FR 53470	12-10-82
Jimmy W. Gray, JD No. 83-13758	Maness #1-19	12-17-82	01-19-83	48 FR 2418	01-31-83
Landers & Musgrove, JD No. 83-13768	Andrews #1	12-31-82	01-19-83	48 FR 2419	01-31-83
Woods Petroleum Co., JD No. 83-14791	McDaniel #15-2	12-22-82	01-27-83	48 FR 3812	02-04-83
Roy Edwards, JD No. 83-14820	Edwards A #5	12-23-82	01-27-83	48 FR 3811	02-04-83
S. Keith Tuthill & Bill J. Barbee, JD No. 83-21793	Simpson Walker #1-31	02-11-83	03-11-83	48 FR 10450	03-24-83
Western States Oil and Gas, JD No. 83-21823	Cermak #1	02-09-83	03-11-83	48 FR 10448	03-16-83

[FR Doc. 83-22352 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-439-000]

Southern Natural Gas Company; Application

August 11, 1983.

Take notice that on July 22, 1983, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202 filed in Docket No. CP83-439-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to New Orleans Public Service, Inc. (NOPSI) and authorizing the operation of certain existing facilities necessary to effect the sale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern, experiencing excess deliverability on its system, specifically proposes to sell to NOPSI on a best-efforts, interruptible basis, pursuant to a gas sales agreement dated July 18, 1983, such volumes of gas as NOPSI may request, estimated at a maximum daily volume of 85,000 Mcf. The sales agreement is for a primary term of one year commencing on the first day of the month following the month in which Southern receives acceptable Commission authorization and would remain in effect for successive periods of one month until cancelled by Southern or NOPSI.

Southern requests authority to deliver the subject gas to NOPSI at an existing point of interconnection between the facilities of Southern and NOPSI (first point of delivery) and at an existing point of interconnection between the facilities of Louisiana Intrastate Gas Corporation (LIG) and NOPSI (second point of delivery), both points of delivery in Orleans Parish, Louisiana. At the first point of delivery, Southern requests authorization to operate a meter station and appurtenant facilities which are currently being utilized solely to render transportation services pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA). At the second point of delivery, Southern states that the subject gas would be delivered to NOPSI by LIG which would transport the gas on behalf of Southern pursuant to Section 311 of the NGPA.

Southern proposes to sell the gas to NOPSI at an initial price of $3.43 per Mcf, which represents Southern's Rate Schedule OCD-1 rate adjusted to reflect Southern's currennt system average load factor of 58.21 percent. Southern further proposes to adjust this price on the effective date of any rate change filing made by Southern pursuant to the provisions of Southern's FERC Gas Tariff or to Section 4 of the Natural Gas Act to reflect changes in Southern's OCD-1 rates. Southern states that it would credit to Account No. 191 all revenues from the proposed sales that are in excess of one cent per million Btu. Southern indicates that gas would be made available to NOPSI only during periods when Southern is not allocating quantities of gas on its system pursuant to the curtailment provisions of its FERC Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22360 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-47-005]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Revised Tariff Filing

August 11, 1983.

Take notice that on August 8, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Substitute Original Sheet No. 2AA of its FERC Gas Tariff to be effective August 4, 1983.

Tennessee states that the sole purpose of this revised tariff sheet is to correct for typographical errors contained in Original Sheet No. 2AA as filed on July 29, 1983 in Tennessee's Revised Rate Filing in Docket No. RP83-47.

Tennessee states that copies of the filing have been mailed to all of its customers and affected State regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided however, that any person who has previously filed a motion to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22364 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-203-000]

George W. Yeagle; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 10, 1983.

On February 25, 1983, George W. Yeagle (Applicant), Yeagle Excavating, P.O. Box 924, Warren, Pennsylvania 16365, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility purusant to § 292.207 of the Commission's rules. On May 20, 1983, Applicant filed supplementary information regarding the facility.

The topping-cycle cogeneration facility is located in Warren County, Pennsylvania. The facility consists of a spark ignition engine fueled by natural gas. The electric power production capacity of the facility is 100 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-22357 Filed 8-15-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of July 22 Through July 29, 1983

During the Week of July 22 through July 29, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George R. Breznay,

Director, Office of Hearings and Appeals.

August 9, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 22, 1983 through July 29, 1983]

Date	Name and location of applicant	Case No.	Type of submission
July 25, 1983	Atlantic Richfield Co., Washington, D.C.	HRR-0067	Request for modification/rescission. If granted: The July 18, 1973, Decision and Order (Case No. HRH-0015) issued to Atlantic Richfield Company would be modified regarding the firm's request to submit supplemental Exhibit VII-28, regarding Sun Oil Company's recovery issue.
July 28, 1983	Economic Regulatory Administration/Ramco Oil Co., Inc., Washington, D.C.	HRR-0068	Request for modification/rescission. If granted: The July 21, 1983, Decision and Order (Case No. DRO-0173) issued to Ramco Oil Company, Inc. would be modified regarding certain language used in the Remedial Order.
Do	Texaco, Inc., New York, N.Y.	HRZ-0158	Interlocutory order. If granted: The Office of Special Counsel would be deemed to have admitted specified allegations concerning eight Texaco producing areas.
July 29, 1983	Ashland Oil, Inc., Washington, D.C.	HFA-0172	Appeal of an information request denial. If granted: The June 27, 1983, Freedom of Information Request Denial issued by Office of Fuels Programs would be rescinded and Ashland Oil, Inc. would receive access to documents pertaining to the Department of Energy's Crude Oil Regulatory Programs.

REFUND APPLICATIONS RECEIVED

[Week of July 22, 1983 to July 29, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
July 26, 1983	Palo Pinto/Nevada	RQ5-8.
July 29, 1983	Worldwide Energy/Oklahoma	RQ31-9
July 25, 1983 to July 29, 1983	Amoco Refund Application	RF21-12002 thru RF21-12031.

[FR Doc. 83-22293 Filed 8-15-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2377-3]

Proposal on Draft General NPDES Permits for Non-Contact Cooling Water and Uncontaminated Stormwater in the States of Maine, Massachusetts, New Hampshire, and Rhode Island

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permits—MAG250000, MEG250000, NHG250000, RIG250000.

SUMMARY: The Regional Administrator of Region I is today providing Notice of a Draft General NPDES Permit for non-contact cooling water and uncontaminated stormwater in certain waters of the States of Maine, Massachusetts, New Hampshire and Rhode Island. These draft general NPDES permits propose effluent limits standards, prohibitions and management practices for these types of discharges.

The permit is to be effective 30 days after the date of publication in the Federal Register of the final general permit or upon notification by EPA that the operator is covered by this permit, whichever is later, and will expire in 5 years from the date of the signature. Owners and/or operators of facilities discharging non-contact cooling water and/or uncontaminated stormwater will be required to submmit to EPA, Region I, a notice and intent to be covered by the appropriate general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under one of the general permits.

The draft permits are based on an administrative record available for public review at: Environmental Protection Agency, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

This Fact Sheet sets forth principal facts and the significant factual, legal and policy questions considered in the development of the draft permits.

DATES FOR COMMENT PERIOD: Interested persons may submit comments on the draft general permits as administrative record to the Regional Administrator, Region I at the address given above no later than September 30, 1983.

FOR FURTHER INFORMATION AND COPIES OF DRAFT GENERAL NPDES PERMITS, CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays from: Bernard R. Sacks, Water Quality Branch, Water Management Division, J. F. Kennedy Federal Building, Boston, Massachusetts 02203. Telephone: (617) 223-7057.

Fact Sheet and Supplementary Information

I. Background Information

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of "general permits" to categories of discharges. See 40 CFR 122.28 [48 FR 14146, April 1, 1983]. EPA may issue a single, general permit to a category of point sources located within the same geographic area whose permits warrant similar pollutant control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same type of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

Violation of a condition of a general permit constitutes a violation of the Clean Water Act and subjects the discharger to the penalties specified in Section 309 of the Act.

Any owner or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request no later than 90 days after publication by EPA of the final general permit in the Federal Register. The Director may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for sources discharging non-contact cooling water or uncontaminated stormwater permits covered by these general permits unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Director may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollution;
2. The discharge(s) is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in the previous paragraphs are not met.

B. Non-contact Cooling Water and Uncontaminated Stormwater Runoff Description of Discharges

The proposed general permit is for operators of industrial facilities discharging non-contact cooling water or uncontaminated stormwater. Non-contact cooling water is water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Uncontaminated stormwater is runoff from prescription events uncontaminated by contact with process wastes, raw materials, toxic pollutants, hazardous pollutants or oil and grease. Non-contact cooling water and uncontaminated stormwater runoff are therefore similar in composition even though they are not generated by a single industrial category or point source.

The similarity of the discharges has prompted EPA to prepare this draft general permit for public review and comment. When issued, this permit will enable facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a large number of dischargers and reduce some permit backlog. The issuance of this general permit for the geographic areas described below is warranted by the similarity of (a) environmental conditions, (b) State regulatory requirements applicable to the discharges and receiving waters, and (c) technology employed.

Rhode Island

In the State of Rhode Island, there are 111 industrial applicants or permittees. It is estimated that 34 of the industries that have direct discharges to the waters

of the State are strictly non-contact cooling water.

Maine

In the State of Maine, there are 271 industrial applicants or permittees. It is estimated that 12 of the industries that have direct discharges to the waters of the State are strictly non-contact cooling water.

New Hampshire

In the State of New Hampshire, there are 134 industrial applicants or permittees. It is estimated that 23 of the industries that have direct discharges to the waters of the State are strictly non-contact cooling water.

Massachusetts

In the Commonwealth of Massachusetts, there are 651 industrial applicants or permittees. It is estimated that 129 of the industries that have direct discharges to the waters of the State are strictly non-contact cooling water.

II. Conditions in the Draft General NPDES Permit

A. Geographic Areas

Rhode Island (Permit No. RIG250000)

All of the discharges to be authorized by the general NPDES permit for the State of Rhode Island are located in the following basins.

Adamsville Brook Basin
Blackstone River Basin
Narragansett Bay
Pawtuxet River Basin
Pawcatuck River Basin
Ten Mile River Basin
Thames River Basin

The final general NPDES permit for the State of Rhode Island will not authorize discharges of non-contact cooling water or uncontaminated stormwater runoff into water basins, classified as A, where the water use designation is for public water, or drinking water, supply.

Maine (Permit No. MEG250000)

All of the discharges to be authorized by the general NPDES permit for the State of Maine are in all waters of the State, except lakes.

New Hampshire (Permit No. NHG250000)

All of the discharges to be authorized by the general NPDES permit for the State of New Hampshire are in all waters classified as cold water fisheries by the New Hampshire Fish and Game Department.

Massachusetts (Permit No. MAG250000)

All of the discharges to be authorized by the general NPDES permit for the Commonwealth of Massachusetts are for Water Quality Classifications B and C in the following basins:

Kickamuit River Basin
Blackstone River Basin
Deerfield River Basin
French River Basin
Housatonic River Basin
Scantic River Basin
Ten Mile River Basin
Connecticut River Basin
Farmington River Basin
Hoosic River Basin
Hudson River Basin
Barrington River Basin
Taunton River Basin
Merrimack River Basin
Millers River Basin
Nashua River Basin
Quinebaug River Basin
Warren River Basin

B. Notification by Permittees

Operators of facilities whose discharge, or discharges, are non-contact cooling water or uncontaminated stormwater runoff and whose facilities are located in the geographic areas described in Part II A above submit to the Regional Administrator, Region I, a notice of intent to be covered by the appropriate general permit. This written notification must include the owner's or operator's legal name and address, the number and type of facilities to be covered, the facility locations and the names of the receiving waters into which discharge will occur. The facilities authorized to discharge under a final general permit will receive written notification from EPA, Region I, within 30 days of permit coverage. Failure to submit to EPA, Region I, a notice of intent to be covered or receive from EPA written notification of permit coverage means that the facility is not authorized to discharge. The applicant is not covered by a General Permit until he notifies EPA and is informed by EPA that he is, in fact, covered by the General Permit.

C. Effluent Limitations

1. *Statutory Requirements*

The Clean Water Act requires all dischargers to meet effluent limitations based on the technological capability of dischargers to control the discharge of the pollutants. Section 301(b)(1)(A) requires the application of "Best Practicable Control Technology Currently Available" (BPT). Section 301(b)(2)(A), (C), (D), and (F) requires the application of "Best Available Technology Economically Available" (BAT) by July 1, 1984, for all toxic pollutants referred to in Table 1 of Committee Print Numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives and not later than three years after the date any limitations are established for toxic pollutants listed under paragraph (1) of subsection (a) of Section 307 of the Act which are not referred to in subparagraph (C) of Section 301(b)(2). Section 301(b)(2) (A) and (F) requires "Best Available Treatment Technology Economically Achievable" (BAT) for nonconventional pollution by July 1, 1984, and Section 301(b)(2)(E) requires the application of the Best Conventional Pollutant Control Technology (BCT) for conventional pollutants by July 1, 1984.

2. *Technology-based Effluent Limitations*

EPA has not promulgated National Effluent Guidelines for these categories. Therefore, as provided in Section 402(a)(1) of the Act, EPA has determinated to issue this general permit utilizing best professional judgment to meet the above stated criteria for BATs described in Section 304(b) of the Act.

pH has been defined as a conventional pollutant. A review of the BCT regulations reveals the cost test is inappropriate because (1) the pH is not adjusted as nothing but heat is added to the discharge and no chemical addition or treatment is provided, and (2) pH, even though it is a conventional pollutant, is not measured in pounds as the other conventional pollutants.

The permits do not allow the addition of any toxics or oil and grease. As these are not permitted, there are no BAT limits that must be provided.

3. *Water Quality Standards*

Non-contact cooling water and uncontaminated stormwater runoff discharges do not contain or come in contact with raw materials, intermediate products, finished products, or process wastes. They do not contain toxic or hazardous pollutants or oil and grease. Therefore, water quality criteria established for toxic or hazardous pollutants do not apply to these discharges. Water Quality Standards applicable to these discharges are limited to pH and temperature. EPA has reviewed the Water Quality Standards for pH and temperature of each of the affected states and incorporated the appropriate effluent limitations into each permit. The limitations are summarized below by State.

Rhode Island

The State of Rhode Island in Chapter 42-35 and 46-12 of the General Laws of Rhode Island, 1956, as amended, classified Rhode Island surface waters. These waters have numerical criteria established for pH and temperature as follows:

pH range	6.0 to 9.0
Maximum temperature	83°F.
Maximum temperature differential	4°F.

These limitations have been incorporated in the draft general permit for Rhode Island.

Maine

The State of Maine classified Maine surface waters. These waters have numerical criteria established for pH and temperature as follows:

pH range	6.0 to 9.0
Maximum temperature	85°F
Maximum temperature differential	4°F

The dilution ratio of the stream flow to effluent must be greater than 10:1. These limitations have been incorporated in the draft general permit for Maine.

New Hampshire

The State of New Hampshire, in New Hampshire RSA 149:3, classified New Hampshire surface waters. These waters have numerical criteria established for pH and temperature as follows:

pH range	6.0 to 9.0
Maximum temperature	84°F.

These limitations have been incorporated in the draft general permit for New Hampshire.

Massachusetts

The Commonwealth of Massachusetts in MGL c. 30A, as amended, classified Massachusetts surface waters. These waters have numerical criteria established for pH and temperature as follows:

pH range	6.0 to 9.0
Maximum temperature	83°F.

These limitations have been incorporated in the draft general permit for Massachusetts.

4. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements are included in the general permit to describe the daily and monthly monitoring requirements to be imposed on facilities to be covered by the proposed general permits. The requirements are dependent on flow as follows:

Rhode Island and Massachusetts

<10,000 gallons/day	Quarterly
10,000–100,000 gallons/day	Monthly.
>100,000 gallons/day	Weekly

Maine

<100,000 gallons/day	Quarterly
100,000-one million/day	Monthly
>One million gallons/day	Weekly

New Hampshire

All flows	Quarterly

Facilities covered by the final general permits will be required to submit to EPA, Region I, and the appropriate State a Discharge Monitoring Report containing effluent data on a semi-annual basis.

The monitoring requirements have been established to yield data representative of the discharge under authority of Section 308(a) of the Act and 40 CFR 122.41(j), 122.48, 122.41(j)(4), (S) and 122.44(a), and as certified by the State.

The monitoring frequency is dependent upon the flow rates.

III. Other Requirements

The remaining conditions of the permit are based on the NPDES regulations 40 CFR Parts 122 through 125 and consist primarily of management requirements common to all permits.

These conditions include the following:

(a) Duty of Comply.
(b) Reopener Clause.
(c) Duty to Halt or Reduce Activity.
(d) Duty to Mitigate.
(e) Proper Operation and Maintenance.
(f) Permit Actions.
(g) Property Rights.
(h) Duty to Provide Information.
(i) Inspection and Entry.
(j) Monitoring and Records.
(k) Signatory Requirements.
(l) Reporting Requirements.
(m) Bypass.
(n) Upset.
(o) Change in Discharge.
(p) Removed Substances.
(q) Power Failure.
(r) Availability of Reports.
(s) Oil and Hazardous Substance Liability.
(t) State Laws.
(u) Other Laws.
(v) Severability.

IV. State Certification

Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Section 401 requires that States certify that Federally issued permits are in compliance with State law.

This permit is for operations within waters of the States. EPA is requesting State officials to review and provide appropriate certification to this draft general permit pursuant to 40 CFR 124.53.

V. Administrative Aspects

A. Request to be covered

A discharger is not automatically covered by this general permit even if he meets all the requirements, such as type of discharge, location or river basin, and meets the limits. He has to send a letter of intent to EPA indicating he meets the requirements of the permit and wants to be covered. He will then be covered by this general permit after he is notified by EPA that he is covered by this general permit. If he has an existing individual NPDES permit, it will have to be terminated as outlined in 40 CFR Part 122.

B. Mechanisms

All persons, including dischargers, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period, to the U.S. EPA, Water Quality Branch, JFK Federal Building, Boston, Massachusetts, 02203. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to EPA and the State Agency. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least a 30-day public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on the draft permit, the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston office.

Following the close of the comment period, and after the public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and publish the Final Permit in the **Federal Register.**

VI. Other Legal Requirements

A. Economic Impact (Executive Order 12291)

EPA has reviewed the effect of Executive Order 12291 on this draft general permit and has determined that is is not a major rule under that order. This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection at the Environmental Protection Agency, Region I, Water Quality Branch, J. F. Kennedy Federal Building, Room 2109, Boston, Massachusetts 02203.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the permit notification have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final general permit will explain how its information collection requirements respond to any OMB or public comments.

C. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. Moreover, it reduces a significant administrative burden on regulated sources.

Dated: August 10, 1983.

Michael R. Deland,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 83-22345 Filed 8-15-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2408-1]

Tennessee Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollutant Discharge Elimination System Pretreatment Program of the State of Tennessee.

SUMMARY: On August 10, 1983, the Environmental Protection Agency approved the State of Tennessee's National Pollutant Discharge Elimination System State Pretreatment Program. This action authorizes the State of Tennessee to administer the National Pretreatment Program as it applies to municipalities and industries within the State.

FOR FURTHER INFORMATION CONTACT: George E. Young, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-4793.

SUPPLEMENTARY INFORMATION:

Background

The Pretreatment Program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the Pretreatment Program are to: (1) Prevent introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through treatment works or otherwise be incompatible with such works; (3) improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. Local pretreatment programs will be the primary vehicle for administering, applying and enforcing pretreatment standards for industrial users of POTWs. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications

EPA will provide **Federal Register** notice of any action by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		06/03/81
Delaware	04/01/74		
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	
Illinois	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	06/03/81
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	06/07/83
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74	01/28/83	05/13/82
Missouri	10/30/74	06/26/79	06/03/81
Montana	06/10/74	06/23/81	
Nebraska	06/12/74	11/02/79	
Nevada	09/19/75	08/31/78	
New Jersey	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	
North Carolina	10/19/75		06/22/82
North Dakota	06/13/75		
Ohio	03/11/74	01/28/83	07/27/83
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77		08/10/83
Vermont	03/11/74		03/16/82
Virgin Islands	06/30/74		
Virginia	03/31/75	02/09/82	
Washington	11/14/73		
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/18/81	

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this action from the OMB review requirements of Executive Order 12291 pursuant to Section 8(b) of that Order.

Pursuant to Section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this State Pretreatment Program Approval will not have a significant impact on a substantial number of small entities. Approval of the Tennessee NPDES State Pretreatment Program establishes no new substantive requirements, but merely transfers responsibility for administration of the program from EPA to the State.

Dated: August 10, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-22339 Filed 8-15-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company; Gulf Southwest Bancorp, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. 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 indicated.

With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Gulf Southwest Bancorp, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Dickinson State Bank, Dickinson, Texas. Comments on this application must be received not later than September 9, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22306 Filed 8-15-83; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

August 10, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register.** This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Revision of an Existing Report Form

1. Report title: Application for approval to become a bank holding company.

Agency form number: FR Y-1
Frequency: On occasion
Reporters: Corporations, partnerships, and certain trusts and associations seeking to become bank holding companies by acquisition of one or more banks
SIC Code: 671
Small businesses are affected.
General description of report:
Respondent's obligation to reply is required to obtain or retain benefit; a pledge of confidentiality is not promised.

Application form that presents financial/managerial, competitive, and convenience and needs/public benefits considerations related to a proposal to form a bank holding company. Also contains details of the proposed transaction. Information is used in the determination as to whether the proposal should be approved under relevant statutory standards.

2. Report title: Application for prior approval of the acquisition of bank shares by a bank holding company.

Agency form number: FR Y-2
Frequency: On occasion
Reporters: Bank holding companies
SIC Code: 671
Small businesses are affected.
General description of report:
Respondent's obligation to reply is required to obtain or retain benefit; a pledge of confidentiality is not promised.

Application form that presents financial/managerial, competitive, and convenience and needs considerations related to a proposal by a bank holding company to acquire additional bank(s). Also contains details of the proposed transaction. Information is used in the determination as to whether the proposal should be approved under relevant statutory standards. Form is also used for acquisition of a bank holding company or the retention of a bank.

3. Report title: Application for approval of acquisition/retention of nonbanking activity by a bank holding company.

Agency form number: FR Y-4
Frequency: On occasion
Reporters: Bank holding companies
SIC Code: 671
Small businesses are affected.
General description of report:
Respondent's obligation to reply is required to obtain or retain benefit; a pledge of confidentiality is not promised.

Application form that presents financial/managerial, competitive, and public benefits considerations related to a proposal by a bank holding company to acquire or retain nonbanking activities. Also contains details of the proposed transaction. Information is used in the determination as to whether the proposal should be approved under relevant statutory standards.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22304 Filed 8-15-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; First Railroad & Banking Company of Georgia

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia (financing and insurance agency and underwriting activities; Tennessee): To engage *de novo* through its subsidiary, CMC Group, Inc., Charlotte, North Carolina, in the following activities: To make consumer installment loans secured by note, household goods, and first or second mortgages on real estate up to $15,000; to purchase installment sales contracts up to $3,500; to underwrite credit life and accident and health insurance; and to sell as agent, property insurance in connection with its loan and installment sales contracts. These activities are permissible under section 601 (A) (B) and (D) of the Garn St. Germain Depository Institutions Act. Such activities will be conducted at a location in Bristol, Tennessee, serving Sullivan County, Tennessee. Comments on this application must be received not later than September 9, 1983.

2. *Midlantic Banks Inc.*, Edison, New Jersy, and *Florida Coast Banks Inc.*, Pompano Beach, Florida (fiduciary activities *de novo* office: Florida): To refer customers to their subsidiary, Florida Coast Midlantic Trust Company, N.A. Lighthouse Point, Florida, on activities related to or incidental to the conduct of a trust business including fiduciary, agency, or custodial services, from a representative office to be located in Boca Raton, Florida, serving the western portion of Boca Raton from Linton Boulevard to the Palm Beach/Broward County line. Comments on this application must be received not later than September 9, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Wisconsin Corporation*, Milwaukee, Wisconsin (mortgage lending and credit insurance activities; Wisconsin): To engage, through its subsidiary, RE Services, Inc., in making and acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and acting as agent for the sale of credit life and accident and health insurance directly related to its extensions of credit. These activities would be performed in the State of Illinois. Comments on this application must be received not later than September 5, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22307 Filed 8-15-83; 8:45 am]

BILLING CODE 6210-01-M

Bankers Trust New York Corporation; Proposal To Engage as a Futures Commission Merchant in Activity of Executing Options on Futures Contracts

Bankers Trust New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in executing and clearing options on futures contracts in bullion on the Commodity Exchange, Inc. and its affiliated clearing association, and options on futures contracts in U.S. Government securities on The Board of Trade of the City of Chicago and its affiliated clearing association. These activities would be conducted by Applicant's subsidiary, BT Futures Corporation, from offices in New York, New York; Chicago, Illinois; Los Angeles, California; Dallas, Texas; Atlanta, Georgia; and London, England, serving customers in the United States and abroad.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. 1843(c)(8). The proposed activity has not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies. However, Applicant believes, and the Board has recently held in an order dated August 1, 1983, regarding J.P. Morgan & Co. Incorporated, New York, New York, that the proposed activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto because the proposed activity is operationally or functionally similar to the activity of acting as a futures commission merchant for commodities futures contracts, an activity that has been approved by the Board in Orders dated July 1, 1982, regarding J. P. Morgan & Co. Incorporated, New York, New York (68 *Fed. Res. Bull.* 514), September 20, 1982, regarding Applicant (68 *Fed. Res. Bull.* 651), and November 30, 1982, regarding Citicorp, New York, New York (68 *Fed. Res. Bull.* 776).

Interested persons may express their views on whether the proposed activity is "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 9, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22308 Filed 8-15-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Citizens Community Bankshares, Inc., et al.

The companies listed in this notice have 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 bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Community Bankshares, Inc.*, Wittenberg, Wisconsin; to become a bank holding company by acquiring 71 percent of the voting shares of Citizens State Bank of Wittenberg, Wittenberg, Wisconsin. Comments on this application must be received not later than September 7, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Helena Bancshares, Inc.*, Helena, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The Helena National Bank, Helena, Oklahoma. Comments on this application must be received not later than September 9, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22306 Filed 8-15-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Work Group on Acquired Immunodeficiency Syndrome; Open Meeting

On August 16, 1983, the Centers for Disease Control will convene an open meeting of a work group to review and finalize a proposed protocol and questionnaire for the epidemiologic study of the Acquired Immunodeficiency Syndrome (AIDS) among Haitians in New York City, New York, and Miami, Florida. The meeting is open to the public, limited only by the space available.

The meeting is scheduled to begin at 8:30 a.m., Building 6, Room 202, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Wilmon R. Rushing, Program Manager, AIDS Activity, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333; telephones: FTS: 236-3472, Commercial: 404/329-3472.

Dated: August 9, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control

[FR Doc. 83-22284 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[FDA 225-83-7000]

Memorandum of Understanding Between the Environmental Protection Agency and the Food and Drug Administration; Drug/Pesticide Products for Use on or in Animals; Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) are staying the effective date of a Memorandum of Understanding on "drug/pesticide" products for use on or in animals. This action is necessary to provide adequate time to review and respond to the comments received.

FOR FURTHER INFORMATION CONTACT: Andrew Beaulieu, Bureau of Veterinary Medicine (HFV-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-3044.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of May 20, 1983 (48 FR 22799) the Memorandum of Understanding defining the responsibilities of FDA and EPA regarding drug/pesticide products for use on or in animals. Because the agreement shifted responsibility for certain products from EPA to FDA, a 30-day period for comments was provided and an effective date of July 30, 1983 was established.

Because of numerous requests for an extension of the comment period, a notice was published in the **Federal Register** of June 24, 1983 (48 FR 29064), extending the comment period an additional 60 days to August 19, 1983, and the effective date to September 19, 1983.

In view of the number of comments received, FDA and EPA will be unable to complete their review and respond to the comments by September 19, 1983. Therefore, the effective date is being stayed until the agencies are able to complete their review and respond to the comments in the **Federal Register**.

Dated: August 11, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22472 Filed 8-12-83; 11:57 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0275]

American Medical Optics; Premarket Approval of Anterior Chamber Intraocular Lenses, Models AC-10 and AC-20

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Anterior Chamber Intraocular Lenses, Models AC-10 and AC-20, sponsored by American Medical Optics, Irvine, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic, Ear, Nose, and Throat, and Dental Devices Panel, FDA notified the sponsor that the application was approved because the devices had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 15, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On November 25, 1981, American Medical Optics submitted to FDA an application for premarket approval of the Anterior Chamber Intraocular Lenses, Models AC-10 and AC-20. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application for the use of these devices for primary or secondary implantation in persons 60 years of age and older to correct visual acuity following intracapsular or extracapsular cataract extraction. On July 26, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office.

A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 15, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22310 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. September 19, 9 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 12:30 p.m.; closed committee deliberations, 1:30 p.m. to 4:30 p.m.; Jack Gertzog, National Center for Drugs and Biologics (HFN-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss data concerning the effectiveness of staphage lysate.

Close committee deliberations. The committee will review trade secret or confidential commercial information relevant to pending investigational new drugs (IND's). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. September 19 and 20, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, September 19, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, September 20, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; George C. Murray, National Center for Devices and Radiological Health (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 2 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On September 19, the committee will discuss general issues relating to approval of premarket approval

applications (PMA's) for intraocular lenses (IOL's), and may discuss specific PMA's for IOL's. If discussion of all pertinent IOL issues is not completed, discussion will be continued on the following day. On September 20 the committee may discuss PMA's for contact lenses, neodymium:yitrium-aluminum-garnet (Nd:YAG) lasers, other ophthalmic devices, and general issues relating to these devices. Copies of both contact lens and Nd:YAG laser guidances will be available to persons wishing to receive them.

Closed committee deliberations. On September 19 and 20, the committee will conduct reviews of PMA's for IOL's. On September 20, the committee may conduct reviews of specific Nd:YAG laser PMA's. The committee may also discuss trade secret or confidential commercial information relevant to PMA's for contact lens products and Nd:YAG lasers. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portions of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Person interested in specific agenda items to be discusses in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Adminstration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 pm., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provided that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial of financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files complied for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Example of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: August 9, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-22314 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0272]

Bausch & Lomb Optics Center; Premarket Approval of Soflens® (Polymacon) Contact Lens, 03/04™ Lens Series

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the SOFLENS® (polymacon) Contact Lens, 03/04™ Lens Series sponsored by Bausch & Lomb Optics Center, Rochester, NY. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 15, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration.

8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On August 25, 1982, Bausch & Lomb Optics Center, Rochester, NY, submitted to FDA a supplemental application for premarket approval of the SOFLENS® (polymacon) Contact Lens, 03/04™ Lens Series, for extended wear from 1 to 30 days between each cleaning and disinfecting cycle. The lens is indicated for the correction of visual acuity in not-aphakic, myopic patients with nondiseased eyes who have no more than 2.00 diopters of astigmatism. The lens is available in powers of −0.25 to −6.00 diopters and is to be disinfected using either thermal or chemical disinfection systems. The application was reviewed by the Ophathalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 25, 1983, FDA approved the application, by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling for the SOFLENS® (polymacon) Contact Lens, 03/04™ Lens Series states that the lens is to be used with either thermal or chemical disinfecting systems. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved soft contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative reviews of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur and other details.

Petitioners may, at any time on or before [September 15, 1983], file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22311 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P–0263]

Burroughs Wellcome Co.; Neuroleptic Drugs Radioreceptor Assay Test System; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendation of the Clinical Toxicology Device Section of the Clinical Chemistry and Hematology Devices Panel (the Section) that FDA reclassify the neuroleptic drugs radioreceptor assay test system from class III (premarket approval) into class II (performance standards). The Section made this recommendation after review of a reclassification petition filed by Burroughs Wellcome Co. After reviewing the Section recommendation and any public comments received, FDA will approve or deny the reclassification petition by order in the form of a letter to the petitioner. FDA's decision on this reclassification petition will be announced in the **Federal Register**.

DATE: Comments by October 17, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857..

FOR FURTHER INFORMATION CONTACT: S. K. Vadlamudi, National Center for Devices and Radiological Health (HFK–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: Classification of any medical device in commercial distribution is required by

section 513 of the Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c).

On May 6, 1982, Burroughs Wellcome Co., Research Triangle Park, NC 22709, submitted to FDA under section 513(f)(2) of the act (21 U.S.C. 360c(f)(2)) a reclassification petition for a class III device the manufacturer calls "Receptan-N™." The device is automatically classified into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)) because it is not substantially equivalent to any device that was in commercial distribution before May 28, 1976, the enactment date of the amendment, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III may be marketed it must either be reclassified under section 513(f)(2) of the act or have premarket approval under section 515 of the act (21 U.S.C. 360e). Receptan-N™ does not have premarket approval.

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate advisory panel and to receive a recommendation on whether to approve or deny the petition. Accordingly, FDA referred the petition to the Section, which reviewed the petition.

To determine the proper classification of the device, the Section considered the criteria specified in section 513(a)(1) of the act. Section 513(a) of the act establishes three classes of devices. Classification of a device is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the device. A class I device is a device for which the general controls authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of the device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which "it is therefore necessary to establish * * * a performance standard under section 514 to provide reasonable assurance of its safety and effectiveness". A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. Premarket approval obtained in accordance with section 515 of the act (21 U.S.C. 360e) is required to provide reasonable assurance of the safety and effectiveness of a class III device.

The data on which any reclassification is based are required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and § 860.7 of the regulations (21 CFR 860.7). As specified in § 860.123(a)(6), the valid scientific evidence of safety and effectiveness contained in a petition for reclassification must demonstrate (1) that the device should not be classified into its present classification and (2) that the proposed classification will provide reasonable assurance of the safety and effectiveness of the device. For the purposes of reclassification, the valid scientific evidence upon which the agency relies may not be based on trade secret or confidential commercial information obtained by FDA under various sections of the act (see section 520(c) of the act (21 U.S.C. 360j(c)); 21 CFR 860.5(e)), or on the detailed summaries of information respecting the safety and effectiveness of devices for which there are premarket approval applications that have been approved or product development protocols that have been declared completed (see section 520(h)(3) of the act (21 U.S.C. 360j(h)(3))). However, all data and information contained in a filed petition for reclassification under section 513(f) of the act (21 U.S.C. 360c(f)) may be disclosed by the agency and used as the basis for reclassification of a device from class III into class II (21 CFR 860.5(e)).

On September 9, 1982, the Section recommended that FDA reclassify the petitioner's device into class II and assign a medium priority to the application of a performance standard for the generic type of device. (See 21 CFR 860.3(i) for a definition of the term "generic type of device"). The Section also recommended that FDA assign to the generic type of device the name "neuroleptic drugs radioreceptor assay test system" and identify it as a device that is intended to measure in serum or plasma the dopamine receptor blocking activity of neuroleptic drugs and their active metabolites to aid in determining whether a patient is taking the prescribed dosage level of such drugs. (A neuroleptic drug has anti-psychotic action affecting principally psychomotor activity, is generally without hypnotic effects, and is a tranquilizer).

Summary of Reasons for the Recommendation

The Section gave the following summary of reasons in support of its recommendation on reclassification:

1. The device is not an implant, is neither life sustaining nor life supporting, and does not present a potential unreasonable risk of illness or injury.

2. Although general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device, sufficient scientific and medical data exist to establish a performance standard to provide such assurance by prescribing for the device acceptable ranges of accuracy, precision, sensitivity, and specificity.

Summary of Data Upon Which the Recommendation Is Based

The petitioner's device is intended for use as an aid in determining whether a patient is taking the prescribed dosage level of neuroleptic drugs. Patient noncompliance with taking prescribed dosage levels of such drugs is a serious problem (Refs. 1, 2, and 3). The test system is intended to measure the total pharmacologic activity of one or more neuroleptic drugs and their metabolites that may be in a patient's serum or plasma (Refs. 1 and 2).

Calf caudate membranes contain a receptor that binds several neuroleptic drugs (Ref. 1). The petitioner's test system detects the presence of neuroleptic drugs by making use of the fact that the radioactive neuroleptic drug, tritium-labeled spiperone (^{3}H-spiperone), bound to the receptor can be separated from unbound radioactive drug using centrifugation. The amount of bound ^{3}H-spiperone is quantified using a liquid scintillation counter. When other neuroleptic drugs are present, there is competition for the available receptor sites, and thus a decrease in the amount of ^{3}H-spiperone bound to the receptor. A standard curve is prepared which relates the amount of receptor-bound radioactivity to known amounts of haloperidol (a neuroleptic drug) in a series of reference standards. The amount of radioactivity measured after addition of a specimen is compared to the standard curve, and the results are expressed as neuroleptic units per liter (NU/L). One neuroleptic unit is defined as the change in ^{3}H-spiperone bound to receptor that is produced by one nanomole of haloperidol using the same test procedure (Ref. 3). By conducting the following studies, the petitioner showed the accuracy, precision,

specificity, sensitivity, manufacturing reproducibility, stability, and clinical utility of Receptan-N™.

Accuracy

The petitioner assessed the accuracy of Receptan-N™ by conducting separate studies to (1) determine the recovery of four neuroleptic drugs, each one added to drug-free sera; (2) compare analytical results from another procedure, namely, high-pressure liquid chromatography (HPLC); and (3) demonstrate that only the neuroleptic drug and not other components of the specimen are measured by the device.

The petitioner performed recovery studies using four commonly prescribed neuroleptic drugs—chlorpromazine, haloperidol, thioridazine, and thiothixene. The petitioner reported that 10 replicate measurements yielded average recovery values of 115, 106, and 113 percent for the first three drugs added to drug-free serum and 66 percent recovery of the added thiothixene. The petitioner attributed the lower amount of thiothixene recovered to the unusual binding of this drug when added to a drug-free serum.

The petitioner compared the performance of Receptan-N™ to the performance of the HPLC procedure, which is specific in its ability to identify and quantify chemical entities (Ref. 4). The petitioner compared the two procedures based on the analytical results of tests of 55 specimens from patients taking the neuroleptic drug haloperidol, one of the few neuroleptic drugs for which anti-psychotic activity is attributed mainly to the parent drug. A linear regression analysis of these data, including the four samples where Receptan-N™ showed there was no drug present, allowed a curve to be constructed which expresses the mathematical relationship between the results using the two methods. The slope of this curve is 0.87, the intercept is 3.53, and the correlation coefficient is 0.88. Perfect agreement would have given a slope value of 1.0, an intercept value of 0.00 and a correlation coefficient of 1.00. The accuracy of Receptan-N™ thus compared favorably to that of the HPLC procedure.

The petitioner made known dilutions of patient specimens using drug-free serum, and the resulting samples were analyzed to determine whether components of the specimen matrix affected the performance of Receptan-N™. In this kind of study, a plot of receptor-bound radioactivity versus expected drug concentration will have a slope equal to that obtained when the same measurements are performed on a set of haloperidol reference standards, providing there is no effect of the specimen matrix on the test result. The petitioner provided results of analyses of dilutions of specimens from 10 patients receiving neuroleptic drugs. Only one set of diluted specimens (from a patient receiving thiothixene) showed a response curve whose slope was significantly different from the slope of the standard curve. The nine other specimens were from patients receiving chlorpromazine (two), haloperidol (two), thioridazine (three), or thiothixene (two) therapy. These studies show that the specimen matrix had no significant effect on results obtained using Receptan-N™.

The petitioner also provided data obtained from dilution studies on drug-free serum samples to which one of eight neuroleptic drugs or drug metabolites were added. The drugs were chlorpromazine, nor-chlorpromazine, 7-OH-chlorpromazine, haloperidol, mesoridazine, sulphoridazine, thioridaxine, and thiothizene. Only the curve obtained from diluted samples containing thiothixene had a slope that was statistically significantly different from that of haloperidol reference standards measured using the same procedure. Thiothixene is the only neuroleptic drug that binds to the receptor in a manner different from that of haloperidol.

Precision

The petitioner provided data on the precision of the Receptan-N™ test system on (1) quality control samples, (2) clinical specimens, and (3) specimens to which tris (butoxyethyl) phosphate (TBEP) was added to improve the precision of the test system.

The petitioner performed 15 sets of duplicate measurements on each of two different quality control samples using Receptan-N™.

On one sample containing haloperidol, the mean was 30.9 NU/L with a coefficient of variation (CV) of 19 percent for the within-assay precision. A second sample, containing chlorpromazine, had a mean concentration of 124.7 NU/L with a CV of 9.9 percent for the within-assay precision. The mean of the haloperidol control was 39.4 with a CV of 18 percent for the between-assay precision; the mean for the chlorpromazine control was 141 with a CV of 14.2 percent for the between-assay precision.

The petitioner provided data obtained from two separate assays of 26 patient specimens run in triplicate. The results of the assays were combined into four different groups based on the values obtained using Receptan-N™. The within-assay precision for each sample was calculated and an average within-assay precision was calculated for each specimen group. The same procedure was used to determine the between-assay precision. The results for within- and between-assay precision are summarized in Table 1.

TABLE 1

Range in-values (NU/L)	Number of samples	Within assay CV percent	Between assay CV percent
15–20	4	18.3	22.1
50–200	10	18.8	25.7
200–500	7	16.5	16.2
>500	5	24.3	20.4

Many neuroleptic drugs, including ^{3}H-spiperone, bind to serum components as well as the receptor found in calf caudate tissue. The amount of binding is not predictable, so TBEP is added to occupy the serum binding sites. TBEP has little effect on the binding of neuroleptic drugs to the caudate receptor. The petitioner provided data to demonstrate that the precision of Receptan-N™ improved when TBEP was included in the measurements of 10 drug-free sera to which chlorpromazine, haloperidol, thioridazine or thiothixene had been added. With chlorpromazine samples, the CV decreased from 35 percent to 13 percent with TBEP included in the assay; with haloperidol samples, the CV decreased from 51 percent to 16 percent; with thioridazine samples, the CV decreased from 31 percent to 13 percent; and with thiothixene samples, the CV decreased from 38 percent to 10 percent.

When TBEP was present, the precision of Receptan-N™ was comparable to that of similar methods used for measurement of neuroleptic drug levels in serum or plasma (Ref. 5).

Specificity

It is believed that the pharmacologic action of neuroleptic drugs is mediated through the dopamine receptor (Ref. 6). Therefore, the relative potency of neuroleptic drugs in clinical use should be related to the relative potency of neuroleptic drugs as measured by Receptan-N™. The petitioner measured the potency of several neuroleptic drugs using Receptan-N™ by determining the amount of each drug that would displace 50 percent of the ^{3}H-spiperone bound to the receptor in the absence of drug and called this value the IC_{50}. Relative potency with Receptan-N™ was evaluated by comparing IC_{50} values for each neuroleptic drug to the IC_{50} value

for haloperidol, according to the formula:

$$\text{Relative Potency} = \frac{IC_{50}\ (\text{Haloperidol})}{IC_{50}\ (\text{drug})}$$

Thus, potent neuroleptic drugs, which would require only small amounts to reduce receptor-bound ^{3}H-spiperone by 50 percent, have relative potency values greater than 1.00, the assigned value for haloperidol. Potency in clinical use is commonly assessed using an in vivo test (apomorphine antagonism test). The petitioner selected 11 drugs for which there were available in the scientific literature (Ref. 7) data on relative potency in clinicial use and compared these data with the relative potency ranking using Receptan-N™. Ten of the 11 drugs had the same relative potency rankings in the two different test systems, and one drug had nearly the same relative ranking. The specificity of Receptan-N™ was similar to that of the in vivo test to measure potency in clinical use.

Additionally, the petitioner showed the specificity of its test system by performing interference studies with nonneuroleptic drugs. The petitioner prepared various dilutions of each of 18 nonneuroleptic drugs in drug-free human serum. For each of the drug dilutions in serum, the highest concentration level was at least as high as the usual serum concentration of the drug when that drug is administered therapeutically to patients. The petitioner assayed the dilutions using Receptan-N™ and showed that of the nonneuroleptic drugs tested, only the tricyclic antidepressants may present an interference problem. To investigate further this problem, the petitioner collected serum samples from 35 patients who were taking tricyclic antidepressant drugs and tested the samples using the neuroleptic drugs radioreceptor assay test system. The study showed that 11 of the 35 patients (31 percent) had levels of neuroleptic drugs in their serum. Therefore, when a patient is administered both a neuroleptic drug and a tricyclic antidepressant drug, some of the apparent neuroleptic drug activity measured by Receptan-N™ could be due to the presence in the serum of tricyclic antidepressants. Because of this apparent interference from tricyclic antidepressants, the petitioner included appropriate precautionary statements in the proposed labeling for the device.

Sensitivity

The petitioner determined graphically the theoretical limit of sensitivity of Receptan-N™. By performing 30 assays using the device, the petitioner obtained a composite standard curve and also plotted the average ^{3}H-spiperone bound at zero, 15, 30, and 100 NU/L. The petitioner ran 25 duplicate determinations of drug-free serum to determine the test system error and read from the composite standard curve the point corresponding to the intersection of the line representing minus two standard deviations of the zero binding value. Based on this procedure, the practical sensitivity limit for the assay was established at 15 NU/L.

Manufacturing Reproducibility

The reproducibility of the manufacturing process was assessed on three lots of Receptan-N™. The petitioner measured five parameters of the test system: Percent total binding, percent non-specific binding, the concentration at which 50 percent of the ^{3}H-spiperone is bound, the slope of the standard curve, and values of two quality control materials. Table 2 summarizes the results showing that the lot-to-lot variability is minimal and within the performance limits of the test system.

TABLE 2.—LOT-TO-LOT REPRODUCIBILITY

	Lot 1		Lot 2		Lot 3	
	Number assays	Mean—percent CV	Number assays	Mean—percent CV	Number assays	Mean—percent CV
Total Binding (percent)	29	23.4—8.6	15	27.3—8.1	21	23.0—10.4
Non Specific Binding (percent)	29	5.7—10.5	15	6.4—6.9	21	6.1—11.1
50 percent Binding (NU/L)	29	169—20.2	15	193—11.4	21	203—15.8
Slope	29	0.77—9.1	15	0.85—8.2	21	.81—10.0
Quality Control Material (NU/L) Chlorpromazine	10	146—13.0	10	110—14.5	7	123—13.8
Quality Control Material (NU/L) Thioridazine	10	674—14.1	10	571—11.0	7	597—13.9

Stability

The petitioner measured the long-term stability of several components of Receptan-N™ at −20° C, 10° C, room temperature, and 37° C. The components tested for stability were (1) lyophilized and reconstituted haloperidol reference standards, and (2) lyophilized and reconstituted tracer mixture containing receptor and ^{3}H-spiperone. The petitioner established acceptability ranges based upon ± two standard deviations of the mean values of parameters that were followed over time in the stability studies.

The petitioner selected five test parameters to determine whether test results with lyophilized and reconstituted haloperidol reference standards remained within the acceptable range for 12 to 24 months. The test parameters measured were (1) B_o, the amount (percent) of ^{3}H-spiperone specifically bound to receptor in the absence of haloperidol, (2) nonspecific binding (NSB), the amount (percent) of receptor-bound ^{3}H-spiperone in the presence of excess haloperidol, (3) the amount of haloperidol (NU/L) that displaces 50 percent of the receptor-bound ^{3}H-spiperone, (4) the slope of the standard curves where the ordinate is B_o/Bound-NSB (logit) and the abscissa is log haloperidol reference standard (NU/L), and (5) R, the regression coefficient of the line which describes the standard curve. Lyophilized standards were stable for 24 months at −20°, 100° C, and room remperature and for 17 months at 37° C. The reconstituted standards were able to maintain four freeze-thaw cycles and storage at −20° C for up to 12 months.

Based on the stability studies of lyophilized standards and tracer mixture, Receptan-N™ is stable for at least one year at 10° C.

Clinical Utility

The petitioner provided data from a study of 197 patients receiving one of four neuroleptic drugs—chlorpromazine, haloperidol, thioridazine, and thiothixene. The data presented in table 3 summarize the results of this study.

TABLE 3

Neuroleptic drug	Number of patients	Dose (range) (mg/day)	Result (range) (NU/L)	Mean ± S.D. (NU/L)	Detectable level percent
Chlorpromazine	17	25–200	15–321	30 ± 77	47
	20	300–900	15–934	102 ± 211	70
Haloperidol	23	1–10	15–24	< 15	17
	22	15–20	15–107	23 ± 28	55
	20	30–100	15–241	64 ± 55	85
Thioridazine	18	50–100	308–3837	1038 ± 767	100
	20	150–800	265–4723	2226 ± 1219	100
Thiothixene	26	1–18	15–26	< 15	12
	31	20–100	15–245	47 ± 53	

Higher dosage levels are associated with higher levels in serum tested using Receptan–N™. Also, levels determined using Receptan–N™ with one drug were not applicable to other neuroleptic drugs, and there were large variations in neuroleptic drug levels when Receptan–N™ was used to measure serum levels on patients, receiving similar doses of the same neuroleptic drug. The petitioner proposes to address these limitations by establishing baseline values, as described in the device's labeling. When used as described in the labeling, the device aids in measuring whether patients are complying in taking the prescribed dosage level of neuroleptic drugs.

Risks to Health

The Section noted that failure of the device to perform satisfactorily may lead to the administration to a patient of an excessive or even a toxic level of a neuroleptic drug or to the administration to a patient of a drug at a level lower than that which would be most efficacious.

Additional Findings

The Section recommended, and FDA agrees, that the following changes are required in the device's labeling in order for the device to be reclassified from class III into class II:

a. The package insert shall state that the device is intended to measure in serum or plasma the dopamine receptor blocking activity of neuroleptic drugs and their active metabolites to aid in determining whether the patient is taking the prescribed dosage level of such drugs.

b. The "Limitations" section of the package insert shall (1) provide the expected half-life for each of the common tricyclic anti-depressant drugs, (2) state that a tricyclic anti-depressant drug must be cleared from the blood before results from the radioreceptor assay can be interpreted properly, and (3) state that a patient being changed from thioridazine therapy to another neuroleptic drug regimen may give a false-positive result when tested with the device, if testing is performed before the thioridazine is cleared from the blood.

c. The labeling shall include the following warning: "It is inappropriate to continue measurements with this device when results of less than 15 NU/L are obtained and satisfactory steady-state response of the patient is observed."

In addition to the labeling changes recommended by the Section, FDA believes that the device's labeling is required to include the following in order for the device to be reclassified from class III into class II:

a. The labeling shall state that baseline values should be determined when patients are known to have received the drug (i.e., after serum concentrations have reached steady-state levels or after giving the patient a test dose).

b. The labeling shall state that abnormal physiological conditions (e.g., kidney dysfunction, hepatic impairment) can influence results from specimens obtained at different times from the same patient.

References

A copy of the petition, the transcript of the Section meeting, and the following material are on public file in the Dockets Management Branch (address above) where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday:

1. Cohen, B. M., J. F. Lipinski, P. Q. Harris, H. G. Pope, Jr., and M. Friedman, "Clinical Use of the Radioreceptor Assay for Neuroleptics," *Psychiatry Research*, Vol. 1, pp. 173–178, 1980.

2. Creese, I. and S. H. Snyder, "A Simple and Sensitive Radioreceptor Assay for Antischizophrenic Drugs in Blood," *Nature*, Vol. 270, pp. 180–182, 1977.

3. Lader, S., "A Radioreceptor Assay for Neuroleptic Drugs in Plasma," *Journal of Immunoassay*, Vol. 1, pp. 57–75, 1980.

4. Jatlow, P. I., R. Miller, and M. Swigar, "Measurement of Haloperidol in Human Plasma Using Reversed-Phase High Performance Liquid Chromatography," *Journal of Chromatography*, Vol. 227, pp. 233–238, 1982.

5. Boone, D. J. B., Proficiency Testing Summary Analysis, Chemistry Profile 1982 I., U.S. Department of Health and Human Services, Centers for Disease Control, Atlanta, p. 21, July 1982.

6. Seeman, P., T. Lee, M. Chau-Wong, and K. Wong, "Antipsychotic Drug Doses and Neuroleptic/dopamine Receptors," *Nature*, Vol. 261, pp. 717–718, 1976.

7. Horn, A. S., Handbook of Psychopharmacology, Plenum Press, New York, Vol. 2, pp. 200–202, 1975.

After considering the economic consequences of approving this reclassification, FDA certifies that this notive requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Approval of this petition would not have a significant economic impact on a substantial number of small entities. The petitioner, and all future manufacturers of the neuroleptic drugs radioreceptor assay test system, would be relieved of the costs of complying with the premarket approval requirements in section 515 of the act. There are no offsetting costs that the petitioner would incur from reclassification into class II. The magnitude of the economic savings from approval of this petition depends on the extent of premarket approval studies the petitioner would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the **Federal Register** as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the **Federal Register** this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Interested persons may, on or before October 17, 1983, submit to the Dockets Management Branch (address above) written comments on the recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-22312 Filed 8-15-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 53441]

Montana; Conveyance and Order Providing for Opening of Public Lands

August 5, 1983.

Notice is hereby given that pursuant to Sec. 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the surface estate only in the following described land has been conveyed to Valley County, Glasgow, Montana:

Principal Meridian, Montana

T. 30 N., R. 36 E.,
Sec. 7, Lot 4.
Containing 37.90 acres.

In exchange for the above land, the United States acquired the surface estate only in the following described land in Valley County, Montana. The government has always owned the oil and gas in this land.

Principal Meridian, Montana

T. 30 N., R. 35 E.,
Sec. 11, SE¼NE¼.
Containing 40.00 acres.

This order restores the land acquired by the United States to the operation of the public land laws generally.

At 9 a.m. on September 15, 1983, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 9 a.m. on September 15, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Ronald L. Bartley,

Acting State Director.

[FR Doc. 83-22301 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plat of survey.

SUMMARY: Plats of survey of the lands described below accepted July 21, 1983, will be officially filed in the Montana State Office effective 8 a.m. on October 7, 1983.

Principal Meridian, Montana

T. 1 N., R. 19 W.

The plat, in two sheets, represents the dependent resurvey of a portion of the Base Line through Range 19 West, a portion of the subdivisional lines and the survey of the subdivision of sections 12, 13, 14, 15, 21, 22, 23, 24, 26, 27, 34, and 35, Township 1 North, Range 19 West, Montana. The area described is in Ravalli County.

Principal Meridian, Montana

T. 1 S., R. 19 W.

The plat represents the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 4, 9, 15, and 16, in Township 1 South, Range 19 West, Montana. The area described is in Ravalli County.

These surveys were executed at the request of the U.S. Forest Service.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: August 5, 1983.

Delores M. Heser,

Chief, Branch of Records.

[FR Doc. 83-22300 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Lewistown District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Lewistown District Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Advisory Council will meet September 15 and 16, 1983. The agenda will be:

September 15, 1983

9:00 a.m. to 5:00 p.m.— Tour of Petroleum County. Depart Yogo Inn at 9:00 a.m.

September 16, 1983

9:00 a.m.—Bitter Creek Wilderness Study Area.
9:30 a.m.—Cooperative Management Agreements.
10:30 a.m.—Oil and Gas Program Briefing.
11:30 a.m.—Resolutions.
12:00 noon—Adjournment.

Public comment will be sought during the meeting.

DATES: September 15, 9:00 a.m. to 5:00 p.m., September 16, 9:00 a.m. to 12:00 noon.

ADDRESS: Yogo Inn, 211 E. Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: Members of the public wishing to join the tour must contact the District Manager at the above address by September 6, 1983. The Lewistown District Advisory Council is authorized under Section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739). The Council advises the District Manager concerning the planning for and management of the public lands administered within the Lewistown District.

Dated: August 8, 1983.

David E. Little,

Associate District Manager.

[FR Doc. 83-22296 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Lewistown District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Lewistown District Grazing Advisory Board, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Lewistown District Grazing Advisory Board will meet September 8 and 9, 1983. The agenda will be:

September 8, 1983

1:00 p.m.—1984 Range Improvements.
3:00 p.m.—Noxious Weed Control.
4:30 p.m.—Recess.

September 9, 1983

8:00 a.m.—Bitter Creek Wilderness Study.
9:00 a.m.—Tom Fisher Reservoir.
10:00 a.m.—Exchange of use.
11:00 a.m.—Cooperative Management Agreements.
12:00—Adjournment.

Public comment will be sought at the end of each agenda item.

DATES: September 8, 1983, 1:00 p.m. to 4:30 p.m., September 9, 1983, 8:00 a.m. to 12:00 noon.

ADDRESS: Lewistown District Office, Airport Road, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown District Grazing Advisory Board is athorized under Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753). The Board advises the Lewistown District Manager concerning the development of allotment management plans and the utilization of range betterment funds.

Dated: August 8, 1983.

David E. Little,

Associate District Manager.

[FR Doc. 83-22297 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-8104, et al.]

Allocations Pursuant to Section 14(h) of the Alaska Native Claims Settlement Act

Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1611) (ANCSA) authorizes 2 million acres to be conveyed or charged under the following categories: (h)(1) cemetery sites and historical places; (h)(2) Native groups (not more than 23,040 acres for each group); (h)(3) conveyances to Natives residing in Sitka, Kenai, Juneau and Kodiak; (h)(5) Native primary place of residence; (h)(6) Native allotment applications approved during the period 1971–1975; and (h)(8) any portion of the 2 million acres not conveyed by other subsections will be allocated and conveyed to the regional corporations on the basis of enrollment.

By regulation, the Secretary allocated 500,000 acres for Section 14(h) (1), (2), and (5) entitlements (43 CFR 2653.1(a)(1)) and established formulas for the computation of these entitlements. The Secretary also allocated, by regulation, 92,160 acres for Section 14(h)(3) entitlements (43 CFR 2653.1(a)(2)) and not more than 400,000 acres for Section 14(h)(6) entitlements (43 CFR 2653.1(a)(3)).

The decision of January 19, 1977, as amended by the decision of November 15, 1978 (**Federal Register**, Vol. 42, No. 22, pages 6419 to 6432 and **Federal Register**, Vol. 43, No. 221, page 53062) finalized the Section 14(h) percentiles for each region. These were used in determining the Section 14(h) (1), (2), (5), and (8) entitlements.

Table 1 shows each regions entitlements for Section 14(h) (1), (2), (5), and (8). Section 14(h)(3) entitlement is 92,160 acres.

TABLE 1 [1]

	Percent by population (Pub. 1978)[2]	Acres allocated 14(h) (1), (2), (5)	Acres allocated under 14(h)(8)
AHTNA	1.41538	27,830.76	17,312.60
Aleut	4.36431	33,728.62	53,383.24
ASRC	5.07850	35,157.00	62,119.04
BSNC	8.98443	42,968.86	109,895.48
BBNC	7.17430	39,348.60	87,754.39
Calista	17.45725	59,914.50	213,533.07
Chugach	2.73467	30,69.34	33,449.85
CIRI	8.15078	41,301.56	99,698.47
Doyon	12.00348	49,006.96	146,823.81
Koniag	4.40716	33,814.32	53,407.37
NANA	6.38041	37,761.82	78,049.82

TABLE 1 [1]—Continued

	Percent by population (Pub. 1978)[2]	Acres allocated 14(h) (1), (2), (5)	Acres allocated under 14(h)(8)
Sealaska	21.84883	66,697.66	267,249.86
Total		500,000.00	1,223,177.00

[1] The actual acreage conveyed may be different from the final entitlement because of special legislation, etc.

[2] Percentile by population is listed for informational purposes only.

Section 14(h)(6) directed the Secretary to charge against the 2 million acres authorized to be conveyed by Section 14(h) all Native Allotments approved between December 18, 1971 and December 18, 1975. Allotments approved during that period aggregate 184,663 acres; therefore, 184,663 acres are hereby charged against the 14(h) entitlement. Section 14(h)(6) chargeable acreage was obtained by calculating the correct acreage for the Native Allotments which had survey requested during the four year period and which were determined to meet the requirements of the Act of May 17, 1906 (34 Stat. 197), the Act of February 8, 1887 (24 Stat. 389), as amended and supplemented, and the Act of June 25, 1910 (36 Stat. 863) (43 CFR 2653.1(a)(3)).

Section 14(h)(8) acreage was computed by deducting the Section 14(h) (1), (2), (3), (5), and (6) entitlements from the 2 million acres to determine the total Section 14(h)(8) entitlement. This figure was multiplied by the population percentile (determined by the Bureau of Indian Affairs in 1978) to obtain each regional corporations' Section 14(h)(8) entitlement.

This decision is being published once in the **Federal Register.**

Should you disagree with the final allocations given by this decision you may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until September 15, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals.

Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, a copy of the notice of appeal must be served on each of the regional corporations listed in attachment 1.

Curtis V. McVee,

State Director for Conveyance Management.

Attachment 1

AHTNA, *Inc.*, Drawer G, Copper Center, Alaska 99573

The Aleut Corporation, 2550 Denali Street, Suite 900, Anchorage, Alaska 99503

Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99752

Bristol Bay Native Corporation, P.O. Box 100220, Anchorage, Alaska 99510

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503

Cook Inlet Region, Inc., P.O. Box Drawer 4-N, Anchorage, Alaska 99510

Doyon, Limited, 201 First Avenue, Fairbanks, Alaska 99701

Koniag, Inc., P.O. Box 746, Kodiak, Alaska 99615

NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752

Sealaska Corporation, One Sealaska Plaza, Suite 200, Juneau, Alaska 99801

[FR Doc. 83-22337 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14944-A and F-14944-B]

Alaska Native Claims Selection; Tozitna, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Tozitna, Limited for approximately 104,154 acres. The lands involved are within the Fairbanks Meridian, Alaska:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 3 N., R. 20 W.
T. 4 N., R. 20 W.
T. 5 N., R. 20 W.
T. 3 N., R. 21 W.
T. 4 N., R. 21 W.
T. 5 N., R. 21 W.
T. 4 N., R. 22 W.
T. 5 N., R. 22 W.
T. 3 N., R. 23 W.
T. 4 N., R. 23 W.
T. 3 N., R. 24 W.
T. 4 N., R. 24 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 15, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Technical Services, Title Administration, Pouch 10-7035, Anchorage, Alaska 99510.
Tozitna, Limited, P.O. Box 202, Tanana, Alaska 99777.
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-22338 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Sand and Gravel Lease Offerings Under Consideration

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of potential sand and gravel lease offerings being considered for 1983, 1984, 1985, and 1986, and request for comments.

SUMMARY: The Minerals Management Service (MMS) is considering future offerings of offshore sand and gravel for lease to support development of oil and gas resources in offshore Alaskan areas. The purpose of this Notice is to alert the interested public as to the intent of MMS to hold future offerings and to solicit comments on timing, location, and other aspects of the offerings.

The MMS is considering the following offerings:

October 1983—arctic sand and gravel
August 1984—arctic sand and gravel
December 1985—Bering Sea sand and gravel
August 1986—arctic sand and gravel

Preliminary prelease administrative steps have already been undertaken for a proposed arctic offering in October of this year. A final environmental impact statement was issued in March 1983. On April 11, 1983, MMS issued a Notice of Tentative Terms and Conditions for which comments were solicited and received. Should the decision be made to go forward with the proposal, a Notice of Offering will be published in September 1983 and will indicate the terms and conditions for that offering.

The offerings under consideration for 1984–1986 have been tentatively scheduled to follow by a period of months the offerings of offshore oil and gas leases in the Beaufort and Bering Seas off Alaska as shown on the 5-Year Oil and Gas Leasing Schedule approved July 21, 1982. For example, the arctic sand and gravel lease offering under consideration for August 1984 follows the Diapir Field oil and gas lease offering proposed for June 1984. Similarly, a possible December 1985 offering of sand and gravel leases follows the Norton Basin oil and gas lease offering proposed for October 1985. The sand and gravel offerings will be in the vicinity of areas under oil and gas leases and will be primarily for the purpose of making construction materials available for exploration and development of energy resources on federally-leased areas. The intent of the tentative scheduling of the sand and gravel offerings after oil and gas leasing is to allow all parties to conduct planning, to make assessments of possible demands for construction materials, and to schedule possible future activities on the basis of oil and gas leasing which will have actually taken place.

Comments:

Comments are requested within 45 days of publication of this Notice, particularly on the timing and location of potential sand and gravel lease offerings, but they may address any aspect of such leasing. Comments should be addressed to Director, Minerals Management Service, Mail Stop 645, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Chris Oynes (202/343-6906) or Abigail Miller (202/343-3116), Leasing Management Division (MS-645), Minerals Management Service, at the above address.

Dated: August 5, 1983.

Dave Rusell,

Acting Director, Minerals Management Service.

Dated: August 9, 1983.

Approved:

W. L. Dare,

Acting Deputy Assistant Secretary—Energy and Minerals.

[FR Doc. 83-22340 Filed 8-15-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Chapter IV Natural Resource Management; Fire Management

AGENCY: National Park Service, Interior.

ACTION: Proposed Revised Fire Management Policy with request for comments.

SUMMARY: The revision of the Fire Management Policy is a rewrite of pages 13 through 15 of Chapter IV of the National Park Service Management Policies. There is also an edit of the reference to fire management under Chapter IV–8, Wilderness. This revision will provide guidance to National Park Service (Service) personnel for dealing with fire management in a planned, comprehensive manner. It also brings the management of fires in the Service in line with practices of other land managing agencies.

DATE: Written comments, suggestions or objections will be accepted until September 12, 1983.

ADDRESS: Comments should be directed to: Acting Special Assistant for Policy Development, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David B. Butts, Branch of Fire Management, FTS 554–9453 or (208) 384–9453; Geraldine Smith, Office of Policy Development, (202) 343–7468.

SUPPLEMENTARY INFORMATION: The National Park Services (NPS) is proposing revision of its fire management policy which will address NPS needs in terms of current fire management practices. This revision expands on and clarifies the present NPS Fire Management Policy (Management Policies Manual, IV, 13–15). The revision contains sections on fire management; wildfire prevention and suppression; prescribed fires; and an edit of the reference to fire management under Chapter IV–8, Wilderness.

The NPS has always sought to accomplish its mission to protect and preserve the resource for the enjoyment of present and future generations in the most natural means possible. We fully recognize fire as a powerful phenomenon, sometimes naturally ignited, which must be addressed in terms of our mission but also in terms of present day needs, practices and trends of society. This revision permits, for the first time as a national policy, the classification of a wildfire to a prescribed burn, under carefully constrained circumstances.

The Service is hereby soliciting comment from any and all interested groups or individuals on this proposed policy revision. We urge you to be specific in how the policy might be changed or strengthened. All comments will be reviewed and, where appropriate, incorporated. The policy will remain on review for 30 days. The revised proposed policy and an explanation of how comments were addressed will be published in the **Federal Register** following this comment period. The revision, in its final form, will become a part of the National Park Service Management Policies Manual.

Dated: August 10, 1983.

Russell Dickenson,

Director, National Park Service.

Major Components

The first section, FIRE MANAGEMENT, lists and defines terms as they apply to this revision and discusses the relationship of the fire management program to the objectives of the park.

The second section on WILDFIRE PREVENTION AND SUPPRESSION describes the importance of a prevention program in a park and tells under what circumstances wildfires will be suppressed. This section also states when a prescribed fire will be suppressed.

The PRESCRIBED FIRES section discusses the contribution of those fires to the attainment of the management objectives of the park. The section also details when a natural ignition may be adopted; use of prescribed burns; limits of prescribed fires and when they will be suppressed.

In the edit on WILDERNESS—FIRE MANAGEMENT (VI–8), the word *suppression* has been substituted for the word *control*. The last sentence, beginning with "All fire management policies * * *" has been added.

National Park Service Management Policies—Chapter IV Natural Resource Management

Fire Management

Fire is a powerful phenomenon with the potential to drastically alter the vegetative cover of any park. The physical process, fire, may contribute toward or hinder the achievement of park objectives.

Terminology related to fire is undergoing a change nationally as practitioners strive for clarity in a dynamic technical field. For purposes of this policy, the following terms as defined apply.

Fire management—all activities related to the prevention, control or use of fire burning through vegetation.

Fire prescription—a written statement defining the objectives to be attained, the conditions of temperature, humidity, wind direction and speed, fuel moisture and soil moisture, under which the fire will be allowed to burn, generally expressed as acceptable range of the various indices, and the limit of the geographic area to be covered.

Natural fire—any fire of natural origin, i.e. caused by lightning, or volcanic activity

Prescribed burn—a fire deliberately ignited by land managers within a fire prescription in order to achieve predetermined resource management objectives; a form of prescribed fire.

Prescribed fire—skillful application of fire to natural fuels under conditions of weather, fuel moisture, soil moisture, etc., that will allow confinement of the fire to a predetermined area and at the same time will produce the intensity of heat and rate of spread required to accomplish certain planned benefits to one or more objective of silviculture, wildlife management, grazing, hazard reduction, ect. Its objective is to employ fire scientifically to realize maximum net benefits at minimum damage and acceptable cost.

Prescribed natural fire—fire of natural origin, i.e., caused by lightning or volcanic activity, which is allowed to burn under prescribed conditions; a form of prescribed fire.

Wildfire—a free-burning fire; all fire other than prescribed fire that occurs on wildlands.

The fire management program of all parks must be designed around park objectives. In regard to natural systems, this may include the need for some portions of parks to proceed through succession toward climax while others are set back by natural fire. Large parks managed as natural zones should represent the full spectrum of their dynamic natural vegetative patterns. Sharply defined zones or blocks of vegetation limited to certain species arbitrarily locked in over time are not natural and only rarely justified. In historic zones, wildfires will be suppressed but prescribed burns may be used to perpetuate the historic scene.

The presence or absence of natural fire within a given ecosystem is recognized as a potent factor stimulating, retarding or eliminating other components of the ecosystem. Most natural fires are lightining-caused and are recognized as natural phenomena which must be permitted to

continue to influence the ecosystem if truly natural systems are to be perpetuated.

All fires that occur in parks are classed either as *wildfires* or *prescribed fires.*

Wildfire Prevention and Suppression

An active fire prevention program will be conducted in all parks and in conjunction with other agencies to protect human life, prevent modification of park ecosystems by human-caused wildfire, and prevent damage to cultural resources or physical facilities.

All wildfires will be suppressed. Prescribed fires that exceed the prescription will be suppressed. All parks with vegetation capable of supporting fire must provide for fire suppression. The fire suppression methods used in the parks should be those causing the least resource damage, commensurate with effective suppression.

Wildfires will be suppressed to prevent damage and to mitigate adverse impact to the park ecosystems. The only exception will be within prescribed burn fire management units and with the written concurrence of all adjacent land managers and wildland fire control agencies. In those units, the wildfires that exactly meet all prescription parameters may then be reclassified as prescribed burns and carried out in line with the approved Prescribed Burn Plan, a part of the Fire Management Plan.

Interagency agreements are encouraged at all levels to facilitate efficient reciprocal fire management activities for land within and adjacent to the parks.

Prescribed Fires

Both prescribed natural fires and prescribed burns contribute to the attainment of the management objectives of a park through execution of predetermined prescriptions defined in detail in the Fire Management Plan, a portion of the Natural Resources Management Plan.

Prescribed natural fire is the preferred means to achieve the fire management objectives in natural zones. This use of a natural ignition may be adopted when analysis of past fire occurrence, distribution, control, and influence indicates that natural vegetative accumulation and composition has not been significantly altered by past management of fire control. It may also be used where the conservative prescriptions provide for a transition from an altered state back to historic fuel loading.

In natural zones modified by a prolonged exclusion of fire, prescribed burning may be use to restore fuel loading or vegetative composition to natural levels followed by a prescribed natural fire program.

Prescribed burning may be used as a substitute for prescribed natural fire in natural zones only where the latter cannot meet park objectives. This determination will be documented in the Fire Management Plan. In natural zones, the objective for prescribed burning is to simulate, to the fullest extent possible, the influence of natural fire on the ecosystem.

Prescribed burning may also be used to create narrow fuel breaks along boundaries of fire management units and thereby reduce the probability of wildfires crossing into or out of that unit. In other zones, it may be used to recreate or perpetuate an historic setting, reduce fire hazard in developed zones, to retain other resources management objectives. In some cases, it may be used to replace high energy-consumption practices such as mowing, bush cutting and chemical control of vegetation.

Clearly defined limits will be established in the prescriptions for all prescribed fires, beyond which suppression action will be undertaken.

Prescribed fires in the park will be suppressed if they threaten:

—human life and safety;
—cultural resources or physical facilities of the park;
—to have a negative impact on threatened or endangered species;
—to escape from predetermined units or from the park, except where interagency agreements provide for certain fires to cross such boundaries, or;
—to exceed the prescription.

Fire prescriptions will comply with the NPS management policy on AIR (IV–18), and with state and local air quality requirements.

Wilderness—Fire Management (VI–8)

Action will be taken to supress all wildfires in such a way as to protect natural and cultural features and to minimize the lasting impacts of the suppression action and the fire itself. All fire management policies appropriate for natural zones and found in Chapter IV also apply to wilderness.

[FR Doc. 83-22080 Filed 8-15-83; 8:45 am]
BILLING CODE 4310-70-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 August 5, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation 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 August 31, 1983.

Carol D. Shull,
Chief of Registration, National Register.

ARKANSAS

Benton County

Benton City, *Benton County National Bank*, 203 W. Central

Independence County

Batesville, *Luster Urban Farmstead*, 487 N. Central Ave.

Searcy County

Gilbert, *Mays General Store*, Front St.

Union County

El Dorado, *McKinney, Henry Crawford, House*, 510 E. Faulkner

COLORADO

El Paso County

Colorado Springs, *Plaza Hotel*, 836 N. Tejon

Fremont County

Canon City, *First Presbyterian Church*, Macon and 7th Sts.

GEORGIA

Floyd County

Rome, *Lower Avenue A Historic District*, Avenue A between N. 5th St. and Turner-McCall Blvd.

Rome, *Myrtle Hill Cemetery*, Bounded by S. Broad, and Myrtle Sts., Pennington, and Branham Aves.

Rome, *Upper Avenue A Historic District*, Roughly bounded by Oostanaula River, Turner-McCall Blvd., Avenue B and W. 11th St.

Gwinnett County

Buford, *Bona, Allen, House*, 395 Main St.

Lowndes County

Valdosta, *Valdosta Commercial Historic District*, Roughly bounded by Savannah Ave., Lee, Toombs, and Valley Sts.

IDAHO

Jerome County

Eden vicinity, *Vineyard, Charles C., House (Lava Rock Structures in South Central Idaho TR)*, SW of Eden

Hazelton vicinity, *Havens, Bert and Fay, House (Lava Rock Structures in South Central Idaho TR)*, N of Hazelton
Hazelton vicinity, *Kelley, Marion and Julia, House (Lava Rock Structures in South Central Idaho TR)*, 450 4th St. E.
Hazelton vicinity, *Shepard, L. Fay, House (Lava Rock Structures in South Central Idaho TR)*, S of Hazelton
Jerome vicinity, *Allton Building (Lava Rock Structures in South Central Idaho TR)*, 160 E. Main St.
Jerome vicinity, *Barnes, Tom, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *Bethume-Ayres House (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *Blessing, Carl, Outbuildings (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome
Jerome vicinity, *Bothwell, James, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome
Jerome vicinity, *Bower, Charles, House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome
Jerome vicinity, *Brick, Frank J., House (Lava Rock Structures in South Central Idaho TR)*, 300 N. Fillmore St.
Jerome vicinity, *Callen, Dick, House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome
Jerome vicinity, *Canyonside School (Lava Rock Structures in South Central Idaho TR)*, S of Jerome
Jerome vicinity, *Cook, William H., Water Tank House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Cooke, E.V., House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Daniels, O.J., House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome
Jerome vicinity, *Epperson, George, House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Erdman, G.H., House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Falls City School House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Fry, Merritt, Farm (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Gleason, E.C., House (Lava Rock Structures in South Central Idaho TR)*, 209 E. Ave A.
Jerome vicinity, *Goff, Hugh and Susie, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Graves, Lulu, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome
Jerome vicinity, *Gregg, Edward M., Farm (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Huer Well House/Water Tank (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Jerome City Pump House (Lava Rock Structures in South Central Idaho TR)*, 600 Block of E. B St.
Jerome vicinity, *Jerome Cooperative Creamery (Lava Rock Structures in South Central Idaho TR)*, 313 S. Birch St.
Jerome vicinity, *Jerome First Baptist Church (Lava Rock Structures in South Central Idaho TR)*, 1st Ave., E.
Jerome vicinity, *Johnson, Edgar, House (Lava Rock Structures in South Central Idaho TR)*, S of Jerome
Jerome vicinity, *Keating, Clarence, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Kehrer, Thomas J., House (Lava Rock Structures in South Central Idaho TR)*, N of Jerome
Jerome vicinity, *Laughlin, Ben, Water Tank House-Garage (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *Lawshe, George, Well House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Lee, J.O., House (Lava Rock Structures in South Central Idaho TR)*, 5th Ave., E.
Jerome vicinity, *Lee, J.O., Honey House (Lava Rock Structures in South Central Idaho TR)*, 5th Ave., E.
Jerome vicinity, *Mandl, Joseph, House (Lava Rock Structures in South Central Idaho TR)*, 800 N. Fillmore St.
Jerome vicinity, *Newman, J.W. and Rachel, House and Bunkhouse (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *North Side Canal Company Slaughter House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Osborne, Jessie, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Quay, Greer and Jennie, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *Ricketts, Julian T., House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Schmerschall John F., House (Lava Rock Structures in South Central Idaho TR)*, 248 E. Ave A
Jerome vicinity, *Shoshone Falls Power Plant Caretaker's House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Silbaugh, W.H., House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Spencer, Edward S., House and Garage and the Fred Nelson Barn (Lava Rock Structures in South Central Idaho TR)*, N of Jerome
Jerome vicinity, *Stevens, Arnold, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Stickel, John, House (Lava Rock Structures in South Central Idaho TR)*, W of Jerome
Jerome vicinity, *Sugarloaf School (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *Thomason, Rice, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Jerome
Jerome vicinity, *Tooley, Don, House (Lava Rock Structures in South Central Idaho TR)*, NE of Jerome
Jerome vicinity, *VAn Hook, Jay, Potato Cellar (Lava Rock Structures in South Central Idaho TR)*, S of Jerome
Jerome vicinity, *Van Wagener, Jacob B., Barn (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Van Wagener, Jacoab B., Caretaker's House (Lava Rock Structures in South Central Idaho TR)*, SE of Jerome
Jerome vicinity, *Veazie, William T. and Clara H., House (Lava Rock Structures in South Central Idaho TR)*, SW of Jerome
Jerome vicinity, *Vipham, Thomas House (Lava Rock Structures in South Central Idaho TR)*, 313 E. Ave D
Jerome vicinity, *Webster, Archie, House (Lava Rock Structures in South Central Idaho TR)*, West Ave. and W. Ave. B
Jerome vicinity, *Weigle, William, House and Water Tank (Lava Rock Structures in South Central Idaho TR)*, NW of Jerome

Lincoln County

Dietrich vicinity, *Bate, S.A., Barn and Chicken House (Lava Rock Structures in South Central Idaho TR)*, SE of Dietrich
Dietrich vicinity, *Berriochoa, Ignacio, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Dietrich
Dietrich vicinity, *Hunt, Daniel A., House (Lava Rock Structures in South Central Idaho TR)*, SW of Dietrich
Dietrich vicinity, *Paul, Denton J., Water Tank (Lava Rock Structures in South Central Idaho TR)*, E of Dietrich
Richfield vicinity, *Boussuet, Birdie, Farm (Lava Rock Structures in South Central Idaho TR)*, W of Richfield
Richfield vicinity, *Eskelton, Alvin, Barn (Lava Rock Structures in South Central Idaho TR)*, NW of Richfield
Richfield vicinity, *Johnson, Louis, Barn (Lava Rock Structures in South Central Idaho TR)*, SW of Richfield
Richfield vicinity, *Johnson Louis, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, W of Richfield
Richfield vicinity, *Johnson, Quet, Farm (Lava Rock Structures in South Central Idaho TR)*, NW of Richfield
Richfield vicinity, *Kohl, W.S., Barn (Lava Rock Structures in South Central Idaho TR)*, NE of Richfield
Richfield vicinity, *Lane, James H., Barn (Lava Rock Structures in South Central Idaho TR)*, S of Richfield
Richfield vicinity, *Lemmon Hardware Store (Lava Rock Structures in South Central Idaho TR)*, Main St. and Nez Perce Ave
Richfield vicinity, *Phelps, Kenneth G., Barn (Lava Rock Structures in South Central Idaho TR)*, W of Richfield
Richfield vicinity, *Richland Pump House (Lava Rock Structures in South Central Idaho TR)*, SE of Richfield
Richfield vicinity, *Turner, John G., House (Lava Rock Structures in S..th Central Idaho TR)*, W of Richfield
Shoshone vicinity, *American Legion Hall (Lava Rock Structures in South Central Idaho TR)*, 107 W. A St.
Shoshone vicinity, *Anasola, Jose and Gertrude, House (Lava Rock Structures in South Central Idaho TR)*, 120 N. Alta St.
Shoshone vicinity, *Arambarri, Galo, Boarding House (Lava Rock Structures in South Central Idaho TR)*, 109 N. Greenwood St.

Shoshone vicinity, *Baugh, W. H., House (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone
Shoshone vicinity, *Byrne, Tom, House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone
Shoshone vicinity, *Custer Slaughter House (Lava Rock Structures in South Central Idaho TR)*, W of Shoshone
Shoshone vicinity, *Darrah House and Water Tank House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone
Shoshone vicinity, *Darrah, Ben, Water Tank and Well House (Lava Rock Structures in South Central Idaho TR)*, N of Shoshone
Shoshone vicinity, *Dill, Charles W., House (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone
Shoshone vicinity, *Gaches, George H., Cellar and Ice House (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *Gooding, Thomas, Water Tank House (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *Gottfried, Gehrig, Cabin (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *J. C. Penney Company Building (Lava Rock Structures in South Central Idaho TR)*, 104 S. Rail St.
Shoshone vicinity, *Murphy, W. H., House (Lava Rock Structures in South Central Idaho TR)*, 607 S. Greenwood St.
Shoshone vicinity, *Myers School (Lava Rock Structures in South Central Idaho TR)*, W of Shoshone
Shoshone vicinity, *Newman, A. G., House (Lava Rock Structures in South Central Idaho TR)*, 309 E. C St.
Shoshone vicinity, *Olley, Thomas, House (Lava Rock Structures in South Central Idaho TR)*, 522 N. Apple St.
Shoshone vicinity, *Oughton, Jack, House (Lava Rock Structures in South Central Idaho TR)*, 123 N. Beverly St.
Shoshone vicinity, *Ritter, William M., House (Lava Rock Structures in South Central Idaho TR)*, NE of Shoshone
Shoshone vicinity, *Silva, Arthur D., Water Tank (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *Silva, Arthur, D., Flume (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *Silva, Arthur, D., Ranch (Lava Rock Structures in South Central Idaho TR)*, NW of Shoshone
Shoshone vicinity, *Silva, Manuel, Barn (Lava Rock Structures in South Central Idaho TR)*, E of Shoshone

Shoshone County

Wallace, *Wallace Historic District*, Roughly bounded by Oak, Silver, C, Mullan, Canyon, Fir, and First Sts.

Twin Falls County

Buhl vicinity, *Bowlby, T.P., Barn (Buhl Dairy Barns TR)*, NE of Buhl
Buhl vicinity, *Carlson, Alfred, Barn (Buhl Dairy Barns TR)*, NE of Buhl
Buhl vicinity, *Dau-Weubbenhorst Barn (Buhl Dairy Barns TR)*, SE of Buhl
Buhl vicinity, *Kunze, Gustave, Barn (Buhl Dairy Barns TR)*, SE of Buhl
Buhl vicinity, *Kunze, Rudolf, Barn (Buhl Dairy Barns TR)*, NE of Buhl
Buhl vicinity, *Maxwell, Art and Frieda, Barn (Buhl Dairy Barns TR)*, SE of Buhl
Buhl vicinity, *Schick, Henry, Barn (Buhl Dairy Barns TR)*, SE of Buhl

ILLINOIS

Kane County

Aurora, *Stolp Woolen Mill Store*, 2 W. Downer Pl.

INDIANA

Allen County

Ft. Wayne, *Keplinger, Harry A., House*, 235 W. Creighton Ave.

Clark County

Charlestown, *Watson House*, 1015 Water St.

Howard County

Greentown, *Hy-Red Gasoline Station*, 203 E. Main St.

Huntington County

Huntington, *Moore/Corlew Building*, 400 and 410–418 N. Jefferson St.

Jay County

Portland, *Floral Hall*, W. Votaw and Morton Sts.

Marion County

Indianapolis, *Alameda (Apartments and Flats of Downtown Indianapolis TR)*, 37 W. St. Clair St.
Indianapolis, *Alexandra (Apartments and Flats of Downtown Indianapolis TR)*, 402—416 N. New Jersey St. and 332—336 E. Vermont St.
Indianapolis, *Ambassador (Apartments and Flats of Downtown Indianapolis TR)*, 39 E. 9th St.
Indianapolis, *Baker (Apartments and Flats of Downtown Indianapolis TR)*, 310 N. Alabama St. and 341 Massachusetts Ave.
Indianapolis, *Blacherne (Apartments and Flats of Downtown Indianapolis TR)*, 402 N. Meridian St.
Indianapolis, *Burton (Apartments and Flats of Downtown Indianapolis TR)*, 821—823 N. Pennsylvania St.
Indianapolis, *Cathcart (Apartments and Flats of Downtown Indianapolis TR)*, 103 E. 9th St.
Indianapolis, *Chadwick (Apartments and Flats of Downtown Indianapolis TR)*, 1005 N. Pennsylvania St.
Indianapolis, *Colonial (Apartments and Flats of Downtown Indianapolis TR)*, 126 E. Vermont St. and 402—408 N. Delaware St.
Indianapolis, *Dartmouth (Apartments and Flats of Downtown Indianapolis TR)*, 221 E. Michigan St.
Indianapolis, *Delaware Court (Apartments and Flats of Downtown Indianapolis TR)*, 1001—1015 N. Delaware St.
Indianapolis, *Delaware Flats (Apartments and Flats of Downtown Indianapolis TR)*, 120—128 N. Delaware St.
Indianapolis, *Devonshire (Apartments and Flats of Downtown Indianapolis TR)*, 412 N. Alabama St.
Indianapolis, *Emelie (Apartments and Flats of Downtown Indianapolis TR)*, 326—330 N. Senate Ave. and 301—303 W. Vermont St.
Indianapolis, *Glencoe (Apartments and Flats of Downtown Indianapolis TR)*, 627 N. Pennsylvania St.
Indianapolis, *Grover (Apartments and Flats of Downtown Indianapolis TR)*, 615 N. Pennsylvania St.
Indianapolis, *Harriett (Apartments and Flats of Downtown Indianapolis TR)*, 124—128 N. East St.
Indianapolis, *Lodge (Apartments and Flats of Downtown Indianapolis TR)*, 829 N. Pennsylvania St.
Indianapolis, *Martens (Apartments and Flats of Downtown Indianapolis TR)*, 348—356 Indiana Ave.
Indianapolis, *Massachusetts (Apartments and Flats of Downtown Indianapolis TR)*, 421—427 Massachusetts Ave.
Indianapolis, *Mayleeno (Apartments and Flats of Downtown Indianapolis TR)*, 416—418 E. Vermont St.
Indianapolis, *McKay (Apartments and Flats of Downtown Indianapolis TR)*, 611 N. Pennsylvania St.
Indianapolis, *Myrtle Fern (Apartments and Flats of Downtown Indianapolis TR)*, 221 E. 9th St.
Indianapolis, *Oxford (Apartments and Flats of Downtown Indianapolis TR)*, 316 E. Vermont St.
Indianapolis, *Pennsylvania (Apartments and Flats of Downtown Indianapolis TR)*, 919 N. Pennsylvania St.
Indianapolis, *Plaza (Apartments and Flats of Downtown Indianapolis TR)*, 902 N. Pennsylvania St. and 36 E. 9th St.
Indianapolis, *Rink (Apartments and Flats of Downtown Indianapolis TR)*, 401 N. Illinois St.
Indianapolis, *Savoy (Apartments and Flats of Downtown Indianapolis TR)*, 36 W. Vermont St.
Indianapolis, *Shelton (Apartments and Flats of Downtown Indianapolis TR)*, 825 N. Delaware St.
Indianapolis, *Shortridge High School*, 3401 N. Meridian St.
Indianapolis, *Sid-Mar (Apartments and Flats of Downtown Indianapolis TR)*, 401—403 Massachusetts Ave.
Indianapolis, *Spink (Apartments and Flats of Downtown Indianapolis TR)*, 230 E. 9th St.
Indianapolis, *St. Clair (Apartments and Flats of Downtown Indianapolis TR)*, 109 W. St. Clair St.
Indianapolis, *Sylvania (Apartments and Flats of Downtown Indianapolis TR)*, 801 N. Pennsylvania St. and 108 E. St. Clair St.
Indianapolis, *Vienna (Apartments and Flats of Downtown Indianapolis TR)*, 306 E. New York St.
Indianapolis, *Wil-Fra-Mar (Apartments and Flats of Downtown Indianapolis TR)*, 318—320 E. Vermont St.
Indianapolis, *Wilson (Apartments and Flats of Downtown Indianapolis TR)*, 643 Ft. Wayne Ave.
Indianapolis, *Wyndham (Apartments and Flats of Downtown Indianapolis TR)*, 1040 N. Delaware St.

Miami County

Peru, *Brownell Block/Senger Dry Goods Company Building*, Broadway and 5th Sts.

MARYLAND

Garrett County

Mountain Lake Park, *Mountain Lake Park Historic District*, Roughly bounded by Alleghany Dr., Oakland Ave., D and N Sts.

Hartford County

Churchville vicinity, *Webster's Forest*, 500 Asbury Rd.

MASSACHUSETTS

Berkshire County

Monterey, *Rock Ridge*, Tyringham Rd.
Pittsfield, *Allen Hotel*, Wendell Ave.
Williamstown, *Simond, Col. Benjamin, House*, 643 Simonds Rd.

Franklin County

Greenfield, *Garden Theater Block*, 353–367 Main St.

Hampden County

Chicopee, *Valentine School*, Grape and Elm Sts.

Suffolk County

Boston, *Charles Street African Methodist Episcopal Church*, 551 Warren St.
Boston, *Harrison, Loring House*, 789 E. Broadway St.

Worcester County

Gardner, *Heywood-Wakefield Company Compelx*, 206 Centeral St.

NEW YORK

New York County

New York, *Society for the Lying-In Hospital*, 305 2nd Ave.

OREGON

Benton County

Corvallis vicinity, *Rickard, Peter, Farmstead*, SW of Corvallis.

Jackson County

Medford, *Hafer, Edgar F., House*, 428 W. 6th St.

Lane County

Eugene, *Alpha Tau Omega Fraternity House (Qld)*, 1143 Oak St.
Springfield, *Springfield General Hospital*, 846 F St.

Multonomah County

Portland, *Barnes, Frank C., House*, 3533 NE Klickitat
Portland, *Bergman, Joseph, House*, 2134 NW Hoyt St.
Portland, *Dolph Building*, 615 SW Broadway
Portland, *Hollywood Theatre*, 4122 NE Sandy Blvd.

Yamhill County

McMinnville, *Fenton, Frank W., House*, 434 N. Evans St.

PENNSYLVANIA

Bucks County

New Hope *Cintra (New Hope MRA)*, 181 W. Bridge St.
New Hope, *District #1 (New Hope MRA)*, Mechanic St., Old York, S. Sugan, and Stoney Hills Rds.
New Hope, *District #2 (New Hope MRA)*, Old Mill Rd., Stockton Ave., Ferry, Bridge, Mechanic, Randolph, Main, Coryell, and Waterloo Sts.
New Hope, *Ely, Joshua, House (New Hope MRA)*, Rittenhouse Circle
New Hope, *Kitchen, William, House (New Hope MRA)*, 332 S. Sugan Rd.

Chester County

Paoli vicinity, *Great Valley Mill*, 72 N. Valley Rd.

Cumberland County

Newville vicintiy, *Sterrett-Hassinger House*, Three Squares Hollow Rd.

Delaware County

Villanova, *Camp-Woods*, 745 Newton Rd.

York County

Delat, *Delta Historic District*, Main St.

TENNESSEE

Davidson County

Nashville, *Richland Hall*, 4822 Charlotte Ave.

Maury County

Columbia vicinity, *Fairmont*, Mooresville Pike

WASHINGTON

Clallam County

Port Angeles, *U.S. Post Office*, W. 1st and Oak Sts.

the 15-day commenting period for the following properties nominated to the National Register of Historic Places is being waived in order to assist in the properties preservation. Expeditious listing of these properties will insure that a project to development the educational and interpretive potential of theses sites may proceed under the provisions of the Emergency Jobs Act of 1983 (Pub. L. 98.8).

TRUST TERRITORY OF THE PACIFIC ISLANDS

Yap District

Bechiel Village, *Bechiel Village Historic District*,

Truk District

Puluwat Atoll, *Japanese Lighthouse*, Allei Island

Kosrae District,

Lelu Island, *Leluh Ruins*.

[FR Doc. 83-22268 Filed 8-15-83; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carrier of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These 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.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it 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. This presumption shall not be deemed to exist where the application is opposed. 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."

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223.

Volume No. OP3–369

Decided: August 3, 1983.

By the Commission, Review Board Members Joyce, Williams, and Dowell.

MC 169385, filed July 21, 1983. Applicant: NIX'S CHARTER SERVICE, INC., 473 11th Avenue, Paterson, NJ 07514. Representative: Edward F. Bowes, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter special transportation.

MC 169404, filed July 21, 1983. Applicant: WILLIAM J. WATSON d.b.a. WATSON ENTERPRISES, 1904 N. Black Canyon, Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169464, filed July 26, 1983. Applicant: OCEAN 11 LIMOUSINE, INC. d.b.a. OCEAN 11 LIMOUSINE, P.O. Box 850, Northfield, NJ 08225. Representative: Dennis J. Barile, 645 N. Elberon Ave., Atlantic City, NJ 08401, (609) 344–0433. Transporting (a) *passengers*, in charter operations, between points in NJ, NY, PA, DE, MD, CT, MA, OH and VA.

Note.—Applicant seeks to provide privately-funded charter transportation and (b) *passengers*, in special operations, beginning and ending at Atlantic City, NJ and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special transportation.

Volume No. OP3–372

Decided: August 8, 1983.

By the Commission, Review Board Members Joyce, Krock, and Williams.

MC 169274, filed July 15, 1983. Applicant: CYPRESS TRANSPORT CO., INC., 112 New Brunswick Ave., Hopelawn (Perth Amboy), NJ 08861. Representative: Morton E. Kiel, 475 S. Main St., Suite 2B, P.O. Box 489, New City, NY 10956, (914) 638–4007. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK an HI).

MC 169384, filed July 21, 1983. Applicant: TRUCKBORNE SERVICES, INC., 333 Vine St., Seattle, WA 98121. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

MC 169405, filed July 21, 1983. Applicant: H & M BUS SERVICE, 1512 Brooks Rd., S.E., Capitol Heights, MD 20743. Representative: Melvin Myles, (same address as applicant), (301) 736–0985. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Volume No. OP3–377

Decided: August 9, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Krock.

MC 142795 (Sub-3), filed July 22, 1983. Applicant: NORFOLK, BALTIMORE AND CAROLINA LINE, INC., 937 E. Water St., Norfolk, VA 23510. Representative: Pauline E. Myers, 425—13th St., NW, Suite 348, Washington, DC 20004–1879, (202) 737–2188. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169235, filed July 14, 1983. Applicant: FOSSETT BUS CO., INC., 444 Hillside Ave., Hillside, NJ 07205. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–529

Decided: August 9, 1983.

By the Commission, Review Board Members: Joyce, Dowell, and Carleton.

MC 169617, filed August 3, 1983. Applicant: R & F TRANSPORTATION CO., INC., 35 Dana St., Taunton, MA 01780. Representative: Hughan R. H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, (617) 657–6071. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169636, filed August 3, 1983. Applicant: AMERICAN RAINBOW TOURS, INC., 14621 Smith Spring Ct., Clackamas, OR 97015. Representative: Havilland G. Ritchie, (same address as applicant), (503) 658–6935. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169637, filed August 2, 1983. Applicant: ADAM OR MOHN OR LEON KOBLE, d.b.a. KOBLE AND SON'S, R.R. #6 Box 231, Minot, ND 58701. Representative: Adam Koble, (same address as applicant), (701) 838–9373. 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. (except AK and HI).

MC 169647, filed August 4, 1983. Applicant: L & R DISTRIBUTION SERVICES, LTD., P.O. Box 152, Waterloo, IA 50704. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (319) 235–9098. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

MC 169657, filed August 4, 1983. Applicant: AIR CONSOLIDATORS INC., d.b.a. AIRCON, 595 Broad Ave., Ridgefield, NJ 07657. Representative: Nathan L. Amdur, 280 Prospect Ave., Hackensack, NJ 07601, (201) 945-7800. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4-531

Decided: August 9, 1983.

By the Commission, Review Board, Members: Joyce, Dowell, and Carleton.

MC 169646, filed August 2, 1983. Applicant: BRUCE SCHWAGER TRUCKING, 15 West 4th, Sherburn, MN 56171. Representative: Bruce Schwager (same address as applicant), (507) 764-5856. 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. (except AK and HI).

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-414

Decided: August 4, 1983.

By the Commission, Review Board Members Joyce, Williams and Parker.

MC 153758 (Sub-7), filed July 27, 1983. Applicant: STEPHEN B. LAMPMAN, d.b.a. LAMPMAN TRANSPORTATION, 4233 N. Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. 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. (except AK and HI).

MC 169438, filed July 26, 1983. Applicant: TRANSALES CORPORATION, Tremont Rd., Savannah, GA 31408. Representative: L. Graham Bailey, Jr. (same address as applicant), 912-232-2741. As a *broker of* general commodities (except household goods) between points in the U.S.

MC 169448, filed July 28, 1983. Applicant: COMDATA NETWORK, INC., P.O. Box 15822, 2209 Crestmoor Rd., Nashville, TN 37215. Representatives: Robert L. Baker, Sixth Floor, Union Planters Bank Bldg., Nashville, TN 37219, 615-244-8100. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169449(B), filed July 26, 1983. Applicant: CAPE COD CARTAGE, INC., 350 Main St., West Yarmouth, MA 02673. Representatives: Hughan R.H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, 617-657-6071. Transporting, for and 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. (except AK and HI).

Note.—Applicant also seeks authority in No. MC-169449 (A) published in this same issue.

MC 169458, filed July 15, 1983. Applicant: DAVID L. CROUTHER, d.b.a., D.L. CROUTHER CHARTER TOURS, 4235 North 19th Pl., Milwaukee, WI 53209. Representatives: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, 414-273-7410. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5-415

Decided: August 5, 1983.

By The Commission, Review Board members Parker, Joyce and Williams.

MC 111118 (Sub-6), filed July 27, 1983. Applicant: TRI-STATE TRAILWAYS, INC., 2807 Farrisview, Memphis, TN 38118. Representatives: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219, (615) 244-1440. Transportation *passengers*, (a) between Memphis, TN and Toledo, MS: from Memphis over Interstate Hwy 55 to Batesville, MS, then over MS Hwy 6 to Tupelo, and retrun over the same route, serving all intermediate points; (b) between Tupelo, MS and Columbus, MS over U.S. Hwy 45, serving all intermediate points; (c) between junction U.S. Hwy 45 and U.S. Hwy 45A at Shannon, MS, and Columbus, MS: from junction U.S. Hwy 45 and 45A at Shannon over U.S. Hwy 45A to junction U.S. Hwy 82, then over U.S. Hwy 82 to Columbus, and return over the same route, serving all intermediate points; (d) between Nettleton, MS and junction MS Hwy 8 and U.S. Hwy 45 near Aberdeen, MS: from Nettleton over MS Hwy 6 to Amory, MS, then over MS Hwy 25 to junction MS Hwy 8, and then over MS Hwy 8 to junction U.S. Hwy 45, and return over the same route, serving all intermediate points; and (e) between Aberdeen, MS and junction MS Hwy 25 and U.S. Hwy 45A over MS Hwy 25, serving all intermediate points.

Note.—Applicant seeks to serve a community not regularly served by an ICC-authorized motor common carrier of passengers.

[FR Doc. 83-22321 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approved Exemption.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemption will be effective on August 16, 1983. Petitions to reopen must be filed by August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For futher information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Decided: August 8, 1983.

By the Commission, Division 2. Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich

Secretary

[No. MC-F-15302]

Alltex Industries, Inc.—Control Exemption—Wales Transportation, Inc.

ADDRESSES: Send pleadings to:

(1) Office of the Secretary Cass Control Branch, Interstate Commerce Commission, Washington, D.C. 20423;

(2) Petitioner's representative: James W. Hightowers, 5801 Marvin D. Love Freeway—Suite 301, Dallas, TX 75237.

Pleadings should refer to No. MC-F-15302.

The Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(a), the acquisition by Alltex Industries, Inc., and in turn, Edward L. McCormick of Control of Wales Transportation, Inc. (MC-83835). Mr. McCormick also owns 150 shares of the voting preferred stock in C.A. White Trucking Company (MC

80157), which owns all of the stock of Federal Transport, Inc. (MC 167537).

[FR Doc. 83-22319 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers: Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on September 15, 1983. Petitions for reconsideration must be filed by September 6, 1983. Petitions for stay must be filed by August 26, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403, Toll-free outside the DC area.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15257]

Mid Terminal Leasing, Inc.—Purchase Exemption—J. H. Ware Trucking, Inc.

ADDRESSES: Send pleadings to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioners' representative: Mr. Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309-3596

Pleadings should refer to No. MC-F-15257.

Decided: August 9, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343, the purchase of Mid Terminal Leasing, Inc., (Mid Terminal) (No. MC 159541), and in turn Marlys K. Mishak, who controls Mid Terminal, of paragraph 3 of the Sub-No. 102X certificate and its underlying certificate Sub-No. 79 of J. H. Ware Trucking, Inc. (No. MC 139973).

[No. MC-F-15261]

Walter G. Bay and Transport Investment Corporation—Continuance in Control Exemption—Tandem Transport Corp.

ADDRESSES: Send pleadings to:
(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative: James M. Hodge, Isaacson, Clarke, Vernon, & Hodge, P.C., 3730 Ingersoll Avenue, Des Moines, IA 50312

Pleadings should refer to No. MC-F-15261.

Decided: August 9, 1983.

Under 49 U.S.C. 11343(a), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343, the continuance in control of Tandem Transport Corp., (No. MC 156133) by Transport Investment Corporation, and in turn, its sole shareholder Walter G. Bay.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-22320 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-FC-352

No. MC-FC-80117. By decision of July 26, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Division 1, Acting as an Appellate Division, Commissioners Andre, Taylor, and Sterrett approved the transfer to Bowser Regal, Inc., d.b.a. Regal Service, of Northeast, PA, of authority issued to Sigma-4 Express, Inc., (James K. McNamara, Trustee in Bankruptcy), of Erie, PA, in MC 125023 (Sub-Nos. 13, 16, and 85), authorizing the transportation of (Sub-No. 13) malt beverages, in containers, from Fort Wayne, IN, to points in PA, (Sub-No. 16) malt beverages in containers, (a) from Fort Wayne, IN, to points in NY, NJ, RI, MD, VA, AND NC, (b) from Newark, NJ, to Fort Wayne, IN, and (c) from Cranston, RI, to Fort Wayne, IN, and (Sub-No. 85) malt beverages, and materials, equipment, and supplies used in the manufacture and distribution of malt beverages, between points in Wayne County, MI, and Wood County, OH, on the one hand, and , on the other, 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, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. Representative:

Richard L. Bowser, P.O. Box 509, Northeast, PA 16428.

MC-FC-80129. By the decision of July 26, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Division 1, Acting as an Appellate Division, Commissioners Andre, Taylor, and Sterrett approved the transfer to Ronald Watson dba R. E. Watson Trucking, of Hamilton, OH, of authority issued to Sigma-4 Express, Inc. (James K. McNamara, Trustee in Bankruptcy), of Erie, PA, in MC-125023 (Sub-No. 87), authorizing the transportation of malt beverages, between points in WI, IL, IN, KY, MI, OH, PA, NY, RI, NJ, MD, VA, NC, and GA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, NE, KS, MO, KY, VA, NC, and SC. Representative: Stephen L. Oliver, 275 East State St., Columbus, OH, 43215.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-FC-383

MC-FC-81538. By decision of August 5, 1983, under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Carleton and Williams, approved the transfer to DOUGLAS H. SURATT, doing business as WESTERN CARGO TRANSPORT INC., of Eugene, OR, of Certificate No. MC-151324 (Sub-No. 3), issued January 27, 1982, to ALAN H. KRAMER (GORDON C. YORK, trustee in bankruptcy), Eugene, OR, authorizing the transportation of *lumber and wood products*, between points in OR, WA, CA, NV, and AZ. Representative: Michael P. Kearney, U-Lane-O Bldg., 488 E. 11th Avenue, Suite 301, Eugene, OR 97401, (503) 485-0777.

MC-FC-81520. By decision of August 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board, Members Williams, Joyce, and Krock, approved the transfer to REDDING LUMBER TRANSPORT, INC., of Redding, CA, of Certificate No. MC-151324 Sub-4, issued November 16, 1982, to ALAN H. KRAMER (GORDON C. YORK, trustee in bankruptcy), of Eugene, OR, authorizing the transportation of *pulp, paper and related products*, between points in OR, WA, CA, and NV. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055.

Note.—Transferor is retaining authority in MC-151324 Sub-2, Item 1, to transport *paper and paper articles*, between points in Douglas County, OR, on the one hand, and, on the other, point in ID and WA.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-530

MC-FC-81654. By decision of August 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, the Review Board, Members Krock, Dowell and Joyce, approved the transfer to J. A. BEAN MOVING INC., of Lexington, MA of Certificates No. MC-124667 and MC-124667 (Sub-No. 1) issued June 5, 1963 and August 23, 1967, respectively to J. Warren Bean of Lexington, MA, authorizing the transportation of (1) Furniture and household goods, between Boston, MA, on the one hand, and, on the other, points in NH, RI, and VT; and (2) household goods between Boston, MA, and points within 25 miles of Boston, on the one hand, and, on the other, points in NH, CT, NY, NJ, PA, ME, RI, and MD. Representative: Joseph M. Klements, 89 State Street, Boston, MA, 02109, (617) 523-0800.

[FR Doc. 83-22316 Filed 8-15-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

[Volume No. OP5-416]

Decided: August 5, 1983.

90-Day Intrastate Motor Common Carriers of Passengers. The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922 (c)(2)(E)

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the areas in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it 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. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regualtory 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 25 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 30 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 Members Parker, Joyce and Williams.

Agatha L. Mergenovich,

Secretary

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries on Team 5, (202) 275-7289.

MC 61599 (Sub-144), filed July 27, 1983. Applicant: TRAILWAYS SOUTHEASTERN LINES, INC., 200 Spring St. NW., Atlanta, GA 30303. Representative: Rebecca Patton, 1500 Jackson St., Suite 422, Dallas, TX 75201, (214) 655-7796. Applicant seeks

authority in intrastrate commerce to conduct service at all intermediate points on routes in MC-61599 Sub 62, in part, between Jacksonville, NC, and the Hadnot Point bus terminal in Camp Lejeune, NC.

Note.—Applicant seeks to provide regular-route service in intrastrate commerce under 49 U.S.C. 10922(c)(2)(B).

[FR Doc. 83-22317 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers, Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86 Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representatives 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 that it 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. 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 satisified 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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team Three (3) at (202) 275-5223.

Volume No. OP3-368

Decided: August 3, 1983.

By the Commission, Review Board Members Joyce, Williams, and Dowell.

MC 58944 (Sub-5), filed July 18, 1983. Applicant: STAATS EXPRESS, INC., 507 South St., Rensselaer, NY 12144. Representative: Neil D. Breslif, 11 No. Pearl St., Albany, NY 12207, (518) 434-1136. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Greene, Rensselaer, Schenectady, Columbia, Albany, Ulster, Dutchess, Orange, Saratoga, Warren, Fulton, Montgomery and Washington Counties, NY, on the one hand, and, on the other, points in CT, MA, RI, NH, VT and ME.

MC 163305 (Sub-1), filed July 22, 1983. Applicant: TONKA TRANSPORTATION, INC., 4144 Shoreline Blvd., Spring Park, MN 55384. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424. (612) 927-8855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 167855, filed July 18, 1983. Applicant: LUTHER JETER, d.b.a. JETER TRUCKING COMPANY, Route 1, Box 32A, Jacksonville, TX 75766. Representative: Clint Oldham, 623 South Henerson, 2nd floor, Fort Worth, TX 76104, (817) 332-4415. Transporting *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of lumber and wood products.

MC 169395, filed July 22, 1983. Applicant: WILEY SCHRIMSHER, JR., D.B.A. SCHRIMSHER LUMBER TRANSPORT, P.O. Box 414, Hamilton, AL 35570. Representative: Wiley Schrimsher, Jr., P.O. Box 31022,

Birmingham, AL 35222, (205) 428–8629. Transporting *lumber and forest products*, between points in Marion County, AL, on the one hand, and, on the other, points in GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, OH, TN and WI.

Volume No. OP3–371

Decided: August 3, 1983.

by the Commission, Review Board Members Joyce, Krock, and Williams.

MC 1824 (Sub-137), filed July 18, 1983. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant), (301) 673–7151. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Mills, Inc., and its subsidiaries, of Minneapolis, MN.

MC 2934 (Sub-168), filed July 18, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9993 N. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry, (same address as applicant), (317) 875–1142. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with TRW, Inc., of Redondo Beach, CA.

MC 94844 (Sub-6), filed July 18, 1983. Applicant: GUYER THE MOVER, INC., 304 E. 6th St., P.O. Box 339, Peru, IN 46970. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *machinery, metal products, futniture and fixtures, and household goods*, between points in the U.S. (except AK and HI), and (2) *general commodities* (except classes A and B explosives and commodities in bulk), between points in IL, IN, KY, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139154 (Sub-8), filed July 18, 1983. Applicant: RICHARDS TRANSPORT, LTD., 1155 McKay St., Regina, Saskatchewan, Canada S 4N 4X9. Representative: Stephen F. Grinnell, 121 S. 8th. St., 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. In foreign commerce only, transporting *clay, concrete, glass or stone products*, between points on the International boundary line between the United States and Canada, in MN, MT, and ND, on the one hand, and, on the other, points in IA, MN, MT, ND, NE, and SD.

MC 169234, filed July 15, 1983. Applicant: ROBERT L. GREEN, d.b.a. GREEN'S FARM, P.O. Box 126, Pierce City, MO 65723. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105–1961, (816) 221–1464. Transporting *fertilizer* and *feed and feed ingredients*, between points in AR, IA, IL, KS, MO, NE, NM, OK, and TX.

MC 169344, filed July 18, 1983. Applicant: FARMERS UNION CENTRAL EXCHANGE, INC., d.b.a. CENEX, 5500 Cenex Dr., Inver Heights, MN 55164. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

Volume No. OP3–376

Decided: August 9, 1983.

By the Commission, Review Board Members Carleton, Fortier, and Krock.

MC 107515 (Sub-1432), filed July 18, 1983. Applicant: RTC TRANSPORTATION, INC., P.O. Box 308, Forest Park, GA 30051. Representative: Robert W. Gerson, 127 Peachtree St., NE, Suite 1400, Atlanta, GA 30043 (404) 658–8045. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contracts(s) with persons who are engaged in business as manufacturers, distributors, or dealers of food and related products.

MC 133584 (Sub-3), filed July 25, 1983. Applicant: FIFE MOVING & STORAGE CO., A Corporation, West Pike St., Meadowlands, PA 15347. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *household goods*, between points in OH, PA, and WV, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 139584 (Sub-18), filed July 18, 1983. Applicant: JOHN BUSCH, Box 211, Conyngham, PA 18219. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, (717) 761–0520. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, LA, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143234 (Sub-4), filed July 25, 1983. Applicant: PHILLIPS BROTHERS WAREHOUSING & DISTRIBUTING CORPORATION, 25 Thomas Ave., Baltimore, MD 21225. 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 and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150185 (Sub-8), filed July 14, 1983. Applicant: STAM–WIN, INC., 2727 Transport Rd., Cleveland, OH 44115. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors or dealers of coatings and chemicals, electrical products, food products, machinery, steel, transportation equipment, paper products, games and toy products, clothing hardware goods, and containers.

MC 167854 (Sub-1), filed July 15, 1983. Applicant: KEVIN M. POLLOCK, d.b.a., K. M. POLLOCK TRUCKING, 1902 Highland Ave., South Greensburg, PA 15601. Representative: Kevin M. Pollock (same address as applicant), (412) 838–9440. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Toyad Corporation, of Latrobe, PA.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–527

Decided: August 5, 1983.

By the Commission, Review Board, Members: Williams, Dowell, and Carleton.

MC 169347, filed July 20, 1983, previously noticed in the **Federal Register** issue of August 5, 1983, and republished this issue. Applicant: STARBOARD TRUCK LINES, INC., 1201 S. East Ave., P.O. Box 8893, Baltimore, MD 21224. Representative: C. Paul Cox III (Same address as applicant), (301) 327–1800. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in MD, PA, NY, DE, VA, SC, and NJ.

Note.—The purpose of this republication is to include household goods in the commodity description.

Volume No. OP4–532

Decided: August 3, 1983.

By the Commission, Review Board, Members: Williams, Joyce, and Carleton.

MC 166926, filed July 20, 1983. Applicant: ZILA MOTOR FREIGHT CO., P.O. Box 690356, Tulsa, OK 74169. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212)

263-2078. Transporting (1) *chemicals*, (2) *metal products*, and (3) *food and related products*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-410

Decided: August 4, 1983.

By the Commission, Review Board Members: Joyce, Williams, and Parker.

MC 109028 (Sub-21), filed July 26, 1983. Applicant: S & W TRANSFER, INC., 312 East Wisconsin Ave., Milwaukee, WI 53202. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612-542-1121. Transporting *waste or scrap materials* not identified by industry producing, between points in the U.S. (except AK and HI), under continuing contract(s) with Schriptek Recovery Systems International, Inc., of Andover, MN.

MC 160439 (Sub-1), filed July 26, 1983. Applicant: INTERSTATE SYSTEM STEEL DIVISION, INC., P.O. Box 412, Murrysville, PA 15668. Representative: William H. Schlottman (Same address as applicant), 412-327-4003. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors or dealers of metal products.

MC 169449 (A) filed July 26, 1983. Applicant: CAPE COD CARTAGE, INC., 350 Main St., West Yarmouth, MA 02673. Representative: Hughan R. H. Smith, 26 Kenwood Pl., Lawrence, MA 01841, 617-657-6071. Transporting *petroleum natural gas and their products*, between points in MA and RI.

Note.—Applicant also seeks authority in No. MC-169449 (B) published in this same issue.

Volume No. OPS-411

Decided: August 5, 1983.

By the Commission, Review Board members Parker, Krock and Williams.

MC 41098 (Sub-121), filed July 26, 1983. 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 *household goods*, between points in the U.S. under continuing contract(s) with Digital Equipment Corporation of Maynard, MA.

MC 41098 (Sub-122), filed July 27, 1983. 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 *household goods*, between points in the U.S., under continuing contract(s) with Eastman Kodak Company, of Rochester, NY, and its subsidiaries.

MC 77479 (Sub-7), filed July 27, 1983. Applicant: MOORE'S TRUCKING CO., P.O. Box 607, Piscataway, NJ 08854. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410, 201-791-2270. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, NY, NJ, PA, DE and MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 79658 (Sub-102), filed July 28, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47703. Representative: Michael L. Harvey (same address as applicant), (812) 424-2222. Transporting *household goods*, between points in U.S. (except AK and HI), under continuing contract(s) with American Home Products Corporation, of New York, NY and its subsidiaries.

MC 79658 (Sub-103), filed July 28, 1983. Applicant: ATLAS VAN LINES, INC., P.O. Box 509, Evansville, IN 47703. Representative: Michael L. Harvey (same address as applicant), (812) 424-2222. Transporting *household goods* between points in U.S. (except AK and HI), under continuing contract(s) with Westvaco Corporation of New York, NY.

MC 109448 (Sub-47), filed July 27, 1983. Applicant: PARKER TRANSFER COMPANY, P.O. Box 236, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials, between points in Bartow County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109448 (Sub-48), filed July 27, 1983. Applicant: PARKER TRANSFER COMPANY, P.O. Box 236, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *chemicals and related products*, between points in Henderson, McCracken, Warren, and Fayette Counties, KY, Bartholomew County, IN, Wetzel and Kanawha Counties, WV, Allegheny County, PA, Hillsborough and Orange Counties, FL, Hamilton, Davidson, Knox, and Washington Counties, TN, and Madison County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 14039 (Sub-5), filed July 26, 1983. Applicant: COPE/BESTWAY EXPRESS, INC., 2024 Harvey Rd., Grand Island, NY 14072. Representative: D. Thomas Cope (same address as applicant), 716-773-6565. Transporting *transportation equipment*, between points in Erie County, NY, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Aimco, A Division of International Telephone & Telegraph Corp., of Tonawanda, NY.

Volume No. OP5-412

Decided: August 5, 1983.

By the Commission, Review Board Members Parker, Joyce, and Williams.

MC 96328 (Sub-11), filed July 27, 1983. Applicant: J. AND W. CORPORATION, 3525 South Leavitt St., Chicago, IL 60609. Representative: Donald B. Levine, 180 North LaSalle St., Chicago, IL 60601, 312-368-0100. Transporting *general commodities* (except classes A and B explosives, and household goods), under continuing contract(s) with Sonnett Transportation consultants, Inc., of Lansing, IL.

MC 142888 (Sub-22), filed July 28, 1983. Applicant: COX TRANSFER, INC., R.R. #1, P.O. Box 168, Eureka, IL 61530. Representative: Gary L. Smith, 913 So. Sixth St., Springfield, IL 627033, (217) 753-3925. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, AR, CA, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, and WI.

MC 159408, filed July 26, 1983. Applicant: H & W DELIVERY, INC., 2009 East Abram St., Arlington, TX 76010. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Forth Worth, TX 76104, 817-332-4415. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169479, filed July 27, 1983. Applicant: LELCO, INC., 441 Melton St., Montevallo, AL 35115. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201 (205) 254-3880. Transporting (1) *metal products*, (2) *food and related products*, (3) *plastic products*, (4) *petroleum products*, and (5) *machinery*, between those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 169508, filed July 27, 1983. Applicant: LES ENTERPRISES F.D.W. LTTEE, 2800 Rue Papineau, Longueuil, Quebec, Canada J4K 3M7. Representative: Frank J. Weiner, 15 Court Sq., Boston, MA 02108, 617-742-3530. Transporting *lumber and wood products*, between points in the U.S.

under continuing contract(s) with Donahue St. Felicien, Inc., of Quebec, Canada.

MC 166249, filed July 27, 1983. Applicant: DENNIS C. LILLY, 5194 Carroll Dr., Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301–797–6060. Transporting (1) *rubber and plastic products*, between those points in the U.S. in and east of WI, IL, KY, TN and MS; and (2) *such commodities* as are manufactured, processed, distributed or dealt in by manufacturers of paper, paper products and chemicals, and *machinery*, between points in the U.S. (except AK and HI).

MC 166989, filed July 27, 1983. Applicant: CROSS COUNTRY DISTRIBUTORS, INC., Route 3, Box 87, Chase City, VA 23924. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235, 804–745–0446. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with Casual Concepts, Inc., of Fort Worth, TX., and Butler Lumber Co., Inc., of Chase City, VA.

MC 169429, filed July 25, 1983. Applicant: BUFFALO BATT & FELT CORP., d.b.a. P&D ROAD SHOW INC., 3307 Walden Ave., Depew, NY 14043. Representative: Grant D. Swados (same address as applicant), 716–683–4100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR, and LA, on the one hand, and, on the other, those points in NY and PA on and west of Interstate Hwy 81 and points in OH on and east of Interstate Hwy 77 and on and north of Interstate Hwy 70.

Volume No. OP5–413

Decided: August 8, 1983.

By the Commission, Review Board members Krock, Carleton and Joyce.

MC 133589 (Sub-10), filed July 27, 1983. Applicant: BCT, INC., P.O. Box 7219, Boise, ID 83707. Representative: James R. Daly (same address as applicant), 208–384–7230. Transporting *such commodities* as are dealth in, or used by wholesale, retail and discount auto parts stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Pacific Wholesalers Inc., of Portland, OR.

MC 145058 (Sub-12), filed July 27, 1983. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Richardson-Vicks, Inc., of Philadelphia, PA and its subsidaries.

MC 148209 (Sub-3), filed July 27, 1983. Applicant: MARRIOTT & RIDDLE, INC., P.O. Box 409, Green Forest, AR 72638. Representative: Don Garrison, 416 Hay Drive, SW–F1, Decatur, AL 35603, 205–355–0221. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Grand Enterprises, Inc., of Springfield, MO.

MC 148638 (Sub-4), filed July 27, 1983. Applicant: ELMO W. & GARY D. CARLSON, dba, CARLSON LEASING CO., 1229 Clarke St., Clay Center, KS 67432. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, 913–234–0565. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Hall County, NE and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155938 (Sub-3), filed July 26, 1983. Applicant: TRI-L TRANSPORT, INC., P.O. Box 558, Richmond, VA 23204. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, 202–737–1030. Transporting *such commodities* as are dealt in or used by (a) manufacturers and distributors of *printed matter, pulp, paper and related products, food and related products*, and (b) *department and home improvement stores*, between points in the U.S. (except AK and HI, under continuing contract(s) with persons engaged in the production, manufacture or distribution of the described commodities.

MC 169498, filed July 27, 1983. Applicant: EDWARD D. & PATRICIA A. BEAVER, 2700 Falcon Space 72, White City, OR 97503. Representative: Edward D. Beaver (same address as applicant), 503–826–7785. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. under continuing contract(s) with R & R Truck Brokers, Inc., of Central Point, OR.

MC 169499, filed July 27, 1983. Applicant: FRANK C. ALEGRE TRUCKING, INC., 802 North Cluff Ave., Lodi, CA 95240. Representative: Fred R. Covington, 2150 Franklin St 554, Oakland, CA 94612, 415–893–4102. Transporting *commodities in bulk*, between points in AZ, CA, NV, OR, and UT.

[FR Doc. 83–22332 Filed 8–15–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume OP2–351

Decided: August 10, 1983.

MC–F–15378, KENAN TRANSPORT COMPANY—control exemption—J&S TRANSPORTATION, INC. Kenan Transport Company (MC–124306), a motor common carrier, seeks an exemption under section 11343 of prior regulatory approval to acquire control, through the purchase of all of the issued and outstanding capital stock of J&S Transportation, Inc. (MC–152534). Send comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative, Robert C. Boozer, 1400 Candler Bldg., Atlanta, GA 30043. Comments should refer to No. MC–F–15378.

Volume OP4–528

Decided: August 9, 1983.

Proposed exemption

MC-F-15383, CONSOLIDATED FREIGHTWAYS, INC., et al.—continuance in control exemption—UNITED TERMINALS LTD. Consolidated Freightways, Inc. (CFI), a noncarrier holding company, seeks an exemption from the requirement under section 11343 of prior regulatory approval for its continuance in control of its motor carrier subsidiaries Consolidated Freightways Corporation of Delaware (CFCD) (No. MC-42487), Canadian Freightways Limited (CFL) (No. MC-116975), Canadian Freightways Eastern Limited (CFEL) (No. MC-76036), CF Arrowhead Services, Inc. (Arrowhead) (No. MC-164299), Con-Way Eastern Express, Inc. (Eastern) (No. MC-165442), Con-Way Central Express, Inc. (Central) (No. MC-165377), and Con-Way Western Express, Inc. (Western) (No. MC-165436), along with United Terminals Ltd. (UTL), which was issued a certificate on August 5, 1983, in No. MC-165349. CFCD and CFL each own 50 percent of UTL's stock. CF Land Transportation, Inc. (CFLT), a noncarrier subsidiary of CFI, seeks an exemption from the requirement under section 11343 of prior regulatory approval for its control of CFCD (and indirectly of CFL and CFEL along with UTL). CFLT, through its noncarrier subsidiary, CF Land Services, Inc., also indirectly controls Arrowhead, Eastern, Central, and Western. CFCD seeks an exemption from the requirement under section 11343 of prior regulatory approval for its control of CFL (and indirectly of CFEL) along with UTL. CFL seeks an exemption from the requirement under section 11343 of prior regulatory approval for its control of CFEL along with UTL. Send comments to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioners' representatives, Eugene T. Liipfert, Mark J. Andrews, and Elizabeth A. Campbell, 1660 L Street, NW.—Suite 1100, Washington, DC 20036. Comments should refer to No. MC-F-15383.

[FR Doc. 83-22315 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30247]

Rail Carriers; The Clarendon and Pittsford Railroad Co.—Exemption From 49 U.S.C. 11301 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts (A) from the requirements of prior approval under the provisions of 49 U.S.C. 11343, (1) the acquisition by The Clarendon and Pittsford Railroad Company (CLP) from Delaware and Hudson Railway Company (D&H) and operation of (a) 6.63 miles of rail line between Whitehall, NY and the boundary between New York and Vermont, and (b) 8.94 miles of rail line between Castletown and Rutland, VT; (2) the acquisition by assignment of D&H lease rights over 6.83 miles of rail line between the boundary between New York and Vermont and Castleton; (3) the lease of certain D&H rail yard tracks at Whitehall, and the acquisition of trackage rights over a described portion of the Albany-Rouses Point main line of D&H providing access to the yard; (4) acquisition of stock in the Whitehall and Rutland Railroad Company; (5) the lease and acquisition of trackage rights on an interim basis pending transfer of the properties of the rail line and facilities described in (1), (2), and (3); and (6) for the retention by D&H of limited trackage rights over the rail line described in (1), (2) and (3); and (B) from the requirements of 49 U.S.C. 11301 for the issuance of a promissory note in a principal amount not to exceed $540,000.

DATES: The exemption will be effective on August 15, 1983. Petitions to reopen must be filed August 25, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30247 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative: Samuel S. Bloomberg, 200 On Battery, Burlington, VA 05401

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 242-5403.

Dated: August 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-22318 Filed 8-15-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-1]

Leonard F. Faymore, D.O. et al.; Revocation of Registration

Correction

In FR Doc. 83-19467 beginning on page 32886 in the issue of Tuesday, July 19, 1983, make the following correction:

On page 32887, column two, "Dated: July 11, 1982." should read "Dated: July 11, 1983.".

BILLING CODE 1505-01-M

[Docket No. 82-36]

Phillip E. Kirk, M.D.; Revocation of Registration

Correction

In FR Doc. 83-19461 beginning on page 32887 in the issue of Tuesday, July 19, 1983, make the following correction:

On page 32889, column one, paragraph one, third line from the bottom, "AK13270612" should read "AK1370612".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public. LIST OF FORMS UNDER REVIEW: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration
Continuous Longitudinal Manpower Survey
CLMS–1D, 3, 5C, 21, 102, 209L, 302, 40
Quarterly; Other: 18 months follow-up
Individuals: 8,445 hours; 8 forms

The information provided in this survey will be used by the Department of Labor to evaluate the Comprehensive Employment and Training Act (CETA) selected programs. Approximately 16,850 people who participated in a CETA program will be interviewed each year.

Reinstatement

Bureau of Labor Statistics
Unemployment Insurance Data Base Survey
BLS 3066
Other: One-time
State or local governments
SIC: 944
51 responses; 765 hours; 1 form

Through interviews with State Employment Security Agency staff, the survey will describe the development of UI statistics used to estimate local area unemployment, determine adherence to standard labor force concepts, and identify problems. This information, not available elsewhere, will be the basis for UI data improvement.

Signed at Washington, D.C. this 11 day of August, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–22381 Filed 8–15–83; 8:45 am]

BILLING CODE 4510–22–M

Employment and Training Administration

Employment Transfer and Business Competition Determinations under the Rural Development Act, Applications; Hillcrest Manor, Inc.

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 result 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 Secretary 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 application involving the establishment of branch plants or facilities in 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: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of August 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

Applications received during the week ending August 13, 1983.

Name of applicant and location of enterprise	Principal product or activity
Hillcrest Manor, Inc., Lakewood, New Jersey.	Long term nursing care.

[FR Doc. 83–22214 Filed 8–15–83; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Oregon State Standards; Approval

SUMMARY: This notice approves a revised Oregon State standard, OAR 437–81–2809 through OAR 437–81–2943, Roll-Over Protective Structures (ROPS) for Tractors Used in Agricultural Operations which is comparable to the Federal agricultural standard at 29 CFR 1928.51, "Roll-Over Protective Structures" and terminates the

previously instituted standards rejection proceedings. The State's modified standard, particularly with respect to provisions governing exemptions from the use of Roll-Over Protective Structures ("ROPS") has been determined to be "at least as effective" as its Federal counterpart.

EFFECTIVE DATE: August 9, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the "Act") for review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and Part 1902 of Title 29. On December 28, 1972, a notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and of the adoption of Subpart D of Part 1952 describing the plan.

Consistent with the State's schedule for adoption of State standards, on August 2, 1976, the State submitted standards comparable to 29 CFR 1928.51 "Roll-Over Protective Structures," as published in the **Federal Register** (41 FR 10190) dated March 9, 1976, with subsequent amendments and corrections in the **Federal Register** (41 FR 11022) on March 16, 1976, and (41 FR 22501) on June 4, 1976.

Regional review pursuant to 29 CFR 1953.4 indicated that the State's standard contained an exemption from the roll-over protective structure requirements for track-type agricultural tractors, OAR 437-81-2829(4), which was not contained in the Federal standard, 29 CFR 1928.51(b)(5). This additional exemption specifically provided that:

> Rules 437-81-2813 and 437-81-2819 [general requirements for ROPS] do not apply to the following uses*** (4) Track-type agricultural tractors whose over-all width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than 7 mph, when used only for tillage or harvesting operations and while their use is incidental thereto, and which: (a) Does not involve operating on slopes in excess of 40 degrees from horizontal, and (b) Does not involve operating on piled crop products or residue, as for example silage in stacks or pits, and (c) Does not involve operating in close proximity to irrigation ditches, or other excavations more than 2 feet deep which contain slopes more than 40 degrees from the horizontal.

The Regional Administrator made an initial determination that the above-quoted exemption rendered the Oregon standard less effective than the comparable Federal provisions. On August 16, 1977, a notice of intent to reject the Oregon standard was published in the **Federal Register** (42 FR 41333), which included a summary of the differences between the Federal and State ROPS standards, the basis for rejection, and an invitation to interested persons to submit written data, views and arguments concerning whether the State standards should be approved. Subsequently, a hearing was held on the issue in Pendleton, Oregon, on December 1, 1977. On June 22, 1979, notice was published in the **Federal Register** of the Regional Administrator's tentative decision to reject the Oregon ROPS standard (44 FR 36506). The basis of this preliminary decision was the Regional Administrator's determination that track-type tractors are subject to roll-over and accordingly, the exemption of these tractors from ROPS requirements rendered the State standard less protective of employee safety. The primary evidence relied on in this decision was a discussion of track-type tractors contained in the preamble to the Federal standard (40 FR 18256). The basis of OSHA's decision not to exempt track-type tractors from the requirements of the Federal standard was that such vehicles are frequently involved in activities which are most likely to cause roll-overs, such as use on steep hills, packing of silage, construction and logging. Additionally, it was noted that the hazard associated with deep ditches or unloading via ramps is not demonstrably less for track-type tractors than for wheel-type.

Following the issuance of the tentative decision to reject, the record in these proceedings was transmitted to the Assistant Secretary for this final decision. OSHA subsequently received nine objections to the tentative decision from producer organizations, individuals, and members of Congress. The comments on the whole did not provide new evidence on the Oregon standards, but did provide general support for Oregon's position that its standard provided "at least as effective" protection as the Federal standard.

After extensive review by the OSHA National Office of the standard, related material and public comment, it was determined that with some modification the Oregon standard would address the concerns which led to the tentative decision to reject the State's standard due to the exemption of track-type tractors from its requirements. OSHA was concerned that the standard should clearly delineate that the exemption does not apply when the vehicles are diverted to construction-type operations such as bull-dozing, grading, or land clearing. Accordingly, the Regional Administrator initiated negotiation with the State concerning this issue. As a result of these negotiations, Oregon promulgated a revised standard, effective June 1, 1982, and submitted the revision to OSHA on June 21, 1982. The State placed additional limitation on the use of track-type tractors which specified that the exemption from ROPS applied only to agricultural usage which "does not involve construction-type operations, such as bulldozing, grading or land clearing."

On the basis of the foregoing, OSHA has determined that Oregon's limited exemption of track-type tractors from the requirements of its ROPS standard, as amended, does not render the standard less than "at least as effective" as the Federal standard. The record of the rejection proceedings is lacking in evidence that roll-overs are likely to occur when tractors are operated in compliance with the State ROPS standard as amended. The State standard is, therefore, approvable.

In addition to requiring that State occupational safety and health standards be at least as effective as their Federal counterparts, section 18(c)(2) of the Act provides that if State standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce.

Significant evidence in the record indicates that the relatively flat and open terrain in the agricultural areas of Oregon permit the safe operation of track-type tractors without ROPS; accordingly, a showing has been made of local conditions which justify the standard. With respect to burden on commerce, it should be noted that the Oregon standard imposes no additional compliance responsibilities on employers in comparison with the Federal standard. It is in fact virtually identical to the comparable Federal provision except for the State's exemption permitting the use of non-ROPS equipped tractors under certain specified conditions. Accordingly, the standard does not impose an undue burden on employers or interstate commerce.

Location of Plan and Supplements for Inspection and Copying

A copy of the standard supplement, record of proceedings and the approved plan may be inspected and copied during normal business hours at the Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909'First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of the Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Decision

After careful consideration of the entire record, the Oregon ROPS standard, OAR 437-81-2809 through OAR 437-81-2843, is hereby approved under Part 1953.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1953)

Signed at Washington, D.C., this 8th day of August 1983.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 83-22278 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of the thirty-second meeting of the National Commission for Employment Policy in Washington, D.C. at the Capital Hilton Hotel, 16th and K Streets, NW.

DATES: September 15 9:00 a.m.-5:00 p.m., September 16 9:00 a.m.-1:00 p.m.

Status: This meeting will be open to the public.

Matters to be discussed: The Commissioners will discuss recommendations evolving out of the project on older workers and national employment policy and will hear updates on the needs of employers project, and discuss a staff paper on delivery systems for the Job Training Partnership Act. Possible speakers include Ambassador Brock, and Secretary Donovan.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Hogue, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, D.C. 20005, (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least 5 days before the meeting and not more than 7 days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the director at least 5 days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written statement.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of fact and views and shall not include any questioning of the Commissioners or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 8th day of August, 1983.

Patricia W. Hogue,

Director.

[FR Doc. 83-22282 Filed 8-15-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Ave. NW., Washington, D.C. 20506:

1. Date: September 8-9, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications submitted to General Research: History and Social Science Panel I, Division of Research Programs, for projects beginning after January 1, 1984.

2. Date: September 12-13, 1983.
Time: 9:00 a.m. to 4:30 p.m.
Location: The meeting on September 12 will be in Room 430 of the Old Post Office, 1100 Pennsylvania Ave. NW. The meeting on September 13, will be in Room 3000A, New Post Office, 1200 Pennsylvania Ave., NW., Washington, D.C. 20506
Program: This meeting will review Challenge Grant applications from Museums and Historical Societies, submitted to the Office of Challenge Grants, for projects beginning after January 1, 1984.

3. Date: September 15-16, 1983.
Time: 8:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications submitted to General Research History and Social Science Panel II, Division of Research Programs, for projects beginning after January 1, 1984.

4. Date: September 19-20, 1983.
Time: 9:00 a.m. to 4:30 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Museums and Historical Societies, submitted to the Office of Challenge Grants, for projects beginning after January 1, 1984.

5. Date: September 29-30, 1983.
Time: 8:00 a.m. to 6:00 p.m.
Room: 314-315.
Program: This meeting will review interdisciplinary Independent Study and Research applications, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1984.

6. Date: September 16, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted for Special Projects/Program Development, Division of General Programs, for projects beginning after April 1, 1984.

7. Date: September 22-23, 1983.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.

Program: This meeting will review applications submitted for Special Projects/Program Development, Division of General Programs, for projects beginning after April 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-22389 Filed 8-15-83; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322 OL]

Long Island Lighting Company (Shoreham Nuclear Power Station, Unit); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Alan S. Rosenthal, Chairman, Gary J. Edles, Howard A. Wilber.

Dated: August 10, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-2365 Filed 8-15-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-387]

Pennsylvania Power and Light Co. and Allegheny Electric Cooperative, Inc.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Unit 1 located in Luzerne County, Pennsylvania.

The amendment would change Technical Specification 4.8.1.1.2.d.12 from requiring ". . . the diesel generator starts at least 5 times from ambient conditions and accelerates to at least 600 RPM in less than or equal to 10 seconds for the first 2 starts and accelerates to at least 600 RPM in less than or equal to 19 seconds for the remaining 3 starts.", to requiring that ". . . the diesel generator starts at least 5 times from ambient conditions and accelerates to at least 600 RPM in less than or equal to 10 seconds for the initial start and less than or equal to 25 seconds for each subsequent start.", in accordance with the licensee's application for amendment dated September 24, 1982, and supplemented by information provided by licensee's letters dated July 9, 1982; July 14, 1982; September 2, 1982; and January 7, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The only accidents of concern regarding diesel generator starting times are loss of offsite power and loss of coolant accidents (LOCA). In the situation of a loss of offset power, the diesel generators are not required for approximately 30 minutes after the loss of offsite power; therefore, a change in diesel generator start time from 10 to 25 seconds is insignificant. In the situation of a LOCA, the most limiting LOCA from the licensee' Final Safety Analysis Report is a break in the recirculation discharge line with a break area of 1.3 square feet (0.69 times the maximum break area) which results in a peak centerline temperature (PCT) of the fuel of 1874° F. The PCT remains the same in this most limiting LOCA even if the diesel generator start time is 25 seconds because reactor pressure does not reach the injection valve opening permissive set pressure until approximately 63 seconds which permits injection of water into the reactor vessel. Pumps used to inject water into the vessel will reach full speed before the opening of the injection valves even if the diesel start time is 25 seconds. In the case of the largest LOCA, the injection valve opening permissive set pressure is reached almost immediately and the injection of water into the vessel is affected by the diesel generator start time. A diesel generator start time of 25 seconds will result in a PCT increase of approximately 100° F (i.e. from 1668° F to 1793° F) over the previous analysis using a diesel generator start time of 10 seconds, but the PCT, even in this case, is below the PCT of the limiting LOCA. Therefore, the proposed change to Technical Specification 4.8.1.1.2.d.12 may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. One of the examples of actions involving no significant hazards consideration, example vi, a change which either may result in some increase to the probability or consequences or a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan, clearly applies to such a change (48 FR 14871).

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of

publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 15, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or request for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland, this 10th day of August 1983.

For the Nuclear Regulatory Commission.

Robert L. Perch,

Acting Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-22366 Filed 8-15-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305; License No. DPR-43; EA 83-17]

Wisconsin Public Service Corporation (Kewaunee Nuclear Power Plant); Order Imposing Civil Monetary Penalty

I

Wisconsin Public Service Corporation, P.O. Box 1200, Green Bay, Wisconsin 44305 (the "licensee") is the holder of Operating License No. DRP-43 (the

"license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the Kewaunee Nuclear Power Plant in Kewaunee County, Wisconsin, in accordance with conditions specified therein. The license was issued on December 21, 1973.

II

A special inspection of the licensee's activities under the license was conducted during the period of October 4–12, 1982, January 26, 1983, and February 3–11, 1983 at the Kewaunee Nuclear Power Plant in Kewaunee County, Wisconsin. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Impostition of Civil Penalty was served upon the licensee by letter dated April 11, 1983. The Notice states the nature of the violation, and the license conditions which the licensee had violated, and the amount of civil penalty proposed for the violation. An answer dated May 11, 1983 to the Notice of Violation and Proposed Impostition of Civil Penalty was received from the licensee.

III

Upon consideration of the answers and the statements of fact, explanation, and argument for mitigation of the proposed civil penalty contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should not be escalated and should instead be mitigated twenty-five percent.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Thirty Thousand Dollars ($30,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC license conditions as set forth in the Notice of Violation and Proposed Impostition of Civil Penalty; and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland this 9th day of August 1983.

For the Nuclear Regulatory Commission.

Richad C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

The licensee's May 11, 1983 response to the Notice of Violation and Proposed Imposition of Civil Penalty for Wisconsin Public Service Corporation's (WPSC) Kewaunee Nuclear Power Plant, dated April 11, 1983, admits that the violation occurred as described and requests mitigation of the amount of the civil penalty and provides reasons why the licensee believes mitigation of the penalty is appropriate. The licensee's arguments in support of mitigation are addressed below.

Licensee Assertion: Rigorous application of the enforcement policy would require that this event be categorized as a Severity Level IV or V. The basis for this assertion is WPSC's conclusion that the violation is not directly safety related and therefore lacks significance.

Response: The event was properly categorized as a Severity Level III violation. Although the violation does not precisely fit the example in Supplement I of the Enforcement Policy ("the policy"), the examples are not exhaustive. A violation may be categorized as a Severity Level III violation if it is a significant violation such as as violation of a technical specification limiting condition for operation. A violation may be considered significant even if it had no actual adverse effect of the public health and safety. If the NRC reserved its enforcement authority for only those violations which had direct safety significance, then an operating practice which had the potential to adversely affect the public health and safety could go unchecked until a safety event occurred. Since the principal goal of the enforcement policy is to prevent such events from occurring, the NRC may consider such violations as significant, categorize them as Severity Level III violations and, if appropriate, assess civil penalties.

The violation which was identified in the Notice of Violation was such a violation. In this case, because of inadequate training and instuctions to plant personnel, all of the containment pressure sensors were capped. You admit that an event which results in a loss of engineered safety feature actuation signals and indication of a diagnostic parameter is significant even if it results in a loss of only redundant systems and cannot materially mislead the operator.

We disagree with your conclusion that the loss of this diagnostic parameter could not materially mislead an operator. In the period immediately following an accident, such diagnostic parameters are required to make certain decisions such as whether to change equipment status that would affect the containment environment, to monitor the effects of such changes, and to evaluate the stauts of containment integrity during certain accident conditions. Thus, the loss of such parameters was significant. The staff concludes that this provides sufficient justification to characterize the event as a Severity Level III violation.

Licensee Assertion: the penalty should not have been escalated because of the duration of the violation.

Response: The staff agrees that the penalty should not have been escalated because of the duration.

Licensee's Assertion: The penalty should be mitigated because of the licensee's unusually prompt and extensive corrective action.

Response: The staff agrees that the penalty should be mitigated because the licensee took prompt and extensive corrective action. The staff believes that twenty-five percent mitigation of the penalty is appropriate.

Licensee's Assertion: The penalty should be mitigated because the licensee identified the event and promptly reported it.

Response: The staff does not agree that mitigation for prompt identification and reporting is appropriate. Although the staff has not escalated the penalty for duration, the licensee could have

identified the violation earlier and, therefore, mitigation for prompt identification and reporting is not appropriate.

Conclusion: The violation as stated in the Proposed Imposition of Civil Penalty has been admitted by the licensee and the violation was properly categorized as a Severity Level III violation. However, upon consideration of the licensees arguments, the proposed civil penalty will not be escalated for duration and will be mitigated twenty-five percent for prompt and extensive corrective actions.

[FR Doc. 83-22367 Filed 8-15-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-287]

Duke Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-55, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Unit No. 3 (the facility) located in Oconee County, South Carolina.

In accordance with the licensee's application for amendment dated March 10, 1983, the amendment would permit the expansion of the spent fuel storage capacity for Oconee Unit No. 3. This expansion would be accomplished by reracking the existing spent fuel storage pool with neutron absorbing (poison) spent fuel racks. Reracking the spent fuel pool would increase the Oconee Unit No. 3 pool storage capacity from 474 to 825 spaces.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Spent fuel pool reracking was specifically excluded from either set of examples because "[for reracking] * * * a significant hazards consideration finding is a technical matter which has been assigned to the Commission * * *" and the Commission "* * * will make a finding * * * for each reracking application, on a case-by-case basis * * *" (48 FR 14869). In this instance, the licensee's submittal of March 10, 1983 (hereafter referred to as the submittal) included a discussion of the proposed action with respect to the no significant hazards consideration. This discussion has been reviewed and the Commission finds it acceptable. Each of the three standards is discussed below.

First Standard

The analysis of the proposed reracking has been accomplished using current NRC Staff accepted Codes and Standards as specified in Section 2.1.2 of Attachment 2 of the submittal. The results of the analysis meet the specified acceptance criteria set forth in these standards. In addition, Duke has reviewed NRC Staff Safety Evaluation Reports for prior PWR rerackings involving poison racks to ensure that there are no identified concerns not fully addressed in their submittal.

From its analyses and SER reviews Duke has identified the following potential accident scenarios: (1) Spent fuel cask drop; (2) loss of spent fuel pool forced cooling; (3) seismic event; (4) spent fuel assembly drop; and (5) construction accident. The probability of any of the first four accidents is not affected by the racks themselves; thus, reracking cannot increase the probability of these accidents. As for the construction accident, the proposed Oconee 3 pool reracking will not involve an increase in probability of any previously evaluated construction accident as accepted construction standards and procedures will be employed as described in Sections 4.0 and 6.1 of Attachment 2 of the submittal. Since there will be no fuel assemblies in the fuel pool during rack installation, the probability of some types of postulated construction accidents has actually decreased.

The consequences of the (1) spent fuel cask drop accident have been evaluted as described in Section 6.2 of Attachment 2 of the submittal. By limiting the age of fuel stored in the first 31 rows to not less than 70 days prior to any cask movement, Duke indicates that the consequences of this type accident would be less than with the present racks as described in the Oconee FSAR Section 15.11.2.2. Thus, the consequences of this type accident would not be significantly increased from previous accident analyses.

The consequences of the (2) loss of spent fuel pool forced cooling accident have been evaluated and are described in Section 6.3 of Attachment 2 of the submittal. As indicated by Duke in Tables 6.3-1 and 6.3-2, there is ample time to effect repairs to the cooling system or to establish a makeup flow, and since the required makeup flow is less than the 70 gpm rate accepted by the NRC Staff for the Oconee 1 and 2 pool, the consequences of this type accident would not be significantly increased from previously evaluated accidents by this proposed reracking.

The consequences of a (3) seismic event have been evaluated and are described in Section 2.3.1 of Attachment 2 of the submittal. The racks were evaluated against the appropriate NRC Standard described in Section 2.1.2. Duke indicates that the results of the seismic and structural analysis show that the proposed racks meet all of the NRC structural acceptance criteria and are consistent with results found acceptable by the NRC Staff in all previous poison rerack SERs including Oconee 1 and 2. Thus, the consequences of seismic events would not significantly increase from previously evaluated seismic events.

The consequences of a (4) spent fuel assembly drop accident are described in Section 2.3.1.5 of Attachment 2 of the submittal. The radiological consequences of this type accident are bounded by the cask drop accident and Duke indicates that K_{eff} is shown to be always less than the NRC acceptance criteria of 0.95 and not significantly different from the margin to criticality found in the December 22, 1975 SER for the previous Oconee 3 rerack. Thus, the consequences of this type accident would not be significantly increased from previously evaluated spent fuel assembly drop accidents.

The consequences of a (5) construction accident are described in Section 6.1 of Attachment 2 of the submittal. Since there will be no fuel assemblies in the fuel pool during rack installation, there would be no radiological consequences of any construction accident. Thus, using accepted construction practices as described in Section 4.0 of Attachment 2 of the submittal the consequences of a construction accident would be less than construction accidents previously evaluated by the NRC Staff.

Based on the information provided with the application, the proposed Oconee 3 spent fuel pool rerack would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Second Standard

Duke has evaluated the proposed reracking in accordance with the "NRC" Position for Review and Acceptance of Spent Fuel Storage and Handling Applications," appropriate NRC Regulatory Guides, appropriate NRC Standard Review Plans, and appropriate Industry Codes and Standards as described in Section 2.1.2 of Attachment 2 of the submittal. In addition, Duke has reviewed previous NRC Safety Evaluation Reports for poison rerack applications. In Duke's analysis and review of NRC evaluations and Industry Standards and Codes, Duke finds that the proposed reracking does not in any way create the possibility of a new or different kind of accident from any accident previously evaluated including those on the Oconee 3 Docket.

Third Standard

The issue of margin of safety when applied to a reracking modification will need to address the following areas (as established by the NRC Staff Safety Evaluation review process):

1. Nuclear criticality considerations;
2. Thermal-hydraulic considerations; and
3. Mechanical, material, and structural considerations.

The margin of safety that has been established for nuclear criticality considerations is that the neutron multiplication factor in the spent fuel pool is to be less than or equal to 0.95, including all uncertainties, under all conditions. For the proposed modification, the criticality analysis, as discussed in Section 2.3.2 of Attachment 2 of the submittal is exactly the same as that which was approved by the NRC Staff (SER issued December 24, 1980) for the Unit 1 and 2 shared pool reracking modification. The exact same codes, techniques, and assumptions were made. All aspects of the bases of the SER conclusions are covered in the identical manner.

The methods utilized in the analysis conform with ANSI N18.2–1973, "Nuclear Safety Criteria for the Design of Stationary Pressurized Water Reactor Plants," Section 5.7, Fuel Handling System; ANSI N210–1976, "Design Objectives for LWR Spent Fuel Storage Facilities at Nuclear Power Stations," Section 5.1.12; ANSI N16.9–1975, "Validation of Calculational Methods for Nuclear Criticality Safety," NRC Standard Review Plan, Section 9.1.2, "Spent Fuel Storage;" and the NRC guidance, "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Applications."

The results of Duke's analysis indicate that K_{eff} is always less than 0.95 including uncertainties at a 95/95 probability/confidence level. Thus meeting the acceptance criteria for criticality, the proposed rerack does not involve a significant reduction in the margin of safety for nuclear criticality.

From a thermal-hydraulic consideration the areas of concern when evaluating if there is a significant reduction in margin of safety are: (1) Maximum fuel temperature, and (2) the increase in temperature of the water in the pool. The thermal-hydraulic evaluation is described in Section 2.3.3 of Attachment 2 of the submittal. Results of these analyses by Duke show that fuel cladding temperatures under abnormal conditions are sufficiently low to preclude structural failure and that boiling does not occur in the water channels between the fuel assemblies nor within the storage cells. However, the proposed reracking will allow an increase in the heat load in the Oconee 3 spent fuel pool. The evaluation in Section 3 of Attachment 2 of the submittal shows that a third spent fuel cooling train will be added prior to putting more than the currently authorized 474 Fuel Assemblies in the spent fuel pool. The addition of the third cooling train is intended to ensure that the pool temperature margins of safety of 150°F and 205°F described in Section 9.1.3 of the Oconee FSAR are maintained. Thus, there would be no significant reduction in the margin of safety from a thermal-hydraulic standpoint or from a spent fuel cooling standpoint.

The mechanical, material, and structural considerations of the proposed rerack are described in Sections 2.1, 2.2, and 2.3 of Attachment 2 of the submittal. As described by Duke in Section 2.1, the racks are designed in accordance with the "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Applications" dated April 14, 1978 and revised January 18, 1979. The racks are designed to Seismic Category 1 requirements and are classified as ANS Safety Class 3 and ASME Code Class 3 Component Support Structures. In addition, the racks are designed to withstand the loads which may result from fuel handling accidents and from the maximum uplift force of the fuel handling crane. Duke indicates that the materials utilized are described in Sections 2.2 and 2.3.4 and are compatible with the spent fuel pool and the spent fuel assemblies. The structural considerations of the racks are described in Section 2.3 and show that the margin of safety against tilting is greater than 100, that the racks do not impact each other nor impact the pool walls, and that sufficient clearance is provided to prevent the racks from sliding into pool floor obstructions. Thus, the margin of safety would not be significantly reduced by the proposed rerack.

Because the submittal by the licensee appears to demonstrate that the standards specified in 10 CFR 50.92 are met, and because the reracking technology in this instance has been well developed and demonstrated, the Commission proposes to determine that the application does not involve a significant hazard consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By September 15, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons

why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commssion, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. Michael McGarry, III, DeBevoise & Liberman, 1200 17th Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C., and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Dated at Bethesda, Maryland, this 11th day of August 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-22486 Filed 8-15-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Issuance of OMB Circular No. A-76 (Revised) "Performance of Commercial Activities"

AGENCY: Office of Management and Budget.

ACTION: Final issuance of OMB Circular No. A-76 (Revised), "Performance of Commercial Activities."

SUMMARY: This Circular establishes Federal policy regarding the performance of commercial activities. The Supplement to the Circular sets forth procedures for determining whether commercial activities should be performed under contract with commercial sources or in-house using Government facilities and personnel. Costs prohibit printing the Supplement here. Copies are available from the agency A-76 Contact Points or Document Distribution in OMB (see below).

EFFECTIVE DATE: This Circular and its Supplement are effective upon publication.

SUPPLEMENTARY INFORMATION: On January 12, 1983, OMB published a draft revision to OMB Circular No. A-76 for a 60-day public and agency comment period. The comment period was extended to 120 days for Congress. Over 900 copies of the Supplement were mailed to interested parties. Written comments on the Circular and Supplement were received from more than 120 individuals and organizations, including Federal agencies, business firms, industry associations, professional groups and private citizens.

Public hearings on the proposed revision, chaired by Mr. Donald E. Sowle, Administrator, Office of Federal Procurement Policy, OMB, were held March 3, 1983, in the New Executive Office Building, Washington, D.C. Testimony was presented by 14 individuals representing business firms, professional and industrial associations, and Federal employee unions. Congressman Major Owens (D-NY) also

presented testimony. Approximately 100 people attended the hearings.

Following is a summary of the major comments, grouped by subject, and a response to each, including a brief description of changes—if any—made to the final Circular and Supplement as a result of the comments. Many other minor changes were made to increase clarity, precision and readability, and to simplify implementation as much as possible.

A. Inclusion of Non-Profits in Definition of Commercial Source

Comment: Several commenters objected to including non-profits in the definition of a commercial source. They contended that only for-profit businesses (as opposed to state or local governments, non-profit organizations or universities) should be allowed to participate in OMB Circular No. A–76 cost studies because the tax exempt status of non-profits affords them an unfair advantage over for-profit businesses in competing for Government business.

Response: We have added a procedure to the cost comparison process to address these concerns. If the apparent low bidder is a non-profit organization, an amount equal to the Federal, state and local income taxes that would be paid by the lowest, tax-paying bidder or offeror would be added to the non-profit's contract price to determine the lowest overall cost to the Government. See Chapter 3, paragraph 3, Part IV of the Supplement.

B. Applicability of circular to Research and Development (R&D)

In the March 29, 1979, version of the Circular, R&D was exempted pending development of criteria for determining which R&D work was Governmental and which was a commercial activity subject to A–76. The proposed and final revisions exempt R&D entirely from the requirements of the Circular. However, severable commercial actiities in support of R&D are subject to the provisions of the Circular.

Comment: A few commenters could see no justification for exempting R&D from the Circular's application. They argued that the commercial sector has the technical expertise and facilities for performing R&D beyond that which is a Governmental function.

Response: In October 1979, the Federal Coordinating Council for Science, Engineering and Technology published a "Report of the Committee on Application of OMB Circular No. A–76 to R&D." The purpose of the report was to determine which R&D should be subject to A–76. The Committee recommended each agency with an R&D mission prepare a management plan to determine which R&D is a Governmental function and which is a commercial activity subject to A–76.

In reviewing the Committee's Report, the A–76 Task Group disagreed with the Committee's recommendation. The Task Group believed that the nature of R&D, the difficulty in separating Governmental R&D from discretionary (i.e., commercial) R&D, and the fact that lower cost is not the driving factor in determining who should perform the work were all factors which indicated that R&D should be exempted from A–76 cost studies.

C. Applicability to "Government-Owned, Contractor-Operated" (GOCO's) Facilities

Comments: Many commenters expressed confusion over the applicability of A–76 to GOCO's. As the section was written in the proposed revision, commenters said there was no distinction between a GOCO and a commercial activity.

Response: With respect to the meaning of the term "GOCO's" in the draft revision, the issue of primary concern to the Task Group was whether the Government should own equipment, facilities and real property used by contractors or whether the contractors should provide those facilities themselves.

A task group met during April 1983 to address this issue, and their recommendations were used in developing the final language in Chapter 3, Part I of the Supplement.

D. Thresholds

This revision of the Circular eliminates the dollar threshold ($100,000) and establishes a full-time equivalent (FTE) threshold (10) for determining whether cost comparisons are required. Activities of 10 FTEs or less may be contracted out without a cost comparison study. Activities over 10 FTEs must undergo a cost study unless a waiver is granted under certain conditions.

Comments: The agencies supported the threshold change from dollars to FTEs because it greatly simplified the inventory requirements. However, some commenters were concerned that the 10 FTE threshold was not representative of the true cost of an activity and that agencies could contract out activities of 10 or less FTEs, without a cost study, that had annual operating costs in the millions of dollars. Other commenters were concerned that agencies would break down their commercial activities into activities of less than 10 FTEs in order to avoid performing a cost study.

Response: The Department of Defense, which has 75% of commercial activities subject to the A–76 program, is already required by statute to conduct cost studies of *all* its commercial activities, regardless of size.

In the large civilian agencies (GSA, HHS, Interior, Agriculture), 92% of all commercial activities of 10 FTEs and less have less than $250,000 annual operating costs each. These statistics do not support the concerns that activities of 10 FTEs and less cost in the millions of dollars.

We have also added a provision to Part I of the Supplement concerning thresholds which states that agencies shall not modify, change or alter the size of their commercial activities solely for the purpose of avoiding cost studies.

E. Contracts Inventory

Comments: Some commenters objected to deleting the requirement that agencies maintain an inventory of contracted commercial activities (agencies are only required to maintain an in-house inventory). They believe that by eliminating the contracts' inventory, agencies would no longer monitor contracted commercial activities to ensure performance is satisfactory and prices remain reasonable.

Response: Most agencies indicated that they will continue to maintain a contracted commercial activities inventory; however, it will not be required at the OMB level. Current procurement regulations require agencies to monitor contract performance to ensure prices remain reasonable and performance is in accordance with the terms and requirements of the contract. Further, when the contract expires, the activity should be re-competed. This ensures a periodic review of the activity.

A–76 provides that the agencies cost study contracted commercial activities at any time prices become unreasonable and performance unsatisfactory. The results of such reviews will be reported to OMB (Chapter 4, Exhibit 2 of the Supplement).

F. Implementation Deadline

The proposed revision required agencies to review all in-house commercial activities by September 30, 1984.

Comments: Many commenters stated that the September 30, 1984, deadline was unrealistic and that agencies would not be able to complete reviews of all their activities by that date. Other

commenters were concerned that agencies would rush to complete cost studies without regard to accuracy.

Response: We have changed the implementation deadline to September 30, 1987.

G. Consolidation of Activities

The proposed revision included language which set forth requirements when agencies chose to consolidate commercial activities into a single performance work statement for cost comparisons and potential contracts. Recognizing that consolidated contracts are usally performed by large service contractors, the draft required contractors bidding on multi-function solicitations to meet certain subcontracting requirements.

Response: Agencies have always had the option to package commercial activites for potential "umbrella" contracts. The language addressing consolidations was not intended to decrease small and small disadvantaged business opportunities. However, in order to allay small and small disadvantaged business concerns, while continuing to allow consolidations were appropriate, the language in the final revision simply states that agencies may package commercial activities to maximize efficiencies and effectiveness, but must comply with the provisions of Pub. L. 95-507, the Small Business Act Amendments.

H. Appeals

Comments: The comments focused on the fact that the appeals process does not permit appeals of agency management decisions, such as the determination of the most efficient and effective in-house organization or whether an activity is a commercial activity or a Governmental function. We also received several comments that Federal employees should be given the right to appeal decisions to contract out without a cost study.

Response: To allow appeals of agency management decisions relating to the in-house organization would be tantamount to permitting third parties to dictate to agency management. Decisions as to the most efficient and effective in-house organization and whether an activity is Governmental or commercial are basic management responsibilities, and management's decisions must be final. However, in the Supplement, we state that management should encourage employee participation in the determination of the most efficient and effective organization during development of the in-house estimate. Also, the appeals process now permits appeals of the justification to contract out without a cost study.

I. Right of First Refusal

When an activity is converted to contractor performance, the Circular requires contractors to give qualified, displaced Federal employees the right of first refusal for job openings on the contract.

Comments: Many commenters requested detailed instructions on how to implement the right of first refusal.

Response: The Office of Personnel Managment is developing policy, regulations and guidelines for the Government and contractors to follow in implementing the right of first refusal. OPM has stated that a draft will be made available for public and agency review and comment.

J. Performance Work Statement (PWS)

The guidelines for developing a PWS (Part II of the Supplement) are now undergoing an editorial revision and will be issued in a Transmittal Memorandum to the Circular by September 1983.

K. Government Retirement Factor

The Government retirement factor of 20.4 percent is out of date. The Office of Personnel Managment is planning to revise the rate in the near future. The revised rate will be issued in a Transmittal Memorandum to the Circular.

L. Material Overhead Factors

General Services Administration (GSA) and Defense Logistics Agency (DLA) material overhead rates are out of date. They are being revised by GSA and DLA, and the new rates will be published as a Transmittal Memorandum to the Circular.

For Copies of the Supplement and Further Information: Questions concerning the revised Circular and Supplement should be addressed to the appropriate agency A-76 Contact Point below. Copies of the Circular and Supplement should also be obtained from the A-76 Contact Points. The public may obtain copies of the Supplement from Document Distribution, 726 Jackson Place, NW., Room 2200, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395-7332.

ACTION
Mr. Charles Shank, Director, Contracts and Grants Management Division, ACTION, Room 401, Washington, D.C. 20525; (202) 254-3580

Department of the Air Force
Colonel Paul Signet, AF/MPMX, Pentagon, Room 5D543, Washington, D.C. 20330; (202) 695-7076

Department of Agriculture
Mr. Dave Lewis, Systems Accountant, Auditors Building, Room 3200, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 382-8997 or (202) 447-8345

Agency for International Development
Mr. Richard F. Calhoun, Chief, Mandated Management Programs, Office of Information Resources Management, Agency for International Development, Room 708, SA-12, Washington, D.C. 20523; (202) 632-3325

Department of the Army
Mr. Wilfred F. Floyd, Headquarters, DA (DACA-RMC), Pentagon, Room 3C560, Washington, D.C. 20310; (202) 695-6023

Department of the Army/Corps of Engineers
Mr. Abbott Thibodeaux (DAEN-RMM-C), U.S. Corps of Engineers, Department of the Army, 20 Massachusetts, N.W., Room 8125, Washington, D.C. 20314; (202) 272-0044

Department of Commerce
Mr. Jimmie Brown, Director for Finance (Acting), U.S. Department of Commerce, Room 6827, Washington, D.C. 20230; (202) 377-4299

Consumer Product Safety Commission
Mr. Charles R. Casper, Jr., Director, Division of Budgets and Operations Planning, Room 500, Consumer Product Safety Commission, Washington, D.C. 20207; (202) 492-6529

Department of Defense
Mr. Tony Gallegos, Base Operations, OASD (MRA&L—FE/BOP), Room 3D814, Pentagon, Washington, D.C. 20301; (202) 697-7475

Department of Education
Mr. Joseph Teresa, Acting Director, Division of Management Operations Analysis, Department of Education, 330 C Street, S.W., Washington, D.C. 20202; (202) 426-5030

Department of Energy
Mr. Ray Mayfield, Chief, Management Systems Development and Evaluation Branch, Department of Energy, 1000 Independence Avenue, S.W., Room 4B194, Forrestal Building, Washington, D.C. 20585; (202) 252-6812 or (202) 252-5620

Environmental Protection Agency
Mr. Alvin Pesachowitz, Branch Chief, Air, Noise, and Radiation Control, Office of the Comptroller, Environmental Protection Agency (PM-225), 401 M Street, S.W., 711 West Tower, Washington D.C. 20460; (202) 382-4160

Federal Bureau of Investigation
Mr. Robert W. Knapp, Unit Chief, Contract Review Unit, Federal Bureau of Investigation, 10th and Pennsylvania Avenue, N.W., Room 1839, Washington, D.C. 20535; (202) 324–4182

Federal Communications Commission
Mr. Richard Goodfriend, Management and Service Branch, Planning and Analysis Division, Federal Communications Commission, 1919 M Street, N.W., Room 414, Washington, D.C. 20554; (202) 632–7513

Federal Emergency Mangement Agency
Ms. Gail Kercheval, Management Planning Staff, Office of Administrative Support, Federal Emergency Mangement Agency, 500 C Street, S.W., Room 318, Washington, D.C. 20472; (202) 287–0293

Federal Home Loan Bank Board
Mr. James Higgs, Procurement Branch Chief, Federal Home Loan Bank Board, 1700 G Street, N.W. 4th Floor, Washington, D.C. 20552; (202) 377–6030

Federal Trade Commission
Mr. Richard Casazza, Code XDSA, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580; (202) 523–3361

General Services Administration
Ms. Frances Clark, Office of Operations (AR), 18th and F Streets, N.W., Room 6022A, General Services Administration, Washington, D.C. 20405; (202) 523–0100

Department of Health and Human Services
Mr. Frank Proden, Office of Procurement, Assistance, and Logistics, Department of Health and Human Services, 200 Independence Avenue, S.W., Hubert Humphrey Building, Room 538H, Washington, D.C. 20201; (202) 245–0481

Department of Housing and Urban Development
Mr. Mike Franklin, Office of Procurement and Contracts, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 5260, Washington, D.C. 20410; (202) 755–5294

Department of the Interior
Ms. Cecil Bouchard, Division of Acquisition and Grants, Department of the Interior, Room 5529, Washington, D.C. 20240; (202) 343–3348

International Communications Agency
Mr. Charles N. Canestro, Management, Plans and Analysis Staff, International Communications Agency, 400 C Street, S.W., Washington, D.C. 20547; (202) 485–8676

Interstate Commerce Commission
Mr. Vergil L. Schultz, Chief, Section of Administrative Services, Office of the Managing Director, Interstate Commerce Commission, Room 1315, Washington, D.C. 22343; (202) 275–7236

Internal Revenue Service
Mr. Edwin Murphy, Internal Revenue Service, Contracts and Procurements (PM:S:FM:C), 1111 Constitution Avenue, N.W., Washington, D.C. 20224; (202) 566–9140

International Trade Commission
Mr. Richard Arnold, Director, Finance and Budget, International Trade Commission, 701 E Street, N.W., Room 159, Washington, D.C. 20436; (202) 523–0035

Department of Justice
Mr. Larry Silvis, Assistant Director, Procurement and Contracts Staff, Department of Justice, Room 6213, Washington, D.C. 20530; (202) 633–3217

Department of Labor
Mr. Theodore Goldberg, Director, Office of Procurement and Grant Policy, Department of Labor, 200 Constitution Avenue, N.W., Room C4311, Washington, D.C. 20210; (202) 523–9174

Department of the Navy
For Copies: Office of the Comptroller, Program/Budget Coordination Branch, (NCBG–2), Room 4C640, Pentagon, Washington, D.C. 20350, Autovon 225–6598 or (202) 695–6598
Questions: Mr. Peter Cirafici, CNO (OP–443), 1300 Wilson Boulevard, Room 802, Arlington, Virginia 22209, Autovon 224–0880 or (202) 694–0880

National Aeronautics and Space Administration
Mr. Donald L. Hess, Insitutional Program Analysis Division, National Aeronautics and Space Administration (Code BI–5), Room 5003, Washington, D.C. 20503; (202) 755–3430

National Credit Union Administration
Mr. William Poling, Department of Financial Operations, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456; (202) 357–1100

National Science Foundation
Mr. William H. Ward, Division of Finance, National Science Foundation, 1800 G Street, N.W., Room 431, Washington, D.C. 20550; (202) 357–7753

Nuclear Regulatory Commission
Mr. Robert E. Loach, Resources Management, Nuclear Regulatory Commission, 12217 MNBB, Washington, D.C. 20555; (202) 492–9805

Office of Personnel Management
Mr. Bruce Fredrics, Office of Planning and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Room 7486, Washington, D.C. 20415; (202) 254–5758

Railroad Retirement Board
Mr. J. D. Farr, Bureau of Supply and Service, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611; FTS 8–387–4520

Small Business Administration
Mr. Richard Sadowski, Administrative Officer, Small Business Administration, 1441 L Street, N.W., Room 200, Washington, D.C. 20416; (202) 653–6623

Department of State
Mr. John F. Perdew, Director, OPR/ST, Department of State, Room 532, SA/6, Washington, D.C. 20520; (202) 235–9512

Tennessee Valley Authority
Mr. James L. McAnally, Chief, Financial Management Staff, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902; FTS 8–856–6960

Department of Transportation
Mr. Angelo Picillo, Deputy Director of Installations and Logistics, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590; (202) 426–4243

Department of the Treasury
Mr. Robert Howard, Office of Management and Organization, Department of the Treasury, Room 4418, Washington, D.C. 20220; (202) 566–2463

Veterans Administration
Mr. Clyde C. Cook, Assistant Deputy Administrator for Procurement and Supply (90), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420; (202) 389–3808

OMB Contacts

Mr. David Muzio, Mr. Curt Holland, or Ms. Lee Miller, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., Room 9013, Washington, D.C. 20503, telephone (202) 395–6810.

Candice C. Bryant,
Deputy Associate Director for Administration.

August 4, 1983.

[Circular No. A–76 (revised)]

To: The Heads of Executive Departments and Establishments

Subject: Performance of Commercial Activities

1. *Purpose.* This Circular establishes Federal policy regarding the performance of commercial activities. The Supplement to the Circular sets forth procedures for determining whether commercial activities should be performed under contract with commercial sources or in-housing using Government facilities and personnel.

2. *Rescission.* OMB Circular No. A–76 (revised), dated March 29, 1979; Transmittal Memoranda 1 through 7; Supplement No. 1 to the Circular, dated March 1979.

3. *Authority.* The Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*), and the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 *et seq.*).

4. *Background.*

a. In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply the products and services the Government needs.

b. This national policy was promulgated through Bureau of the Budget Bulletins issued in 1955, 1957, and 1960. OMB Circular No. A–76 was issued in 1966. The Circular was revised in 1967 and again in 1979.

5. *Policy.* It is the policy of the United States Government to:

a. *Achieve Economy and Enhance Productivity.* Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a Government operated commercial activity is permissible, in accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in-house performance shall be performed to determine who will do the work.

b. *Retain Governmental Functions In-House.* Certain functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by Government employees.

c. *Rely on the Commercial Sector.* The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.

6. *Definitions.* For purposes of this Circular:

a. A *commercial activity* is one which is operated by a Federal executive agency and which provides a product or service which could be obtained from a commercial source. A commercial activity is not a Governmental function. A representative list of such activities is provided in Attachment A. A commercial activity also may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance by contract.

b. A *conversion to contract* is the changeover of an activity from Government performance to performance under contract by a commercial source.

c. A *conversion to in-house* is the changeover of an activity from performance under contract to Government performance.

d. A *commercial source* is a business or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a commercial product or service.

e. A *Governmental function* is a function which is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are normally subject to this Circular. Governmental functions normally fall into two categories:

(1) *The act of governing;* i.e., the discretionary exercise of Government authority. Examples include criminal investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in direction of the national defense; management and direction of the Armed Services; activities performed exclusively by military personnel who are subject to deployment in a combat, combat support or combat service support role; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* such as tax collection and revenue disbursements; control of the treasury accounts and money supply; and the administration of public trusts.

f. A *cost comparison* is the process of developing an estimate of the cost of Government performance of a commercial activity and comparing it, in accordance with the requirements in Parts II, III, and IV of the Supplement, to the cost to the Government for contract performance of the activity.

g. *Directly affected parties* are Federal employees and their representative organizations and bidders or offerors on the instant solicitation.

7. *Scope.*

a. Unless otherwise provided by law, this Circular and its Supplement shall apply to all executive agencies and shall provide administrative direction to heads of agencies.

b. This Circular and its Supplement apply to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the United States Code.

c. This Circular and its Supplement shall not:

(1) Be applicable when contrary to law, Executive Orders, or any treaty or international agreement;

(2) Apply to Governmental functions as defined in paragraph 6.e.;

(3) Apply to the Department of Defense in times of a declared war or military mobilization;

(4) Provide authority to enter into contracts;

(5) Authorize contracts which establish an employer-employee relationship between the Government and contractor employees. An employer-employee relationship involves close, continual supervision of individual contractor employees by Government employees, as distinguished from general oversight of contractor operations. However, limited and necessary interaction between Government employees and contractor employees, particularly during the transition period of conversion to contract, does not establish an employer-employee relationship. Additional guidance on this subject is provided in the Federal Personnel Manual issued by the Office of Personnel Management;

(6) Be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations;

(7) Apply to the conduct of research and development. However, severable in-house commercial activities in support of research and development, such as those listed in Attachment A, are normally subject to this Circular and its Supplement; or

(8) Establish and shall not be construed to create any substantive or procedural basis for anyone to challenge any agency or inaction on the basis that such action or inaction was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2, paragraph I of the Supplement, "Appeals of Cost Comparison Decisions."

8. *Government Performance of a Commercial Activity.* Government performance of a commercial activity is authorized under any of the following conditions:

a. *No Satisfactory Commerical Source Available.* Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings shall be supported as follows:

(1) If the finding is that no commercial source is capable of providing the needed product or service, the efforts made to find commercial sources must be documented and made available to the public upon request. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 3, paragraph C of the Supplement), at least three notices describing the requirement in the *Commerce Business Daily* over a 90-day period or, in cases of *bona fide* urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those required of in-house Government personnel or operations.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by the assistant secretary or designee in paragraph 9.a. of the Circular, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Temporary disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the commercial activity has ever been performed by contract, an explanation of how the instant circumstances differ must be documented. These decisions must be made available to the public upon request.

(3) Activities may not be justified for in-house performance solely on the basis that the activity involves or supports a classified program or the activity is required to perform an agency's basic mission.

b. *National Defense.*

(1) The Secretary of Defense shall establish criteria for determining when Government performance of a commercial activity is required for national defense reasons. Such criteria shall be furnished to the Office of Federal Procurement Policy, OMB, upon request.

(2) Only the Secretary of Defense or his designee has the authority to exempt commercial activities for national defense reasons.

c. *Potient Care.* Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of direct patient care.

d. *Lower cost.* Government performance of a commercial activity is authorized if a cost comparison prepared in accordance with Parts II, III and IV of the Supplement demonstrates that the Government is operating or can operate the activity on an ongoing basis at an estimated lower cost than a qualified commercial source.

9. *Action Requirements.* To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contacts to carry out implementation. These offices shall have access to all documents and data pertinent to actions taken under the Circular and its Supplement and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by OFPP Policy Letter No. 78-3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement," in considering requests for information supplied by contractors.

d. Implement this Circular and its Supplement within 90 days after its issuance with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions. Copies of the implementing instructions and any subsequent changes, the appeals procedure required in Part I, Chapter 2, paragraph I of the Supplement, and the names of the designated officials in paragraph 9.a. and the offices in paragraph 9.b. will be forwarded to the Office of Federal Procurement Policy, OMB.

e. Ensure the initial reviews of all existing in-house commercial activities are completed in accordance with Part I, Chapter 1, paragraph C.1. of the Supplement by September 30, 1987.

10. *Annual Reporting Requirement.* No later than March 15 of each year, agencies shall submit to the Office of Federal Procurement Policy a report on the implementation of OMB Circular No. A-76, in accordance with instructions in Part I, Chapter 4 of the Supplement.

11. *OMB Responsibility and Contact Point.* All questions or inquiries should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9013, Washington, DC 20503. Telephone number (202) 395-6810.

12. *Effective Date.* This Circular and its Supplement are effective immediately, but need not be applied where a cost comparison was begun, using the March 1979 Circular, prior to the effective date.

13. *Review.* The policy in this Circular will be reviewed no later than four years from the date of issuance.

David A. Stockman,

Director.

Attachment A—

Examples of Commercial Activities [1]

Audiovisual Products and Services
- Photography (still, movie, aerial, etc.)
- Photographic processing (developing, printing, enlarging, etc.)
- Film and videotape production (script writing, direction, animation, editing, acting, etc.)
- Microfilming and other microforms
- Art and graphics services
- Distribution of audiovisual materials
- Reproduction and duplication of audiovisual products
- Audiovisual facility management and operation
- Maintenance of audiovisual equipment

Automatic Data Processing
- ADP services—batch processing, time-sharing, facility management, etc.
- Programming and systems analysis, design, development, and simulation
- Key punching, data entry, transmission, and teleprocessing services
- Systems engineering and installation
- Equipment installation, operation, and maintenance

Food Services
- Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries
- Vending machines
- Ice and water

Health Services
- Surgical, medical, dental, and psychiatric care
- Hospitalization, outpatient, and nursing care
- Physical examinations
- Eye and hearing examinations and manufacturing and fitting glasses and hearing aids
- Medical and dental laboratories
- Dispensaries
- Preventive medicine
- Dietary services
- Veterinary services

Industrial Shops and Services
- Machine, carpentry, electrical, plumbing, painting, and other shops
- Industrial gas production and recharging
- Equipment and instrument fabrication, repair and calibration
- Plumbing, heating, electrical, and air conditioning services, including repair
- Fire protection and prevention services
- Custodial and janitorial services
- Refuse collection and processing

Maintenance, Overhaul, Repair, and Testing
- Aircraft and aircraft components
- Ships, boats, and components
- Motor vehicles
- Combat vehicles
- Railway systems
- Electronic equipment and systems
- Weapons and weapon systems
- Medical and dental equipment
- Office furniture and equipment
- Industrial plant equipment
- Photographic equipment
- Space systems

Management Support Services
- Advertising and public relations services
- Financial and payroll services
- Debt collection

[1] This list should be used in conjunction with the policy and procedures of the Circular to determine an agency's A-76 commercial activities inventory. It has been compiled primarily from examples of commercial activities currently contracted or operated in-house by agencies. It should not be considered exhaustive, but should be considered an aid in identifying commercial activities. For example, some Federal libraries are primarily recreational in nature and would be deemed commercial activities. However, the National Archives or certain functions within research libraries might not be considered commercial activities. Agency management must use informed judgment on a case-by-case basis in making these decisions.

Manufacturing, Fabrication, Processing, Testing, and Packaging
- Ordnance equipment
- Clothing and fabric products
- Liquid, gaseous, and chemical products
- Lumber products
- Communications and electronics equipment
- Rubber and plastic products
- Optical and related products
- Sheet metal and foundry products
- Machined products
- Construction materials
- Test and instrumentation equipment

Office and Administrative Services
- Library operations
- Stenographic recording and transcribing
- Word processing/data entry/typing services
- Mail/messenger
- Translation
- Management information systems, products and distribution
- Financial auditing and services
- Compliance auditing
- Court reporting
- Material management
- Supply services

Other Services
- Laundry and dry cleaning
- Mapping and charting
- Architect and engineer services
- Geological surveys
- Cataloging
- Training—academic, technical, vocational, and specialized
- Operation of utility systems (power, gas, water, steam, and sewage)
- Laboratory testing services

Printing and Reproduction
- Facility management and operation
- Printing and binding—where the agency or department is exempted from the provisions of Title 44 of the U.S. Code
- Reproduction, copying, and duplication
- Blueprinting

Real Property
- Design, engineering, construction, modification, repair, and maintenance of buildings and structures; building mechanical and electrical equipment and systems; elevators; escalators; moving walks
- Construction, alteration, repair, and maintenance of roads and other surfaced areas
- Landscaping, drainage, mowing and care of grounds
- Dredging of waterways

Security
- Guard and protective services
- Systems engineering, installation, and maintenance of security systems and individual privacy systems
- Forensic laboratories

Special Studies and Analyses
- Cost benefit analyses
- Statistical analyses
- Scientific data studies
- Regulatory studies
- Defense, education, energy studies
- Legal/litigation studies
- Management studies

Systems Engineering, Installation, Operation, Maintenance, and Testing
- Communications systems—voice, message, data, radio, wire, microwave, and satellite
- Missile ranges
- Satellite tracking and data acquisition
- Radar detection and tracking
- Television systems—studio and transmission equipment, distribution systems, receivers, antennas, etc.
- Recreational areas
- Bulk storage facilities

Transportation
- Operation of motor pools
- Bus service
- Vehicle operation and maintenance
- Air, water, and land transportation of people and things
- Trucking and hauling

[FR Doc. 83-22469 Filed 8-15-83; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Publication of Notices of Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; publication of notices of systems of records.

SUMMARY. The purpose of this notice is to meet the requirement of the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 97-375), regarding the publication of an agency's notices of systems of records when the system is established or when revisions are made to an existing system.

DATES: Except for a revised routine use which appears in several systems and a new routine use proposed for the OPM/GOVT-2 system, the other changes described in this notice become effective on August 16, 1983. The revised and one new routine use will become effective, without further notice, on September 30, 1983, unless comments dictate otherwise.

ADDRESS: Written comments may be sent or delivered to: Assistant Director for Workforce Information, Room 5431, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Workforce Records Management Division, (202) 632-5433.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, as amended by Pub. L. 97-375 agencies are required to publish a notice of the systems of records they maintain that are subject to the Act only when that agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A-108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not also require such a report need only be described in a **Federal Register** notice, without the necessity of publishing the complete text of the notice. For the convenience of individual data subjects and other interested parties, the Office is including in this notice a citation of the **Federal Register** issue where the complete text of all of the Office's system notices last appeared.

On January 22, 1982 (47 FR 3231), the Office published a proposal to modify an existing system, identified as OPM/GOVT-1, General Personnel Records, and to establish a new system of records to be identified as OPM/GOVT-2, Employee Performance File System Records. The notice inadvertently omitted a statement that the changes and the new system would become effective, without further notice, 60 days from the date of publication, i.e., on March 22, 1982. Due to an administrative oversight, no notice has been published concerning the adoption of those proposals. Since that notice indicated that the records covered by the new OPM/GOVT-2 would continue to be covered by OPM/GOVT-1 until the new system became operational, the records described in the notice have always been covered for purposes of the Privacy Act. The Office hereby formally announces the adoption of the changes to OPM/GOVT-1 and the new OPM/GOVT-2 system of records as proposed.

With the adoption of OPM/GOVT-2, two Internal record systems maintained by the Office became unnecessary as the records included in those systems are now covered by OPM/GOVT-2. Therefore the Office is deleting the OPM/Internal-10 system, Employee Production Records, and the OPM/Internal-11 system, Investigator Performance Records from its inventory of systems and reserving those identifiers for possible future use. Additionally, the Office is deleting the

record system identified as OPM/Central–4, Executive Assingment System and Executive Inventory Records. The Inventory function has ceased operation and the Executive Assignment records pertain only to non-SES excutives, some 600 in number, decreasing annually, and are considered covered by the OPM/Central–13 system as last published.

This notice identifies a number of other changes to the Office's system notices, primarily editorial in nature, e.g., changes in the location of records, description of records covered, titles of responsible officials, or retention schedules. While none of the changes identified in this notice require a report, i.e., are substantive within the meaning of OMB guidelines, the revised and one new routine uses being promulgated in this notice do require a public comment period of 30 days prior to becoming effective. In addition to the revised and one new routine use identified herein, the Office is including in this notice several routine uses that were added to two of the Office's systems of records in 1982 and 1983. The notices proposing these changes were all subject to the required public comment period and are in effect. The purpose of specifically identifying them in this notice is to enable interested parties to make certain that the system notices they use are current. Two notices are reproduced in their entirety as required for those systems from which records may be given to consumer reporting agencies. Except for the routine uses subject to the 30-day comment period, all other changes are effective on (date of publication). The revised and one new routine uses will become effective, without further notice, on (45 days from date of publication) unless comments warrant otherwise.

The revision to the routine use that appears in several system notices is being made to clarify, as a result of agency and Office experience, the disclosure of records where litigation or administrative procedures are involved. If the custodian of the record, in the exercise of his/her prudent judgment, determines that the record sought under such proceedings is relevant and necessary to the matters at issue, then the record may be disclosed. An important aspect of making a disclosure under a routine use is the exercise of sound judgment on the part of the custodian of the record—something that the Office expects all custodians to accomplish for Office-controlled records in government-wide systems. Because the Office's position is that the Government should never be looked upon as "uncooperative" in legally assisting in the correct resolution of matters that are under litigation or before administrative bodies for a decision, this clarifying revision to an existing routine use is appropriate.

With regard to the revision of the new routine use being added to the OPM/GOVT–2 system notice, it results from an agency request for a routine use that would permit the agency to disclose individual records to a private sector entity. The Office considers that, in order for the Office to exercise its oversight responsibilities in the area of effective personnel management, it must maintain and require agencies to maintain records. Effective personnel management includes the use of these records to ensure sound personnel actions, conditions which enhance the completion of agency missions, and the fostering of public confidence in a particular agency and in the Government as a whole. Therefore, the disclosures that would be permitted under this routine use are compatible with this purpose for maintenance of employee records and the specific conditions under which the disclosure will be made ensure adequate protection of employee privacy. Making the routine use general, rather than specific to a particular agency, eliminates the necessity for other agencies to request a routine use that is specific for that agency and which permits this kind of disclosure.

Office of Personnel Management.

Donald J. Devine,

Director.

The Office of Personnel Management makes the following changes and proposals of changes to its systems of records:

1. *OPM/Internal–1, Defense Mobilization Emergency Cadre Records.* Complete text appears at 47 FR 16468, April 16, 1982. Delete routine use d. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

2. *OPM/Internal–2, Negotiated Grievance Procedure Records.* Complete text appears at 47 FR 16468, April 16, 1982. Delete routine use f. and substitute a revised routine use, subject to the 30-day comment period, to read as follows:

* * * * *

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

3. *OPM/Internal–3, Security Office Control Files.* Complete text appears at 47 FR 16470, April 16, 1982. No change.

4. *OPM/Internal–4, Employee Occupational Health Program Records.* Complete text appears at 45 FR 78381, November 25, 1980. Delete routine use c. and substitute a revised routine use, subject to the 30-day comment period, to read as follows:

* * * * *

c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

OPM/Internal–5, Pay, Leave, and Travel Records. The complete text of this notice is being reproduced here so as to identify it as a system from which disclosures may be made pursuant to the Fair Credit Reporting and the Federal Claims Collection Acts. The revised routine use, subject to the 30 day comment period, is routine use m. Additionally, the sections entitled *System Location* and *System Manager* are changed to reflect administrative changes within OPM.

OPM/INTERNAL–5

SYSTEM NAME

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of Financial Management, Administration Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM offices where the individual is currently employed. (See list of OPM regional office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains various records relating to pay, leave, and travel. This includes information such as: name; date of birth; social security number; home address; grade; employing organization; timekeeper number;

salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement contributions; FICA withholdings; Federal, State and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; and travel expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a; 5 U.S.C. 5501 et seq., 5525 et seq., 5701 et seq., and 6301 et seq.; and Executive Order 9397.

PURPOSE(S):

These records are used to administer the pay, leave, and travel requirements of the Office of Personnel Management. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

b. By the Department of the Treasury to issue checks and U.S. Savings Bonds.

c. By State offices of unemployment compensation with survivor annuity or health benefits claims or records reconciliations.

d. By Federal Employee's Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

e. To disclose information to the Internal Revenue Service and State and Local tax authorities.

f. To provide officials of labor organizations recognized under 5 U.S.C. Chapter 71 with information as to the identity of Office employees contributing union dues each pay period and the amount of dues withheld from each contributor.

g. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

i. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

j. To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

k. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

l. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

m. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

n. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

o. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

p. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

q. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

r. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

s. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

t. To disclose, annually, pay data to the Social Security Administration and the Department of the Treasury as required.

"Disclosures pursuant to 5 U.S.C. 552a(b)(12)

Disclosures may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders and loose leaf binders and on cards and magnetic tapes.

RETRIEVABILITY:

These records are retrieved by the names, Social Security Numbers, or Office of Personnel Management employee identification numbers of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with GSA General Records Schedule 2. Disposal of manual records is by shredding or burning; magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Financial Management, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information on them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individual must furnish the following for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must provide the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

Individuals requesting amendment must also follow the Office's Privacy Act regulation regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains.
b. Office of Personnel Management officials responsible for pay, leave, and travel requirements.
c. Other official personnel documents of the Office.

6. *OPM Internal–6, Appeal and Administrative Review Records.* Complete text appears at 45 FR 78384, November 25, 1980. Delete routine use f. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

7. *OPM/Internal–7, Complaints and Inquiries Records.* Complete text appears at 45 FR 78385, November 25, 1980. Delete routine use d. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

8. *OPM/Internal–8, Employee Counseling Services Program Records.* Complete text appears at 47 FR 16471, April 16, 1982. No change.

9. *OPM/Internal–9, Employee Locator Card Files.* Complete text appears at 45 FR 78387, November 25, 1980. Delete routine use b. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

10. *OPM/Internal–10. [Reserced.]*

11. *OPM/Internal–11. [Reserced.]*

12. *OPM/Internal-12, Speaker Resume Records.* Complete text appears at 47 FR 16472, April 16, 1982. Delete routine use e. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

e. To dislose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

13. *OPM/Internal-13, Motor Vehicle Operator and Accident Report Records.* Complete text appears at 45 FR 78392, November 25, 1980. Delete routine use d. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

14. *OPM/Internal-14, Administrative Grievance Records.* Complete text appears at 47 FR 16472, April 16, 1982. Delete routine use e. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

e. To dislose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

OPM/Central-1, Civil Service Retirement and Insurance Records. The complete text of this notice is being reproduced here so as to identify this system as one from which disclosures may be made pursuant to the Fair Credit Reporting and the Federal Claims Collection Acts. The revised routine use, subject to the 30 day comment period, is routine use o. Additionally, routine uses ff. and gg. (added since the text was last published) are included along with a cite

as to when they were published for a public comment period. Also, the sections entitled *System Location, Categories of Individuals Covered by the System,* and *Categories of Records in the System* are changed to identify that some records are maintained by States, that U.S. Postal Service employee records are part of this system, as this group was inadvertently omitted from the text when the notice was last published, and to identify the records related to State income tax withholdings from annuitant payments.

OPM/CENTRAL-1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415. Certain records pertaining to State income tax withholdings from annuitant payments are located with State Taxing Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who:

(1) Performed Federal service subject to the CSR system other than that with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under the CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application in connection with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance Benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government Retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance Benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

f. Current employees of the U.S. Postal Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system comprises those retirement service history records of employees' service in the Federal government other than that for the agency in which they may presently be employed. Also included in the system are current personnel data pertaining to active United States Postal Service employees who, by virtue of the provisions set forth in 5 U.S.C. 2105(e), are not considered civil service employees. It also contains information developed in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees which the Office of Personnel Management adminsters. Also included are medical records and supporting evidence on those individuals found medically unsuitable for Federal employment. Consent forms and other records related to the withholding of State income tax from annuitant payments, whether physically maintained by the State or the Office, are also included in this system. These records contain the following information:

a. Documentation of Federal service subject to the Civil Service Retirement (CSR) system.

b. Documentation of service credit and refund claims made under the CSR system.

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office of Personnel Management), and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employee Health Benefits program be reviewed by the Office.

f. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their suvivors under a Federal govenment retirement system other than the CSR system, or for compensationers and their surivors under the Office of Workers Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301 and chapters 83, 87, and 89 of title 5, United States Code; Pub. L. 83–598, 84–356, 86–724, and 94–455; and Executive Order 9397.

PURPOSE(S):

These records provide information and verification on which to base entitlement and computation of Civil Service Retirement and survivors benefits, Federal Employees Health benefits and enrollments, and Federal Employees Group Life Insurance benefits, and to withhold State income taxes from annuitant payments. These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipients's benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS' Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To disclose to the Federal Employees Group Life Insurance Office information necessary to verify election, declination, or waiver of regular and or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to

assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls, and, if so, the type of annuity (employment or survivor, but not retirement on disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954, as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefits checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains, and who is found by a court or an Office of Personnel Management Medical Officer to be incompetent or under other legal disability, information necessary to assure payment of benefits to which the individual is entitled.

i. To disclose to the Parent Locator Service of the Department of Health and Human Service, upon its request, the present address of an annuitant, or former employee, for the purpose of enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures. To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence other medical evidence that a prudent physician would hestitate to inform the individual of; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To diclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefit program, to the extent necessary to identify and to identify the type of information requested.

m. To disclose information to the Office of Mangement and Budget at any stage of the legislative coordiantion and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an adminstrative proceeding being conducted by a Federal agency, either when the government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee, (2) the issuance of a security clearance, (3) the reporting of an investigation of an employee, (4) the letting of a contract, (5) the classification of a job, or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

s. By the Office of Personnel Management, in the production of summary description statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published and studies do not contain individual identifies, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Office of Personnel Management specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant or applicant for refund of retirement deductions, if the agency requries that information in order to provide consideration in connection with the collection of a debt due the United States.

w. To disclose information in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the data subject's last known address.

x. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

y. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal-sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

z. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or

matters before the Federal Service Impasses Panel.

aa. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.

bb. To disclose to an allottee, as defined in 5 CFR 831.1501, the name, address, and the amount withheld from an annuitant's benefits, pursuant to 5 CFR 831.1501 et seq. as an allotment to that allottee to implement the program of voluntary allotments authorized by 5 U.S.C. 8345(h).

cc. To disclose to a State agency responsible for the collection of State income taxes the information required by an Agreement to Implement State Income Tax Withholdings from Civil Service Annuities entered pursuant to section 1705 of Pub. L. 97–35 to implement the program of voluntary State income tax withholding required by 5 U.S.C. 8345(k).

dd. To disclose to the Social Security Administration the social security numbers of civil service annuitants to determine (1) their vital status as shown in the Social Security Administration Master Records, (2) whether recipients of the minimum annuity are receiving at least the SPIA benefit from the Social Security Administration, and (3) whether civil service retirees with post-1956 military service credit are receiving benefits from the Social Security Administration.

ee. To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force to protect the health and safety of the affected employees.

ff. To disclose information contained in the Retirement Annuity Master File including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement) annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees to agencies participating in the "Federal Employees Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit programs administered by agencies within the Federal government and to collect debts and overpayments owed to the Federal government. (47 FR 8438, February 26, 1982.)

gg. To disclose information contained in the Retirement Annuity Master File, including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees and their survivors to requesting States to help eliminate fraud and abuse in the benefit programs administered by the States (and by those States to local governments) and to collect debts and overpayments owed to those governments and their components. (48 FR 12628, March 25, 1983.)

"Disclosures pursuant to 5 U.S.C. 552a(b)(12)

Disclosures may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).''

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, AND RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records relating to a claim for retirement, life insurance, health benefits, and tax withholdings are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURE:

Individuals wishing to request amendment of their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. GSA National Personnel Records Center.

d. Federal civilian retirement systems other than the Civil Service Retirement System.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Program.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Programs.

j. The office of Federal Employees Group Life Insurance.

k. Office of Personnel Management Government-wide system (OPM/GOVT–1) covering Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

16. *OPM Central-2, Complaints and Inquiries Records.* Complete text appears at 47 FR 16476, April 16, 1982. Delete routine use e. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comploy with the issuance of subpoena.

* * * * *

Additionally, the sections entitled *System Manager(s) and Address* and *Notification Procedures* are changed to read as follows:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Since records in this system are retained by the office that responds to them, each such office is the system manager for the records in their possession. Therefore, the system managers for this system are the Associate Directors for each major organizational group within the Office of Personnel Management, i.e., Administation, Compensation, Workforce Effectiveness and Development, Staffing, and Compliance and Investigations, and in some cases Regional Director's offices. The address for Associate Directors is: U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415. The addresses for regional offices are contained in the Appendix published on April 16, 1982, 47 FR 16503.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above, depending on the nature of the complaint or inquiry and the office to which they made the request or from which they received a response. Matters relating to OPM operations as an agency would be under the Administration Group; matters relating to pay, retirement, or life/health insurance programs would be under the Compensation group; matters relating to merit pay, incentive awards, performance, or training would be under the Workforce Effectiveness and Development group; matters relating to recruiting, examining, or placement of applicants/employees would be under the Staffing group; and matters relating to OPM-conducted compliance and evaluation visits, position classification reviews, retained rate of pay and grade appeals, Official Personnel Folders, or personnel investigation would be under the Compliance and Investigations group. If such complaints or inquiries were filed in an OPM regional office, and a response was received from that office, contact should first be made with that office before any inquiry is made of the specific system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.

c. Kind of response received.

* * * * *

17. *OPM/Central-3, Federal Executive and SES Candidate Development Program Records.* Complete text appears at 47 FR 16477, April 16, 1982. Delete routine use g. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

g. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the section entitled *Retention and Disposal* is changed to read as follows:

* * * * *

RETENTION AND DISPOSAL:

Records are retained for 2 years on candidates who enter the program but who do not complete it and for 7 years on those who complete such a program. Disposal of paper records is by shredding or burning while disks and tapes are erased.

* * * * *

18. *OPM/Central-4.* [Reserved.]

19. *OPM/Central-5, Intergovernmental Personnel Act Assignment Records.* Complete text appears at 47 FR 16479, April 16, 1982. Delete routine use d. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

20. *OPM/Central-6, Administrative Law Judge Application Records.* Complete text appears at 45 FR 78402, November 25, 1980. Delete routine use g. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

g. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an adminstrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the sections entitled *System Location* and *System Manager(s) and Address* are changed to read as follows:

* * * * *

SYSTEM LOCATION:

Associate Director, Staffing Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Staffing Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

* * * * *

21. *OPM/Central-7, Litigation and Claims Records.* Complete text appears at 47 FR 16480, April 16, 1982. Delete routine use e. and substitute a revised

routine use, subject to the 30 day comment period, to read as follows:

* * * * *

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

22. *OPM/Central-8, Privacy Act/Freedom of Information Act (PA/FOIA) Case Records.* Complete text appears at 45 FR 78405, November 25, 1980. Delete routine use i. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an adminstrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the section entitled *Retention and Disposal* is changed to read as follows:

RETENTION AND DISPOSAL:

These records are retained from 2 to 5 years after the final Office action on the case. Records are destroyed by shredding, burning, or the equivalent.

* * * * *

23. *OPM/Central-9, Personnel Investigations Records.* Complete text appears at 47 FR 16483, April 16, 1982. Delete routine use j. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

j. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an adminstrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

24. *OPM/Central-10, Directory of Federal Executive Institute Alumni.* Complete text appears at 45 FR 78410, November 25, 1980. No change.

25. *OPM/Central-11, Presidential Management Intern Program Records.* Complete text appears at 47 FR 16486, April 16, 1982. Delete routine use i. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

26. *OPM/Central-12, Survey Information Records.* Complete text appears at 47 FR 20235, May 11, 1982. No change.

27. *OPM/Central-13, Executive Personnel Records.* Complete text appears at 47 FR 16487, April 16, 1982. Delete routine use i. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

28. *OPM/GOVT–1, General Personnel Records.* Complete text appears at 47 FR 16489, April 16, 1982, as modified by the notice at 47 FR 3231, January 22, 1982. Delete routine use p. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

p. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

The following routine uses were added to this system of records in 1982 and 1983, and were the subject of a separate **Federal Register** notice (cited at the end of the routine use) and a public comment period. They are listed here for the convenience of interested parties and are not offered for particular public comment. They are:

* * * * *

(1) gg. To disclose information contained in the Central Personnel Data File including the name, social security number, date of birth, sex, annualized salary rate, service computation date of basic active service date, separation or retirement date, reportable handicap, veteran's preference, retirement status, occupational series, position occupied, work schedule (full time, part time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan service area, special program identifier, and submitting office number of all Federal employees to agencies participating in the "Federal Employee Receiving Government Assistance" Matching Program conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administered by agencies within the Federal government and to collect debts and overpayments owed to the Federal government. (47 FR 8440, February 26, 1982.)

(2) hh. To disclose information contained in the Central Personnel Data File including the name, social security number, date of birth, sex, annualized salary rate, separation or retirement date, retirement status, occupational series, position occupied, work schedule (full time, part time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan statistical area, special program identifier, and submitting office number of Federal employees to requesting States (and by those States to local governments) for use in computer matching to help eliminate fraud and abuse in the benefit programs administered by the States and to collect debts and overpayments owed to those governments and their components. (48 FR 12630, March 25, 1983.)

* * * * *

29. *OPM/GOVT–2, Employee Performance File System Records.* The system is hereby adopted, as proposed in the **Federal Register** of January 22, 1982, 47 FR 3232, except that routine use i. is deleted and a revised routine use is substituted and a new routine use n. is proposed, both subject to a 30 day comment period, to read as follows:

* * * * *

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

n. To disclose information to private sector (i.e., non Federal, State, or local government) agencies, organizations, boards, bureaus, or commissions. Such disclosures may be made only when the disclosing agency determines that the records are properly constituted in accordance with Office of Personnel

Management or agency requirements, are accurate, relevant, timely, and complete, and the disclosure is in the best interests of the Government (e.g., where the agency's cooperation with the private sector entity, through the exchange of individual records, directly benefits the agency's completion of its mission, enhances the agency's personnel management functions, or increases the public confidence in the agency's or the Federal Government's role in the community. Further, only such information that is clearly relevant and necessary for the purposes of accomplishing the intended uses of the information as certified by the receiving private sector entity, are to be furnished.

* * * * *

30. *OPM/GOVT–3, Records of Adverse Actions and Actions Based on Unacceptable Performance.* Complete text appears at 47 FR 16493, April 16, 1982. Delete routine use f. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

31. *OPM/GOVT–4, Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.* Complete text appears at 47 FR 16495, April 16, 1982. Delete routine use c. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

c. To disclose information to another Federal agency, to a court or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the selections entitled *Categories of Individuals Covered by the System, System Manager(s) and Address,* and *Notification Procedure* are changed to read as follows:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on: The President, Vice President, and candidates for those offices; officers and employees, including special Government employees, whose positions are classified at grades GS–16 and above or at an equivalent rate under another pay schedule (e.g., SES); officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS–16; Administrative Law Judges; employees in the excepted service in positions which are of a confidential or policymaking nature unless an employee or groups of employees as exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of 0–7 under section 201 of title 31, United States Code; the Postmaster General, the Deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service, and each officer or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); and nominees for positions requiring Senate confirmation. This system includes both former and current employees in these categories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended, or who otherwise come under the requirements of the Act. For the purpose of administering all provisions of the Ethics in Government Act of 1978, as amended, the system may contain information on any officer or employee of the Executive Branch.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Government Ethics, U.S. Office of Personnel Management, 1717 H Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact, as appropriate:

1. For records filed directly with the Office of Government Ethics, contact the system manager.

2. For records filed with designated agency ethics officials or the Secretary concerned, contact the Designated Agency Ethics Official or Headquarters, Department or Agency, Washington, D.C. (Zip Code).

3. For records filed with the Federal Election Commission by candidates for President or Vice President, contact the Staff Director, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

* * * * *

32. *OPM/GOVT–5, Recruiting, Examining, and Placement Records.* Complete text appears at 47 FR 16496, April 16, 1982. Delete routine use h. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

h. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the *Note* appearing after the *Categories of Records in the System* section and the section entitled *Retrievability* are changed to read as follows:

CATEGORIES OF RECORDS IN THE SYSTEM:

* * * * *

Note.—The Office of Personnel Management does not intend that records created by agencies in connection with the agency's Merit Promotion Plan program be included in the term "Applicant Supply File" as used within this notice. It is the Office's position that Merit Promotion Plan records are not a system of records within the meaning of the Privacy Act as such records are usually filed by a vacancy announcement number of some other non-unique individual identified. Agencies may choose to consider such records as within the meaning of a system of records as used in the Privacy Act, but if they do so, they are solely responsible for implementing Privacy Act requirements, including establishment and notice of a system of records pertaining to such records. To the extent that an agency utilizes an automated medium in connection with maintenance of records in this system, the automated versions of these records are considered covered by this system of records.

* * * * *

RETRIEVABILITY:

Records are retrieved by the name, date of birth, Social Security Number, and/or the Identification number assigned of the individual on whom they are maintained.

32. *OPM/GOVT–6, Personnel Research and Test Validation Records.* Complete text appears at 47 FR 16498, April 16, 1982. Delete routine use e. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

e. To disclose information to another Federal agency, to a court, or a party in

litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the sections entitled *System Location, Purpose, and System Manager(s) and Address*, are changed to read as follows:

* * * * *

SYSTEM LOCATION:

Office of Personnel Research and Development (OPRD), Staffing Group, U.S. Office of Personnel Management, Room 3G29, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional Offices (see list of regional offices in the Appendix published April 16, 1982, 47 FR 16503), and agency personnel offices (or other designated offices) conducting personnel research.

* * * * *

PURPOSE(S):

These records are collected, maintained, and used by OPM or agencies for the construction, analysis, and validation of written tests, and for research on and evaluation of personnel/organizational measurement and selection methods. Such research includes studies extending over a period of time (longitudinal studies). Race and national origin data are used by agencies to evaluate the role of examinations in the total employee selection process. Use of these race and national origin data is limited to such evaluation projects conducted by the agencies or OPM. The records also may be used by the OPM or employing agencies to locate individuals for personnel research. Data are collected on a project-by-project basis under conditions assuring the confidentiality of the information. No personnel action or selection is made using these research records.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of Personnel Research and Development, Staffing Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

* * * * *

33. *OPM-GOVT-7, Applicant Race, Sex, National Origin, and Disability Status Records.* Complete text appears at 47 FR 16500, April 16, 1982. Delete routine use f. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the sections entitled *System Location* and *System Manager(s) and Address*, are changed to read as follows:

* * * * *

SYSTEM LOCATION:

Records in this system may be located in the following offices:

1. Office of Personnel Research and Development, staffing Group, U.S. Office of Personnel Management, Room 3G29, 1900 E Street, N.W., Washington, D.C. 20415.

2. Office of Affirmative Employment Programs, U.S. Office of Personnel Management, 1900 E STreet, N.W., Washington, D.C. 20415.

3. OPM Regional Offices (see list of regional office addresses in the Appendix published April 16, 1982, 47 FR 16503) and any register-holding area offices under the jurisdiction of a regional office.

4. Agency Personnel, Equal Employment Opportunity, or Federal Equal Opportunity Recruitment Program offices or other designated offices.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Personnel Research and Development, Staffing Group, Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415.

34. *OPM/GOVT-8, Confidential Statements of Employment and Financial Interests.* Complete text appears at 47 FR 16501, April 16, 1982. Delete routine use b. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

Additionally, the sections entitled *Categories of Individuals Covered by the System* and *Retention and Disposal* are changed to read as follows:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and employees who are required by their agency under Executive Order 11222 and 5 CFR 735 to file such statements. The system includes both former and current employees in these categories.

* * * * *

RETENTION AND DISPOSAL:

These records are disposed of 2 years after the separation of the employee or 2 years after the employee leaves the position for which the statement was required. Disposal is by shredding or burning.

* * * * *

35. *OPM/GOVT-9, Position Classification Review, Job Grading, and Grade and Pay Retention Appeals Files.* Complete text appears at 45 FR 78478, November 25, 1980, under the title of File on Position Classification Review Requests (Appeals) and Grade and Pay Retention Appeals. Delete routine use f. and substitute a revised routine use, subject to the 30 day comment period, to read as follows:

* * * * *

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial proceeding or in order to comply with the issuance of a subpoena.

* * * * *

[FR Doc. 83-22280 Filed 8-15-83; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-6821]

Pulte Home Corp. Common Stock, $1 Par Value; Application To Withdraw From Listing and Registration

August 10, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Plute Home Corporation ("Company") is listed and

registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on June 29, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before August 31, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission detemines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22392 Filed 8-15-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13426; (81-3234)]

Quaker Cash Reserves, Inc.; Application for an Order

August 9, 1983.

Notice is hereby given, That Quaker Cash Reserves, Inc. ("Applicant"), Axe Wood, Butter & Skippack Pikes, P.O. Box 550, Blue Bell, Pennsylvania 19422,an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 2, 1983, and an amendment thereto on July 20, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by 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, and are referred to the Act and rules thereunder for further information as to the provisions to which the exemption applies.

Organized as a corporation under Maryland law, Applicant made its initial public offering on October 30, 1981. On June 27, 1983, Applicant had assets of $100,000. At a meeting held on May 5, 1983, Applicant's board of directors decided to, when the stockholders of Applicant numbered less than one hundred, file for deregistration. On May 5, 1983, Applicant's board of directors also decided to cease all further sales of its stock effective May 9, 1983, and thereafter to pay all dividends in cash. By June 27, 1983, all but one of Applicant's stockholders (its investment adviser) had redeemed their shares. Applicant does not presently propose to make any future sales of its common stock, its only authorized class of stock, and undertakes to refrain from making any future public offering of its securities. Because Applicant meets both tests for a Section 3(c)(1) exclusion from the definition of an investment company, it contends that it is not an investment company within the meaning of the Act.

Notice is further given, That any interested person wishing to request a hearing on the application may, not later than September 2, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22390 Filed 8-15-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11765]

Shell Oil Co.; Application and Opportunity for Hearing

August 10, 1983.

Notice is hereby given, that Shell Oil Company, a Delaware corporation (the "Company") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Irving Trust Company, a New York trust company (the "Bank"), under two indentures which are qualified under the 1939 Act and one indenture not so qualified and under a new Indenture which will not be qualified under the 1939 Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or the protection of investors to disqualify the Bank from acting as Trustee under any of said indentures.

The Company alleges that:

1. The Bank, as Trustee, has entered into Indentures dated March 15, 1967 (the "1967 Indenture"), March 15, 1966 (the "1966 Indenture") and August 1, 1961 (the "1961 Indenture") with the Company pursuant to which there have been issued $150,000,000 aggregate principal amount of the Company's 5.30% Debentures Due 1992 (the "1967 Debentures"), $150,000,000 aggregate principal amount of the Company's 5% Debentures Due 1991 (the "1966 Debentures") and $200,000,000 aggregate principal amount of the Company's 4⅝% Sinking Fund Debentures Due 1986 (the "1961 Debentures"), respectively. The 1967 Indenture was filed as Exhibit 2(a) Registration Statement No. 2–26028 under the Securities Act of 1933, as amended (the "1933 Act") and has been qualified under the 1939 Act. The 1961 Indenture was likewise filed as Exhibit 2(b) to Registration Statement No. 2–18353 under the 1933 Act and has been qualified under the 1939 Act. The 1966 Indenture was not qualified under the 1939 Act on the basis of the provision in § 3.04(b) of the 1939 Act relating to securities sold without registration in reliance on Section 4 of the 1933 Act.

2. On May 19, 1982 the Industrial Pollution Control Financing authority of Middlesex County, a public body politic and corporate and a political subdivision of the State of New Jersey (the "Authority") and the Bank, as Trustee, entered into an Indenture dated as of May 1, 1982 (the "1982 Indenture") pursuant to which the Authority issued its Pollution Control Revenue Bonds Series 1982 (Shell Oil Company Project) in the aggregate principal amount of $6,000,000 (the "Bonds"). The Bonds were issued to finance the cost of certain pollution control facilities at the Company's Sewaren Marketing Distribution Plant located in the County of Middlesex, New Jersey in the Township of Woodbridge. The Authority

entered into an Agreement of Sale dated as of May 1, 1982 with the Company (the "1982 agreement of Sale") pursuant to which said facilities are, upon completion thereof from time to time, to be acquired by the Authority from the Company and simultaneously resold to the Company. The Bonds are payable from, and secured by a pledge of, the income and revenues derived from the sale of said facilities, which income and revenues will be sufficient to pay the principal of and interest on the Bonds. The Bonds have not been registered under the 1933 Act on the basis of the exemption provided by Section 3(a)(2) thereof and the 1982 Indenture has not been qualified under the 1939 Act on the basis of the provisions of Section 3.04(a)(4)(A) thereof.

3. Under § 8.08(c)(1)(ii) of the 1967 Indenture, Section 6.08(c)(1)(ii) of the 1966 Indenture and § 8.08(c)(1)(ii) of the 1961 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1982 Indenture if the Company shall have sustained the burden of proving, or application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1967 Indenture, the 1966 Indenture and the 1961 Indenture, and under the 1982 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

4. The Company is not in default under the 1982 Agreement of Sale, the 1967 Indenture, the 1966 Indenture or the 1961 Indenture. The Company's obligations in respect of the 1967 Debentures, the 1966 Debentures and the 1961 Debentures and its obligations under the 1982 Agreement of Sale as they relate to the Bonds are wholly unsecured and rank equally *pari passu*. There are no covenants of the Company included in the 1982 Agreement of Sale comparable to those in the 1967 Indenture, the 1966 Indenture or the 1961 Indenture.

5. Such differences as exist between the 1967 Indenture, the 1966 Indenture, the 1961 Indenture, and the 1982 Indenture and 1982 Agreement of Sale are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

The Company has waived: (a) Notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given, That any interested person may, not later than September 6, 1983 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22391 Filed 8-15-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-34-20062; File No. SR-MCC-83-6]

Self-Regulatory Organizations; Proposed Rule Change By Midwest Clearing Corp.; Financial Reports

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1983, the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 27 of the Rules of the Midwest Clearing Corporation is hereby amended as follows:

Additions italicized—[Deletions Bracketed].

Financial Reports

Rule 27.

[As soon as practicable] *Within 60 days* after the end of each fiscal year of the Corporation, the Corporation shall provide to each Participant financial statements of the Corporation audited by independent public accountants for such fiscal year.

Within 30 days after the close of any fiscal quarter, the Corporation shall provide to any Participant upon request unaudited quarterly financial statements of the Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The proposed rule change is being submitted to conform the Rules of the Midwest Clearing Corporation with the SEC's requirements for permanent registration of clearing agencies.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 8, 1983.

[FR Doc. 83-22393 Filed 8-15-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20063; File No. SR-MSTC-83-14]

Self-Regulatory Organizations; Proposed Rule Change By Midwest Securities Trust Co.; Financial Reports

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1983 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Rule 21 of the Rules of the Midwest Securities Trust Company is hereby amended as follows:

Additions italicized—[Deletions Bracketed].

Financial Reports

Rule 21.

[As soon as practicable] *Within 60 days* after the end of each fiscal year of the Corporation, the Corporation shall provide to each Participant financial statements of the Corporation audited by independent public accountants for such fiscal year.

Within 30 days after the close of any fiscal quarter, the Corporation shall provide to any Participant upon request unaudited financial statements of the Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The proposed rule change is being submitted to conform the rules of the Midwest Securities Trust Company with the SEC's requirements for permanent registration of clearing agencies.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22395 Filed 8-15-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 10, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the

Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Delmed, Inc.
Common Stock, $.10 Par Value (File No. 7-6857)
Drillers, Inc.
Common Stock, $.10 Par Value (File No. 7-6858)
Gulfstream Aerospace Corporation
Common Stock, $.10 Par Value (File No. 7-6859)
LL&E Royalty Trust
Units of Beneficial Interest (File No. 7-6860)
Campbell Resources, Inc.
Common Stock, No Par Value (File No. 7-6861)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 31, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-22334 Filed 8-15-83; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On August 11, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Bureau of Government Financial Operations

OMB Number: N/A (New Submission)
Form Number: None
Title: Financial Institution and Vendor Account Identification Data
OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: August 11, 1983.

Rita A. DeNagy,
Departmental Reports, Management Office.

[FR Doc. 83-22323 Filed 8-15-83; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.
ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions fo the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extended form and the entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 11, 1983.
By direction of the Administrator.

Dominick Onorato,
Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Medicine and Surgery.
2. Dental Record Authorization and Invoice for Outpatient Services.
3. VA Form 10-2570d.
4. Nonrecurring.
5. Individuals or households; small businesses or organizations.
6. 52,770 responses.
7. 17,590 hours.
8. Not applicable.

[FR Doc. 83-22336 Filed 8-15-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 159
Tuesday, August 16, 1983

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
Commodity Futures Trading Commission; Correction	1
Consumer Product Safety Commission	2, 3
Federal Reserve System	4
National Council on Educational Research	5
Securities and Exchange Commission	6
National Transportation Safety Board	7

1

COMMODITY FUTURES TRADING COMMISSION

Correction

In Sunshine Doc. S-1145-83, appearing in column two of page 36362 in the issue of Wednesday, August 10, 1983, the date "August 13, 1983" in the second line of the document should read, "August 23, 1983".

BILLING CODE 1505-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, August 17, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Unvented Gas-Fired Space Heaters—Proposed Revocation*
The Commission will consider the draft **Federal Register** notice proposing revocation of the Commission's mandatory standard requiring the oxygen depletion sensor on unvented gas-fired space heaters.
2. *Petition HP82-1 to Ban Volatile Nitrites in Room Odorizers*
The Commission will consider the Petition HP82-1 concerning the potential adverse health effects associated with inhalation of room odorizer products containing volatile nitrites.
3. *Toy Chests: Possible Final Rule*
The Commission will consider a rulemaking proceeding to address the strangulation risk presented by toy chests.

For a recorded message containing the latest agenda information: call 301-492-5709.

CONTACT PERSON FOR MORE INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207; 301-492-6800.

[S-1168-83 Filed 8-11-83; 4:35 pm]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Thursday, August 18, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Fiscal Year 1985 Budget*
The Commission and the staff will discuss the fiscal year 1985 budget.

For a recorded message containing the latest agenda information, call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207; 301-492-6800.

[S-1169-83 Filed 8-11-83; 4:35 pm]

BILLING CODE 6355-01-M

4

FEDERAL RESERVE SYSTEM

(Board or Governors)

TIME AND DATE: 10 a.m., Monday, August 22, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: August 12, 1983.

James McAfee,

Associate Director of the Board.

[S-1173-83 Filed 8-12-83; 3:33 pm]

BILLING CODE 6210-01-M

5

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

National Council on Educational Research, Executive Committee

TIME AND DATE: August 18 and 19, Thursday 4-10 p.m.; Friday 7 a.m.-1 p.m.

PLACE: Quality Inn/Embassy Suites Hotel, 2000 N Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Discussion of Personnel.

FOR MORE INFORMATION CONTACT: Dr. George C. Roche III, 517/437-7341.

Dated: August 11, 1983.

George Roche III,

Chairman, National Council on Educational Research.

[S-1170-83 Filed 8-11-83; 4:49 pm]

BILLING CODE 4000-01-M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 35560, August 4, 1983, to be published.

STATUS: Closed/open meeting.

PLACE: 450 5th Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, August 1, 1983 and Friday, August 5, 1983.

CHANGE IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, August 11, 1983, following the 9 a.m. open meeting:

Consideration of Chapter 11 participation. Settlement of injunctive action.

The following additional item will be considered at an open meeting scheduled for Tuesday, August 16, 1983, at 9 a.m.:

Consideration of whether to issue releases: (i) Soliciting comment on a petition submitted by the Institutional Networks Corporation ("Instinet") which alleges a denial of, or limitation on, access to quotation information on over-the-counter securities

provided by the National Association of Securities Dealers, Inc. ("NASD"), (ii) granting Instinet interim access to all or a portion of this information during the pendency of this proceeding, and (iii) instituting a proceeding to determine whether to approve or disapprove a proposed NASD rule chane which is part of the basis for Instinet's petition. For further information, please contact William W. Uchimoto at (202) 272–2409.

Chairman Shad and Commissioners Evans, Longstreth and Treadway determined that Commission business required the above changes that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert J. Zutz at (202) 272–2091.

August 11, 1983.

[S-1171-83 Filed 8-12-83; 11:19 am]

BILLING CODE 8010-01-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-19]

TIME AND DATE: 9 A.M., TUESDAY, AUGUST 23, 1983.

PLACE: NTSE Board Room, 6th Floor, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: OPEN.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Engineroom Flooding and Near Foundering of the U.S. Tankship OGDEN WILLAMETTE in the Caribbean Sea, June 16, 1982.

2. *Railroad Accident Report*—Collision of Missourt-Kansas-Texas Railroad Company Train No. 103 with Standing Freight Cars, near Temple, Texas March 17, 1983.

3. *Railroad Accident Brief*—Collision of Denver and Rio Grande Western Railroad Company Yard Switching Move With its Own Train and Release of Hazardsous Materials, Denver, Colorado, April 3, 1983.

4. *Special Interest Briefs* of Aviation Accident Involving Air Traffic Control or the National Weather Service as a Cause or Factor.

5. *Marine Summary Reports.*

6. *Discussion* of Ad Hoc Task Force Report and Recommendations on Petitions for Reconsideration of Probable Cause.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

August 12, 1963

[S-1172-83 Filed 8-12-83; 2:37 pm]

BILLING CODE 4910-58-M

federal register

Tuesday
August 16, 1983

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Manufactured Home Construction and Safety Standards; Proposed Revisions

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R-83-1068]

Manufactured Home Construction and Safety Standards

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.
ACTION: Proposed rule.

SUMMARY: HUD proposes to revise its Manufactured Home Construction and Safety Standards to improve the safety, quality and durability of manufactured homes.

DATE: Comments must be submitted on or before October 17, 1983; however, the Department intends to issue a Cost Impact Analysis which will be available upon request as described in the Economic Costs and Benefits section of the preamble. The comment period will not expire until 30 days after a Notice of this report's availability is published. This Notice may extend the above due date.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should refer to the above Docket Number and Title. A copy of each communication will be available for public inspection and copying during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Standards Officer, Manufactured Housing Standards Division, Office of Manufactured Housing and Construction Standards, Room 3238, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755-5798. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This proposed rule resulted from a comprehensive review by the Department of the present Federal Manufactured Home Construction and Safety Standards (Standards) (24 CFR Part 3280). Revisions to all subparts of the Standards are being proposed. Discussion of the proposed revsions is organized in the following way:

I. Background
A. General
B. Research and Data Collection
C. Advance Notices of Proposed Rulemaking
D. The National Manufactured Home Advisory Council
II. Proposed Standards
A. General
B. Deregulatory Review
C. Major Revisions
1. Formaldehyde Regulation
2. Fire Safety
3. Energy
4. Structural Durability
D. Summary of Proposed Revisions
1. Subpart A—General
2. Subpart B—Planning Considerations
3. Subpart C—Fire Safety
4. Subpart D—Construction Requirements
5. Subpart E—Testing
6. Subpart F—Thermal Protection
7. Subpart G—Plumbing Systems
8. Subpart H—Heating, Cooling and Fuel Burning Systems
9. Subpart I—Electrical Systems
10. Subpart J—Transportation
III. Economic Costs and Benefits
IV. Solicitation of Comment
A. Formaldehyde
B. Standards for Small Manufactured Homes
C. Incorporation by Reference of Standards for Electrical Materials
D. Multifamily Standards
E. Safety Glazing Standard
F. Fire Detection Equipment
G. Snow and Wind Loan Maps
H. Energy
I. Running Gear Evaluation Criteria
J. Transportation Analysis
K. Transportation Testing Criteria
L. Adhesives
V. Miscellaneous

I. Background

A. General

The National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* (Act), authorizes the Secretary of Housing and Urban Development (Secretary) to establish and amend the Standards. The stated purposes of the Act are "to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes." Changes to the Standards are being proposed in accordance with these purposes.

On December 18, 1975, the Department published a revised final rule establishing the Standards. 40 FR 58752. The Standards, which are codified at 24 CFR Part 3280, first became effective on June 15, 1976. Since that time there has been no major revision of the Standards.

B. Research and Data Collection

The Act requires the Secretary to conduct research and collect data as necessary in order to carry out the purposes of the Act. 42 U.S.C. 5407(a). Between 1976 and 1982, the Department did a substantial amount of research and data collection. During that time, approximately 40 reports were developed which summarize the results of full-scale testing, laboratory experiments and various analyses. A detailed description of HUD's research, testing and data collection projects is contained in the Department's Fourth Report to Congress on Mobile Homes (1980). Results of various reports are discussed in the section titled "Proposed Standards."

C. Advance Notice of Proposed Rulemaking

The Department published an Advance Notice of Proposed Rulemaking (ANPR), 44 FR 32711, June 7, 1979, which solicited comment concerning revision of the Standards.

In general, the industry responded that cost effectiveness and clarity of objectives should be the primary concern of the Department in evaluating the need for change in the safety and durability areas cited in the ANPR. Consumers and associated groups expressed the view that manufactured homes still lack those qualities necessary to make the home as durable and safe as they desire.

The Department also published, on August 28, 1981, an ANPR directed solely at formaldehyde. 46 FR 43466. The ANPR was published in response to a petition for rulemaking filed by the National Manufactured Housing Federation and requests by the Attorney General of Texas, the Wisconsin Department of Justice, and others, for adoption of a Federal standard on formaldehyde emission levels in manufactured homes. The ANPR solicited public comment on 21 different aspects of formal dehyde outgassing, including adverse health effects, methods of testing, and the economic impact of regulation. This ANPR is discussed under Proposed Standards, Major Revisions.

D. The National Manufactured Home Advisory Council

The Act provides for a National Manufactured Home Advisory Council comprised of 24 members divided equally among the manufactured home industry, governmental agencies and consumer groups. 42 U.S.C. 5404.

During the period between 1976 and 1979, the Advisory Council met five times, primarily to receive briefings on technical and economic research and other studies being conducted to

evaluate the Standards, and to provide recommendations to the Department.

In August, 1981, the Advisory Council met to review HUD staff recommendations for revision of the Standards. Five subcommittees of the Council met in workshop sessions for three days and then presented written reports which were voted upon by the full Council. Certain changes in the proposed revisions were made by HUD as a result of the Council's reports. Copies of the Advisory Council subcommittee reports are part of the Department's rulemaking record and are available for public inspection.

II. Proposed Standards

A. General

Major revisions to the Standards are being proposed in several areas. A formaldehyde standard is being proposed to regulate indoor air quality. Specifically, the standard would regulate formaldehyde emissions from plywood and particleboard materials. [§ 3280.309] With respect to fire safety, a standard is being proposed which would reduce the maximum allowable flame spread rating for ceiling interior finish materials. [§ 3280.203(b)(2)] The Department also is concerned with the energy costs associated with manufactured homes. Therefore, a requirement that manufacturers make available to consumers an optional energy conservation package is being proposed. The package would offer improved insulation levels and may include other energy saving improvements. [§ 3282.510] Major revisions also are being proposed to improve structural durability. These proposed rules would increase the wind and transportation design loads. [§ 3280.305, § 3280.903]

In addition to the major revisions, other changes are proposed to improve home safety, quality and durability; facilitate the placement of manufactured homes on individual sites; account for technological improvements and availability of new materials; and clarify the meaning of various sections of the Standards to improve their management and enforcement. A more detailed discussion of these changes is set forth under the heading *"Summary of Proposed Revisions."*

B. Deregulatory Review

The Department is proposing the elimination of many unnecessary requirements. Generally, provisions which do not have an effect on health, safety or durability would be eliminated. Excessive and obsolete provisions would be removed or modified. Other standards would be eliminated to reduce costs to manufacturers and consumers. In some cases, the Department is proposing the replacement of present standards with comparable requirements contained in standards promulgated by various voluntary standards-making organizations. These proposals were developed as a result of a deregulatory review conducted pursuant to Executive Order 12291.

C. Major Revisions

1. *Formaldehyde Regulation* [§§ 3280.309; 3280.411, 3280.412].

The Department has concluded that it would be appropriate to adopt a Federal Standard designed to limit formaldehyde emissions in manufactured homes. HUD's objective in implementing a standard is to regulate the level of formaldehyde within the home environment. In accordance with the Act, this Federal Standard would preempt State and local formaldehyde standards. 42 U.S.C. 5403(d).

The Department's research indicates that a relationship exists between the formaldehyde emission characteristics of wood products and home indoor ambient levels. Test methods have been developed for wood products that can be reliably and economically enforced. Based on these findings, this proposed rule would limit the levels of formaldehyde emitted from particleboard floor decking and cabinetry and from interior plywood installed in manufactured homes. These are major sources of formaldehyde emissions in manufactured homes.

The Department has determined that an indoor ambient air formaldehyde level of 0.4 parts per million (PPM) provides reasonable protection to manufactured home occupants. The proposed standard would require that formaldehyde emissions not exceed 0.2 PPM from plywood and 0.3 PPM from particleboard, as measured by the air chamber test specified. The Department believes that the proposed product standard will result in indoor ambient air formaldehyde levels of not greater than 0.4 PPM when (1) the temperature does not exceed 77° F; (2) the relative humidity level does not exceed 50%; and (3) the home's ventilation rate is at least 0.5 air change per hour.

The proposed standard would require that home manufacturers use only wood products which comply with these emission standards and which are certified to meet the standard's requirements. The particleboard and plywood installed in manufactured homes would have to be initially tested in the air chamber in order to be certified. Whenever a wood product manufacturer alters the production process (e.g., press time) or composition (e.g., resin formulation) of its product, the altered product would have to be retested to qualify for certification. In any event, the product would have to be tested at least once every six months in order to maintain the certification.

In addition, to ensure quality control, the particleboard and plywood would have to be checked during each production run using the two-hour desiccator or air chamber test procedure specified in the proposed rule.

This subsection sets forth the basis for HUD's conclusion that a formaldehyde standard for manufactured homes is necessary and explains how the proposed standard was developed.

a. Why HUD Began Considering Regulatory Action

(1) *Nature of Formaldehyde and Its Sources in Manufactured Homes.* Formaldehyde is a chemical substance composed of carbon, hydrogen and oxygen and is a known irritant. It is used in the production of many industrial and consumer products. In particular, urea-formaldehyde resin is used in particleboard subflooring and cabinetry, and in plywood wall panels. These products are used extensively in the production of manufactured homes. In addition to pressed wood products, other possible sources of indoor formaldehyde include furniture, carpets, textiles, fueled appliances, consumer products and urban atmosphere. Lifestyle factors such as cigarette smoking, use of permanent press clothing and generation of excessive humidity can contribute to indoor formaldehyde concentrations.

(2) *Consumer Complaints.* In 1978, the Department began maintaining a separate file on complaints attributed to formaldehyde. Since that time, approximately 1,500 of those complaints have been submitted through various sources. The majority of the complaints focus on formaldehyde's acute irritant effects. Some occupants complain of chronic health effects alleging formaldehyde exposure as a possible cause.

(3) *Inquiries from State and Other Agencies.* In 1981, the Attorney General of Texas requested that HUD develop a standard for maximum formaldehyde emission levels in manufactured homes. A similar request was made by the Wisconsin Department of Justice. Wisconsin subsequently adopted a 0.4 PPM ambient air formaldehyde standard for manufactured housing. [The only

other State with a formaldehyde standard, to date, is Minnesota, which adopted a 0.5 PPM ambient air standard.)

On January 27, 1981, the National Manufactured Housing Federation, an association representing dealers, park operators and manufacturers, filed a Petition for Rulemaking with the Department. The Petition discussed the likelihood of conflicting State formaldehyde standards and requested that HUD develop a preemptive product emission standard.

b. *How HUD Examined the Formaldehyde Problem*

During the course of the investigation to determine whether a Federal formaldehyde standard was appropriate, HUD consulted with other Federal agencies including the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Department of Energy. The Department also consulted with State agencies and industry groups. HUD reviewed the research of these and other agencies and conducted some research of its own.

On August 28, 1981, the Department published an Advance Notice of Proposed Rulemaking (ANPR), 46 FR 43466. The purpose of this ANPR was to solicit public comment on issues associated with formaldehyde regulation such as adverse health effects, appropriate regulatory levels, test methods and economic impact of regulation.

The Department received 55 responses to the ANPR. Comments were submitted by individual consumers and consumer organizations, manufactured home builders, wood product suppliers, trade associations, government agencies, universities and the chemical industry. The major issues raised in the comments included the need for a formaldehyde standard or ban and whether a standard should be imposed on the total home environment (ambient air standard) or on the major sources of formaldehyde in the home (product standard). Other issues addressed in the comments included the adverse health effects associated with exposure to formaldehyde, sensitization, test methods, regulatory alternatives such as increased ventilation of the home, and whether a warning should be required. All of these issues were given careful consideration and are discussed below.

c. *Effects of Exposure to Formaldehyde*

A substantial number of the consumer complaint letters and much of the material submitted in response to the ANPR concern adverse health effects attributed to exposure to formaldehyde. Other responses discuss the carcinogenic potential of formaldehyde. Other health-related comments concern the existence of threshold levels for acute irritant effects, susceptible population groups, and sensitization to formaldehyde.

The following summarizes the information on health effects submitted to HUD.

(1) *Acute Health Effects and Threshold Levels.* The extent, intensity and duration of symptoms due to exposure to formaldehyde vary, depending on the individual and the level of formaldehyde in the home. Common complaints include eye, nose and throat irritation, persistent cough, skin irritation, nausea, headache, dizziness and respiratory distress. The symptoms usually diminish or disappear when the individual leaves the home.

Studies of human exposure to formaldehyde do not conclusively establish whether there is a level of formaldehyde which will not cause adverse symptoms. The Committee of Toxicology of the National Academy of Sciences has concluded that there is no population threshold for the irritant effects of formaldehyde in humans. (Report, Committee on Toxicology, National Academy of Sciences, Formaldehyde—An Assessment of Its Health Effects, NTIS Doc. No. ADA—08785g April, 1980)

HUD also reviewed a number of clinical and experimental control studies which used humans as subjects. The review included: I. Anderson: *Indoor Climate* (Danish Building Research Institute, Copenhagen, 1979); Department of Health, New Zealand: *Formaldehyde Exposure* (Regional Occupational Health Unit, December, 1981); Olsen and Dossing: "Formaldehyde Induced Symptoms in Day Care Centers," *"American Industrial Hygiene Association Journal* (University of Copenhagen, May, 1982) J. Rader: *Irritational Effects of Formaldehyde in Laboratory Halls* (Institute of Pharmacology and Toxicology, University of Wurzburg, December 19, 1974); Weber-Tschopp: "Irritant Effects of Formaldehyde in Humans," *International Archives of Occupational and Environmental Health* (39, 209–218, 1977).

Results of clinical and experimental studies showed varying degrees of functional disturbance and response when subjects were exposed to low levels of formaldehyde inhalation. Generally symptoms were more pronounced at higher dose exposure in the studies. However, no dose/response correlation has been established for short or occupational exposure or for continuous low level exposure.

(2) *Sensitization and Susceptible Groups.* Exposure to formaldehyde gas may cause sensitization in certain individuals. Sensitized persons exhibit allergic reactions when exposed to formaldehyde. It also is possible that these reactions become more severe with continued exposure. Persons having a history of allergic or inflammatory diseases may be more prone to develop an allergy to formaldehyde. People who are sensitized to formaldehyde may benefit little from any standard other than a ban since they apparently react adversely to any measurable level of formaldehyde.

The Committee on Aldehydes of the National Academy of Sciences (NAS) stated that persons with hyperactive airways may respond more severely to the effects of formaldehyde exposure. The Academy has estimated that 10–12% of the United States population may have some degree of airway hyperactivity. (*Formaldehyde and Other Aldehydes* (Committee on Aldehydes, Board on Toxicology and Environmental Health Hazards, Assembly of Life Sciences, National Research Council, 1981).) These people may be more susceptible to the irritant effects of formaldehyde.

Other groups which may be particularly susceptible to the acute irritant effects of formaldehyde include persons with a history of chemical allergies, asthma or other respiratory diseases, infants and elderly persons.

(3) *Chronic Health Effects and Carcinogenicity.* There is disagreement in the comments on the ANPR regarding chronic health effects attributable to formaldehyde exposure. Responses from the manufactured home and wood products industries state that complaint data and chronic health effect literature on formaldehyde do not support a determination that formaldehyde causes more than irritation. (Drill, Friess, et al., Potential Effects From Inhalation of Low Levels of Airborne Formaldehyde, 1982.) Comments from occupants of manufactured homes state that exposure to formaldehyde may lead to a variety of adverse health effects. However, comments from the scientific and medical community are mixed as to the severity and extent of the health effects. Respiratory illnesses, reported to be caused by chronic formaldehyde irritation, include difficulty in breathing and other asthma-like symptoms, persistent cough and chest congestion. Further, some commenters indicated

that exposure for long periods may aggravate existing respiratory and pulmonary ailments.

The carcinogenic potential of formaldehyde in humans has been widely debated. The International Agency for Research on Cancer concluded in May 1982 that: (a) There is sufficient evidence that formaldehyde gas is carcinogenic to rats; (b) the epidemiological studies provide inadequate evidence to assess the carcinogenicity of formaldehyde in humans; and (c) at present, formaldehyde gas should be considered, for practical purposes, as if it represented carcinogenic risk to humans. (International Agency for Research on Cancer, IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, May 1982.) Some of the ANPR comments on this issue refer to laboratory tests sponsored by the Chemical Industry Institute for Toxicology (CIIT), which showed statistically significant incidences of nasal cancer (squamous cell carcinoma) in rats exposed to formaldehyde gas at 15 PPM. That study also indicated that formaldehyde may cause cancer in mice but not at a statistically significant level. (*Final Report: A Chronic Inhalation of Toxicology Study on Rats and Mice Exposed to Formaldehyde* (CIIT/Batelle Laboratories, 1981).) New York University has conducted other studies which confirm these findings. Interpretation of the findings of these cancer studies has been the source of considerable dispute. Because the scientific community has not resolved the human carcinogenic issue, HUD has not taken a position as to whether formaldehyde presents a carcinogenic risk to humans.

d. *Extent of the Formaldehyde Problem in Manufactured Housing*

In 1979, the Department contracted with Technology + Economics, Inc. (T + E) to determine the magnitude of the formaldehyde problem in manufactured housing. T + E contacted various State and Federal agencies and several private organizations for data. Due to variations in sampling techniques, under-reporting of formaldehyde-related problems by consumers, and the absence of critical data, the results of T + E's study were inconclusive. ("An Evaluation of Formaldehyde Problems in Residential Mobile Homes, Final Task I Report)" (April 1980); "Final Report" (March 1981.

In 1980, HUD contracted with Clayton Environmental Consultants, Inc. (CEC) to determine the levels of formaldehyde present in homes which have never been occupied and older, occupied manufactured homes. CEC, using a sample of 260 homes, determined that the average level of formaldehyde in homes which have never been occupied is .86 PPM. Older, occupied homes average .25 PPM of formaldehyde. (The measured levels of formaldehyde were adjusted to 77°F and 50% relative humidity to obtain these statistics.) (Evaluation of Formaldehyde Problem in Mobile Homes—Testing and Evaluation, December, 1982)

It has not been conclusively established that there is a level of formaldehyde which will not cause adverse symptoms. Further, studies have not conclusively established what percentage of the population is allergic to or is likely to become allergic to formaldehyde. However, because of the increasing concern on the part of manufactured home occupants regarding discomfort and potential health hazards associated with exposure to formaldehyde, the Department has determined, in light of its statutory mandate to improve the safety and quality of manufactured homes, that formaldehyde emissions in manufactured homes should be controlled.

e. *Ambient vs. Product Standard*

In developing a formaldehyde standard, the Department considered effectiveness, quality control and ease of enforcement. After reviewing the available data, the Department concluded that a standard imposed on the wood products installed in manufactured homes would meet the stated objectives.

(1) *Ambient Air Standard.* An ambient standard (home air measurement) to regulate formaldehyde emissions was considered by the Department but rejected because of the number of variables and enforcement problems related to that approach. Those problems include the following:

(a) Reliable ambient air test methods are costly and, in some cases, require laboratory chemical analysis. This could delay shipment of the manufactured home at the factory for several days while awaiting test results. In addition, erratic formaldehyde emissions for up to 15 days after production of the home were noted in HUD and industry research studies. Indoor air quality testing at the home manufacturer's factory would provide inconclusive results concerning emission levels due to this initial uncharacteristic behavior.

(b) Differences in temperature and humidity cause variation in ambient formaldehyde emission levels. Formaldehyde breakdown in urea-formaldehyde resins is accelerated by increases in temperature and humidity. This would cause problems when testing homes for quality control and enforcement purposes.

(c) Manufactured home occupants' living habits can influence the ambient level present in the home. Similarly, other formaldehyde contributors brought into the home by the occupants, such as furniture and carpeting, can influence the formaldehyde level in the home. This would complicate site enforcement of the standard.

(2) *Wood Product Standard.* The Department's research study, conducted by CEC, the National Particleboard Association and the Hardwood Plywood Manufacturers' Association Laboratory, determined that a wood product standard could effectively reduce the amount of formaldehyde in the home environment. ("Evaluation of the Relationship Between Formaldehyde Emissions from Particleboard Mobile Home Decking and Hardwood Plywood Wall Paneling in Experimental Mobile Homes" (March 1982).) The research supports the following conclusions:

(a) A significant reduction of the indoor ambient formaldehyde can be achieved by controlling the wood product formaldehyde emission level;

(b) A reasonable relationship exists between laboratory large air-chamber test values and indoor ambient formaldehyde levels found in homes tested; and

(c) A tentative correlation exists between the large air chamber tests and a modified desiccator procedure developed by CEC.

See also, letter to Richard Mendlen from William J. Groah, Technical Director, Hardwood Plywood Manufacturers Association, June 1, 1982, and attached Draft Outline of HPMA/NPA Field Study, April, 1981; W. F. Lehmann, Correlations Between Various Formaldehyde Tests, March 30, 1982; letter to James McCollom, HUD, from Richard J. Walcott, Assistant Manager, Industrial Hygiene Services, CEC, March 23, 1982.

A wood product standard also has the advantage of allowing for early detection of a potential formaldehyde problem. Unlike the violation of an ambient air standard, which can be established only after a manufactured home has been completely assembled, violation of a wood product standard can be discovered before the wood is shipped by its supplier. Manufacturers of homes will be required to use only particleboard and plywood which have been certified to meet the standard, and

which, in fact, emit no more than the prescribed levels of formaldehyde.

f. *Testing Methods*

The large air chamber was selected as the method best suited for product assessment because its results correlate more closely to actual use conditions than do the results of reduced-scale tests. The air chamber test is an ambient test that simulates the manufactured home on a small scale. Particleboard and plywood are loaded into the air chamber in the same proportion of square feet of exposed surface to cubic feet of volume as will be used in the typical manufactured home (the loading factor), and temperature, humidity and air exchange rate are held constant. The test results can be used to predict the formaldehyde level that will be emitted from particleboard and plywood in the manufactured home at test conditions.

Other tests, such as desiccator, perforator, and equilibrium jar, create conditions which may inhibit or promote the release of formaldehyde. Variability in results, sometimes between samples from the same panel, make reduced scale tests such as desiccator, perforator and equilibrium jar, unacceptable as primary sources of evaluation.

A modified version of the two-hour desiccator test method, FTM–1, 1982, developed by the Hardwood Plywood Manufacturers Association, the National Particleboard Association and the Formaldehyde Institute, is being proposed for production testing. The procedure would be modified by making the preconditioning requirements consistent with the protocol used in the Department's research. (CEC, "Evaluation of the Relationship Between Formaldehyde Emissions from Particleboard Mobile Home Decking and Hardwood Plywood Wall Paneling," (March 1982): pp. 19–23)

g. *Certification and Continuing Qualification*

The proposed rule would require that all plywood and particleboard materials used in manufactured homes be certified. Certification would require an initial air chamber test, an initial desiccator test and production testing. The initial air chamber and desiccator tests would be repeated for requalification whenever the production process or product composition changes. In any event, the initial tests would be repeated at least every six months in order for the certification to continue.

A nationally recognized testing agency would witness or conduct the initial or requalification air chamber test to determine whether a product should be certified. The air chamber test would be performed on randomly selected wood products which are no more than 30 days old. Materials which would be tested more than two days after they are produced would be dead stacked or air-tight wrapped. When the nationally recognized testing agency witnesses or conducts the initial or requalification air chamber test, it would also witness or conduct an initial desiccator test. The desiccator test would be performed on samples taken from the wood product tested in the air chamber.

To maintain certification, the wood products manufacturer would perform a desiccator test or an air chamber test for each production run. The desiccator test results obtained during production testing would be compared to the desiccator test values established during initial certification or requalification testing. If production test values exceed the certification values, then the product would be tested in the large air chamber. If the values in the air chamber do not meet the standards, that production run could not be certified.

To achieve the desired quality control, the Department is proposing that a minimum of four particleboard or plywood panels be randomly selected from each production run for testing by the desiccator test procedure. Alternatively, an air chamber test could be used to evaluate each production run. The sampling plan for production testing was developed after evaluating current industry practice and reviewing accepted statistical sampling procedures. (American National Standards Sampling Procedure and Tables for Inspection by Variables for Percent Defective: ANSI ZL901972/Mil Std.—414, 1957)

h. *Ventilation*

The Department considered additional ventilation as a method of reducing formaldehyde levels. Limited data suggest formaldehyde reductions can be achieved by diluting indoor air with fresh air. The amount of reduction that can be achieved varies with the type of venting device (passive or active) and the emission characteristics of the materials in the home.

Although increased ventilation may increase energy consumption, the Department believes that additional ventilation is necessary to assure that formaldehyde levels are minimized, especially during winter, when the home cannot be naturally ventilated. Therefore, a fresh air inlet connected to sealed-combustion furnaces is proposed in "Subpart H—Heating, Cooling and Fuel Burning Systems" to provide the additional ventilation. That inlet would have to be connected from the furnace to the exterior of the home, and it would have to be capable of providing at least 25 cubic feet of air per minute when the furnace fan is operating normally. The fresh air which would be added through this inlet would aid in lowering the ambient level of formaldehyde. It should also accelerate the decay rate of formaldehyde from plywood, particleboard and other sources. See Clayton Environmental Consultants, Inc., Evaluation of the Relationship Between Formaldehyde Emission From Particleboard Mobile Home Decking and Hardwood Plywood Wall Paneling in Experimental Mobile Homes, March, 1982, page 39. A fresh air inlet connected to the furnace would introduce outside air into the home during the winter months which should assist in preventing condensation in cavity spaces. The Department intends to evaluate the effectiveness of this approach to determine its impact on short-term and long-term formaldehyde reduction and the amount of additional energy consumed due to the installation of the device.

i. *Warning Label*

The Department is considering the use of a warning label in addition to these proposed actions. A label would be particularly beneficial to those persons who are aware of their susceptibility to pollutants or who have histories of respiratory ailments. Minnesota, Wisconsin and Texas require that a warning alerting the public to possible problems associated with formaldehyde be posted in manufactured homes. HUD has not yet made a determination as to whether a preemptive Federal notice requirement is appropriate.

j. *Formaldehyde Regulation Costs and Benefits*

In developing the proposed product standard, the Department evaluated the economic costs and benefits associated with formaldehyde regulation. The Department considered the cost of improved and alternative wood products, of complying with testing and certification requirements, and of additional ventilators and then weighed these costs against the benefits, primarily medical, due to reducing levels of formaldehyde in the manufactured home environment. HUD contracted with Technology + Economics, Inc. (T+E) for a comprehensive cost-benefit analysis. ("Cost/Benefit Analysis of Mobile/Manufactured Home Regulations" (1982).) Based on this report and on discussions with wood-product suppliers, the Department believes that the proposed standard is

cost-effective. This preliminary cost-benefit analysis indicates that standards resulting in lower emission levels are not cost-effective.

k. *Comments Requested*

Additional comment from the public is requested concerning a number of issues associated with formaldehyde regulation such as test methods, product substitution and cost-benefit data. Please refer to the Formaldehyde subpart of the "Solicitation of Comment" section.

2. *Fire Safety.*

One of the stated purposes of the Act is to reduce deaths, injuries and property damage resulting from manufactured home accidents. Fire related accidents in manufactured homes are a major cause of such losses. Therefore, the Department is proposing changes to the Standards which would improve fire safety.

a. *Emergency Egress Windows.*

The proposed Standards would require that latches on emergency egress windows be not more than 54 inches from the finished floor [§ 3280.106(d)]. The present Standard permits the latch to be up to 60 inches from the floor. [See the existing regulation at § 3280.106(c)] This change would make it possible for additional children in manufactured homes to reach the latch. Where a latch is located 60 inches above the floor, 95 percent of ten year olds can reach it; however, where a latch is located 54 inches above the floor, 95 percent of eight year olds can reach it. See July 24, 1981 letter from Sanford C. Adler, Research Engineer for the National Bureau of Standards, U.S. Department of Commerce, to Conrad Arnolts, U.S. Department of Housing and Urban Development.

The proposed Standards also would increase the minimum vertical dimension of egress windows from 22 to 24 inches. This would make the Standards consistent, in this respect, with the Council of American Building Officials' (CABO)) One and Two Family Dwelling Code (section R-211-Exits), adopted in the Department's Minimum Property Standards for One and Two Family Dwellings (HUD Handbook 4900.1, paragraph 402-3.1(c)). [§ 3280.106(a)]

b. *Interior Finish.*

The proposed Standards would lower the ceiling interior finish flamespread rating to 75. [§ 3280.203(b)(2)]. Flamespread ratings are an indication of the speed at which fire travels across a material. The present Standards permit the use of ceiling interior finish with flamespread rating up to 200. [See the existing regulation at § 3280.203(a)(2)] The Department believes that progressive improvement in flamespread ratings for interior finish materials can be a significant factor in reducing loss of life, injury and property damage. See Mobile Home Fire Studies: Summary and Recommendations, NBSIR 79-1720 prepared by Center for Fire Research, National Engineering Laboratory, U.S. Department of Commerce, National Bureau of Standards, p. 15 and Figures 1, 2 and 3.

c. *Heat tapes.*

The Department is proposing requirements that manufacturers provide listed heat tapes with homes which are designed to be used where winter temperatures frequently are at or below freezing (winter temperature zones II and III) and that manufacturers include in their instructions for installers specific information on proper site-connection of these heat tapes. [§ 3230.603(b)(4)(iii)] Electric heat-tapes are wrapped around exposed water-piping to protect against freezing. The Department's decision to propose these additional requirements is based upon information and recommendations contained in Fire Performance Evaluation of the Federal Mobile Home Construction and Safety Standard, prepared by the Federal Emergency Management Agency, U.S. Fire Administration, National Fire Data Center. This report identified a number of fires caused by improper installation of heat tapes. See page 23. Also see page 3 of recommendations included as part of the report and titled Mobile Home Fire Prevention.

3. *Energy.*

The Department is proposing a revision of the "Thermal Protection" (Energy) subpart of the Standards, particularly with respect to homes designed for colder climates.

In 1981, the Department of Energy published a research study which provided guidelines and methods for reducing energy use levels in manufactured homes for a variety of geographic locations. [An Analysis of Energy Conservation Options for Manufactured Homes DOE/CS/22046-1, November 1981) Another study was prepared for HUD by Steven Winter and Associates. [Technical Support Documentation for Proposed Modification to Subpart F of the Manufactured Home Construction and Safety Standards [Selection Sections], May 21, 1982] These studies, HUD research field testing, and other information provide the basis for the following proposed revisions to the thermal protection requirements of the Standards.

a. *Condensation Control [§ 3280.504]*

To maintain the integrity of the thermal envelope and the structure, it is necessary to prevent condensation within the wall, floor and ceiling cavities of the home. Wet insulation has a significantly reduced "R" value. Findings of U.S. Forest Laboratory studies indicate that a vapor retarder is required in colder climates to reduce the potential for condensation in exterior walls. (Duff, J. E., "Moisture Distribution in Wood-Frame Walls in Winter," *Forest Products Journal*, Vol. 18, No. 1 (Jan. 1968) p. 64.) However, a similar conclusion was not reached for warmer climates. (Duff, John E., Comparative Effects of Brick and Wood Siding on the Moisture Conditions in Wood Walls, USDA Forest Service Research Paper, SE-113, February, 1974, p. 16.) The proposed rule requires exterior walls to be provided with a vapor retarder in all climatic zones. However, in warmer climatic areas (zone I), a vapor retarder would not be required when exterior wall cavities are vented and a certain type of exterior covering is used. [§ 3280.504(b)]

To control condensation in floor cavities, it is proposed that mechanical cooling ducts be completely insulated and wrapped with a vapor retarder in zone I homes. This should significantly reduce floor condensation, thereby reducing floor warping, bottom board damage and energy consumption. Many homes built to the present Standards have suffered damage to the floor and bottom board due to condensation. [§ 3280.504(c)]

b. *Outdoor Winter Design Temperature [§ 3280.506(b)]*

The following outdoor winter design temperatures are being proposed for each zone:

Zone	T (outdoor winter design temperature, 97.5 pct dry bulb)
I	+15° F
II	-5° F
III	-20° F

The proposed temperatures are based, in part, on average temperatures and degree day requirements in each zone. (Cooling and Heating Load Calculation Manual, prepared for HUD by the American Society of Heating and Cooling, H-2303, pp. 2.1-2.15; and 7.16-7.18.) Specifying these values will ensure that an appropriate design temperature is used with the transmission heat loss coefficients, required by the present

Standards, to determine the home's overall heat loss.

c. *Heat Loss, Heat Gain and Cooling Load Calculations [§ 3280.507(a)]*

The present Standards reference the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Handbook of Fundamentals for information, values and data necessary for heat loss and heat gain calculations. [Present standard 3280.508.] However, the National Fire Protection Association (NFPA) Manual for Mobile Home Heating and Cooling Calculations is used throughout the industry as a guide to performing these calculations. (NFPA 501 BM–1976.) The proposed standard would permit heat loss and heat gain calculations to be made in accordance with the ASHRAE Handbook or in accordance with the NFPA Standard. Comparative analysis of these methods indicates that the NFPA method gives more conservative results. (Technical Support Documentation for Proposed Modifications To Subpart F of the Manufactured Home Construction and Safety Standards (Selected Sections): Final Draft, Steven Winter Associates, Inc., May 21, 1982, pages 19, 22 and 23.)

d. *Infiltration Heat Loss [§ 3280.508(a)]*

A major source of energy loss is air infiltration. The Department reviewed alternative methods of calculating heat loss due to air infiltration only for the purpose of sizing heating and cooling equipment. The formula currently referenced by the Standards computes air infiltration heat loss as a function of home perimeter length. [§ 3280.509] This formula was compared with the air change rate formula developed by ASHRAE. (ASHRAE Handbook of Fundamentals, section 25.10) The proposed Standard would require use of the ASHRAE procedure because it more accurately predicts the infiltration load of the home.

Assuming a natural ventilation rate of one air change per hour, the ASHRAE air change method of calculation consistently shows higher heat losses than does the perimeter calculation method. In limited cases, the ASHRAE method would require an increase in equipment size to satisfy the higher anticipated infiltration heating losses. However, the proposed outdoor design temperatures for each zone are higher than some that have been used by manufacturers to establish equipment size. These proposed temperature values will offset some of the expected increase in the predicted infiltration loss, thereby keeping the cases where increased equipment size is required to a minimum.

e. *Thermal Improvement Options [§ 3280.510]*

The Standard establishes insulation levels by the use of overall transmission heat loss coefficients ("Uo"). [present standard 3280.506]. In response to consumer complaints about unusually high fuel bills and difficulty in maintaining adequate living space temperature, the proposed rule would require that manufacturers offer a design option with increased insulation levels.

The proposed "Uo" coefficients for the design option in each temperature zone would be lower than the mandatory transmission heat loss coefficients. The proposed "Uo" coefficients are:

Zone	Uo
I	0.145 Btu per (hour) (square feet) (°F).
II	0.099 Btu per (hour) (square feet) (°F).
III	0.087 Btu per (hour) (square feet) (°F).

The "Uo" values selected are based on an analysis of single-wide gas heated homes, the most common type of manufactured home, and are based upon calculations made in accordance with NFPA 501 BM–1976. The increased insulation requirements were based on an economic analysis of each temperature zone using a simple five-year payback period. (Cost/Benefit Analysis of Mobile/Manufactured Home Regulations in Support of a Regulatory Impact Analysis, Final Report, July 15, 1982, pp. 77–79.) This payback period would limit first-cost investments and reduce energy costs. To further minimize the first-cost impact, the Department selected insulation thicknesses that generally do not require increases in sizes of structural framing members.

A major source of energy loss is air infiltration. An air infiltration barrier prevents air leakage from reducing the 'R' value rating of the insulation. Therefore, to encourage manufacturers to provide measures to limit energy losses, a credit is being proposed which would increase the mandatory design option transmission heat loss coefficient for the structure when a home is provided with an air-infiltration barrier. The allowable Uo-Value may be multiplied by 1.08 in zone I and 1.15 in zones II and III. This would reduce the insulation thickness in each zone. Research on air infiltration documents major reduction in energy usage when such barriers are present. See Appendix C: Air Infiltration References, Technical Support Documentation for Proposed Modification to Subpart F of the Manufactured Home Construction and Safety Standards (Selected Sections), Steven Winter and Associates, May 21, 1982.

The proposed rule would require purchasers of homes to be offered at least one energy design option before purchasing a home. Information about each option offered would be contained in a technical information sheet prepared by the manufacturer. The sheet would include the insulation levels of the walls, floor and ceiling, the cost of the options and an estimate of the anticipated annual savings in energy costs. Information about the home's insulation levels also would appear on the proposed Comfort Heating Certificate. [§ 3280.508] The Federal Trade Commission (FTC) currently requires that manufactured home purchasers be furnished with information about insulation levels in the homes' floor, exterior walls and ceillings 16 CFR 460.16. We are evaluating the FTC's disclosure requirements to ensure that manufacturers will not be subject to duplicative regulation.

In addition, the Department is considering requiring the use of a "slide rule" being developed by the Department of Energy to prepare the estimates of anticipated annual savings. 48 FR 20866, May 9, 1983. If the Department selects this or some other method of estimating annual savings in energy costs, then the sellers of manufactured homes may be required to calculate energy savings and insert this information on the technical information sheet.

f. *Appliance Efficiency [§§ 3280.703(a), 3280.707(a)(2), 3280.707(d) (1) and (2) and 3280.714(a)(1)]*

The present Standards contain provisions which require that major household appliances conform to specific energy efficiency levels. However, the Department of Energy concluded that improvements made by the appliance industry due to market demand for energy efficient appliances make this type of regulation inappropriate. 47 FR 14424 (April 2, 1982). The Department supports this conclusion and, accordingly, proposes to delete all efficiency provisions for appliances required by sections 3280.703(a), 3280.707(a)(2), 3280.707(d) (1) and (2), and 3280.714(a)(1) of the Standards.

4. *Structural Durability.*

One of the stated purposes of the Act is to improve the durability of manufactured homes. The Department is proposing several changes to the Standards for the purpose of improving durability. These changes are based upon an examination of consumer complaints, inspection data, results from the Department's research, testing and analysis program and other available research and voluntary standards data.

a. *Wind Safety.*

The Department is proposing an increase in the structural design net uplift loads for roof systems for the hurricane resistive zone (zone II, wind zone map in § 3280.305) [See § 3280.305(c)(2)] and for the standard zone (zone I). [See § 3280.305(c)(1)]. These changes would result in increasing the numbers and/or strength of the fasteners between the home's roof trusses and its exterior walls.

In proposing changes in uplift loads, the Department considered information from various sources. Among the documents considered are a National Bureau of Standards testing report prepared for the Department of Energy, the Measurement of Wind Loads on a Full-Scale Mobile Home, NBSIR 77-1289, 1977, and a voluntary standard recently promulgated by American National Standards Institute (ANSI), Building Code Requirements for Minimum Design Loads in Buildings and Other Structures, A-58.1-1982.

Changes to the drag and uplift loads used to calculate the home's anchoring system resistance to wind forces are being proposed [3280.306(b)]. In standard wind areas (zone I), the drag load would be changed from 22.5 to 26 psf (per square foot), and the uplift load would be changed from 13.5 to 14 psf. In hurricane areas (zone II), the drag load would be changed from 37.5 to 43 psf and the uplift load would be changed from 22.5 to 23 psf. These values are based on a 1.5 factor of safety. This factor of safety is the same as that required by the present rule. [§ 3280.306(a) of the present rule.] These changes are based, in part, upon values provided in Review of Proposed 1980 ANSI A58.1 Standard on Wind Forces Relative to Federal Mobile Home Construction and Safety Standards, by Joseph W. Vellozzi, Ph. D. P.E., May 20, 1980 (see Table 1).

b. *Internal Distribution of Forces.*

The present standard does not specify a test method to evaluate the resistance of the home's shear walls to lateral forces. The Department is proposing the use of ASTM E-546, "Standard Method of Static Load Test for Shear Resistence of Framed Walls for Buildings," for establishing that resistance. This requirement is based on a not yet completed research testing study conducted for HUD by the University of Texas. Their findings indicate that it is necessary to evaluate the connections of the shear walls to structural framing members in order to establish their lateral load limit resistance. [3280.405(b)(2)]

c. *Structural Adhesives.*

The Department is proposing the use of ASTM D-3930-82, "Standard Specification for Adhesives for Wood Based Material for Construction of Mobile Homes." [§ 3280.305(h)(1)]. The present Standards contain no provisions regulating the structural and other properties of adhesives.

d. *Transportation-Durability of Structure.*

Where an engineering analysis is performed, the Department is proposing the following new design criteria at § 3280.903(c)(1) in order to improve the ability of manufactured homes to withstand the long-term effects of highway transportation:

(i) Vertical direction.	2.5 5 times the supported dead weight (includes lg for weight of home).
(ii) Longitudinal direction.	1.25 times the supported dead weight.
(iii) Lateral direction.	Static dead weight of the assembly times the applicable load factors: ceiling, 1.8; wall, 1.1; floor, 0.4; frame/running gear, 0.2.

Under the proposed Standards, the adequacy of a structural and transportation system to resist transportation forces would have to be verified by an engineering analysis or testing or by prior transportation experience. The indicated design criteria were derived from recommendations in a research testing study prepared for the Department by Southwest Research Institute, Mobile Home Research, Transportation and Site-Installation, Volume 5, Recommended Revisions to Federal Mobile Home Construction and Safety Standards Resulting From the Transportation Study, March 1979, pp. 9 and 36-47 of the section entitled Recommended Revisions to Subpart J "Transportation."

The certification provisions of Interpretative Bulletin J-1-76 would be clarified. 41 FR 53626, December 7, 1976. This Bulletin allows the industry to certify that prior transportation experience has not resulted in excess of 1% failure. Under the proposed rule, a manufacturer may continue to use the 1% certification until the maximum static dead weight, sidewall opening size or location or chassis configuration is changed. When one of these is changed, the new design would have to be analyzed or tested. [§ 3280.904(b)(3)].

D. Summary of Proposed Revisions

The following is a summary of all proposed revisions to the Standards, by subpart. Each revision considered to be deregulatory is denoted by an asterisk (*).

1. *Subpart A*—General

Criteria for determining what constitutes a bay window would be added. [§ 3280.2(a)]

* The specific editions of standards which are incorporated by reference would be set forth to make it easier to locate the relevant standard. [§ 3280.3(c)]

* Where standards are incorporated by reference, the applicable provisions would be identified.

The present Standard requires that a data plate affixed to the home identify the structural and wind zones for which the home is designed. [§ 3280.5(a)(5) of existing regulations] The proposed Standard would require manufacturers to add a statement to the data plate which would inform purchasers that a specific homesite may experience loads in excess of those for which the home is designed. [§ 3280.4(a)(6)]

The Department believes that certain items which now appear in Part 3280 would more appropriately appear in the Manufactured Home Procedural and Enforcement Regulations, Part 3282, For example, the Standards presently contain a requirement that a certification label be affixed to each home. [§ 3280.8 of existing regulations] Section 3282.362(c)(2)(i) contains the same requirements, and as a result, § 3280.8 would be deleted. The Standards presently contain a provision goverining serial numbers. [§ 3280.6 of existing regulations] This provision would be deleted. When these Standards are published as a final rule, a provision governing serial numbers will be added to Part 3282. Finally, a statement would be added that manufacturers must comply with the requirements of 24 CFR Parts 3282 and 3283. [§ 3280.6]

The circumstances under which waivers are issued would be clarified. [§ 3280.8]

A new section would be added to replace a provision in the present standard which requires "journeyman quality of work of the various trades" [§ 3280.0303(b) of existing regulations]. The new provision would require that work be performed in a workmanlike manner and that installed systems

perform in accordance with their intended purposes. [§ 3280.10]

A new section would be added to indicate that the Department intends to update the Standards periodically. [§ 3280.11]

2. *Subpart B*—Planning Considerations

The definition of "gross floor area" would be revised so that space in recessed entry areas would no longer be included. [§ 3280.102]

Windows for ventilation in bathroom and toilet compartments would have to be usable without the removal of storm windows. (See also § 3280.506(c)) [§ 3280.103(c)]

* The prohibition against locating exit doors in the same room would be eliminated. [§ 3280.105(a)(2)]

* The proposed rule would permit doorstops to reduce the minimum clear opening of exterior doors to 27" by 72". Interpretative Bulletin B–1–76, 42 FR 960, January 4, 1977, now permits doorstops to reduce the minimum clear opening of swinging exterior doors to 27" by 73". [§ 3280.105(b)(2)]

* The requirement that locks used on exterior swinging doors be operable from the inside without the use of a key would be deleted. [§ 3280.105(b)(3)]

*The minimum clear opening for egress windows would be revised from 22" to 20" for the horizontal dimension of the opening and from 22" to 24" for the vertical dimension of the opening. [§ 3280.106(a)] (See discussion under Proposed Standards, Major Revisions.)

The maximum height at which a latch for an egress window may be located would be reduced from 60 to 54 inches. [§ 3280.106(d)] (See discussion under Proposed Standards, Major Revisions.)

*Built-in barriers would be specifically permitted in front of egress windows. [§ 3280.106(e)]

The use of integral rolled in screens in egress windows would be restricted. This would incorporate the provisions of Interpretative Bulletin E–3–76, 42 FR 960, January 4, 1977. [§ 3280.106(f)]

*The requirement that all bathrooms be provided with a privacy lock would be deleted. [§ 3282.107 of existing regulations]

A requirement that each home be provided with sanitary facilities and a kitchen area would be added. [§ 3280.108]

*The minimum floor area required for certain bedrooms would be reduced from 70 or more square feet to 50 square feet. [§ 3280.109(b)]

*Closets would not be required in each bedroom. [§ 3280.110(c) of existing regulations]

*Design requirements for toilet compartments would be deleted. [§ 3280.112 of existing regulations]

Interior doors located along any path necessary to reach an exterior door would have to have a minimum clear width opening of 27 inches. This incorporates a portion of Interpretative Bulletin B–3–76, 42 FR 960, January 4, 1977. [§ 3280.110(b)]

Stairway requirements would be added for multistory manufactured homes. These provisions are based on the stairway requirements of the One and Two Family Dwelling Code (Council of American Building Officials) (Section R–214), adopted in the Department's Minimum Property Standards for One and Two Family Dwellings (HUD Handbook 4900.1, paragraphs 402–6 and 402–8). [§ 3280.111]

The 1975 edition of the American National Standards Institute (ANSI) Z97.1 standard for safety glazing would be referenced. The present Standards reference the 1972 edition of the Standard. [§ 3280.112(b)]

*The present Standard requires glass near bathtubs and showers to be of a safety-glazing material if it is installed within six feet of the floor. The proposed Standard would reduce to five feet the height below which glass must be of a safety-glazing material. This change is based upon recommendations of CPSC staff that safety glazing be required for all glazing within two feet of the lip of the tub. [§ 3280.112(b)]

3. *Subpart C*—Fire Safety

Definitions would be added for "combustible," "limited combustible" and "non-combustible" materials. These definitions are consistent with the definitions contained in the Standard on Types of Building Construction, NFPA–220, 1979, published by the National Fire Protection Association. (See sections 2–3 and 2–6). [§ 3280.202(a)(1), (4), (5)]

*Trim, sealants and electrical cover plates and switches would be excluded from the definition of interior finish. Consequently, these would not be governed by the flamespread requirements contained in section 3280.203(b). These materials make only a limited contribution to the fuel available in the event of a fire. [§ 3280.202(a)(3)]

*Flamespread testing would not be required for certain materials. This proposed change in the Standard is based on Interpretative Bulletin C–1–76, 42 FR 960, January 4, 1977. [§ 3280.203(a)(1)]

The maximum allowable flamespread (F.S.) rating for ceiling interior finish materials would be lowered from F.S. '200' to F.S. '75'. [§ 3280.203(b)(2)] (See discussion under Proposed Standards, Major Revisions.)

*Interior finishes adjacent to a cooking range must have an F.S. of 50 or less. The proposed Standard would permit backsplashes not exceeding 6 inches in height to have a higher rating. [§ 3280.203(b)(4)]

*The bottom and sides of combustible kitchen cabinets over a cooking range would have to be protected by limited combustible material. Trim and one inch nominal framing lumber would be exempted from this requirement. [§ 3280.204(a)]

Carpeting would have to be certified as meeting surface flammability requirements promulgated by the Consumer Product Safety Commission (CPSC). Although CPSC requires compliance with the Standard, it does not require certification. [§ 3280.205(a)]

*Concealed draft openings in walls, floors and ceilings could exceed 8' in height if firestopping of 2" nominal lumber or equivalent is provided. [§ 3280.206(a)]

*Firestopping would no longer be required in furnace and water heater compartments where pipes or vents penetrate the floor. [§ 3280.206(b)]

*Fire tests for foam plastic insulating materials would not be required when 5/16" gypsum board is used as the interior finish. This is based upon the recommendation of ITT research Institute contained in a report dated September 30, 1980 which reviewed draft proposed revisions to Subpart C. See Attachment B, page B–7. [§ 3280.207(a)(1)]

A fire testing procedure for foam plastic insulating materials would be specified. [§ 3280.207(a)(3)]

The proposed Standard would incorporate by reference Underwriters' Laboratories Standard UL–217 for smoke detectors in accordance with Interpretative Bulletin C–8–77, issued on June 14, 1977. [§ 3280.208(c)]

The proposed rule would require that fire testing be conducted by agencies with expertise in fire technology. [§ 3280.209]

4. *Subpart D*— Construction Requirements

Seismic design criteria would be specified. Earthquake damage to manufactured homes has occurred because anchoring protection was inadequate or not provided at the site. The design criteria which would be specified would govern the design of anchoring systems. Manufacturers already provide printed installation instructions. Information on seismic anchoring would have to be added to

these instructions so that it would be available to consumers, installers, and State and local jurisdictions. [Sections 3280.301, 3280.305(e), 3280.306(c)]

Procedures for determining allowable design stresses would be clarified. This revision would incorporate certain provisions of Interpretative Bulletin E–1–76, 42 FR 960, January 4, 1977. [§ 3280.303(f)]

Under certain circumstances, manufacturers develop testing procedures for structural components. [§ 3280.303(g) of existing regulations] The proposed rule would require manufacturers to submit such testing procedures to the Department for approval. [§ 3280.303 (g)(1)]

More recent editions of referenced standards would be designated and applicable provisions would be identified. A reference to the American Society for Testing and Materials (ASTM) standard for structural adhesives would be added. The presently referenced particleboard standard would be replaced with a newer American National Standards Institute (ANSI) standard for mat formed particleboard. [§ 3280.304]

Provisions of Interpretative Bulletin D–1–77, 42 FR 54384, October 5, 1977, would be incorporated to clarify the procedure for determining moisture content of lumber and to provide a surface dry requirement governing lumber installation at the factory. [§ 3280.304(b)(1)]

Load bearing material would have to be supported as recommended by product manufacturers unless engineering analysis or testing justifies some different method. [§ 3280.304(c)]

Wind design criteria for resistance to uplift would be increased for roof membranes and trusses which are connected to the roof membrane. However, the roof and ceiling dead weight could be considered in designing such trusses. [§ 3280.305 (c)(1)(i)(A) and (c)(2)(ii)(A)] (See discussion under Proposed Standards, Major Revisions.)

A requirement would be added that roof membranes and fasteners at the corners of roofs be designed to resist uplift forces. [§ 3280.305 (c)(1)(i) (B) and (c)(2)(ii)(B)]

The area which falls within the middle zone of the roof load zone map would be increased. Homes manufactured for that zone must be designed to resist a live load of 30 pounds per square foot. All of Michigan, North Dakota, South Dakota, Minnesota and Wisconsin and additional parts of Iowa would be included in the middle zone. These changes in the zone configuration are based on changes to the ground snow load maps in the A58.1–1982 standard, which is published by the American National Standards Institute (ANSI) (see section 7.2, figures 5, 6 and 7 and table 17), and upon information contained in a letter dated November 4, 1982 from Edward Engle of Michigan and upon information obtained from the State of Wisconsin on November 16, 1982 and the State of Minnesota on November 12, 1982. [§ 3280.305(d)(1)]

The factor for determining roof snow load for sheltered areas in mountainous or high snow regions would be reduced from 0.8 to 0.7 of the ground snow load. This change is based on revision of the A58.1–1982 standard which is published by ANSI. See Sections 7.2 and 7.3 which provide the method for calculating the roof snow load. [§ 3280.305(d)(2)]

Criteria would be added to limit deflection of diaphrams, shear walls, girders and headers. [§ 3280.305(g)]

A consensus standard for adhesives used in structural applications would be referenced. [§ 3280.305(h)(1)] (See discussion under Proposed Standards, Major Revisions.)

A general prohibition against loading mechanical fasteners in withdrawal from the end grain of wood would be added. This provision will prevent the recurrence of design problems which resulted in the repair of truss systems in many homes. [§ 3280.305(h)(2)]

The provision which requires that certain wood floor areas subject to moisture be made moisture resistant would be modified to make it clear that the vertical edges of penetrations would have to be protected. [§ 3280.305(j)(3)] The provision permitting sealing of the wood floor without application of a nonabsorbent floor covering would be removed in accordance with Interpretative Bulletin D–8–76, 42 FR 960, January 4, 1977, and research findings. [§ 3280.305(j)(3)(i)] See report prepared by Southwest Research Institute entitled Design-Engineering Analysis Package Cost/Benefit Analysis (Mobile Home On-Site Durability Analysis), January 30, 1981, page 9. Phenolic plywood or wood fiber materials which are coated by product suppliers with a moisture resistant sealer would be accepted as moisture-resistant flooring. See Manual (Mobile Home On-Site Durability Analysis) prepared by Southwest Research Institute, February 13, 1981, page 10. [§ 3280.305(j)(3)(iii)]

Carpeting would not be permitted in areas designated for future installation of laundry equipment. [§ 3280.305(j)(4)]

Roof coverings would have to be weather resistant and installed in accordance with the manufacturer's instructions. The present Standard contains no guidelines specifically directed at the installation of roofing. [§ 3280.305(k)(5)]

The horizontal and vertical wind loads to be used by manufacturers in determining recommendations for field-anchoring of structures would be increased. [§ 3280.306(b)] (See discussion under Proposed Standards, Major Revisions.)

The resistance to weather deterioration of certain anchoring equipment would have to be at least equivalent to 0.625 ounces of zinc per square foot of steel surface coated. The present Standard requires resistance equivalent to that provided by 0.30 ounces of zinc per square foot. This increase is consistent with installation standard requirements set forth at paragraph 3–2.8.1 of the National Conference of States on Building Codes and Standards (NCSBCS) standard for manufactured home installations (Manufactured Home Sites, Communities and Set-Ups) and the National Fire Protection Association (NFPA) standard for Fire Safety Criteria for Mobile Home Installations, Sites and Communities. (NFPA 501A–1982). [§ 3280.306(h)]

Additional information concerning foundation support requirements would have to be included in the manufacturer's installation instructions. Information concerning jacking locations and temporary support of the structure would also have to be included. This information would be useful in avoiding damage to the structure during the set-up process. [§ 3280.380]

Formaldehyde emission standards and certification requirements for particleboard and plywood would be established. [§ 3280.309] (See discussion under Proposed Standards, Major Revisions.)

5. *Subpart E*—Testing

Structural testing procedures would be modified as follows:

(a) All tested components and assemblies would have to be listed or fabricated under a compliance assurance program. [§ 3280.402 (a) and (b)]

(b) The ultimate load test procedure would be standardized by establishing a minimum factor of safety of 2.50 and by establishing a minimum test duration of five minutes. A higher factor of safety would be required when one is specified by an appropriate reference standard. [§ 3280.402(b)]

(c) An uplift testing procedure for trusses would be provided in accordance with Interpretative Bulletin

E–2–76, 42 FR 960, January 4, 1977. [§ 3280.403(f)]

(d) Testing procedures for floor trusses and lateral load resisting elements would be identified. [§§ 3280.404 and 3280.405(b)] (See discussion under Proposed Standards, Major Revisions.)

(e) Initial and ongoing qualification procedures would be specified for all structural assemblies. [§ 3280.406]

(f) All initial testing would have to be witnessed by a licensed engineer, architect, or nationally recognized testing agency. [§ 3280.407]

*Standards for windows (including egress windows), sliding glass doors and exterior passage doors would be replaced by consensus standards. [§§ 3280.408, 3280.409 and 3280.410]

An operational check of each installed egress window would be required. [§ 3280.409(c)(2)]

Use of certified egress devices and exterior passage doors would be required. [§§ 3280.408(e) and 3280.409(e)]

Testing methods for measurement of formaldehyde would be established for initial certification and production testing. [§§ 3280.411 and 3280.412] (See discussion under Proposed Standards, Major Revisions.)

6. *Subpart F*—Thermal Protection

A definition of "vapor retarder" would be added for clarity. The proposed Standard would substitute the term "vapor retarder" for the term "vapor barrier" which is used in the present Standard. [§ 3280.502(a)(2)]

Installation criteria for insulation and vapor retarders would be provided to assure that materials perform at rated capacity. [§ 3280.503]

Condensation control provisions would be modified as follows:

*(a) Ventilation of attic space would be permitted to assist in controlling roof condensation. [§ 3280.504(a)]

(b) A vapor retarder would be required for exterior walls in all climatic zones. However, in warmer climatic areas (Zone I), a vapor retarder would not be required when exterior wall cavities are vented and a certain type of exterior covering is used. [§ 3280.504(b)] (See discussion under Proposed Standards, Major Revisions.)

(c) Air conditioning ducts in warmer climates (Zone I) would have to be insulated on all surfaces and provided with a vapor retarder. [§ 3280.504(c)] (See discussion under Proposed Standards, Major Revisions.)

Manufacturer's instructions would have to include a recommendation that major air leakage paths in multiple wide units be gasketed. Gaskets would prevent air infiltration and improve energy conservation. [§ 3280.505]

Penetration of the pressure envelope by certain electrical equipment would have to be treated to limit air infiltration. [§ 3280.505]

*Joints between wall and wall, wall and floor and wall and ceiling would have to designed to resist air infiltration or be caulked or sealed. The present Standard requires these joints to be caulked or sealed. [§ 3280.505]

Thermal protection provisions would be modified as follows:

(a) Outdoor winter design temperatures are being proposed for each temperature zone. [§ 3280.506(b)] (See discussion under Proposed Standards, Major Revisions.)

*(b) The present Standard requires storm windows or insulating glass in colder climatic areas. The proposed Standard would exempt windows of three square feet or less from that requirement. [§ 3280.506(c)]

(c) The formula to be used to calculate air infiltration heat loss would be changed. [§ 3280.508(a)] (See discussion under Proposed Standards, Major Revisions.)

*(d) The chart used to determine the thermal resistance of insulation under compression would be revised. This revision is based upon information provided to the Department by the National Bureau of Standards. See letter dated October 14, 1981, from Jim L. Heldenbrand, Research Coordinator, Energy Conservation in Buildings, United States Department of Commerce. [§ 3280.508(c)]

*The proposed Standard would permit heat loss calculations to be made in accordance with the ASHRAE Handbook of Fundamentals or in accordance with the National Fire Protection Association (NFPA) Standard 501 BM–1976 entitled Mobile Home Heating and Cooling Load Calculations. [§ 3280.507(a)] (See discussion under Proposed Standards, Major Revisions.)

*Comfort heating and cooling certificates would be revised to provide consumers with easier to understand and more useful data concerning the thermal design provisions and limitations of each home. The amount of insulation provided in the wall, floor and ceiling cavity of each home would be added to the certificate. [§ 3280.509]

Manufacturers would have to provide thermal improvement options so that consumers could select enhanced energy conserving features. A technical information sheet concerning such options would be given to prospective purchasers. [§ 3280.510] (See discussion under Proposed Standards, Major Revisions.)

7. *Subpart G*—Plumbing Systems

The present Standard requires specific approval of plumbing components when listing by an approved listing agency is not available. This requirement would be deleted. [§ 3280.603(a)(5) of existing regulations] The proposed Standard would require that all plumbing materials and components be listed or certified by a Nationally recognized testing organization. [§ 3280.603(a)(4)]

The provisions for protecting water pipes against freezing would be modified by requiring:

(a) that manufacturers provide listed heat tapes for homes certified for use in colder climates. [§ 3280.603(b)(4)(i)];

(b) that manufacturers provide instructions for the proper installation of the heat tape (See discussion under Proposed Standards, Major Revisions.) [§ 3280.603(b)(4)(iii)]; and

(c) that pipes located in unheated or exposed areas be insulated. [§ 3280.603(b)(4)(iv)]

*All plumbing materials would have to comply with standards which would be incorporated by reference. When more than one standard is incorporated for a particular component, compliance with any one of the incorporated standards would be acceptable. Reference standards would be updated. Industry consensus standards would be added and nonapplicable standards would be deleted. [§ 3280.604(a)]

* Alternative acceptable means of access to permit cleaning of the drain waste and vent system would be specified. Manufacturers would be permitted to use any of the identified methods of providing access. [§ 3280.606(b)(2)]

The present Standard requires the installation of a full size cleanout where drain line slope is less than ¼ inch/ft. grade [§ 3280.606(b)(1)(ii) of existing regulations] This requirement would be deleted and replaced with different access requirements. [§ 3280.606(b)(3)]

*The present Standard requires plumbing fixtures to be permanently marked. The proposed Standard would require that the fixtures be marked or labeled with the manufacturer's name or trademark. [§ 3280.607(a)]

*The requirement for a water-conserving toilet would be deleted. [§ 3280.603(a)(2) of existing regulations]

*The waterproofing provision would be reworded to make it clear that it is applicable to both shower and tub shower enclosures. [§ 3280.607(b)(3)(ii)]

*Manufacturers would not be required to provide access to diverter valves. This would codify Interpretative Bulletin G–2–77(a) issued on July 13, 1977. [§ 3280.607(c)(1)]

*Manufacturers would be permitted to provide for dishwasher discharge through a fixed air gap or through a high loop. Diswasher manufacturers generally recommend the use of the high loop method of protection as an alternative to the fixed air gap. [§ 3280.607(b)(4)(i)]

*The requirements governing the nature and location of pipe supports would be revised in recognition of acceptable industry practices. [§ 3280.608]

A master cold water shut-off valve would be required. Manufactured home parks generally have such valves already installed. However, recently there has been a trend toward greater use of private site where such valves are generally not already installed. [§ 3280.609(b)(1)]

*Manufacturers would be permitted to use nominal size water heater relief valves. [§ 3280.609(c)(1)(iii)]

*Requirements that utility service connections for the water supply inlet and the drain outlet be in specific locations would be deleted. [§§ 3280.609(b)(1) and 3280.610(c)(1)]

*The proposed Standard would permit the use of insert type fittings in flexible plastic tubing for the nominal pipe size for which they are listed. [§ 3280.609(e)(5)]

*An additional drain outlet for gray water collection would be permitted. This change would facilitate conservation of water. [§ 3280.610(c)(1)]

*Standards would be referenced to determine whether particular fittings have equivalent sweep. [§ 3280.610(g)(1)]

*The use of a short turn fitting (quarter bend) would be permitted for connection of certain drainage fittings. [§ 3280.610(g)(3)]

*Testing procedures would be modified as follows:

(a) The water heater would be exempted from the air pressure test of the water distribution system. This change would codify Interpretative Bulletin G–2–78 issued on June 1, 1978. [§ 3280.612(a)]

(b) If the air pressure test is conducted with all of the fixtures, other than the water heater, connected, then the water distribution system would not have to be used to fill the plumbing fixtures for the plumbing fixture test. [§ 3280.612(c)]

8. *Subpart H*—Heating, Cooling and Fuel Burning Systems

*Definitions would be added for certain equipment and components in order to provide clarity. [§ 3280.702(a)(19), (27), (34) and (35)] Certain definitions would be deleted because they are unnecessary. [§ 3280.702(a)(8), (15), (18), (24), (25) and (33) of existing regulations]

*Appliance efficiency requirements presently contained in §§3280.703, 3280.707 and 3280.714 would be deleted. (See discussion under Proposed Standards, Major Revisions.)

*Where more than one Standard is incorporated by reference for appliances, materials or equipment, compliance with any one of the incorporated standards would be acceptable. [§ 3280.703]

*Where standards have been incorporated by reference, more recent editions would be identified. In addition, where only part of an incorporated Standard is relevant, the applicable sections would be identified. [§ 3280.703]

*Fuel oil supply system and container provisions would be replaced by reference to consensus standards. Provisions governing the size of oil pipes would be deleted. [§§ 3280.704 and 3280.706]

When liquefied petroleum gas piping is provided by manufacturers, the proposed Standard would require that it meet the sizing provisions established for combination liquefied petroleum/natural gas systems. Separate requirements for sizing liquefied petroleum gas pipe would be deleted. [§ 3280.705(d)]

*The requirement for a "quick disconnect" device connection to supply fuel gas to multiple or expandable sections of manufactured homes would be deleted. Quick disconnect devices are useful when homes are relocated. However, since multi-wide homes are generally not relocated, the device is generally not necessary. [§ 3280.705(c)(1)(iii) of existing regulations].

*Natural gas supply connections would no longer have to be at least as large as the gas piping. However, such connections would still have to be at least ¾ inch nominal size. Listed gas connectors capable of delivering an adequate supply of gas are available in ¾ inch size. [§ 3280.705d)]

*A limitation on the location for natural and liquefied petroleum gas supply connections would be deleted. [§ 3280.705(j)(1) and (2) of existing regulations]

*The prohibition against any portion of an exterior gas outlet projecting beyond the wall of the home would be deleted. [§ 3280.705(1)(2)(ii) of existing regulations]

The provisions of Interpretative Bulletin H–3–77, issued on May 19, 1977, which relate to acceptable locations of shut-off valves for gas appliances, would be incorporated. Appliance shut-off valves would have to be of the nondisplaceable rotor type in order to prevent accidental displacement. [§ 3280.705(1)(3) of existing regulations]

The requirements governing leakage testing of gas appliance connections would be modified to prohibit the use of test solutions which contain corrosive substances. [§ 3280.705(1)(8) of existing regulations]

Thermostat location and circuitry requirements would be amended to improve appliance efficiency and consumer comfort. [§ 3280.707(d)]

*More specific provisions would be included to govern how to rough-in a clothes dryer moisture and lint exhaust duct system. These changes would incorporate the provisions of Interpretative Bulletin H–1–77, issued March 22, 1977. [§ 3280.708(b)(3) and (c)(1)]

An interlock switch or equivalent means would be required to prevent the air circulating fan in a forced air furnace from operating when the door or panel to the furnace is open. [§3280.709(e)(1)]

The proposed Standard would prohibit the installation of electrical wiring or fuel piping, except vertical risers connected directly to the furnace, in such a way that such wires or pipes would have to be removed in order to install cooling coils in a forced air furnace. [§ 3280.709(e)(3)]

The provisions of Interpretative Bulletin H–2–76, 42 FR 960, January 4, 1977, which specify what a manufacturer must do when a supply and return air system is designed for connection of external heating or combination heating and cooling equipment, would be incorporated. [§ 3280.709(e)(6)]

A requirement governing the installation of a self-contained comfort cooling appliance or a heat pump as part of a forced air system would be added. The connections to the supply ducts and the locations of the return air systems would have to be designed to ensure proper operation of the air distribution system. [§ 3280.709(e)(7)(iv)]

Requirements for installation of evaporative coolers would be provided. This equipment is currently installed in manufactured homes in certain regions of the United States. Usually the home manufacturer provides only the duct system and wiring to operate the equipment. The proposed Standard would require the manufacturer to provide instructions which would include procedures for field installation of the cooling system when any part of the system is provided. [§ 3280.709(e)(8)]

A fresh air inlet would be required for sealed combustion forced air furnaces. [§ 3280.790(f)] (See discussion under Proposed Standards, Major Revisions.)

A prohibition against installing a hearth extension over a carpet would be included. Fire losses have occurred where carpeting was the first material ignited. See memorandum from Alan Gomberg and Edward Budnick, National Bureau of Standards, entitled Mobile Home Fireplace Data Summary, page 3. [§ 3280.709(g)(v)]

*Site installation of vertical or horizontal sections of venting systems that extend beyond the roof line or wall line would be permitted. This would codify the provisions of Interpretative Bulletin H–2–78(a) which was issued on February 27, 1979. The present Standard does not permit any part of the system to be installed on site. [§ 3280.710(b)(1)]

*The present Standards contain a general requirement that appliances must be accessible for service without removing permanent construction. The proposed Standard would exclude, from the definition of permanent construction, inlet piping which supplies an appliance. [§ 3280.713]

A cooling coil installed within a forced air furnace would have to be listed for use with that furnace. This requirement is being added to assure that the heating equipment operates properly when cooling equipment is installed. [§ 3280.714(a)]

When a home is served by a circulating air system, some means must be provided in order to allow air to return to the furnace from rooms not served by return air ducts. One of the methods which can be used to permit air to return to the furnace from other rooms is undercutting of doors. The proposed Standard would provide a method to be used for measuring the area under doors. [§ 3280.715(b)(4)]

All registers in a home served by a circulating air system would have to be of the adjustable type. The present Standard requires adjustable registers only in kitchens, bedrooms and bathrooms. Higher temperatures occur in areas near the furnace and colder temperatures in areas further from the furnace. Adjustable registers throughout the home would permit better air distribution to improve comfort and should reduce energy consumption. [§ 3280.715(e)]

9. *Subpart I*—Electrical Systems

*Various sections of the present Standard would be eliminated and replaced by references to article 550, Mobile Homes and Mobile Home Parks, of the National Electrical Code (NEC). For example, Section 3280.807(f) of the present Standard would be replaced by a reference to 550–7 of the NEC. In addition, nonapplicable provisions of articles and sections of the NEC have been identified for clarity. [Sections 3280.801(b) and 3280.808(a)]

The present Standard prohibits the use of aluminum conductors except as specifically approved by the Department. [§ 3280.801(e) of existing regulations] The proposed Standard would prohibit the use of aluminum conductors, aluminum alloy conductors and aluminum core conductors and would delete the provision which permits approval in specific cases. Since the Standard was established in 1975 the Department has received only a few requests for approval of aluminum wiring systems. However, in no case has the Department approved the use of aluminum wire. The department did propose a rule which would have permitted the use of copper clad aluminum conductors under certain conditions. The rule was published on February 12, 1979, 44 FR 8901. The majority of people who commented on the rule and members of the National Manufactured Home Advisory Council (see pages 284–97 of the Transcript of Proceedings, Meeting of the National Mobile Home Advisory Council, December 5, 1978) recommended that the rule not be adopted. [§ 3280.803(b)]

*The requirement in the present Standard that the point of entrance of the feeder assembly be in the rear third of the home would be deleted. [§ 3280.803(i) of existing regulations]

*The present Standard prohibits the mounting of service equipment on the home. [§ 3280.809(a) of existing regulations] The proposed Standard would permit the mounting of service equipment on the exterior of the home under certain conditions. The present Standard has presented little difficulty in communities designed exclusively for the placement of manufactured homes. However, difficulty often arises when manufactured homes are placed in other locations. The Department believes this change in the Standard would be appropriate since more than 50% of all manufactured homes are now being located on private sites or in subdivisions which are not exclusively designed for their use. See Manufactured Housing Institute, Quick Facts About the Manufactured Housing Industry, July, 1982, page 8. The Department is concerned that installation of service equipment on the exterior of the home be safe. Therefore, the restrictions contained in § 3280.804(c) are being proposed. Mounting service equipment on the home would be permitted only when exterior siding and roofing are nonmetallic; the home is designed for placement on a permanent foundation; the grounded circuit conductor (neutral) is isolated from the equipment grounding conductor; adequate information is included in the manufacturer's instructions on grounding including specification of the minimum size of the grounding electrode; and a warning label is affixed by the manufacturer which states that electrical power is not to be provided until the grounding electrode is installed. [§ 3280.804(c)]

*The present Standards require that a label which says "This Panelboard shall be connected by a Feeder Assembly having Overcurrent Protection rated at not more that —— Amperes" be attached to the panelboard. [§ 3280.804(d) of existing regulations] This requirement would be deleted. It would be replaced with a requirement that the panelboard be protected by a single disconnecting means rated at not more than the connected load capacity of the electrical service. [§ 3280.805(d)]

*A 20 ampere small appliance circuit would not be required in the family room. A similar requirement has already been deleted from the National Electrical Code with respect to all other dwelling types. See Article 220–3(b) of the NEC. [§ 3280.806(b)]

A separate 20 ampere circuit would be required for the laundry area. The decision to propose this requirement is based upon discussions with an NEC representative who stated that surge loads encountered during the operation of a clothes washer are significantly higher than the rated connected load for the appliance. This requirement is consistent with NEC requirements for all other dwelling units. See Article 220–3(c) of the NEC. [§ 3280.806(c)]

*The present Standards require ground fault circuit protection for all 15 and 20 ampere receptacle outlets located in bathrooms. [§ 3280.806(b) of existing regulations] This requirement presents an unnecessary design restriction with respect to the location of laundry equipment in a bathroom. Therefore, this requirement would be deleted with respect to the circuit provided for laundry facilities located in a bathroom. The requirement for ground fault protection would continue for other bathroom receptacle outlets. [§ 3280.807(c)]

The requirement for outside receptacles would not be satisfied by receptacles located in compartments accessible from the outside. The Department is concerned that doors to such a compartment could be closed against connected electrical cords and result in damage to the cords. This provision would be consistent with

provisions of the NEC. See Article 400–8 of the NEC. [§ 3280.807(d)]

If space is provided for laundry appliances, then nearby receptacle outlets would have to be provided even if the laundry appliances are not installed. [§ 3280.807)]

Certain lattice type room dividers would be excepted from the locations where receptacles would be required. [§ 3280.807(f)(3)]

*Wall spaces which are less than 2 feet 6 inches in width generally would be excepted from the locations where receptacles would be required. This would prevent the installation of unnecessary receptacle outlets throughout the home. In particular, receptacle outlets would not be required in certain recessed entry areas of bedrooms, on small wall spaces adjacent to closets and in certain other spaces dedicated to traffic. [§ 3280.807(f)(5)]

Enclosed bathroom light fixtures which are not located over a bathtub or in a shower stall, would not have to be listed for wet locations provided that the area in which they are installed meets the definition of a "dry area." [§ 3280.808(b)]

Where a light fixture or exhaust fan is located over a tub or in a shower stall, the switch would have to be located at least 30 inches outside of the tub or shower space. [§ 3280.808(c)]

*The requirement that any combustible wall or ceiling finish exposed between the edge of a fixture canopy or pan and the outlet box be covered with noncombustible material would be modified to permit covering with either noncombustible or limited combustible materials. [§ 3280.808(d)]

The provisions which govern how nonmetallic sheathed cables are to be secured would be amended. The industry has demonstrated that alternative methods of securing nonmetallic cables adequately protect the cable and prevent displacement. [§ 3280.809(b)(1)]

The requirement that nonmetallic sheathed cable be secured within 12 inches of every box or fitting would be clarified and amended. [§ 3280.809(b)(3)]

The present Standard permits boxes, fittings and cabinets to be supported by a "substantial brace." [§ 3280.808(n) of existing regulations] The proposed Standard describes what would constitute a "substantial brace." This would codify the provisions of Interpretative Bulletin I–1–80, 45 FR 29539, May 21, 1980. [§ 3280.809(c)]

The proposed Standard would permit a maximum space of 1/16 of an inch between an outlet box and an opening in a combustible wall or ceiling. [§ 3280.809(d)]

*Repair of nonmetallic sheathed cable would be permitted under certain circumstances. [§ 3280.809(e)]

*A range of voltages would be provided for the dielectric strength test. Allowing testing within a range of voltages is consistent with Interpretative Bulletin I–1–78 which was issued on September 29, 1978. [§ 3280.811(a)]

*Water heaters, furnaces, dishwashers, clothes washers and portable appliances would not have to be subjected to an operational electrical test. [§ 3280.811(b)(2)]

The proposed rule would explicitly provide that polarity checks may be visual. [§ 3280.811(b)(3)]

Outdoor fixtures and equipment would have to be listed for use in wet locations except that fixtures and equipment listed for use in damp locations could be used on the underside of homes and in certain other protected locations. [§ 3280.814(a)]

A wall switch controlled exterior lighting outlet would be required at each exterior door entrance. Any temporary covering for the outlet would have to conform to the National Electrical Code. The present Standard contains no requirements for temporary covers for outdoor outlets. [§ 3280.814(b)]

10. *Subpart J*—Transportation

The scope provision of this Subpart would be revised to clarify that one of its purposes is to establish requirements for the home's ability to withstand the effects of highway transportation. [§ 3280.901]

*Removal of certain chassis components (drawbar, coupling mechanism, and running gear) would be permitted during set up of the home if the manufacturer's instructions include complete specifications for the removable components and information about subsequent reattachment. [§ 3280.903(a)(3)]

Methods to verify the ability of the chassis to resist transportation forces would be clarified. [§ 3280.903(b)] (See discussion under Proposed Standards, Major Revisions.)

Transportation design load requirements would be revised. [§ 3280.903(c)] (See discussion under Proposed Standards, Major Revisions.)

The drawbar would have to be capable of resisting specified design loads. The proposed design loads are based on a study by Southwest Research Institute, Transportation and Site-Installation, Volume 5, March 1979, pages 7, 48–49. The drawbar's ability to meet the required loads would be established by engineering analysis, certification or tests. Alternatively, a drawbar could meet size and reinforcement specifications. [§ 3280.904(a) (1) and (2)]

*The running gear would be designed to resist only the gross static load supported. The present Standard requires designs to sustain the dead load floor load and the superimposed dynamic load from highway movement. § 3280.904(b)(3) of existing regulations] [§ 3280.904(c)(1)]

*Spring assemblies would be required to withstand only the running gear design loads without exceeding maximum allowable stresses and cyclic fatigue life recommended by the spring assembly manufacturer. [§ 3280.904(d)]

Spring assemblies would have to be attached to the main member of the frame with a 1/8 inch fillet weld or be designed to resist specified loads.

This would assure that sufficient weld is provided for the connection to resist the imposed loads. Failure of the weld connection between the main frame and spring hangers can result in major damage to the structure and can cause highway accidents. [§ 3280.904(d)(1)]

*Axles would be required to withstand only the running gear design loads without exceeding the maximum allowable stresses for design axle loads and fatigue life recommended by the axle manufacturer. [§ 3280.904(e)]

A table for determining the number of 6,000 pound rated axles required for a safe tow and good ride characteristics would be added. This provision would codify the table previously issued in Interpretative Bulletion J–1–76, 41 FR 53626, December 7, 1976. [§ 3280.904(e)(2)]

*Provisions governing the use of recycled axles would be added. Used axles would have to be reconditioned and inspected by a nationally recognized testing agency. Reconditioned axles would have to use compatible components and have the same size and rating, and they could not be lengthened or shortened. [§ 3280.904(e)(3)]

*Tires, wheels and rims would be required to withstand only the static dead load supported by the running gear. [§ 3280.904(g)]

The proposed rule would codify Interpretative Bulletin J–1–76 which establishes tire capacity at 1.50 times the load limit specified in the 1975 edition of the Tire and Rim Association Handbook with a maximum individual tire loading of 3,000 lbs. The 1980 edition of the Tire and Rim Association Handbook would be incorporated in the proposed rule. Conditions for acceptance of used tires or new or

recycled axles from Interpretative Bulletin J–1–76 also would be codified. [§ 3280.904(g)(1) (i) and (ii)]

Wheels and lug bolts would have to be tightened to the torque load recommended by the equipment manufacturer. Where there is no recommendation, a minimum of 90 lbs. of torque would be required. This requirement is proposed to prevent transportation failure caused by inadequate bolt tightening. [§ 3280.904(g)(2)(i)]

A minimum of two brake axles would be required for each transportable unit unless the combined braking performance of the towing vehicle and manufactured home is substantiated by testing. [§ 3280.904(g)(2)(ii)(A)]

Test conditions for verifying the adequacy of the braking system contained in the Interpretative Bulletin J–1–76 would be codified. [§ 3280.904(g)(2)(ii)(B)]

Brakes would be wired in parallel to obtain a more balance voltage distribution at each brake. The voltage available at the brakes would have to be the value specified by the brake manufacturer unless actual tests establish that lower voltabe is adequate. Aluminum wiring would be permitted only when terminations are protected against corrosion. [§ 3280.904(g)(2)(ii)(C)]

*Highway safety lighting provisions requiring conformance to applicable Federal requirements would be deleted. Interpretative Bulletin J–1–76 incorporates Federal Motor Vehicle Safety Standard No. 108; however, there are no longer applicable Federal lighting provisions for manufactured (mobile) homes published by the Department of Transportation. [§ 3290.904(b)(10) of existing regulations]

III. Economic Costs and Benefits

During the preparation of the proposed rule, the Department reviewed cost benefit reports submitted by two contractors. Steven Winter Associates (SWA) estimated the cost impact of certain regulatory changes and evaluated the benefits associated with the proposed thermal performance regulations. Technology and Economics, Inc. (T&E) collaborated with SWA in preparing its report, "Cost/Benefit Analysis of Mobile/Manufactured Home Regulations, Final Report," (June 1, 1982). T&E assessed the benefits of certain revisions and prepared a report integrating SWA's cost estimates and its own findings. ("Cost/Benefit Analysis of Mobile/Manufactured Home Regulations in Support of a Regulatory Impact Analysis, Final Report." (July 15, 1982)). The Department made changes to some of the proposed rules and deleted other subsequent to the preparation of these reports. Therefore, there are significant differences between the revisions analyzed by the contractors and those being proposed. SWA and T&E concluded that the proposed changes which they evaluated, taken as a whole, are cost-beneficial. These reports are part of the Department's rulemaking record and are available for public inspection.

To more accurately assess the costs associated with certain proposed Standards, the Department has accepted an offer by the Manufactured Housing Institute to construct two manufactured homes in accordance with the proposed rule. Mr. Wallace Conner, President of Conner Homes Corporation and Chairman of the Board of the Manufactured Housing Institute, offered to build a single-section and a multi-section manufactured home to meet the new requirements. Conner Homes also will build the same model single-section and multi-section home in accordance with its present design. Conner Homes will construct the homes at no cost to HUD.

HUD technical staff will work in cooperation with Conner's personnel. HUD will indentify the necessary design changes and perform the supporting calculations. HUD will provide specialized design engineering and inspection services during construction of the prototypes.

When the homes are complete, the Department will conduct a cost analysis. The construction costs will be compared to those originally estimated by SWA and T&E, and a Cost Impact Analysis will be drafted. The final report will be treated as comment on the proposed rules and may be used to revise it. The report will be available to the public upon request. The period for public comment on the proposed rule will be extended, if necessary, for 30 days after a notice of this report's availability is published, to allow interested parties to respond to the report's findings.

The objective of the demonstration project is to determine the cost impact associated with certain proposed Standards on a prototype home. The project will not provide conclusive answers concerning the total cost of all proposed revisions on all manufactured homes. The cost of those proposed Standards to which Conner Homes already builds and those to which it would be inappropriate for Conner Homes to build because of geographical considerations, design considerations, or unavailability of test data will not be included in the demonstration project. In addition, some of the optional and other requirements will not be included.

The Cost Impact Analysis will document and evaluate all material and other costs associated with each of the prototype homes and compare those costs to the costs associated with the homes built to conner Homes' present design. The report will take into account the cost savings which would be generated by some of the deregulatory provisions in the proposed regulations as well as certain added costs occasioned by the regulations. The final report also will address, whenever possible, the costs of proposed standards which were not included in the prototype homes.

IV. Solicitation of Comment

A. Formaldehyde

The Department seeks comment on the following issues associated with the regulation of formaldehyde levels in manufactured homes:

1. *Test Procedures:* The Department requests comments on alternative means of conducting the air chamber and desiccator tests and data on how their results correlate to ambient levels in homes.

2. *Definition of "Production Run":* The proposed rule would require that randomly selected boards from each production run be tested by the manufacturer in the large air chamber as part of production testing. The Department requests comment on criteria to be used to define "production run."

3. *Loading Ratio:* The Department requests test data concerning the effect of the loading ratio on the results obtained by large-scale chamber testing.

4. *Cost-Benefit:* The Department requests cost-benefit data concerning quantifiable health benefits at levels below .4 PPM, litigation costs and product substitution costs.

5. *Desiccator Production Testing:* The proposed rule would require air chamber testing if the desiccator value obtained during production testing exceeds the value obtained during certification testing. The Department requests comment on whether this requirement will cause unnecessary air chamber testing, on whether a variance from the desiccator certification test value should be permitted and, if so, on the amount of such variance.

6. *Sampling Plan:* The proposed rule would require random selection of four panels from each production run for desiccator production testing. Comment is requested on the propriety of requiring the selection of four samples

and on any appropriate alternative sampling methods.

7. *Panel Preconditioning Period—Air Chamber Test:* The proposed rule would require that boards to be tested in the large air chamber be no more than 30 days old when the test procedure commences and wrapped if the test does not commence within 2 days. The Department requests comment on whether these time periods are appropriate.

8. *Warning Labels:* The Department requests comment on whether a label warning of the possible danger of exposure to formaldehyde should be required and, if so, what the content of the warning should be.

9. *Ambient Standard:* The proposed rule would require that a "product standard" be used. Comments are requested concerning the use of an indoor ambient ceiling in conjunction with a product standard.

10. *Product Substitution:* The Department requests comment on the availability of products which may be substituted for formaldehyde-based wood products, on the suitability of each substitute for manufactured home construction and on the costs associated with their use.

B. Standards for Small Manufactured Homes

On October 8, 1980, the definition of manufactured home was amended. All manufactured homes larger than 320 square feet are now covered by the Act. On June 29, 1982, 47 FR 28091, the Department published a final rule which exempts from the Standards certain homes between 320 and 400 square feet, until appropriate standards are developed.

The Department seeks comment on which of the proposed Standards are appropriate for small manufactured homes (those between 320–400 sq. ft.) and on whether any different design and construction standards are necessary because of size considerations. The Department is studying the issue of whether certain separate standards for small homes are appropriate. After review of any comments or additional information, the Department will propose Standards for that segment of manufactured homes.

C. Incorporation by Reference of Standards for Electrical Materials

The Department seeks comment on which electrical standards, published by any organization, would be appropriate to incorporate by reference in whole of in part.

The present Standard requires that "all electrical materials, devices, appliances, fittings and other equipment shall be listed or labeled by a nationally recognized testing agency. " 24 CFR 3280.801 (d). However, specific standards for such items have not been incorporated. At this time, the Department is considering the incorporation of the standards identified in the July 1982 edition of the *Catalog of Standards for Safety*, published by Underwriters' Laboratory, Inc., 333 Pfingsten Road, Northbrook, Illinois 60606

D. Multifamily Standards

The Department seeks comment on which of the proposed Standards are appropriate for duplex and multifamily manufactured homes and on whether any different design and construction standards are necessary for these types of homes.

E. Safety Glazing Standard

The Department solicits comment on whether it would be appropriate to require manufactured homes to comply with Consumer Product Safety Commission and ANSI safety glazing standards. HUD is considering referencing the CPSC standard, 24 CFR Part 1201, for the glazing covered by that standard while continuing to reference the ANSI standard for those types of glazing not covered by the CPSC standard (shower and tub enclosures and mirror wardrobe doors).

F. Fire Detection Equipment

The Department solicits comment on whether an additional smoke detector should be required in each home and whether those detectors should be of different types (photoelectric and ionization) to provide the earliest possible alert for occupants. The present Standards require two smoke detectors whenever the bedroom areas are remote from each other. [present standard § 3280.208(b)(2)]. However, the present Standards do not require the smoke detectors to be of different types. [present standard § 3280.208(c)] Photoelectric and ionization detectors have different response times depending on the type of fire (flaming or smoldering). The Department's research on smoke detectors established that two detectors, one photoelectric type and one ionization type or a combination photoelectric and ionization detector, improve the time in which occupants would be alerted to either a flaming or smoldering fire. NBSIR 79–1915. ("Investigation of the Effects of Heating and Air Conditioning on the Performance of Smoke Detectors in Mobile Homes," National Bureau of Standards, page 17.) A study on smoke detector reliability indicated that only 65% of detectors alarmed under actual fire conditions. (*An Evaluation of Residential Smoke Detectors Under Actual Field Conditions*, Federal Emergency Management Agency (March 1982) page 16.)

G. Snow and Wind Load Maps

The Department seeks comment and supporting data on whether certain regions within existing zone boundaries on the roof and wind load maps should have higher or lower design load requirements than presently required. 24 CFR 3280.305(c). Recent information provided in A 58.1–1982, Building Code Requirements for Minimum Design Loads in Buildings and Other Structures, indicates that local variations preclude accurate snow and wind load mapping.

H. Energy

The Department seeks comment on expanding the outdoor winter design temperature map to include a new "Zone III" requirement in the continental United States. The Department is considering including those northern tier states which experience average winter temperatures below −5° F and heating degree days of 7,000 or more per year in zone III. At present, zone III includes only the State of Alaska. [present standard § 3280.506.]

Comments also are requested on an appropriate definition for an air infiltration barrier (i.e., performance characteristics to provide for an adequate barrier against air infiltration). After reviewing public comment, the Department plans to include such a definition in the Final Rule. The Department is proposing that certain maximum heat transmission coefficient values be increased where an air infiltration barrier is provided. [§ 3280.510(b)] The Department seeks comment on its proposal to increase the maximum heat transmission coefficients by a factor of 1.08 for homes to be located in Outdoor Winter Design Temperature Zone I and by a factor of 1.15 for homes to be located in Zones II or III.

I. Running Gear Evaluation Criteria

The Department seeks comment on what specific requirements should be imposed to ensure the safety of running gear equipment and on criteria for reuse of this equipment.

J. Transportation Analysis

The Department seeks comment on what engineering assumptions are appropriate for use when determining whether a transportation system is

capable of resisting the transportation design loads. [§ 3280.903(b)(1), and (c)].

The Department seeks comment on all relevant issues, including the following:

(1) Whether the design forces should be distributed uniformly over the entire structure or whether some other loading pattern should be assumed.

(2) What method(s) should be used to determine the amount of the design loads which are resisted by the roof, wall, floor, chassis or any combination thereof.

(3) The extent to which the frame and structure should be assumed to act as an integrated unit in resisting the design loads.

(4) The extent to which openings should be considered in establishing the capacity of the sidewall(s) or integrated structure to resist the transportation design forces.

(5) Whether composite action is an appropriate design assumption at wall openings without consideration of torsional effects or the distribution of load at these openings.

(6) What assumption should be used regarding load distribution from the axles and coupler into the structure and frame.

(7) What design assumptions are appropriate to account for chassis camber in resisting the transportation forces.

(8) What assumptions are appropriate for structural support in designing the structure, frame and drawbar.

K. Transportation Testing Criteria

The Department seeks comment on what testing procedures and pass/fail criteria should be used to validate the adequacy of the integrated structure to resist the bending, shear and torsion forces resulting from transportation. [§ 3280.903(b)(2)]

L. Adhesives

The Department seeks comment on: (1) Whether structural adhesives used in walls, floors and ceiling areas should be of a particular classification; and (2) the economic costs and benefits of such requirements.

V. Miscellaneous

The rule constitutes a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981.

The proposed rule may, as defined by that order, have: (1) An annual effect on the economy of one hundred million dollars or more; or (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions.

Accordingly, a preliminary regulatory impact analysis has been prepared and is available for review and inspection in Room 10276, Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. While some new requirements are being proposed, a number of deregulatory provisions also are being proposed. Therefore, the overall impact of the rule on small entities would not be significant.

This rule was listed as item R/N 2502-881 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18078) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when it is assigned, will be announced by separate notice in the **Federal Register.**

The Catalog of Federal Domestic Assistance Program number is 14.804 Manufactured Housing.

List of Subjects in 24 CFR Part 3280

Fire prevention, Housing standards, Manufactured homes.

Accordingly, the Department proposed to amend 24 CFR by revising Part 3280 as follows:

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

Subpart A—General

Sec.

3280.1 Scope
3280.2 Definitions.
3280.3 Incorporation by reference.
3280.4 Data Plate.
3280.5 Applicability.
3280.6 Procedural enforcement regulations and manufactured homes consumer manual requirements.
3280.7 Interpretative bulletin.
3280.8 Waiver.
3280.9 Use of alternative construction.
3280.10 Workmanship and installation of materials.
3280.11 Periodic revision.

Subpart B—Planning Considerations

3280.101 Scope.
3280.102 Definitions.
3280.103 Light and ventilation.
3280.104 Ceiling heights
3280.105 Exit facilities; exterior doors.
3280.106 Exit facilities; egress windows.
3280.107 Privacy locks.
3280.108 Sanitary requirements.
3280.109 Room requirements.
3280.110 Hallways.
3280.111 Stairways.
3280.112 Glass and glazed openings.

Subpart C—Fire Safety

3280.201 Scope.
3280.202 Definitions.
3280.203 Flame spread limitations and fire protection requirements.
3280.204 Kitchen cabinet protection.
3280.205 Carpeting.
3280.206 Firestopping.
3280.207 Requirements for foam plastic thermal insulating materials.
3280.208 Fire detection equipment.
3280.209 Fire testing.

Subpart D—Construction Requirements

3280.301 Scope.
3280.302 Definitions.
3280.303 General requirements.
3280.304 Materials.
3280.305 Structural design requirements.
3280.306 Anchoring provisions for windstorm and seismic protection.
3280.307 Resistance to elements and use.
3280.308 Manufacturers instructions.
3280.309 Formaldehyde emission controls for certain wood products.

Subpart E—Testing

3280.401 Scope.
3280.402 Structural load tests.
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Authority: Secs. 604 and 605, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403, 5404, and 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Subpart A—General

§ 3280.1 Scope.

This standard covers all equipment and installations in the design, construction, transportation, fire safety, plumbing, heat-producing and electrical systems of manufactured homes which are designed to be used as dwelling units. This standard seeks to the maximum extent possible to establish performance requirements. In certain instances, however, the use of specific requirements is necessary.

§ 3280.2 Definitions.

Definitions in this subpart are those common to all subparts of the standard and are in addition to the definitions provided in individual subparts.

(a) "Bay Window"—a window assembly whose maximum horizontal projection is not more than two feet from the plane of an exterior wall and is elevated above the floor level of the home.

(b) "Department"—the Department of Housing and Urban Development.

(c) "Dwelling Unit"—one or more habitable rooms which are designed to be occupied by one or more persons with facilities and/or space for living, sleeping, cooking, eating and sanitation.

(d) "Equipment"—includes appliances, devices, fixtures, fittings or accessories both in the construction of, and in the fire safety, plumbing, heat-producing and electrical systems of manufactured homes.

(e) "Federal Manufactured Home Construction and Safety Standard"—(FMHCSS)—a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability and safety.

(f) "Installation"—all arrangements and methods of construction, as well as fire safety, plumbing, heat-producing and electrical systems used in manufactured homes.

(g) "Labeled"—a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling is indicated in compliance with nationally recognized standards or tests to determine suitable usage in a specified manner.

(h) "Length of a Manufactured Home"—its largest overall length in the traveling mode from the exterior of the front wall (nearest to the draw-bar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) including cabinets and other projections which contain interior space. Length does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space.

(i) "Listed or Certified"—included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or material meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

(j) "Manufacturer"—any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale.

(k) "Manufactured Home"—a structure, transportable in one or more sections which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections (except bay windows) containing interior space. This term includes all structures which meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to § 3282.13 and complies with the standards set forth in Part 3280. Nothing in this subsection should be interpreted to mean that a "manufactured home" necessarily meets the requirements of HUD's Minimum Property Standard (HUD Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b). Whenever the term "Home" is used in these standards it shall be construed to mean "Manufactured Home", as defined above.

(l) "Manufactured Home Construction"—all activities relating to the assembly and manufacture of a

home including, but not limited to, those relating to durability, quality and safety.

(m) "Manufactured Home Safety"—the performance of the home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to its design or construction of the home, or any unreasonable risk of death, or injury to the user or to the public if such accidents do occur.

(n) "Nationally Recognized Testing Laboratory"—an inspection or certification agency in the business of testing and evaluating products and which—

(1) Maintains periodic inspections of the production of tested and/or listed equipment and material, and/or;

(2) Determines as a result of its evaluation of any equipment or material that it meets nationally recognized standards and/or has been tested and found to conform to the minimum level of performance required and includes a statement to that effect in its report and/or listing of the product.

(o) "Registered Engineer or Architect"—a person licensed to practice engineering or architecture in a state and subject to all laws and limitations imposed by the state's Board of Engineering and Architecture Examiners.

(p) "Secretary"—the Secretary of Housing and Urban Development, or an official of the Department delegated the authority of the Secretary with respect to Title VI of the Pub. L. 93-383.

(q) "State"—includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(r) "Width of a Manufactured Home"—its largest overall width in the traveling mode, including cabinets and other projections which contain the interior space. Width does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space.

§ 3280.3 Incorporation by reference.

(a) The specifications, standards and codes of the following organizations which are referenced in this part are incorporated by reference in this standard pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51 as though set forth in full. The incorporation by reference of these standards has been approved by the Director of the Federal Register. Referenced standards have the same force and effects as this standard except that whenever those standards and this standard are inconsistent, the requirements of this standard prevail to the extent of the inconsistency.

(b) The abbreviations and addresses of organizations issuing the referenced standards and locations where copies of those standards are available appear below. Reference standards which are not available from their producer organizations may be obtained from the Office of Manufactured Housing and Construction Standards, Manufactured Housing Standards Division, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

AA—The Aluminum Association, 818 Connecticut Ave., N.W., Washington, D.C. 20006.

AGA—American Gas Association, 1515 Wilson Blvd., Arlington, Virginia 22209.

AAMA—Architectural Aluminum Manufacturers Association, 35 East Wacker Drive, Chicago, Illinois 60601.

AISC—American Institute of Steel Construction, 400 North Michigan Ave., Chicago, Illinois 60611.

AISI—American Iron and Steel Institute, 1000 16th Street N.W., Washington, D.C. 20036.

AITC—American Institute of Timber Construction, 333 W. Hampden Avenue, Englewood, Colorado 80110.

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018.

APA—American Plywood Association, Box 11700, Tacoma, Washington 98411.

ARI—Air Conditioning and Refrigeration Institute, 1815 North Fort Meyer Drive, Arlington, Virginia 22209.

ASHRAE—American Society of Heating, Refrigeration and Air-Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.

ASME—American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

ASTM—American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

CISPI—Cast Iron Soil Pipe Institute, 2020 K Street, NW., Washington, D.C. 20006.

CMI—Cultured Marble Institute, 435 North Michigan Avenue, Chicago, Illinois 60611.

CS—Commercial Standards—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOC—Department of Commerce, Washington, D.C. 20230.

FS—Federal Specification—General Services Administration, Specification Branch, Room 6039, 7th and D Streets SW., Washington, D.C. 20407.

GAL—Gas Appliance Laboratory, 3138 East Olympic Blvd., Los Angeles, California 90023.

HUD—U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

HPMA—Hardwood Plywood Manufacturers Association, 1825 Michael Faraday Drive, Reston, Virginia 22090.

HVI—Home Ventilating Institute, 4300 Lincoln Avenue, Rolling Meadows, Illinois 60068.

IAPMO—International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032.

IITRI—Illinois Institute of Technology, Research Institute, 10 West 35th Street, Chicago, Illinois 60616.

MIL—Military Specifications and Standards, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120.

NCSBCS—National Conference of States on Building codes and Standards, 481 Carlisle Drive, Herndon, VA 22070.

NFPA—National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(N)FPA—National Forest Products Association, 1619 Massachusetts Ave. N.W., Washington, D.C. 20036.

NPA—National Particle Board Association, 2306 Perkins Place, Silver Spring, Maryland 20910.

NSF—National Sanitation Foundation, 3475 Plymouth Road, Ann Arbor, Michigan 48105.

NWMA—National Woodwork Manufacturers Association, 205 West Toughy Ave., Parkridge, Illinois 60068.

PS—Product Standard—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

SAE—Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

SJI—Steel Joist Institute, Suite 204, 1703 Parham Road, Richmond, Virginia 23229.

TARA—Tire and Rim Association, 3200 West Market Street, Akron, Ohio 44313.

TPI—Truss Plate Institute, 100 West Church Street, Frederick, Maryland 21701.

UL—Underwriters' Laboratories, Inc. 333 Pfingsten Road, Northbrook, Illinois 60062.

(c) The Department will enforce the listed editions of material incorporated by reference into this standard. If a later edition is to be enforced, the Department will publish a notice of change in the **Federal Register.**

§ 3280.4 Data plate.

(a) Each home shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Data plates shall be made of material which will receive typed or handwritten information as well as printed information and which can be cleaned of ordinary smudges or household dirt without removing or obliterating the printed or written information contained thereon; or they shall be covered in a permanent manner with materials which will make it possible to clean them of ordinary dirt and smudges without obscuring the information. Data plates shall contain not less than the following information:

(1) The name and address of the manufacturing plant in which the unit was manufactured.

(2) The serial number and model designation of the unit and the date the unit was manufactured.

(3) A list of major factory-installed equipment including the manufacturer's name and the model designation of each appliance.

(4) The structural zone(s) for which the home has been designed, and the design snow and wind live loads. The data plate shall include reproduction of the Roof and Wind Load Zone Maps shown in Subpart D which shall be not less than one half the size illustrated. This information may be combined with the heating/cooling certificate and insulation zone maps required by §§ 3280.510 and 3280.511.

(5) The statement: "Design Approval by" followed by the name of the agency which approved the design.

(6) The following note shall be included on the data plate—"This unit is designed to loads shown on Data Plate. These design loads are generally adequate for homes located in Zone—— as shown on the map. However, the specific homesite selected may experience loads exceeding those for which this home is designed."

§ 3280.5 Applicability.

(a) *General.* These standards are applicable to manufactured homes designed to be used as single family dwelling units.

(b) *Excluded Structures.* Certain structures may be excluded from coverage as modular homes pursuant to 24 CFR 3282.12.

§ 3280.6 Procedural enforcement regulations and manufactured home consumer manual requirements.

(a) A manufacturer must comply with the requirements of this part and in addition must comply with the requirements of 24 CFR Parts 3282 and 3283.

§ 3280.7 Interpretative bulletins.

Interpretative bulletins may be issued for the following purposes:

(a) To clarify the meaning of the Standard; and

(b) To assist in the enforcement of the Standard.

§ 3280.8 Waivers.

(a) Where any material, piece of equipment, or system which does not meet precise requirements or specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet an equivalent level of performance, the Secretary may waive the specifications set out in the Standard for that material, piece of equipment, or system.

(b) Where the Secretary is considering issuing a waiver to a Standard, the proposed waiver shall be published in the **Federal Register** for public comment, unless the Secretary, for good cause, finds that notice is impractical, unnecessary or contrary to the public interest, and incorporates, into the waiver, that finding and a brief statement of the reasons therefor.

(c) Each proposed and final waiver shall include:

(1) A statement of the nature of the waiver; and

(2) Identification of the particular standard affected.

(d) All waivers shall be published in the **Federal Register** and shall state their effective date. where a waiver has been issued, the requirements of the Federal standard to which the waiver relates may be met either by meeting the specifications set out in the standard or by meeting the requirements of the waiver published in the **Federal Register**. Any final waiver shall be incorporated into the standard affected.

§ 3280.9 Use of alternative construction.

Requests for alternative construction can be made pursuant to 24 CFR 3282.13.

§ 3280.10 Workmanship and installation of materials.

All work shall be performed in a workmanlike manner and in accordance with good usage and accepted practices. All materials shall be made and installed so they perform in accordance with their intended purposes.

§ 3280.11 Periodic revision.

It is intended to periodically update the requirements contained in these Standards and to revise them, when necessary.

Subpart B—Planning Considerations

§ 3280.101 Scope.

Subpart B sets forth planning requirements. The intent of this Subpart is to assure the adequacy of planning for a safe and healthful environment.

§ 3280.102 Definitions.

(a) "Gross Floor Area"—All space, wall to wall, including areas under built-in vanities and similar furniture except recessed entry areas. Where the ceiling height is less than that specified in § 3280.104, the floor area under such ceilings shall not be included. Floor area of closets shall not be included in the gross floor area.

(b) "Habitable Room"—A room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes not including bathrooms, foyers, hallways, and other accessory floor space.

(c) "Laundry Area"—An area containing or designed to contain laundry equipment.

§ 3280.103 Light and ventilation.

Provisions shall be made for adequate light and ventilation in accordance with the following:

(a) Each habitable room shall be provided with exterior windows and/or doors havings a total glazed area of not less than 8 percent of the gross floor area. An area equivalent to not less than 4 percent of the gross floor area shall be available for unobstructed ventilation. Windows need not be openable when a mechanical ventilation system is provided and is capable of producing a change of air in the room(s) every 30 minutes with not less than one-fifth of the air supply taken from outside.

(b) In lieu of the requirements in § 3280.103(a), kitchens may be provided with artificial light and mechanical ventilation capable of producing a change of air in the room every 30 minutes. (See § 3280.710).

(c) Bathroom and toilet compartments. Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with exterior windows or doors having not less than 1½ sq. ft. of fully openable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Mechanical ventilation systems shall exhaust directly to the exterior. When there is no mechanical ventilation system, windows for ventilation shall be openable without the removal of storm windows.

§ 3280.104 Ceiling/heights.

(a) Every habitable room and bathroom shall have a minimum ceiling height of not less than 7 feet, 0 inches for a minimum of 50 percent of the gross floor area. The remaining area may have a ceiling with a minimum height of 5 feet, 0 inches. Minimum height under dropped ducts, beams etc. shall be 6 feet, 4 inches.

(b) Each hallway and foyer shall have a minimum ceiling height of not less than 6 feet, 6 inches.

§ 3280.105 Exit facilities; exterior doors.

(a) *Number and location of exterior doors.* Each home shall have a minimum of two exterior doors located remote from each other.

(1) Required egress doors shall not be located in areas where a lockable interior door must be used in order to exit.

(2) In order for exit doors to be considered "remote" from each other, they must comply with the following:

(i) Both doors shall not be located in the same hallway.

(ii) In single-wide units, the distance between the two doors shall not be less than 12 ft. center to center (c–c) from each other as measured in any straight line direction regardless of the length of path of travel between doors.

(iii) In multi-wide units, the distance between the two doors shall not be less than 20 feet c–c as measured in any straight line regardless of the length of path of travel between the doors.

(iv) The path of travel from any bedroom door to the closest exit door shall not exceed 35 feet.

(b) *Door design and construction.* (1) Exterior swinging doors shall be constructed in accordance with § 3280.409 "Standard for Swinging Exterior Passage Doors for Use in Manufactured Homes". Exterior sliding glass doors shall be constructed in accordance with § 3280.407 "Standard for Prime Windows and Sliding Glass Doors".

(2) All exterior swinging doors shall provide a minimum 28 inch wide by 74 inch high clear opening. All exterior sliding glass doors shall provide a minimum 28 inch wide by 72 inch high clear opening. The door stops shall not reduce the clear opening to less than 27 inches x 72 inches in dimension.

(3) Each swinging exterior door other than screen or storm doors shall have a key-operated lock that has a deadlocking latch or a key-operated dead bolt with a passage latch.

(4) All exterior doors, including storm and screen doors, opening outward shall be provided with a safety door check.

§ 3280.106 Exit facilities; egress windows.

(a) Every room designed expressly for sleeping purposes, unless it has an exit door (See § 3280.105), shall have at least one outside window or approved exit device which meets the requirements of § 3280.408 the "Standard for Egress Window for Use in Manufactured Homes".

(b) Dimensions. All egress windows and devices shall have minimum clear dimensions of 20 inches in width and 24 inches in height and provide a minimum clear opening of five square feet in area.

(c) The bottom of the window opening shall not be more than 36 inches above the floor.

(d) Locks, latches, operating handles, tabs and any other window, screen or storm window devices which need to be operated in order to permit exiting shall not be located in excess of 54 inches from the finished floor.

(e) Built-ins such as tables or dressers may be placed in front of openable sections of egress windows provided they are at least as wide as the openable section, and are installed at or below the bottom of the window.

(f) Integral rolled in screens shall not be permitted in an egress window unless the window is of the hinged type.

§ 3280.107 Privacy locks.

(a) Passage hardware, including privacy locks which are not engaged, shall be operable by a single movement of the knob in either direction.

(b) All privacy locks shall be equipped with an emergency release on the outside to permit entry when the locking device has been engaged.

§ 3280.108 Sanitary requirements.

Every home shall be provided with a water closet, lavatory and a bathtub or shower. Each dwelling unit shall be provided with a kitchen area.

§ 3280.109 Room requirements.

(a) Each home shall have at least one living area with not less than 150 sq. ft. of gross floor area.

(b) Rooms designed for sleeping purposes shall have a minimum gross square foot floor area of 50 sq. ft.

(c) The gross floor area required by paragraphs (a) and (b) of this section shall have no clear horizontal dimension less than 5 feet.

§ 3280.110 Hallways.

(a) Hallways shall have a minimum horizontal dimension of 28 inches measured from the interior finished surface to the interior finished surface of the opposite wall. When appliances are installed in a laundry area, the measurement shall be from the front of the appliance to the opposite finished interior surface. When appliances are not installed and a laundry area is provided, the area shall have a minimum clear depth of 27 inches in addition to the 28 inches required for passage. In addition, a notice of the available clearance for washer/dryer units shall be posted in the laundry area. Minor protrusions into the minimum hallway width by doorknobs, trim, smoke detectors, and light fixtures are permitted.

(b) An interior door placed in a hallway or any path necessary to reach an exterior door (not including any access door to the hallway from any other space) shall have a minimum clear width opening of 27 inches for egress.

§ 3280.111 Stairways.

(a) Stairways of three or more risers used for access to multiple levels or stories of manufactured homes shall conform to the following:

(1) The clear width shall be at least 28 inches except that a handrail may project from either side of the stairway into the required width. Each handrail may project a maximum of 3½ inches into the clear width.

(2) No less than 6 feet 6 inches of headroom shall be provided from any tread of the stairway.

(3) Each tread shall be at least 9 inches in width and each riser shall not exceed 8¼ inches in height. Spiral stairways and winders are permitted provided the average width of the tread is not less than 9 inches and the maximum height for each riser does not exceed 8¼ inches.

(4) Open side(s) of stairways shall be provided with handrails of not less than 30 inches in height.

§ 3280.112 Glass and glazed openings.

(a) *Windows and sliding glass doors.* All windows and sliding glass doors shall meet the requirements of § 3280.407 the "Standard for Prime Windows and Sliding Glass Doors" and in addition, where appropriate, to the requirements of § 3280.408 the "Standard for Egress Windows and Devices for Use in Manufactured Homes."

(b) *Safety glazing.* Glazing (fixed or movable sections) in all entrance or exit doors, sliding glass door units, unframed glass doors, unbacked mirrored wardrobe doors (i.e., mirrors not secured to a backing capable of being the door itself), shower, tub shower and bathtub enclosures including doors and all surfaces (exterior walls, interior) to a height of 5 feet above the bathroom floor level, storm doors or combination doors, and in panels located within 12 inches in the same plane on either side of exit or entrance doors shall be of a safety glazing material. Safety glazing material is any glazing material capable of passing the requirements of "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings" ANSI–Z97.1 1975.

Subpart C—Fire Safety

§ 3280.201 Scope.

The purpose of this subpart is to set forth requirements that will assure reasonable fire safety to the occupants by reducing fire hazards and by providing measures for early detection.

§ 3280.202 Definitions.

(a) The following definitions are applicable to Subpart C, H and I of the standards:

(1) "Combustible material"—any material not meeting the definition of limited-combustible or non-combustible material.

(2) "Flame spread rating"—the measurement of the propagation of flame on the surface of materials or their assemblies as determined by recognized standard tests conducted as required by this Subpart.

(3) "Interior finish"—the surface material of walls, fixed or movable partitions, ceilings, columns and other exposed interior surfaces affixed to the home's structure including any material such as paint or wallpaper and the substrate to which they are applied. Interior finish does not include:

(i) Trim and sealant 2 inches or less in width, provided it is installed in accordance with the requirements of (§ 3280.203(b);

(ii) Windows and frames;

(iii) Single doors and frames and a series of doors and frames not exceeding 5 feet in width;

(iv) Skylights and frames;

(v) Casings around doors, windows and skylights not exceeding 4 inches in width;

(vi) Decorations or furnishings which are not permanently affixed to the home's structure;

(vii) Baseboards not exceeding 6 inches in height;

(viii) Light fixtures, cover plates of electrical receptacle outlets, switches and other devices.

(ix) Attached decorative items to walls and partitions (i.e. pictures, decorative items, etc.) constituting no more than 10 percent of the aggregate wall surface area in any room or space nor more than 32 square feet in surface area whichever is less.

(x) Plastic light diffusers when suspended from a material which meets the interior finish provisions of section 3280.203(b).

(4) "Limited-combustible"—a material meeting:

(i) The definition of Article 2-3 of NFPA 220-1979, Standard on Types of Building Construction, or;

(ii) ⅝ inch or thicker gypsum board.

(5) "Noncombustible material"—a material meeting the definition of Article 2-6 of NFPA 220-1979.

(6) "Single Station Alarm Device"—an assembly incorporating the smoke detector sensor, the electrical control equipment, and the alarm-sounding device in one unit.

(7) "Smoke Detector"—a wall mounted detector of the ionization chamber or photoelectric type which detects visible or invisible particles of combustion and operates from the 120V AC source of electrical power supply.

§ 3280.203 Flame spread limitations and fire protection requirements.

(a) Establishment of flame spread rating. The surface flame spread rating of interior finish materials shall not exceed the values shown in § 3280.203(b) when tested by "Standard Method of Test for Surface Burning Characteristics of Building Materials, ASTM E 84-81(a)" except that the surface flame spread rating of interior finish materials required by § 3280.203(b) (5) and (6) may be determined by using the "Test for Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E 162-81." However, the following materials need not be tested to establish their flame spread rating unless a lower rating is required by these standards:

(1) Flame Spread Rating—76 to 200:

(i) .035 inch or thicker high pressure laminated plastic panel countertop.

(ii) ¼ inch or thicker unfinished plywood with phenolic or urea glue.

(iii) Unfinished dimension lumber (1 inch nominal boards or thicker).

(iv) ⅜ inch or thicker unfinished particleboard with phenolic or urea binder.

(v) Natural gum varnished or latex or alkyd painted: ¼ inch or thicker plywood; ⅜ inch or thicker particleboard; 1 inch nominal board or thicker.

(vi) wall papered ⅜ inch gypsum board.

(vii) ¼ inch or thicker unfinished hardboard.

(2) Flame Spread Rating—25 to 200:

(i) Painted metal.

(ii) Mineral base acoustic tile.

(iii) 5/16 inch or thicker unfinished gupsum wallboard (both latex or alkyd painted).

(iv) Ceramic tile.

The above listed material applications do not waive the requirements of § 3280.203(c) or § 3280.204 of this subpart.

(b) Flame spread rating requirements. (1) The interior finish of all walls and partitions shall not have a flame spread rating exceeding 200 except as otherwise specified herein.

(2) Ceiling interior finish shall not have a flame spread rating exceeding 75.

(3) Furnace and/or water heater spaces shall be enclosed by walls, and ceiling having an interior finish with flame spread rating not exceeding 25. Sealants and other trim materials 2 inches or less in width used to finish adjacent surfaces within these spaces are exempt from this provision provided that all joints are completely supported by framing members or materials having a flame spread rating not exceeding 25.

(4) Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50, except that backsplashes not exceeding 6 inches in height are permitted. (Adjacent surfaces include the exposed vertical surfaces between the range top height and the overhead cabinets and/or ceiling. Refer also to § 3280.204(a) "Kitchen Cabinet Protection".) Sealants and other trim materials 2 inches or less in width used to finish adjacent surfaces are exempt from this provision provided that all joints are completely supported by a framing member.

(5) Kitchen cabinet doors, countertops, backsplashes, exposed bottoms and end panels shall have a flame spread rating not to exceed 200. Cabinet rails, stiles, mullions and toe strips are exempted.

(6) Finish surfaces of plastic bathtubs, shower units and tub or shower doors shall not exceed a flame spread rating of 200.

(c) Fire protective requirements. (1) Materials used to surface the following areas shall be of limited combustible material (i.e. 5/16 inch gypsum board, etc.):

(i) The exposed wall adjacent to the cooking range (see § 3280.203(b)(4), and

(ii) Exposed bottoms and sides of kitchen cabinets as required by § 3280.204, and

(iii) Interior walls and ceilings enclosing furnace and/or water heater spaces, and

(iv) Combustible doors, when installed, that provide interior or exterior access to furnace and/or water heater spaces. The surface may be interrupted for louvers ventilating the enclosure.

However, the louvers shall not be constructed of a material of greater combustibility than the door itself (e.g., plastic louvers on a wood door).

(2) No burner of a surface cooking unit shall be closer than 12 horizontal inches to a window or an exterior door with glazing.

§ 3280.204 Kitchen cabinet protection.

(a) The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of 6 inches from the outside edge of the cooking range shall be protected with at least 5/16 inch thick gypsum board or equivalent limited combustible material. One inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood (26 gage sheet metal or .017 stainless steel or .024 aluminum, or .020 copper) with not less than a 3 inch eyebrow projecting

horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.

(b) The 3 inch metal eyebrow required by paragraph (a) of this section will project from the front and rear cabinet faces when there is no adjacent surface behind the range, or the 5/16 inch thick gypsum board or equivalent material shall be extended to cover all exposed rear surfaces of the cabinet.

(c) The metal hood required by paragraphs (a) and (b) of this section can be omitted when:

(1) An oven of equivalent metal protection is installed between the cabinet and the range and all exposed cabinet surfaces are protected as described in paragraph (a) of this section, or

(2) There are no exposed burners or cooktops and all exposed cabinet surfaces are protected as described in paragraph (a) of this section.

(d) When a manufactured home is designed for the future installation of a cooking range, the metal hood and cabinet protection required by paragraph (a) of this section and the wall surfacing protection behind the range required by § 3280.203 shall be installed in the factory.

(e) Vertical clearance above cooking top. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

§ 3280.205 Carpeting.

(a) Carpets and rugs shall be listed as meeting the surface flammability criteria of any mandatory Federal regulation.

(b) Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be used in other areas where a furnace is installed, provided that it is not located under the furnace.

§ 3280.206 Firestopping.

(a) Firestopping of 1 inch minimum nominal lumber or the equivalent shall be provided to cut off concealed draft openings (both horizontal and vertical) to form an effective fire barrier between walls and partitions, including furred spaces, and the roof or floors. Firestopping shall be located for that purpose in any concealed space such that the maximum verticle dimension to a firestop does not exceed 8 feet except that draft openings in excess of 8 feet are acceptable provided 2 inches nominal thickness lumber or equivalent is provided for firestopping.

(b) All openigns for pipes and vents and other penetrations in walls and ceilings of furnace and water heater spaces shall be tight-fitted or firestopped.

§ 3280.207 Requirements for foam plastic thermal insulating materials.

(a) *General.* Foam plastic thermal insulating materials shall not be used within the cavity of walls (not including doors) or ceilings or be exposed to the interior of the home unless:

(1) The foam plastic insulating material is protected by an interior finish of 5/16 inch thick gypsum board or equivalent material in all cavities where the material is to be installed, or;

(2) The foam plastic is used as a sheathing or siding backerboard, with a flame spread rating of 75 or less (not including outer covering of sheathing) and does not exceed 3/8 inch in thickness, or;

(3) The materials have been tested as required for their location in wall and/or ceiling cavities in accordance with testing procedures described in Illinois Institute of Technology Research Institute (IITRI) Report—"Development of Mobile Home Fire Test Methods To Judge The Fire Safe Performance Of Foam Plastic, J–6461". The materials shall be capable of meeting the following acceptance criteria required for their location.

(i) *Wall assemblies.* The foam plastic system shall demonstrate equivalent or superior performance to the control module as determined by:

(A.) Time to reach flashover (600°C in the upper part of the room);

(B.) Time to reach an oxygen(O_2) level of 14 percent (rate of O_2 depletion), a carbon monoxide (CO) level of 1 percent, a carbon dioxide (CO_2) level of 6 percent, and a smoke level of 0.26 optical density/meter measured at 5 feet high in the doorway;

(C.) Rate of change in concentration for O_2, CO, CO_2 and smoke measured 3 inches below the top of the doorway;

(D.) Post-test damage assessment.

The overall performance of each total system shall also be evaluated in determining the acceptability of a particular foam plastic insulating material.

(ii) *Ceiling assemblies.* A minimum of three valid tests of the foam plastic system, and one valid test of the control module shall be evaluated to determine if the foam Plastic system demonstrates equivalent or superior performance to the control module. Individual factors to be evaluated include intensity of cavity fire (temperature-time) and post test damage.

§ 3280.208 Fire detection equipment.

(a) *General.* At least one smoke detector shall be installed in the home in the location(s) specified in paragraph (b) of this section.

(b) *Smoke detector locations.* (1) A smoke detector shall be installed in the hallway or space communicating with each bedroom area between the living area and the first bedroom unless a door(s) separates the living area from that bedroom area, in which case the detector(s) shall be installed on the living area side as close to the door(s) as practicable. Homes having bedroom areas separated by any one or combination of common-use areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room), shall have at least one detector protecting each bedroom area.

(2) The detector shall be located between the return air intake and the living area.

(3) The architectural planning of the home shall not isolate a smoke detector so as to impair its effectiveness.

(4) When a home is equipped or designed for future installation of a roof mounted evaporative cooler, or other equipment discharging conditioned air through a ceiling grille into the living space environment, the detector closest to the air discharge shall be located no closer than six horizontal feet from any discharge grille.

(c) *Labeling.* Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standard No. 217–1980 for "Single and Multiple Station Smoke Detectors".

(d) *Installation.* Smoke detector(s) shall only be installed on the wall with the top of the detector located on the wall 4 inches to 12 inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the intersection of the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by a permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the over current protection device protecting the branch circuit and the detector. Smoke detector(s) shall not be placed on the same branch circuit or on any circuit protected by a ground fault circuit interrupter.

§ 3280.209 Fire Testing.

Fire testing. All fire testing conducted in accordance with this Subpart shall be performed by independent testing laboratories nationally recognized for their expertise in fire technology. In case of dispute, the Secretary shall determine if a particular agency is qualified to perform such fire tests.

Subpart D—Construction Requirements

§ 3280.301 Scope.

This subpart covers the minimum requirements for materials, products, and equipment needed to assure that the home will provide:

(a) Structural strength and rigidity;

(b) Protection against corrosion, decay, insects;

(c) Protection against hazards of windstorm, and seismic forces;

(d) Resistance to the elements;

(e) Durability and economy of maintenance; and

(f) A safe and healthful environment.

§ 3280.302 Definitions.

(a) The following definitions are applicable to Subpart D only:

(1) "Anchoring Equipment"—includes straps, cables, turnbuckles, and chains, and tensioning devices, which are used with ties to secure the home to ground anchors.

(2) "Anchoring System"—a combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the home from wind and seismic forces.

(3) "Diagonal Tie"—a tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(4) "Footing"—that portion of the support system that transmits loads directly to the soil.

(5) "Ground Anchor"—any device at the home site designed to transfer the home's anchoring loads to the ground.

(6) "Hurricane Resistive Manufactured Home"—a home which meets the wind design load requirements for Zone II in § 3280.305(c)(2).

(7) "Loads"—(i) "Dead Loads"—the weight of all permanent construction including walls, floors, roof, partition, and fixed service equipment.

(ii) "Live Load"—the weight superimposed by the use and occupancy of the home, including wind and snow load, but not including dead load.

(iii) "Wind Load"—the lateral or vertical pressure or uplift on the home due to wind blowing in any direction.

(iv) "Seismic Load"—a lateral load in any direction resulting from earthquake forces imposed on the home.

(8) "Main Frame"—the structural component on which is mounted the body of the home.

(9) "Shear Wall"—a wall designed to resist lateral forces.

(10) "Stabilizing Devices"—all components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the home and secures it to the ground.

(11) "Support System"—a combination of footings, piers, caps, and shims that will, when properly installed, support the home.

(12) "Tie"—the straps, cables, or securing devices used to connect the home to ground anchors.

(13) "Vertical Tie"—a tie intended to resist the uplift or overturning forces.

§ 3280.303 General requirements.

(a) *Conformance to approved design.* The design and construction of a home shall conform with the provisions of this Standard. The manufacturer shall construct all homes in accordance with the approved design (See Part 3282 of this chapter). However, the manufacturer may exceed any provisions of the approved design provided it does not result in a failure to meet any section of the Standard.

(b) *Construction.* All construction methods shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing.

(c) *Verification of structural designs.* The strength and rigidity of the component parts and/or the integrated structure to resist all design loads shall be determined by engineering analysis in accordance with accepted engineering practice utilizing allowable design stresses (see paragraph (f) of this section) or be verified by suitable load tests certified by a professional engineer or architect or by a nationally recognized testing agency which will simulate the actual loads and conditions of application that occur. (Also, see Subparts E and J).

(d) *Hurricane-resistive design.* Only homes which meet the applicable requirements of § 3280.305(c)(2) may be designated "Designed for Hurricane Zone." No similar designation which would imply hurricane-resistance shall be used when the home does not meet these requirements.

(e) Any new material or method of construction not provided for in this Standard may be accepted for use in homes provided it is qualified by testing in accordance with paragraph (g) of this section.

(f) *Allowable design stress.* The design stresses of all materials or systems shall not exceed the values permitted by those stndards incorporated by reference. When design values are not contained in those standards but test procedures are identified in those standards, or if material or systems of construction are not covered by those standards, the allowable design stress may be determined by dividing the ultimate live loat or stress achieved under test (see § 3280.402(b)) by a factor of at least 2.50. A higher factor of safety shall be used when specified by any reference standard listed in § 3280.304(a). Extrapolation of design values to greater spans shall not be permitted unless the manufacturer provides adequate engineering analysis to support it. The use of materials not identified as to strength or stress grade shall be limited to the minimum allowable stresses under accepted engineering practices permitted by these standards incorporated by reference.

(g) *Alternative testing methods.* In the absence of definite testing procedures either in these Standards or the applicable provisions of those standards incorporated by reference, testing procedures may be developed to demonstrate the structural properties and the significant characteristics of an assembly, sub-assembly component or member. (See Subpart E and J.)

(1) Testing procedures so developed shall be submitted to the Department and deemed acceptable 60 days after receipt by the Department unless the requester is advised by the Department within the 60-day period that the procedures are unacceptable or that more time is necessary in order to evaluate their acceptability.

(2) Structural testing shall be witnessed by an independent licensed professional engineer or architect or by a nationally recognized testing agency.

§ 3280.304 Materials.

(a) *Reference standards.* (1) Materials and methods of construction utilized in the home's design shall comply with the applicable provisions contained in the referenced standards listed in paragraph (a)(3) of this section.

(2) Engineering analysis and testing methods contained in the applicable provisions of those referenced standards shall be utilized to judge conformance with accepted engineering practices required in section 3280.303(c)

(3) Materials and methods of installation conforming to the applicable

provisions of these referenced standards shall be considered acceptable when installed in conformance with the requirements of this part unless otherwise specified herein.

Specifications for aluminum structures.....AA–1976
Steel:
Specification for the Design, Fabrication, and Erection of Structural Steel for Buildings...AISC S310–1978

The following parts of this reference standard are not applicable: 1.3.3., 1.3.4, 1.3.5, 1.3.6, 1.4.6, 1.5.1.5, 1.5.5, 1.6, 1.7, 1.8, 1.9, 1.10.4 through 1.10.7, 1.10.9, 1.11, 1.13, 1.14.5, 1.17.7 through 1.17.9, 1.19.1, 1.19.3, 1.20, 1.21, 1.23.7, 1.24, 1.25.1 through 1.25.5, 1.26.4, 2.3, 2.4, 2.8 through 2.10.

Specification for the Design of Cold-Formed Steel Structrual Members, with Supplement 1.....AISI–1968

The following parts of this reference standard are not applicable: 3.1.2, 4.2.1, 4.2.2.

Stainless Steel Cold-Formed Structural Design Manual, Part I, Structural Members; Specification for the Design of Light-Gage Cold-Formed Stainless Steel Structural Members, except 3.1.2.....AISI–1974
Standard Specifications and Load Tables for Open Web Steel Joists H-Series, Longspan Joist DLH-Series, only sections 1–6 and the table for "H series only" are applicable.....SJI–1978
Criteria for Structural Applications of Steel Cables in Buildings.....AISI–1973
Strapping, Steel, and Seals, with Notice #1 and Amendment #2, only Type I, Finish B, Grade I of the plating/coating sections are applicable.....FS QQ–S–781H–1974
Wood and Wood Products:
Basic Hardboard (also designated as ANSI A135.4–1973), except for use as a design specification.....PS 58–73
Prefinished Hardboard Paneling (also designated as ANSI A135.5–1973)...PS 59–73
Hardboard Siding (also designated as ANSI A135.6–1973).....PS 60–73
Hardwood and decorative plywood...USDC PS 51–71
Structural design guide for hardwood plywood panels.....MPMA–HP–SG–80
Structural Glued Laminated Timber...(Also ANSI A190.1–1973)USD–PS 56–73
Construction and industrial plywood...(Also ANSI A199.1–1974)PS 1–74
Plywood residential construction guide.....APA–1979
All Plywood Beams for Mobile Homes.....APA RR 124–75
Plywood Design Specification, including all supplements thereto...APA–1978
Design and Fabrication of Plywood Lumber Beams Suppl. 2.....APA–1979
Design and Fabrication of Plywood Curved Panels Suppl. 1.....APA–1979
Design and Fabrication of Plywood Sandwich Panels Suppl. 4.....APA–1979
Fabrication Specification SS–8, Fabrication of Plywood Stessed-Skin Panels.....APA–1974
National Design Specification for Wood Construction and 1980 Supplement Design Values for Wood Construction.....(N) FPA–1982
Wood Structural Design Data.....(N) FPA–1970
Span Tables for Joists and Rafters, American Softwood Lumber Standard Sizes PS20–70.....(N) FPA–1977
Working Stresses for Joists and Rafters.....(N) FPA–1978
Design Specifications for Metal Plate Connected Wood Trusses.....TPI–78
Standard for Particleboard for Mobile Home Decking.....NPA 1–82
Mat-formed wood particleboard...ANSI A208.1–1979
Wood flush doors except for interior doors.....NWMA IS 1–78
Wood Window Units...(ANSI A200.1–1974) NWMA IS 2–73
Wood Sliding Patio Doors.....NWMA IS 3–70
Standard for Water Repellant Preservative Non-Pressure Treatment for Millwork.....NWMA IS 4–70
Puncture and stiffness of paperboard, corrugated and solid fiberboard except that the puncture resistance inch-pound value provided in Section 3280.305 shall be used...ASTM D 781–68
Standard specification for adhesive for wood based material for construction of mobile homes...ASTM D 3930–80
Standard Method of Test for Moisture Content of Wood, only Test Method B is applicable... ASTM D 2016–76
Other: Gypsum wallboard...ANSI/ASTM C 36–76a
Fasteners:
Nails, Brads, Staples and Spikes; Wire, Cut, and Wrought, except packing and shipping provisions.....FS FF–N–105B
Application and Fastening Schedule: Power-Driven, Mechanically-Driven and Manually Driven Fasteners...HUD—Use of Materials Bulletin UM25d–73.
Unclassified:
Building Code Requirements for Minimum Design Loads in Buildings and Other Structures...ANSI A58.1–1982
Windows and glazing: Performance Specifications and Methods of Tests for Safety Glazing Material Used in Buildings.....ANSI Z97.1–1975

(b) *Lumber and wood products.* (1) Dimension and board lumber including preassembled components shall not exceed 19 percent moisture content and all areas to be glued shall be surface dry at time of installation in the factory. Moisture content is to be determined as follows:

(i) Moisture content for dimensional and board lumber shall be evaluated by test methods described in "Test Methods for Moisture Content of Wood, ASTM D 2016–74."

(ii) Dimensional and board lumber which is identified by a nationally recognized grading agency as having a moisture content not to exceed 19 percent may be accepted as in compliance with the requirements of this section. However, if a lot or components of a lot of identified lumber is suspected of having excessive moisture, the moisture content may be re-verified as not being in excess of 19 percent by evaluating a random sampling of lot specimens in accordance with "Test Methods for Moisture Content of Wood, ASTM D 2016–74."

(iii) The moisture content of each lot of nonidentified dimensional and board lumber shall be verified by sampling procedures described in "Test Methods for Moisture Content of Wood, ASTM D 2016–74" (20 specimens or 10 percent of the lot, whichever is greater).

(2) Wood-products shall be identified as complying with the appropriate standards.

(c) *Support of load bearing materials.* All materials shall be supported by structural framing members or be adequately braced at a spacing not in excess of that recommended by the product manufacturer, unless different support and spacing is justified by engineering calculation(s) or suitable load test(s). (See § 3280.303).

§ 3280.305 Structural design requirements.

(a) Each home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of these standards and shall be capable of transmitting these loads to stabilizing devices without exceeding the allowable loads stresses or deflections. Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to the main frame of the chassis to secure and maintain continuity between the floor and chassis, so as to resist all design loads in this subpart and transportation design loads (see Subpart J). Uncompressed materials including carpeting greater than ⅛ inch in thickness, shall not extend beneath load bearing walls or shear walls which are fastened to the floor structure.

(b) *Design loads.* (1) Design dead loads. Design dead loads shall be the actual dead load supported by the structural assembly under consideration.

(2) *Design live loads.* The design live loads and wind and snow loads shall be as specified in this section and shall be considered to be uniformly distributed. The roof live or snow load and floor live loads shall not be considered as acting simultaneously with the wind load or seismic load and the roof live or snow

load and floor live loads shall not be considered as resisting the overturning moment due to wind or seismic loads.

(3) When engineering calculations are performed, allowable unit stresses may be increased as provided in the documents referenced in § 3280.304 except as shown otherwise in § 3280.306(b).

(c) *Wind Loads.* (1) Standard Wind (Zone 1—see Wind Zone Map). When a home is not designated as "Hurricane Resistive", the home and each wind resisting part and portion thereof except for localized effects on the roof assembly and its fastening shall be designed for horizontal wind loads not less than 15 PSF and a net uplift load of not less than 9 PSF.

(i) Roof systems shall be designed for net uplift as follows:

(A) Roof trusses, roof membrane and fasteners . . . 12 PSF. (Only roof trusses that are connected to the roof membrane need to be designed for this load condition, and can consider the roof/ceiling dead weight in designing those trusses to resist uplift due to wind.)

(B) Roof membrane and fasteners at corners of the roof (tributary area of 3'x 3'), 32 PSF.

(2) Hurricane Resistive (Zone II—see Wind Zone Map). (i) When a home is designated as "Hurricane Resistive," the home and each wind resisting part and portion thereof except for localized effects on the roof assembly and its fastenings shall be designed for horizontal wind loads not less than 25 PSF and a net uplift not less than 15 PSF.

(ii) Roof systems shall be designed for net uplift as follows:

(A) Roof trusses, roof membranes and fasteners, 19 PSF. (Only roof trusses that are connected to the roof membrane need be designed for this load condition and can consider the roof/ceiling dead weight in designing those trusses to resist uplift due to wind.)

(B) Roof membrane and fasteners at corner of the roof (tributary area of 3'x 3'), 53 PSF.

(3) Eaves and cornices shall be designed for a net uplift pressure of 2.5 times the design uplift wind pressure cited in §3280.305(c) (1) and (2).

(4) Whenever the roof slope does not exceed 20°, the design horizontal wind load may be determined without including the veritcal roof projection of the home. However, regardless of the roof slope of the home, the vertical roof projection shall be included when determining the wind loading for split level or clerestory type roof systems.

(5) For exposure in coastal and other areas where wind records indicate significant differences, 125 mph or greater, from the wind loads stated above, the Department may establish more stringent requirements for homes known to be destined for such areas.

(d) *Snow and Roof Loads.* (1) Flat, curved and pitched roofs shall be designed to resist the following live loads, applied downward on the horizontal projection as approporiate for the design zone (see Roof Load Zone Map) marked on the home:

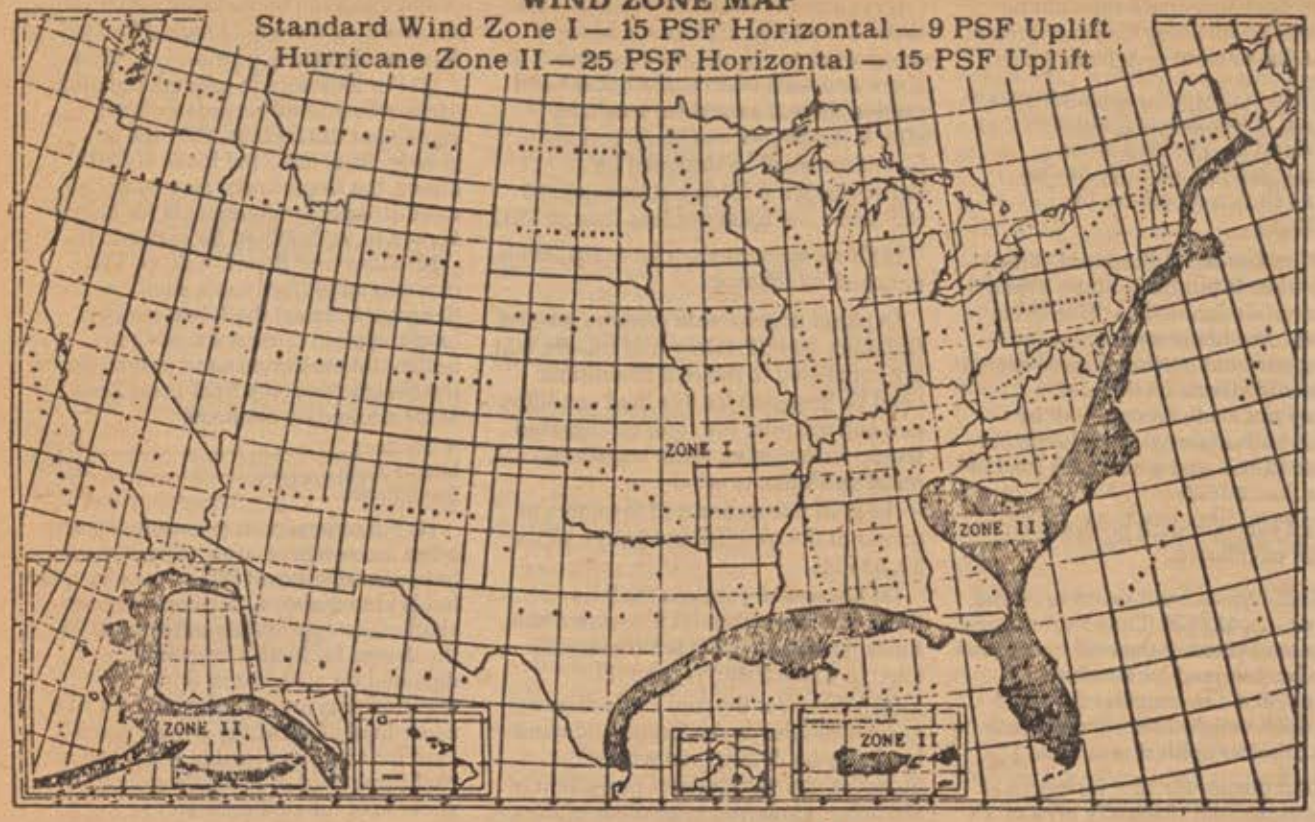
North Zone	40 PSF
Middle Zone	30 PSF
South Zone	20 PSF

(2) For exposure in mountainous or other areas where snow experience indicates significant differences from the loads stated above, the manufacturer shall make appropriate adjustment in the design for homes known to be destined for such areas. Such requirements are to be based on a roof snow-load of 0.6 of the ground snow-load for areas exposed to wind and a roof snow-load of 0.7 of the ground snow-load for sheltered areas

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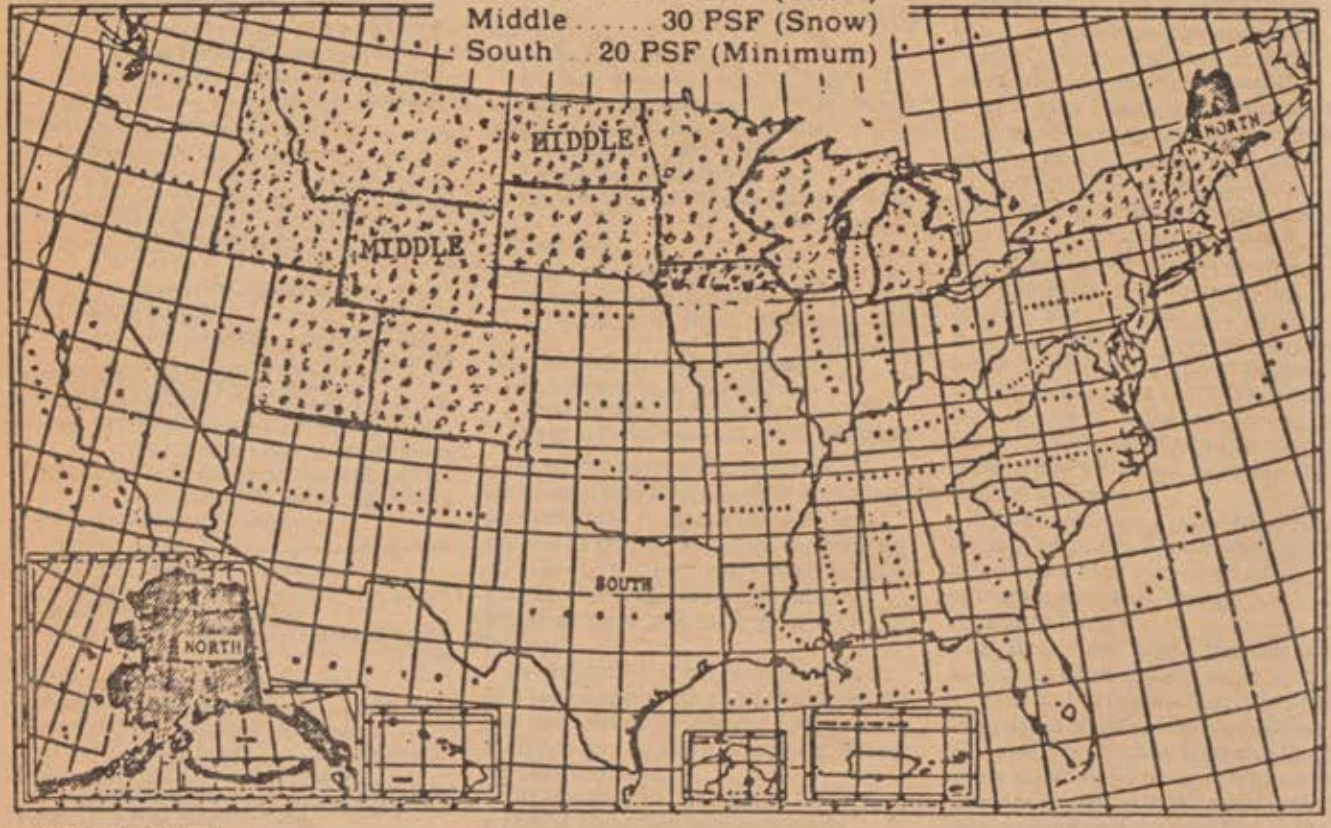
WIND ZONE MAP

Standard Wind Zone I — 15 PSF Horizontal — 9 PSF Uplift
Hurricane Zone II — 25 PSF Horizontal — 15 PSF Uplift



ROOF LOAD ZONE MAP

North ..... 40 PSF (Snow)
Middle ..... 30 PSF (Snow)
South .. 20 PSF (Minimum)



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(e) *Seismic Loads.* Each manufactured home shall capable of resisting a horizontal seismic load applied at the base of the structure of not less than 0.14 times the dead weight of the structure.

(f) *Handrail Loads.* Handrails provided in accordance with § 3280.111(a)(4) shall be capable of resisting a horizontal load of 20#/ft applied at the top of the railing.

(g) *Design live load deflection.* When a structural assembly is subjected to total design live loads, the deflection for structural framing members from vertical loads and deflection-for shear walls and diaphragms from horizontal loads shall not exceed the following:

Roof and ceiling (vertical loads)	L/180
Eaves and cornices (vertical loads only)	Le/90
Where "Le equals the projected horizonal length of the eave or cornice. Headers, beams, and girders (vertical loads)	L/180
Floor (vertical loads)	L/240
For floor framing members with symmetrical overhangs, the allowable deflection (vertical loads) shall not exceed the following: Overhang	a/120
Overall deflection including overhang	Lt/240
Where "a" equals the length of the overhang, and "Lt" equals the overall length of the member including overhanging sections.	
Roof and ceiling diaphragm (horizontal load)	h/180
Shear walls (horizontal loads)	h/180
Walls and partitions (horizontal loads)	h/180
Where "L" equals the clear span between supports and "h" equals the clear span between the finished ceiling and floor.	

(h) *Fastening of structural systems members and assemblies.* Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in this subpart. All structural joints and connections shall be made utilizing mechanical fasters and/or adhesives in accordance with the applicable provisions of reference standards in section 3280.304 and other provisions of this subpart except for assemblies tested in accordance with Subpart E.

(1) Adhesives used for that purpose shall be tested and listed as meeting all provisions for Group A or Group B and Type 1, Type 2 or Type 3 adhesives as required by Standard Specification for Adhesives for Wood Based Material for Construction of Mobile Homes, ASTM-D-3930-82. Allowable shear strength shall be determined by dividing the lowest shear value reported from all tests required by ASTM-D-3930 for that adhesive's classification by a factor of safety of 2.50.

(2) The structural design shall not permit mechanical fasterners (i.e.-nails, screws, staples, etc.) to be loaded in withdrawal from the end grain of wood framing members.

(i) *Walls.* The walls shall be of sufficient strength to withstand the load requirements as defined in § 3280.305 (c) and (d) of this subpart, without exceeding the deflections as specified in § 3280.305(f). The connections between the bearing wall floor, and roof framework members shall be fabricated in such a manner as to provide support for the material used to enclose the home and to provide for transfer of all lateral and vertical loads to the floor and chassis.

(1) Except where substantiated by engineering analysis or tests, studs shall not be notched or drilled in the middle one-third of their length.

(2) Interior walls and partitions shall be constructed with structural capacity adequate for the intended purpose and shall be capable of resisting a horizontal load of not less than five PSF. An allowable stress increase of 1.33 times the permitted normal design stress may be used in the design of wood framed interior partitions. Finish of walls and partitions shall be securely fastened to wall framing.

(j) *Floors.* (1) Floor assemblies shall be designed in accordance with accepted engineering practice standards to support a minimum uniform live 40 1b/Ft2 plus the dead load of the materials. In addition (but not simultaneously), floor shall be able to support a 200-pound concentrated load on a one-inch diameter disc at the most critical location with a maximum deflection not to exceed one-eighth inch relative to floor framing. In longitudinal floor framing systems, perimeter wood joists of more than six inches depth shall be stabilized against overturning from super-imposed loads as follows: at ends by solid blocking not less than two-inch thickness by full depth of joist, or be connecting to a continuous header not less than two-inch thickness and not less than the depth of the joist with connecting devices; at eight-feet maximum intermediate spacing by solid blocking or by wood cross-bridging of not less than one inch by three inches, metal cross-bridging of equal strength, or by other approved methods.

(2) Except where substantiated by engineering analysis or tests:

(i) Notches on the ends of joists shall not exceed one-fourth the joist depth.

(ii) Holes bored in joists shall not be within 2 inches of the top or bottom of the joist, and the diameter of any such hole shall not exceed one-third the depth of the joist.

(iii) Notches in the top or bottom of the joists shall not exceed one-sixth the depth and shall be located in the middle third of the span.

(3) Wood, wood fiber or plywood floors or subfloors, including vertical edges of penetrations therein, of kitchens, bathrooms (including toilet compartments), laundry rooms, water heater compartments and other areas subject to excessive moisture shall have the entire floor area within that space made moisture resistant or protected in those areas by one of the following methods:

(i) An overlay of a non-absorbent floor covering material applied with water resistant adhesive to sealer to the exposed wood floor area. The sealer or adhesive shall be applied in accordance with manufacturer's recommendations.

(ii) A total non-absorbent floor covering, including any backing thereto, may be installed without a continuous application of a water resistant adhesive or sealant when the floor covering meets the following criteria:

(A) The covering is a continuous membrane with any seams or patches seam bonded or welded to preserve the continuity of the floor coverings; and

(B) The subflooring is protected at all penetrations, including perimeter fastening (see paragraph (c) of this section) in those areas by sealing with a compatible water resistant adhesive or sealant to prevent moisture from migrating under the non-absorbent floor covering; and

(C) The covering is fastened around the perimeter to the subfloor in accordance with the floor covering manufacturer's instructions; and

(D) The covering is designed to be installed to prevent moisture penetration without the use of a water resistant adhesive or sealer except as required by paragraph (j)(3)(ii)(B) of this section.

(iii) Utilization of a phenolic plywood or phenolic wood fiber decking which has been coated with a moisture-resistant sealer by the product manufacturer.

(iv) Vertical edges of penetrations need only be covered with a moisture resistant adhesive or sealer.

(4) Carpet or carpet pads shall not be installed under concealed spaces subject to excessive moisture, such as plumbing fixture spaces, floor areas under installed laundry equipment or areas designed for the future installation of laundry equpment.

(5) Bottom board material (with or without patches) shall meet or exceed the level of 48 inch pounds of puncture resistance as tested by the Beach Puncture Test in accordance with "Test Methods for Puncture and Stiffness of Paperboard, and Corrugated and Solid Fibreboard, ASTM D 781–68." The material shall be suitable for patches and the patch life shall be equivalent to the material's life. Patch installation instruction shall be included in the home manufacturer's instructions.

(k) *Roofs.* (1) Roof shall be of sufficient strength to withstand the load requirements as defined in §3280.305 (b) and (c) without exceeding the deflections specified in § 3280.305(d). The connections between roof framework members and bearing walls shall be fabricated in such a manner as to provide for the transfer of design vertical and horizontal loads to the bearing walls and to resist uplift forces.

(2) Roofing membranes shall be of sufficient rigidity to prevent deflection which would permit ponding of water or separation of seams due to wind, snow, ice, erection or transportation forces.

(3) Cutting of roof framework members for passage of electrical, plumbing or mechanical systems shall not be allowed except where substantiated by engineering analysis.

(4) All roof penetrations for electrical, plumbing or mechanical systems shall be properly flashed and sealed. In addition, where a metal roof membrane is penetrated, a wood backer shall be installed. The backer plate shall be not less than 5/16 inch plywood, with exterior glues, secured to the roof framing system beneath the metal roof, and shall be of a size to assure that all screws securing the flashing are held by the backer plate.

(5) Roof coverings shall meet all provisions of section 3280.307 and be installed in accordance with the roofing manufacturer's installation instructions.

(l) *Frame construction.* The frame shall be capable of transmitting all design loads to stabilizing devices without exceeding the allowable load and deflections of this section. The frame shall also be capable of withstanding the effects of transportation shock and vibration without degradation as required by Subpart J.

(1) Welded connections. (i) All welds shall be made in accordance with the applicable provisions of the "Specification for the Design, Fabrication, and Erection of Structural Steel for Buildings AISC S310–1978, the "Specification for the Design of Cold-Formed Steel Structural Members with Supplement 1, AISI–1968," and the "Stainless Steel Cold-Formed Structural Design Manual, Part I, Specification for the Design of Light Gage Cold-Formed Stainless Steel Structural Members AISI–1974." (refer to § 3280.304). (ii) Regardless of the provisions of any reference standard contained in this Subpart, deposits of weld slag or flux shall be required to be removed only from welded joists at the following locations;

(A) Drawbar and coupling mechanisms;

(B) Main member splices; and

(C) Spring hanger to main member connections.

(2) Protection of metal frames against corrosion. Metal frames shall be made corrosion-resistant or protected against corrosion. Metal frames may be protected against corrosion by painting.

§ 3280.306 Anchoring provisions for windstorm and seismic protection.

(a) Each home shall have provisions for anchoring systems, which, when properly designed and installed, will resist overturning and lateral movement (sliding) as imposed by the respective wind and seismic design. The manufacturer is not required to provide the anchoring equipment or stabilizing devices. When the manufacturer's installation instructions provide for the frame structure to be used as the points for connection of diagonal ties, no specific connecting devices need be provided on the main frame structure. The manufacturer shall provide printed instructions including drawings and specifications with each home designed and certified by a registered professional engineer or architect indicating at least one acceptable system of anchorage to resist wind, and seismic loads for which the home has been designed, including the details of required straps or cables, their end connections and all other devices necessary to transfer the design loads from the manufactured home to the ground anchors.

(b) Wind Resistance. The design wind loads to be utilized in each wind zone for calculating anchoring system resistance to overturning and lateral movement shall be not less than the horizontal wind load across the vertical building protection and vertical load across the full roof structure applied simultaneously as follows:

	Horizontal	Vertical
Zone I (standard)	26 PSF	14 PSF
Zone II (hurricane)	43 PSF	23 PSF

The basic allowable design load for all components of the anchoring system (see paragraph (f) of this section) required to resist overturning and lateral movement shall not be increased in the design and proportioning of these components. The dead load of the structure may be used to resist the above wind design loads for determining anchoring systems requirements.

(c) Seismic Protection. The anchoring system of each manufactured home should be designed to resist a horizontal seismic load applied at the base of the structure of not less than 0.14 times the dead weight of the structure. In lieu of calculating specific resistance criteria, the manufacturer may specify the tiedown system is recommended for wind load protection as meeting this criteria.

(d) The provisions made for anchoring systems shall be based on the following design criteria:

(1) The minimum number of ties required per side shall be as required to resist the design loads stated in paragraphs (b) and (c) of this section.

(2) Add-on sections of expandable homes shall have provisions for vertical ties at the exposed ends.

(3) A system comprised only of diagonal ties may be used to resist the design loads. These shall be placed along the main frame and below the outer side walls.

(4) When continuous straps are provided as vertical ties, such ties shall be positioned at the rafters and studs.

(e) Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or siding by the cable or strap.

(f) Anchoring equipment shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload (4,725 pounds total) without failure of either the anchoring equipment or the attachment point on the home.

(g) Manufacturer's instructions shall include information for installers on how to determine allowable load capacity ratings for ground anchors necessary to resist the forces in the tiedown system from wind and seismic forces.

(h) Anhcoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.625 ounces per square feet of surface coated.

(1) Slit or cut edges of zinc-coated steel strapping do not need to be zinc coated.

(2) Type I, Finish B, Grade 1 steel strapping, 1¼ inches wide and 0.035 inches thick, is considered as conforming with Federal specification QQ–S–781–H and paragraph (f) of this section.

§ 3280.307 Resistance to elements and use.

(a) Exterior coverings shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind, snow and rain. Metal coverings and exposed metal structural members shall be of corrosion resistant materials or shall be protected to resist corrosion. All joints between portions of the exterior covering shall be designed, and assembled to protect against the infiltration of air and water except for any designed ventilation of wall or roof cavity. All exterior windows and doors shall be flashed or sealed in a manner to make them water-resistant.

(b) Joints between dissimilar materials and joints between exterior coverings and frames of openings shall be protected with a compatible sealant suitable to resist infiltration of air or water.

(c) Where adjoining materials or assemblies of materials are of such nature that separation can occur due to expansion, contraction, wind loads or other loads induced by erection or transportation, sealants shall be of a type that maintains protection against infiltration or penetration by air, moisture or vermin.

(d) Exterior surfaces shall be sealed to resist the entrance of rodents.

§ 3280.308 Manufacturer's instructions.

(a) The manufacturer's instructions, required by § 3280.306(g), shall provide at least one recommended method for installing the home on an interior and/or a perimeter foundation system to resist the design loads specified on the Data Plate, and other information necessary to complete the installation of the home.

(b) The manufacturer's instructions shall indicate at least one method for temporarily supporting the structure during the erection process. The instructions shall also indicate the location of jacking points and pads where necessary.

§ 3280.309 Formaldehyde emission controls for certain wood products.

(a) Formaldehyde Emission Level. All plywood and particleboard materials installed in manufactured homes shall not exceed the following formaldhyde emission levels:

(1) plywood materials shall have formaldehyde emission levels not to exceed 0.2 parts per million as measured by the air chamber test method (see § 3280.411).

(2) Particleboard materials shall have formaldehyde emission levels not to exceed 0.3 parts per million as measured by the air chamber test method (see § 3280.411).

(b) Product certification and continuing qualification. (1) Initial certification and requalification.

(i) All plywood and particleboard materials used in manufactured homes shall be certified by a nationally recognized testing agency as complying with the provisions of § 3280.309(a). In determining certifiability of the materials, the agency shall witness or conduct the air chamber test (see § 3280.411) initially and at least semi-annually thereafter to verify conformance to the provisions of paragraph (a) of this section. Air chamber certification and requalification tests shall be initiated as soon as practicable but not in excess of 30 days after the materials are produced utilizing panels of plywood and particleboard materials randomly selected from the production run. Materials which are to be tested more than 2 days after they are produced are to be dead stacked or air-tight wrapped until preconditioning is initiated.

(ii) The testing agency shall also concurrently witness or conduct a desiccator test (see § 3280.412) using samples cut from the same wood products being tested in the air chamber. To evaluate production runs, the testing agency shall establish a correlation for each product tested between formaldehyde desiccator levels and the maximum air chamber levels permitted by paragraphs (a)(1) or (a)(2) of this section. (2) Production Testing. (i) For each production run, at least four randomly selected panels of plywood and particleboard materials shall be cut into specimens and tested by the desiccator method (see § 3280.412) or an air chamber test on randomly selected samples (see § 3280.411) shall be conducted. Records of these tests shall be maintained by the product manufacturer and made available to the certifying agency. When the desiccator test is used for production sampling and the average formaldehyde emission value of the specimens tested exceeds the maximum value which was determined during initial qualification or recertification, an air chamber test on randomly selected samples from that production run shall be performed.

(ii) If, after initial qualification or requalification, a production change occurs, then the product shall be requalified by an air chamber test in accordance with this paragraph. Production changes include those changes to resin formulation or spread rate, type and thickness of coating system used, and raw material composition.

(iii) If the air chamber testing measures levels in excess of that permitted in paragraph (a) of this section, then no panel of plywood or particleboard produced as part of that production run shall be used or certified for use in the production of any manufactured home.

(c) Panel identification. Each panel shall be stamped or labeled so as to identify the product manufacturer, date of production and/or lot number and the agency certifying the production for emission level compliance with this section.

(d) Manufacturers shall install only plywood and particleboard materials which are certified as meeting these provisions.

Subpart E—Testing

§ 3280.401 Scope.

This subpart sets forth testing procedures that can be used as an alternative to engineering analyses defined in Subpart D.

§ 3280.402 Structural load tests.

Every structural component or assembly tested shall be capable of meeting the Non-Destructive Load Test or the Ultimate Load Test as follows:

(a) *Non-destructive load tests.* Every structural component of assembly tested shall be capable of sustaining its dead load plus superimposed live loads equal to at least 1.75 times the required live loads for a period of 12 hours without failure. Tests shall be conducted with loads applied and deflections recorded in ¼ design live load increments at 10 minute intervals until design live load plus dead load has been reached except when different loading rates are specified by any applicable reference standard listed in §§ 3280.304(a) and 3280.405(b). Additional load shall then be applied continuously until at least 1.75 times design live load plus dead load has been reached. Assembly failure shall be considered as design live deflection (or residual deflection measured 12 hours after live load removal) which is greater than the limits set in § 3280.305(d), rupture, fracture, or excessive yielding. Each test assembly, component or subassembly shall be identified as to type and quality or grade of material. All assemblies, components or subassemblies qualifying under this section shall be listed or fabricated

under a compliance assurance program under the surveillance of a professional engineer, architect, or independent testing agency.

(b) *Ultimate load tests.* Ultimate load tests shall be performed on a minimum of three assemblies or components to generally evaluate the structural design. Every structural assembly or component tested shall be capable of sustaining its total dead load plus at least 2.50 times the design live load. A higher factor or safety shall be used when specified by applicable reference standards listed in § 3280.304(a). Tests shall be conducted with loads applied and deflections recorded in ¼ design live load increments at 10-minute intervals until design live load plus dead load has been reached except when different loading rates are specified by any applicable reference standard listed in §§ 3280.304(a) and 3280.405(b). Additional loading shall then be applied continuously until failure occurs or at least 2.50 times the design live load plus the dead load is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in § 3280.305(g), rupture, fracture, or excessive yielding. That loading shall be maintained for at least five minutes, except for lateral load resisting elements, on each assembly tested. Assemblies to be tested shall be representative of average quality or materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of materials. All assemblies, components, or subassemblies qualifying under this section shall be listed or fabricated under a compliance assurance program under the surveillance of a professional engineer, architect or independent testing agency.

§ 3280.403 Test procedure for roof trusses.

(a) *General.* The following is an acceptable test procedure, consistent with the provisions of § 3280.402, for roof trusses that are supported at the ends and support design loads. Where roof trusses act as support for other members, act as cantilevers, or support concentrated loads, they shall be tested accordingly.

(b) *Test assembly.* Trusses may be tested in pairs or singly in a suitable test facility. When tested singly, simulated lateral support of the test assembly may be provided, but in no case shall this lateral support exceed that which is specified for the completed home. When tested in pairs, the trusses shall be spaced at the design spacing and shall be mounted on solid support accurately positioned to give the required clear span distance (L) as specified in the design. The top and bottom chords shall be braced and covered with the material, with connections or method of attachment, as specified in the design of the home.

(1) As an alternate test procedure, the top chord may be sheathed with ¼ inch by 12 inch plywood strips. The plywood strips shall be at least long enough to cover the top chords of the trusses at the designated design truss spacing. Adjacent plywood strips must be separated by at least ⅛ inch. The plywood strip shall be nailed with 4d nails or equivalent staples not closer than 8 inches on center along the top chord. The bottom chords of the adjacent trusses may be either:

(i) Unbraced,

(ii) Laterally braced together (not cross braced) with 1" × 2" stripping not closer than 24 inches on center nailed with only one 6d nail at each truss, or

(iii) Covered with the material, with connections or methods of attachment, as specified for the complete home.

(c) *Loading and measurements.* Truss deflections will be measured relative to a taut wire running over the support and weighted at the end to insure constant tension. Deflections will be measured at the two quarter points and at midspan. Loading shall be applied to the top chord through a suitable hydraulic, pneumatic, or mechanical system, masonry units, or weights to simulate design loads. Load units for uniformly distributed loads shall be separated so that arch action does not occur and shall be spaced not greater than 12 inches on center so as to simulate uniform loading.

(d) *Non-destructive test procedure.* (1) Dead load plus live load. (i) Noting figure A–1, measure and record initial elevation of the truss in test position at no load.

(ii) Apply load units to the top chord of the truss equal to the full dead load of roof and ceiling. Measure and record deflections.

(iii) Maintaining the dead load, add live load in approximate ¼ design live load increments. Measure the deflections after each loading increment. Apply incremental loads at a uniform rate such that approximately one-half hour is required to establish the total design load condition. Measure and record the deflections five minutes after loads have been applies. The maximum deflection due to design live load (deflection measured in step (iii) minus step (ii)) shall not exceed L/180, where L is a clear span measured in the same units.

(iv) Continue to load truss to dead load plus 1.75 times the design live load. Maintain this loading for 12 hours and inspect the truss for failure.

(v) Remove the total superimposed live load. Trusses not recovering to at least the L/180 position within 12 hours shall be considered as failing.

DIAGRAM

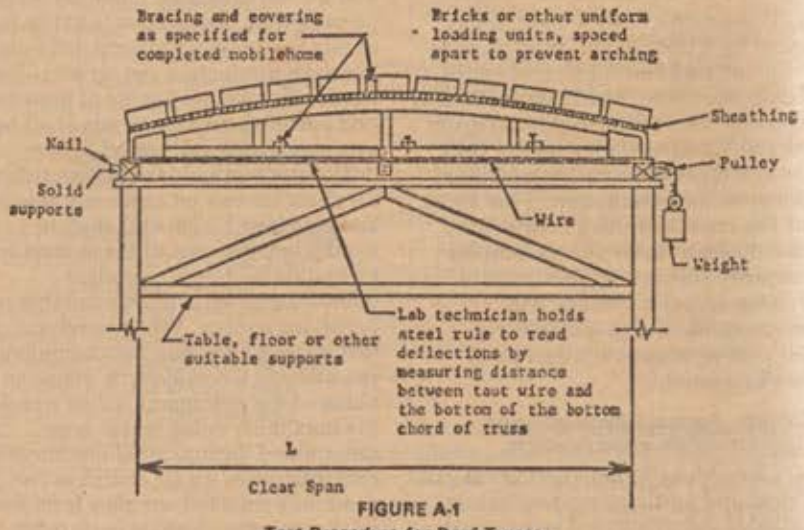


FIGURE A-1
Test Procedure for Roof Trusses

(e) *Ultimate load test procedure.* (1) Noting figure A–1, apply the load units to the top chord of the truss assembly equal to full dead load of roof and ceiling. Measure and record deflections. Then apply load and record deflections in ¼ design live load increments at 10-minute intervals until design live load plus dead load has been reached.

(2) Additional loading shall then be applied continuously until failure occurs or 2.50 times the design live load plus the dead load is reached.

(3) Assembly failure shall be considered as design live load deflection greater than the limits set in § 3280.305(g), rupture, fracture, or excessive yielding.

(4) The assembly shall be capable of sustaining the dead load plus 2.50 times the design live load.

(f) *Uplift load.* Test Procedure. Each roof truss design with an integral eave or which is connected to a roof sheathing and contains web or chord members composed of metal straps or other materials or shapes which are designed to take only tensile or bending stresses in vertical loading conditions shall also be evaluated to resist the design uplift loads of § 3280.305 in accordance with the following:

(1) Measure and record initial elevation of the truss in an inverted test position at no load. Bottom chord of the truss shall be mounted in the horizontal position.

(2) Apply the uplift load as stated in § 3280.305(c) to the bottom chord of the truss. Measure and record the deflections 5 minutes after the load has been applied.

(3) Continue to load the truss to 1.75 times the design uplift load. Maintain this load for 3 hours and inspect the truss for failure. The total uplift load required for testing truss designs with eaves is 4.375 times the design uplift load across the eave section(s) and 1.75 times the design uplift load for that section of the truss supported between the eave(s).

(4) Remove applied loads and within three hours the truss must recover to at least L/180 position, where L is a clear span measured in the same units.

§ 3280.404 Test procedure for floor trusses.

Floor Truss Tests. Floor trusses shall be tested in accordance with § 3280.403 of this subpart except that the uplift load testing need not be performed and the maximum deflection due to design live load shall not exceed L/240.

§ 3280.405 Test procedures for certain major structural assemblies (non-repetitive).

(a) Loading applications and acceptance criteria shall be in accordance with § 3280.402.

(b) Lateral load resisting elements.

(1) Ceiling diaphragms shall be tested in accordance with UL 1296–80, "Shear Resistance Tests for Ceiling Loads for Mobile Homes" except that for spans in excess of 28'–0", the actual span and increased loading shall be utilized in the testing.

(2) Shear wall performance shall be tested in accordance with ASTM E 564–76 "Standard Method of Static Load test for Shear Resistance of Framed Walls for Buildings."

§ 3280.406 Qualification of trusses, other repetitive framing members, and major structural assemblies (non-repetitive).

(a) Initial design qualification. (1) Trusses. The number of initial qualification tests shall be as follows:

(i) Three tests (three truss specimens) when tested singly in a suitable test fixture, or

(ii) Two tests (four truss specimens) when tested in pairs using the actual materials specified for the manufactured home or the alternate ¼ in. thick plywood strips. (See § 3280.403(b)(1))

(iii) The trusses selected for the initial design qualification tests shall be fabricated using samples of that material representative of the quality to be used in production.

(iv) The following procedures are to be used when failures occur during the initial design qualification tests:

(A) If no more than one of the qualification tests fail, additional tests may be conducted in accordance with this section to evaluate the design and all trusses must pass all phases of the additional testing or that truss design rejected.

(B) If more than one of the initial qualification tests fail, the truss design shall be rejected.

(v) All trusses shall be periodically retested as part of the listing or compliance assurance program.

(2) Other repetitive framing members. Test procedures for other repetitive framing members shall be accepted by the Department (see § 3280.303(g)) with no less than the number of initial qualification tests required in paragraph (a)(1) of this section. Repetitive framing members shall be periodically retested as part of the listing or compliance assurance program.

(3) Major structural assemblies (non-repetitive). (i) At least three initial qualification tests shall be performed on each assembly in accordance with § 3280.401. The test assemblies shall be fabricated using the grade of that material representative of the quality to be used in production. When other than lumber framing components are utilized, the quality of material shall be representative of that intended to be used in production. Acceptance and rejection criteria during initial qualification shall be in accordance with paragraph (a)(1)(iv) of this section.

(ii) Periodic retesting shall not be required unless deemed necessary by the listing agency.

§ 3280.407 Witnessing of structural load tests.

(a) All initial tests required by this subpart shall be certified by a nationally recognized testing agency, professional engineer or architect (see § 3280.303(c)).

(b) production line tests required for trusses and other repetitive framing members (see § 3280.406) are not required to be witnessed by the certifying agency.

§ 3280.408 Standard for primary windows and sliding glass doors.

(a) Scope. This section sets the requirements for prime windows and sliding glass doors except for windows used in entry doors. Windows so mounted are components of the door and thus are excluded from this standard.

(b) All primary windows and sliding glass doors shall be in accordance with AAMA standard 1703.1–1982, Primary Window and Sliding Glass Door Voluntary Standard for Utilization in Manufactured Housing.

(c) All primary windows and sliding glass doors shall be installed in accordance with the window or door manufacturers instructions.

(d) Glass. (1) Safety glazing materials, where used, shall meet ANSI Z97.1–1–1975, "Performance Specifications and Methods of Tests for Safety Glazing Material Used in Buildings."

(2) Sealed insulating glass, where used, shall meet all performance requirements for class C in accordance wtih ASTM E–774–81, Standard Specifications for Sealed Insulating Glass Units, and the sealing system qualified in accordance with ASTM E–773–81, Standard Test Method for Seal Durability of Sealed Insulating Glass Units. Each glass unit shall be permanently identified with the name of the insulating glass manufacturer.

(e) Certification. The window or door manufacturer shall show evidence of continued compliance by affixing a quality certification label to the product in accordance with ANSI Z34.1–1947,

R1959, "American National Standard Practice for Certification Procedures." In determining certifiability under this section, compliance shall consist of preproduction specimen testing in accordance with AAMA 1703.1–1982 followed by an inplant inspection and production unit testing system consisting of a minimum of two such inspections per year by an independent quality assurance agency and testing of production units of the largest size window configuration for each design in production at least annually.

§ 3280.409 Standard for egress windows and devices.

(a) *Scope and purpose.* The purpose of this section is to establish the requirements for the design, construction, and installation of windows and approved devices intended to be used as an emergency exit during conditions encountered in a fire or similar disaster.

(b) *Performance.* Egress windows including auxiliary frame and seals, if any, shall meet all requirements of AAMA 1703.1–1982, "Primary Window and Sliding Glass Door Voluntary Standard for Utilization in Manufactured Housing", and AAMA 1704.1–1982, "Egress Windows for Utilization in Manufactured Housing."

(c) *Installation.* (1) The egress window or device shall be installed in accordance with the window or device manufacturers written installation instructions.

(2) An operational check of each installed egress window or device shall be made at the factory. All egress windows and devices shall be openable to the minimum required dimension without binding or requiring the use of tools. Any window or device failing this check shall be removed and a replacement installed that passes the operability check.

(d) *Operating instructions.* Operating instructions shall be affixed to each egress window and device and carry the legend "Do Not Remove."

(e) *Certification of Egress Devices.* Egress devices shall be listed with in-plant inspection and production testing in accordance with 3280.408(e).

§ 3280.410 Standard for swinging exterior doors.

(a) *Introduction.* This standard applies to all exterior door units, excluding sliding doors and doors used for access to utilities and compartments. This standard applies only to the door frame consisting of jambs, head and sill and the attached door or doors.

(b) *Performance requirements.* The design and construction of exterior door units shall meet all requirements of AAMA 1702.3–1982, Standard for Swinging Exterior Passage Doors for Utilization in Manufactured Homes.

(c) *Materials and methods.* Any material or method of construction shall conform to the performance requirements as outlined in paragraph (b) of this section. Wood materials or wood based materials shall also conform to the following:

(1) Wood. Wood door parts shall be manufactured of lumber having a moisture content of 6 to 12 percent at time of fabrication. Wood parts except interior trim shall be manufactured utilizing wet-use adhesive requirements as defined in the "Specification For Adhesives Used in Nonstructural Glued Lumber Products" ASTM D 3110–72 and Preservative Treated in accordance with "NWMA Industry Standard for Water-Repellent Preservative Non-Pressure Treatment for Millwork I.S. 4–70." Doors shall conform to the type 1 requirements of "NWMA Industry Standard Series for Wood Flush Doors I.S.1–78" except that a foam plastic core with a flame spread rating not exceeding "75" when tested at the thickness to be used is acceptable, provided it is bonded to any wood parts with a type I adhesive.

(2) Plywood. Plywood shall be exterior type and preservative treated in accordance with "NWMA Industry Standard for Water-Repellent Preservative Non-Pressure Treatment for Millwork I.S. 4–70".

(3) Hardboard parts shall meet or exceed the requirements for ⅛ inch tempered hardboard in accordance with PS 58–1973, Basic Hardboard.

(d) *Certification.* All exterior swinging doors shall be listed as conforming with the provisions of this section.

§ 3280.411 Air chamber test method for certification and qualification of formaldehyde emission levels.

(a) Pre-conditioning. All plywood or particleboard panels (full size or segments of at least 4 square feet) shall be pre-conditioned for a period of 48 hours at 75°F ± 5°F and a relative humidity of 50% ± 5 prior to initiation of testing. Panels shall be stored on edge and spaced apart during the pre-conditioning period so that air can circulate across all surfaces.

(b) Plywood and particleboard panels shall be individually tested in accordance with the following loading ratios:

(1) Plywood—0.29 Ft2 /Ft3, and

(2) Particleboard—0.13 Ft2/Ft3.

(c) Testing conditions for operation of the chamber shall be as follows:

(1) The chamber shall be operated indoors.

(2) Climatic and air control to be maintained inside the chamber shall be as follows:

(i) Temperature 77°±2°F

(ii) Relative Humidity 50% ± 5%

(iii) Air Exchange 0.50±0.05 air changes per hours

(3) Formaldehyde background levels shall be minimized in the testing areas where the chamber is to be operated.

(d) Testing chamber.

(1) The chamber shall be 1,000–1,200 feet in volume.

(2) The chamber shall be lined on all interior surfaces with materials that will minimize formaldehyde or moisture absorption.

(3) A rack of nonabsorbing material shall be placed in the chamber as a means of holding the samples in position.

(4) Air intake ducts shall be located in or directly adjacent to one end of the chamber with the air exhausted in or directly adjucent to the opposite end. An exhaust fan and blower device which is capable of maintaining air change rates of 0.5±.05 air changes/hr shall be provided. A second fan shall be placed in the chamber to circulate the air during the conduct of tests.

(5) The chamber shall contain at least two sampling ports elevated at 54"±6" and separated within the chamber so that different chamber locations are sampled. Long sampling tube runs should be avoided where possible. The intake ends of sampling tubes shall not be located in close proximity to the walls of the chamber, to the samples being tested, or to devices used for controlling the air and climate within the chamber.

(e) Air sampling procedure. (1) Twenty ml. of 1% sodium bisulfite solution in distilled, deionized water shall be placed in a 30 ml. glass midget impinger in the air sampling assembly. The assembly shall be designed to provide for a uniform rate of extracted air from the laboratory chamber.

(2) Air samples shall be taken concurrently from a least two inside chamber locations remote from each other.

(3) Sampling shall be accomplished through the use of flexible plastic tubing permanently held in place at 54"±6" elevation. Outside of the chamber the tubing is attached to a metering station consisting of a needle valve and calibrated flow meter to produce an air sampling rate of 1 liter per minute. The air is drawn through the 1% sodium bisulfite solution by means of an electric (AC or battery powed) vacuum pump. Sampling times shall be not less than 20

minutes and are not to exceed 60 minutes.

(4) When formaldehyde is not removed from the background air, at least a 60-minute air sample shall be taken in the laboratory chamber to determine the formaldehyde background level before the change of panels is placed in the chamber.

(5) Air samples shall be taken at not less than 18-hours after sample loading. Unless formaldehyde is removed from the background air, at least one air sample shall be taken in the room where the laboratory chamber is located to obtain the background formaldehyde level. Temperature, relative humidity and air change rates should be recorded to reflect the conditions during each day at the time that chamber air samples are taken.

The test-formaldehyde concentration ("C") shall be determined utilizing the analysis procedures contained in the "Tentative Small Scale Test Method For Determining Formaldehyde Emission From Wood Products, Two Hour Desiccator Test FTM–1, 1982"—HPMA, NPA, and the Formaldehyde Institute. The test concentration ("C") shall be standardized to a level ("C_o") at a temperature (t_o) of 77° and 50% relative humidity (H_o) by the following formula:

$$C = C_o \times [1 + A \times (H - H_o)] \times e^{-R(t - t_o / t_o)}$$

where:
C = Test formaldehyde concentration
C_o = Standardized formaldehyde concentration
e = Natural log base
R = Coefficient of temperature (9799)
t = Actual test condition temperature (°K)
t_o = Standardized temperature(°K)
A = Coefficient of humidity (0.0175)
H = Actual relative humidity (%)
H_o = Standardized relative humidity (%)

The standardized level ("C_o") is the concentration used to determine compliance with § 3280.309(a).

§ 3280.412 Desiccator test method for production sampling of formaldehyde emission levels.

(a) Production sampling for formaldehyde emission levels shall be performed in accordance with the Tentative Small Scale Test Method For Determining Formaldehyde Emission From Wood Products, Two Hour Desiccator Test FTM–1, 1982, issued jointly by HPMA, NPA and the Formaldehyde Institute, except as follows:

Pre-conditioning. Samples for evaluation under this procedure are to be obtained after pre-conditioning of the panel (full size or segments of at least 4 square feet) for a period not to exceed that used during initial qualification or recertification at 75° ±3°F and a relative humidity of 50% ±5 prior to initiation of testing.

Subpart F—Thermal Protection

§ 3280.501 Scope.

This subpart sets forth the requirements for condensation control, air infiltration, thermal insulation and certification for comfort heating and cooling.

§ 3280.502 Definitions.

(a) The following definitions are applicable to this subpart only.

(1) "Thermal envelope area": The sum of the surface of outside walls, ceiling and floor, including all openings. The wall area is measured by multiplying outside wall lengths by the inside wall height from floor to ceiling. The floor and ceiling areas are considered as horizontal surfaces using exterior width and length.

(2) "Vapor retarder": A medium of control to reduce the rate of transmission of moisture.

§ 3280.503 Materials and installation.

(a) Materials used for insulation and vapor retarders shall be installed to assure that required design conditions concerning thermal transmission are attained.

(b) Installation of insulations, vapor retarders, and air infiltration barriers shall be made in a manner intended to ensure their effective performance.

(1) Insulation shall be installed so that voids are minimized and in accordance with the insulation manufacturer's recommendations.

(2) Vapor retarders shall be installed so that:

(i) Leakage around the retarder is minimized; (ii) Perforations through the retarders are taped or otherwise sealed, unless ventilation is specifically required by the listing of an installed product or fixture; and (iii) Corners, joints and edges are overlapped.

(3) Air infiltration barriers which are jointed shall be securely fastened to framing members to resist the flow of air.

§ 3280.504 Condensation control (vapor retarders).

The use of vapor retarders and controlled ventilation shall be considered to maintain the thermal and moisture integrity of the envelope as follows:

(a) Ceilings. Ceilings shall have a vapor retarder material having a permeance not greater than 1.0 perm (dry cup method) installed on the living space side of the roof cavity. In addition, sloping roof cavities may be ventilated.

(b) Exterior walls shall have a vapor retarder material with a permeance not greater than 1.0 perm (dry cup method) installed on the living space side of the wall cavity. However, the vapor retarder is not required for exterior walls in homes designed for Zone I, provided that the external side of the wall cavity is vented and the combined permeance of the external covering and/or sheathing, if provided, is not less than five perms. In the absence of test data, combined permeance may be computed using the formula:

$$P\ Total = \frac{1}{\frac{1}{P1} + \frac{1}{P2}}$$

where P1 and P2 are the permeance values of the exterior covering and sheathing in perms. Exterior siding, except for plywood, hardboard, wood panels, or other materials which restrict water vapor transmission, when applied in sections with joints neither caulked nor sealed, and installed so that condensation occurring within the wall cavity is directed outdoors and conforming to the combined permeance requirement, shall be considered to be vented.

(c) To control condensation in floor cavities in Zone I, ducts, excluding register boots, designed for mechanical cooling shall be insulated on all surfaces with a minumum value of R–4 and shall be covered with a vapor retarder having a permeance of not greater than 1.0 perm (dry cup method). The duct vapor retarder and insulation is not required when installed in a longitudinal-joist system.

§ 3280.505 Air infiltration.

Exterior wall covering and/or sheathing shall be properly installed so that air leakage around window and door frames and other penetrations is minimized. Manufacturer's instructions shall indicate that connections of marrige walls in multiple-width homes shall be gasketed with a durable and resilient material. Joints not designed to limit air infiltration between wall to wall, wall to ceiling and wall to floor connections shall be caulked or otherwise sealed.

§ 3280.506 Thermal envelope.

(a) The home's heat loss/heat gain shall be determined by methods outlined in §§ 3280.507 and 3280.508, the outdoor winter design temperature zone for which the home is acceptable and the lowest oudoor temperature to which the installed heating equipment will maintain a temperature of 70°F shall be

certified as specified in § 3280.509 of this Subpart.

(b) Transmission heat loss coefficent. The overall coefficient of heat transmission (U_o) of the home (including framing and internal and external ducts) for the respective zones (See outside winter temperature zone map) and an indoor design temperature of 70°F shall not exceed the BTU/(Hr) (sq ft) (F°) of the home's overall envelope areas as tablulated below:

Zone	T	Maximum transmission coefficient (Uo)
I	+15 F	0.157
II	-5 F	.126
II	-20 F	.104

Where T = outdoor winter design temperature (97.5% Dry Bulb).

Where U_o = maximum transmission coefficient—BTU/(hr)(sq.ft.)(F) of the overall envelope area (Uo does not include infiltration, ventilation, and condensation control).

(c) To assure uniform heat transmission, cavities in exterior walls, floors, and ceilings shall be provided with thermal insulation.

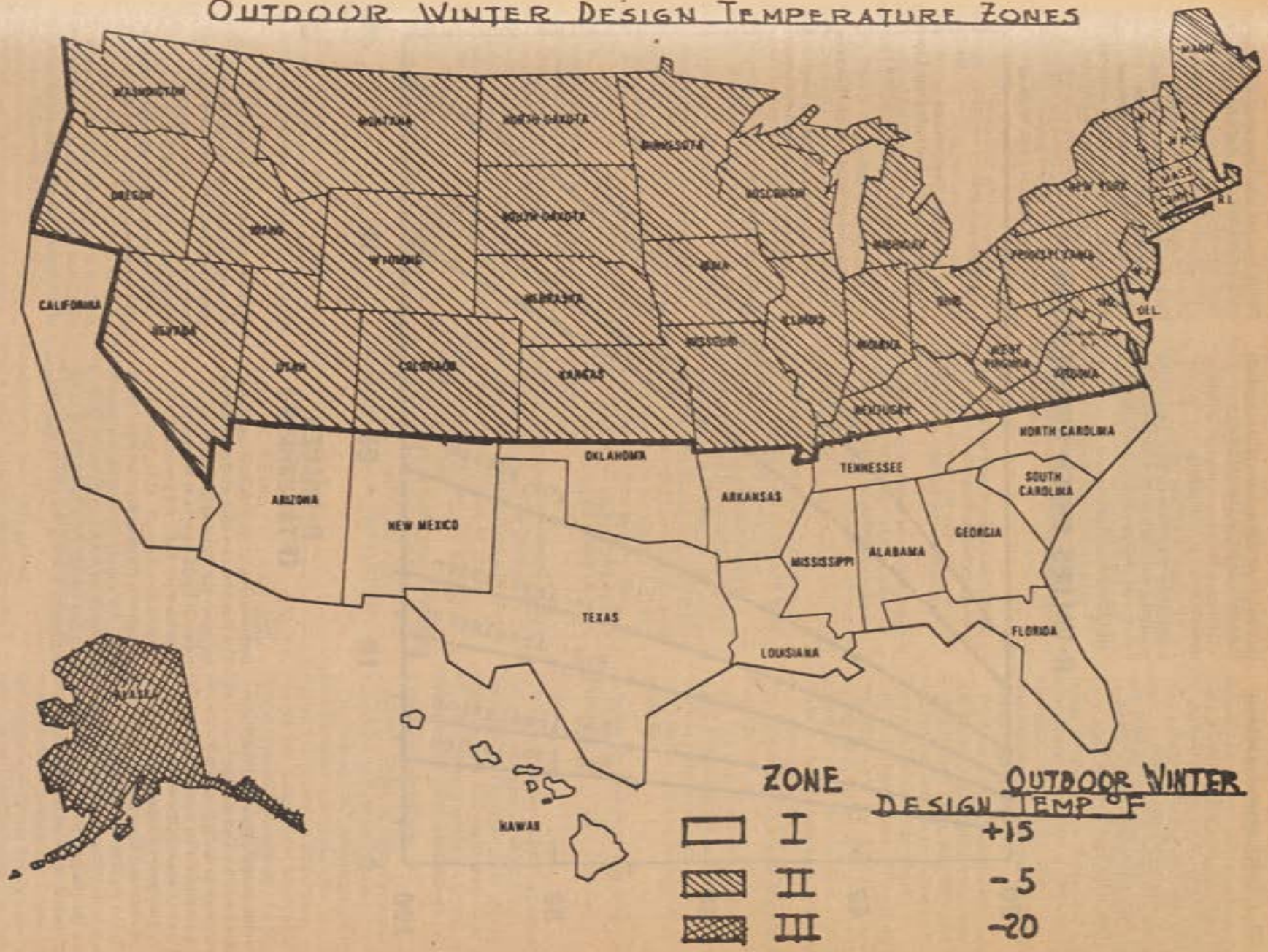
(d) Glazing. Homes designed for Zones II and III shall be factory-equipped with storm windows or insulating glass except when windows are three square feet or less.

§ 3280.507 Heat loss, heat gain and cooling, load calculations.

The calculation procedures shall be in accordance with NFPA 501 BM–1976 (Mobile Home Heating and Cooling Load Calculations) or with the 1981 ASHRAE Handbook of Fundamentals. Information, values and data necessary for heat loss, heat gain, and equipment sizing determinations may be taken from chapters 20, 21, 22, 23, 25, 26 and 35 of the 1981 ASHRAE Handbook of Fundamentals. The following portions of those chapters are not applicable:

20.14 Masonry Construction
20.14 Floor Systems
20.17 Underground Pipe Insulation
20.18 Temperatures Above Ambient, Temperatures Below Ambient
20.18 Tanks, Vessels and Equipment
20.20 Refrigerated Rooms and Buildings
20.24 Part VI Land Transport Vehicles
20.27 Part VII Environmental Spaces
22.1 Ventilation Requirements, Minimum Outdoor Air Supply Rates
22.11 Air Leakage Through Walls of Elevators and Stair Shafts
22.13 Swinging Door Entrances
22.19 References
25.4 Ground Temperature
25.4 Crawl Space Temperature
25.4 Calculation of Heat Loss From Crawl Spaces
25.6 Calculation Transmission Heat Loss From Basement
25.6 Design Temperatures
25.8 Calculating Transmission Heat Loss From Floor Slabs
25.11 Consideration of Pick-up Load
26.37 Heat Gain by Conduction Through Interior Partitions, Ceilings and Floor

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§ 3280.508 Criteria in absence of specific data.

In the absence of specific data, for purposes of heat-loss/gain calculation, the following criteria shall be used:

(a) Infiltration heat loss. In the absence of measured infiltration heat loss data, the following formul shall be used to calculate heat loss due to infiltration and intermittently operated fans exhausting to the outdoors.

Infiltration Heat-Loss = product of (.018) (k) (gross floor area) (ceiling height) (T) Where: T = 70 F minus the outdoor design temperature. Where k = 1.0 air changes/hour, unless the manufacturer demonstrates that a different air change value is appropriate.

(b) Framing areas.

Wall:

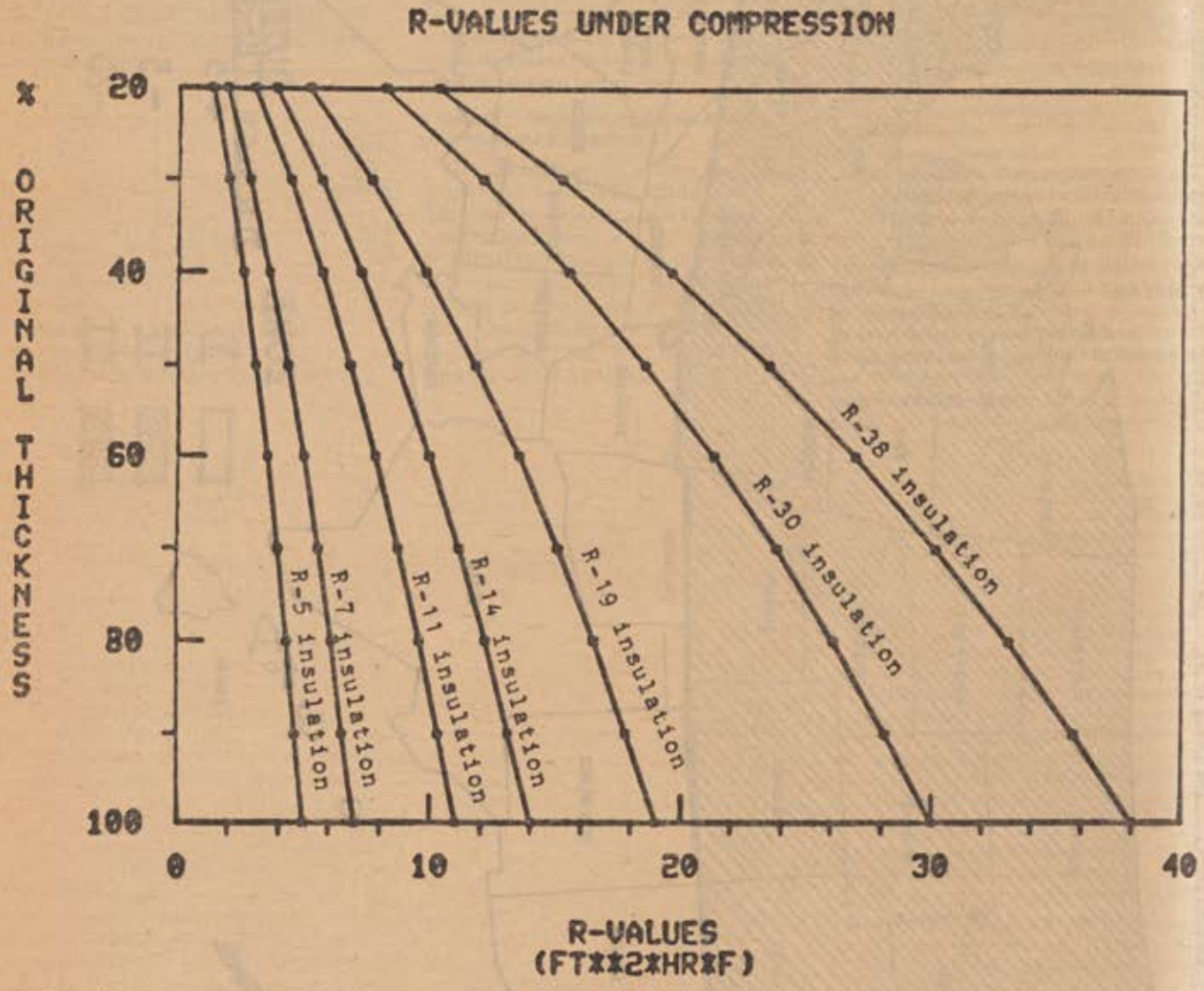
(16" on center)—15% of the wall area less windows and doors.

(24" on center)—10% of the area less windows and doors.

Floor and ceiling:

(16" on center)—10% of the area.

(24" on center)—7% of the area.



(c) Insulation compression. Insulation compressed to less than nominal thickness shall have its nominal R-values reduced for that area which is compressed in accordance with the following graph. When specific values cannot be obtained from graph, linear interpolation shall be used. When insulation is installed over the framing members, the thermal performance of the insulation is reduced due to compression at the framing members. The Resistance value of the insulation between the framing members is reduced by 12.5 percent for framing members 16" O.C., 8.5 percent for framing members 24" O.C., and 4 percent for framing members 48" O.C.

(d) Air supply ducts within a floor or ceiling cavity. Air supply ducts located within a cavity shall be assumed to be heating or cooling the cavity to living space temperatures unless the duct is structurally isolated by the framing system or themally insulated from the rest of the cavity with a thermal insulation at least equal to R-4.

(e) The supply duct loss (and/or heat gain where applicable—See § 3280.507) shall be calculated using the actual duct surface area and the actual thickness of insulation between the duct and outside of the home. If there is an air space of at

least ½ inch between the duct and the insulation, heat loss/gain need not be calculated if the cavity in which the duct is located is assumed to be at living space temperature. The average temperature inside the supply duct, including ducts installed outside the manufactured home, shall be assumed to be 130 F for purposes of calculation of heat loss and 60 F for heat gain.

(f) Return air cavities. Cavities used as return air plenums shall be considered to be at living space temperature.

§ 3280.509 Comfort heating and cooling certificate.

The manufacturer shall complete and permanently affix the comfort heating and cooling certificate to an interior surface of each home that will be readily visible to the homeowner. The manufacturer shall complete all sections of the comfort heating certificate and at least one of the alternatives designated on the comfort cooling certificate as follows:

(a) Heating certificate. (1) The heating certificate shall read as follows:

Comfort Heating Certificate

Home manufacturer _____
Mode _____
Plant location _____
Heating equipment manufacturer _____
Mode _____
Capacity _____
Btu/Hr.

The heating equipment listed above has the capacity to maintain at least 70°F in this home at an outdoor winter temperature of ___ at a wind velocity of 15 MPH. At altitudes over 3,000 feet, oil and gas fired heating appliances may have to be adjusted.

This manufactured home meets the Thermal Protection Standards for Zone ___ of the United States.

The following ratings of thermal insulation "R" values have been installed in this home:

Wall _____
Floor _____
Ceiling _____

(b) Comfort cooling certificate and information. (1) The comfort cooling certificate shall read as follows:

Comfort Cooling Certificate

Alternative I

A central air conditioner has been provided with this home:
Home manufacturer _____
Plant location _____
Air conditioner manufacturer _____
Air conditioner model _____
Capacity _____
Btu/Hr.

Alternative II

This home has not been provided with a central air conditioner by the manufacturer.
Home manufacturer _____
Plant location _____
Model _____

However, the air distribution system of this home is suitable for the installation of central air conditioner.

The supply air distribution system installed in this home is sized for central air conditioning system of up to ___ B.T.U./Hr. rated capacity certified in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards. The air circulator of an installed air conditioner shall be rated at 0.3 inch water column static pressure or greater for the cooling air delivered to the manufactured home supply air duct system.

Alternative III

This home has been equipped with ducts suitable for use with an evaporative cooler having a rated air circulator capacity of up to ___ cfm at ___ inches water colum static pressure.

This home has not been equipped with an air distribution system which is suitable for use with a central air conditioning system.
Home manufacturer _____
Plant location _____
Model _____

(2) For each home designated as suitable for central air conditioning, the manufacturer shall provide the maximum central air conditioning capacity certified in accordance with the appropriate A.R.I. standards and in accordance with § 3280.715(a)(3). If the capacity information provided is based on entrances to the air supply duct at other than the furnace plenum, the manufacturer shall indicate the correct supply air entrance and return air exit locations.

§3280.510 Thermal improvement options.

(a) Each manufacturer shall make available in its approved designs and in the marketplace options to improve the thermal protection and efficiency of all homes it produces.

(b) The design options made available shall include improved insulation levels which provide a maximum overall thermal transmission coefficient (Uo) as follows

Zone	Uo Btu per/ (hour) (square) (feet) (F)
I	0.145
II	.099
III	.087

Where an air infiltration barrier is provided in exterior walls, the maximum heat transmission coefficient values in the above table may be increased by multiplying by a factor of 1.08 in Zone I and by a factor of 1.15 in Zones II and III.

Manufacturers need only provide options for temperature zones for which their homes have been certified.

(c) Technical Information Sheet. Before any person enters into an agreement to sell a manufactured home to the first purchaser for purposes other than resale, the seller shall deliver a technical information sheet to each prospective purchaser. The sheet shall state the insulation levels of the walls, floor and ceiling in the home which is being offered. Levels of insulation shall be expressed in terms of "R" values for all insulation supplied. The manufacturer shall prepare the technical information sheet.

(1) If the home meets the requirements of the mandatory option contained in § 3280.510(b)(1) then no additional information need be included on the Technical Information Sheet.

(2) If the home does not meet the requirements of the mandatory option contained in § 3280.510(b)(1) then the manufacturer shall include the following on the Technical Information Sheet for each option offered:

(i) The insulation levels of the walls, floor and ceiling;

(ii) The cost of the option; and

(iii) The estimated annual payback in terms of reduced energy costs attributable to the optional energy package.

Subpart G—Plumbing Systems

§ 3280.601

Scope.

Subpart G covers plumbing materials, fixtures and equipment and their installation. The intent is to assure water supply and drain waste and vent systems which provide for health and safety under normal conditions and use.

§ 3280.602 Definitions.

(a) The following definitions are applicable to Subpart G only:

(1) "Accessible," when applied to a fixture, connection, appliance or equipment, means having access thereto, but may require removal of an access panel or the opening of a door.

(2) "Air Gap (Water Distribution System)"—the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, water supplied appliances, or other device and the flood level rim of the receptacle.

(3) "Anti-Siphon Trap Vent Device"—a device which automatically opens to admit air to a fixture drain above the connection of the trap arm to prevent siphonage, and closes tightly when the pressure within the drainage system is equal to or greater than atmospheric

pressure to prevent the escape of gases from the drainage system into the home.

(4) "Backflow"—the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply or water from any source or sources other than its intended sources.

(5) "Backflow Connection"—any arrangement whereby backflow can occur.

(6) "Backflow Preventer"—a device or means to prevent backflow.

(7) "Branch"—any part of the piping system other than a riser, main or stack.

(8) "Common Vent"—a vent connecting at the junction of fixture drains and serving as a vent for more than one fixture.

(9) "Continuous Vent"—a vertical vent that is a continuation of the drain to which it connects.

(10) "Continuous Waste"—a drain from two or more fixtures connected to a single trap.

(11) "Critical Level"—a point established by the testing laboratory (usually stamped on the device by the manufacturer) that determines the minimum elevation above the flood level rim of the fixture or receptacle served on which the device may be installed. When a backflow prevention device does not bear a critical level marking, the bottom of the vacuum breaker, combination valve, or of any approved or listed device shall constitute the critical level.

(12) "Cross Connection"—any physical connection or arrangement between two separate systems or sources, one of which contains potable water and the other either water, steam, gas or chemical of unknown or questionable safety, whereby there may be a flow from one system or source to the other, the direction of flow depending on the pressure differential between the two systems.

(13) "Developed Length"—that length of pipe measured along the center line of the pipe and fittings.

(14) "Diameter"—the nominal (inside) diameter designed commercialy.

(15) "Drian"—a pipe that carries waste, water, or water-borne waste in a drainage system.

(16) "Drain Connector"—the removeable extension, consisting of all pipes, fittings and appurtenances, from the drain outlet to the drain inlet.

(17) "Drain Outlet"—the lowest end of the main or secondary drain to which a sewer connection is made.

(18) "Drainage System"—all piping within or attached to the structure that conveys sewage or other liquid waste to the drain outlet, not including drain connector.

(19) "Fixture Drain"—the drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(20) "Fixture Supply"—the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(21) "Flood-Level"—the level in the receptacle over which water overflows to the outside of the receptacle.

(22) "Flooded"—the condition when liquid in a container or receptacle rises to the flood-level.

(23) "Flush Tank"—that portion of water closet designed to contain sufficient water to adequatly flush the fixture.

(24) "Flush Valve"—a device located at the bottom of a flush tank for flushing a water closet.

(25) "Flushometer Valve"—a device which discharges a predetermined quantity of water to a fixture for flushing purposes and is closed by direct water pressure.

(26) "Grade"—the fall (slope) of a pipe in reference to a horizontal plane expressed in inches per foot length.

(27) "Horizontal Branch"—any pipe extending laterally, which received the discharge from one or more fixture drains and connects to the maindrain.

(28) "Horizontal Pipe"—any pipe or fitting which makes an angle of not more than 45 degrees with the horizontal.

(29) "Individual Vent"—a pipe installed to vent a fixture drain.

(30) "Inlet Coupling"—the terminal end of the water system to which the water service connection is attached. It may be a swivel fitting or threaded pipe end.

(31) "Main"—the principal artery of the system to which the branches are connected.

(32) "Main Drain"—the lowest pipe of a drainage system which receives sewage from all the fixtures and conducts these wastes to the drain outlet.

(33) "Main Vent"—the principal artery of the venting system to which vent branches may be connected.

(34) "Offset"—a combination of pipe and/or fittings that brings one section of the pipe out of line but into a line parallel with the other section.

(35) "Pitch." See Grade.

(36) "Plumbing Fixtures"—receptatles, devices, or appliances which are supplied with water or which receive liquid or liquid-borne wastes for discharge into the drainage system.

(37) "Plumbing System"—the water supply and distribution pipes; plumbing fixtures, faucets and traps; soil, waste and vent pipes; and water-treating or water-using equipment.

(38) "Primary Vent"—See Main Vent.

(39) "Relief Vent"—an auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(40) "Secondary Vent"—any vent other than the main vent or those serving each toilet.

(41) "Sewage"—any liquid waste containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution.

(42) "Siphonage"—the loss of a water seal from a fixture trap resulting from partial vacuum in the drainage system which may be of either of the following two types, or a combination of the two: (i) Self-siphonage resulting from vacuum in a fixture drain generated solely by the discharge of the fixture served by that drain, or, (ii) Induced siphonage resulting from vacuum in the drainage system generated by the discharge of one or more fixtures other than the one under observation.

(43) "Trap"—a fitting or device designed and constructed to provide a liquid seal to prevent the back passage of air without affecting the flow of liquid waste through it.

(44) "Trap Arm"—the portion of a fixture drain between a trap and its vent.

(45) "Trap Seal"—the vertical depth of liquid that a trap will retain.

(46) "Vacuum Breaker." See Backflow Preventer.

(47) "Vent Cap"—the device or fitting which protects the vent pipe from foreign substance with an opening to the atmosphere equal to the area of the vent it serves.

(48) "Vent System"—that part of a piping installation providing circulation of air within a drainage system.

(49) "Vertical Pipe"—any pipe or fitting which makes an angle of not more than 45 degrees with the vertical.

(50) "Water Closet Drain"—that part of drainage piping which receives discharge from each individual water closet.

(51) "Water Connection"—the fitting or point of connection for the home's water distribution system designed for connection to a water supply.

(52) "Water Distribution System"—potable water piping within or permanently attached to the home.

(53) "Wet Vent"—a vent serving as a drain for one or more fixtures.

(54) "Wet Vented Drainage System"—a specially designed system of drain piping that vents one or more plumbing fixtures by means of a common waste and vent pipe.

§ 3280.603 Geneal requirements.

(a) *Minimum requirements.* Any plumbing system installed in a home shall conform with the provisions of this subpart.

(1) General. The plumbing system shall be of durable material, free of defective workmanship and designed and constructed to provide satisfactory performance in service.

(2) Connection to drainage and vent system. All plumbing, fixtures, drains, appurtenances, and appliances designed or installed to receive or discharge liquid waste or sewage shall be connected to the drainage and vent system in accordance with this Standard.

(3) Workmanship. All design, construction, installation and workmanship shall be in conformance with this Standard and accepted engineering practices.

(4) Components. All plumbing materials, devices, fixtures, fittings, equipment, appliances, and accessories intended for use in or attached to a home shall be listed or certified by a nationally recognized testing laboratory or certification agency.

(5) Prohibited fittings and practices.

(i) Drainage or vent piping shall not be drilled and tapped for the purpose of making connections.

(ii) Except as specifically provided elsewhere in this Standard, vent pipes shall not be used as waste or drain pipes.

(iii) Fittings, connections, devices, or methods of installation that obstruct or retard the flow of sewage, or air in the drainage or venting systems in an amount greater than the normal frictional resistance to flow shall not be used unless their use is acceptable in this Standard or their use in accepted as having a desirable and acceptable function of ultimate benefit to the proper and continued functioning of the plumbing system.

(iv) Cracks, holes, or other imperfections in materials shall not be concealed by welding, brazing, or soldering or by paint, wax, tar, or other leak-sealing or repairing agents.

(v) Piping, fixtures or equipment shall be located so normal use or operation of windows, doors or other required facilities are not interrupted.

(vi) Galvanized pipe shall not be bent or welded.

(6) Alignment of fittings. All valves, pipes, and fittings shall be installed in correct relationship to the direction of flow.

(b) *Protective requirements.* (1) Cutting Structural Members. Structural members may be cut, bored or notched only when substantiated as complying with applicable structural requirements specified in § 3280.305.

(2) Exposed Piping. All piping, and associated plumbing components, including hangers and supports, exposed to the effects of weather, water, mud and road hazard, shall be painted, coated, wrapped or equivalently protected from such exposure and hazards.

(3) Road In-transit damage. Pipes and associated plumbing components including hangers and supports shall not extend or protrude in a manner that would subject them to damage during transit.

(4) Protection from Freezing. All piping and fixtures shall be installed in a manner that shall provide protection from freezing under normal occupancy. The manufacturer shall:

(i) Provide a receptacle outlet for the use of a heat tape on the underside of the home located within 2 feet of the water supply inlet and any other exposed water supply piping. A heat tape listed in accordance with UL 499–1973, Heating Cable Units For Mobile Home Water Pipes, shall be provided by the manufacturer for the outlet for homes designed for location in Zones II and III.

(ii) Only apply a heat tape to sections of piping which are of a metallic type when installing a heat tape at the factory.

(iii) Provide instructions for installation of the heat tape which include the following warning statements for installers:

(A) Do not cover the heat tape with flammable materials;

(B) Only connect the heat tape to sections of piping which are of a metallic type;

(C) Do not wrap a heat tape around itself;

(D) Only install a heat tape which is listed to UL 499–1973, Heating Cable Units for Mobile Home Water Pipes; and

(E) Follow all installation instructions provided with the heat tape.

(iv) Insulate any water piping within the thermal envelope which is located in unheated cavities, spaces, or ventilated water heater compartments in homes designed for location in Zones II or III.

(5) All drainage piping, except fixture traps, shall be designed to allow drainage.

(6) Rodent resistence. All exterior openings around piping and equipment shall be protected to prevent the entrance of rodents.

(7) Piping and electrical wiring shall not pass through the same holes in walls, floors or roofs. Plastic piping shall not be exposed to heat or thermal radiation in excess of manufacturers recommendation.

§ 3280.604 Materials.

(a) *Minimum Standards.* Materials, fixtures, or devices used or entering into the construction of plumbing system in any home shall be free from defects and shall conform to applicable standards in the following table. Where more than one standard is referenced for a particular material or component, compliance with only one of those standards is acceptable. Exceptions: (1) When one of the reference standards requires evaluation of chemical, toxicity or odor properties which are not included in the other standard, then conformance to the applicable requirements of each standard shall be demonstrated; (2) when a plastic material or component is not covered by the Standards in the following table, it shall be certified as non-toxic in accordance with NSF 14–1980, "Plastic Piping System Components and related Materials".

Materials	ANSI	ASTM	FS	Other
Ferrous pipe and fittings:				
Cast-iron screwed fittings	B16.4–1977			
Malleable iron screwed fittings	B16.3–1977			
Special cast iron fittings				IAPMO PS-5-77
Welded and seamless wrought steel pipe	B36.10–1979			
Black and hot dipped zinc (galvanized) welded and seamless steel pipe		A 120–82		
Welded and seamless steel pipe		A 53–81(a)		
Pipe threads (except dry seal)	B2.1–1968			
Cast iron soil pipe and fittings		A 74–81	WWP–401E–1974	
Hubless stainless steel couplings				CISPI-310-82
Hubless cast iron sanitary system with no hub system fittings				CISPI-301-82
Non ferrous pipe and fittings:				
Seamless copper, pipe standard sizes		B 42–82		
Wrought seamless copper and copper alloy tube		B 251–81		

Materials	ANSI	ASTM	FS	Other
Seamless copper water tube		B 88-81		
Copper drainage tube (DWV)		B 306-81		
Wrought copper and bronze solder joint pressure fittings	B16.22-1980			
Wrought copper and wrought copper alloy, solder joint drainage fittings	B16.29-1980			
Cast brass solder joint pressure fittings	B16.18-1978			
Cast bronze solder joint drainage fittings—DWV	B16.23-1976			
Cast bronze fittings for flared copper tubes	B16.26-1975			
Seamless red brass pipe standard sizes	B43-1990	B 43-80		
Cast bronze threaded fittings 150 and 300 pound	B16.15-1978			
Plastic pipe and fittings:				
ABS plastic drain waste and vent pipe and fittings		D 2661-82	LP322B-1973	NSF 14-1980
PVC plastic drain waste and vent pipe and fittings		D 2665-81	LP320B-1973	NSF 14-1980
Drain waste and vent (DWV) plastic pipe fitting patterns		D 3311-79a		
ABS plastic drain waste and vent pipe having a foam core		F 628-81		NSF 14-1980
Chlorinated polyvinyl chloride (CPVC) plastic hot water distribution systems		D 2846-81		NSF 14-1980
Polybutylene (PB) plastic hot water distribution systems		D 3309-82		NSF 14-1980
Miscellaneous:				
Pipe nipples threaded			WWN 351-1976	MIL STD 51953, 51846
Rubber gaskets for cast iron soil pipe fittings		C 564-70(82)		
Back flow prevention devices	A112.14.1-1975			IAPMO PS31-77
Valve bronze gate 125-150 and 200 pounds			WWV 54D-1976	
Plumbing fixture setting compound			TTP 1536A	
Cast brass and tubing P traps				IAPMO PS2-77
Relief valves and automatic gas shutoff devices for hot water supply systems	Z21.22-1979			
Solvent cement for ABS plastic pipe and fittings		D 2235-81		NSF 14-1980
Solvent cement for PVC plastic pipe and fittings		D 2564-80		NSF 14-1980
Neoprene rubber gaskets for cast iron soil pipe fittings				CISPI HSN-78
Anti syphon trap vent device				NSF 24-1979
Diversion tees and twin waste elbow				IAPMO PS9-77
Flexible copper water connectors				IAPMO PS14-81
Dishwasher Air Gap				IAPMO PS23-81
Plumbing fixtures:				
Plumbing fixtures for land use			WW-P 541E-1980	
Vitreous china plumbing fixtures	A112.19.2M-1982			
Enameled cast iron plumbing fixtures	A112.19.1-1979			
Porcelain enameled formed steel plumbing fixtures				IAPMO TSC22-73
Plastic bath tub units	Z124.1-1980			
Gel coated glass fiber reinforced polyester resin shower receptor and shower stall units	Z124.2-1980			
Stainless steel plumbing fixtures—residential use	A112.19.3-1976		CS 243-1962	NSF 24-1980
Drains for prefabricated and precast showers				IAPMO PS4-77, NSF 24-1980
Cultured marble lavatory	Z124.3-1980			CMI-LS2-1976
Performance specifications and methods of test for safety glazing material used in building	Z97.1-1975			NSF 24-1979
Water Closets	A112.19.2M-1982			
Finished and rough brass plumbing fixtures and fittings	A112.18.1M-1979			
Bowls, tanks and urinals trim for water closets	A112.19.5-1979			

§ 3280.605 Joints and connections.

(a) *Tightness.* Joints and connections in the plumbing systems shall be gastight and watertight for the pressures required under testing procedures.

(1) Assembling of pipe. All joints and connections shall be correctly assembled for tightness. Pipe threads shall be fully engaged with the threads of the fitting. Plastic pipe and copper tubing shall be inserted to the full depth of the solder cup or welding sockets of each fitting. Pipe joints shall be made using listed solvent cement, or listed pipe dope, or listed thread lubricant and shall not be wrapped with string, paper, putty, or similar fillers.

(2) Threaded joints. Threads for screw pipe and fittings shall conform to the approved or listed standard. Pipe ends shall be reamed out to size of bore. All burrs, chips, cutting oil and foreign matter shall be removed. Thread lubricant shall be applied to male threads only.

(3) Solder joints. Solder joints for tubing shall be made with approved or listed solder type fittings. Surfaces to be soldered shall be cleaned bright. The joints shall be properly fluxed with noncorrosive paste type flux and made with listed 50–50 solder or a solder having a higher melting temperature.

(4) Plastic pipe, fittings and joints. Plastic pipe and fittings shall be joined by installation methods recommended by the manufacturer or in accordance with the requirements of standard referenced in § 3280.604.

(5) Union joints. Metal unions in water piping shall have metal-to-metal ground seats.

(6) Flared joints. Flared joints for soft-copper water tubing shall be made with listed fittings. The tubing shall be expanded with a proper flaring tool.

(7) Cast iron soil pipe joints. Listed cast iron pipe may be joined as follows:

(i) Approved or listed hubless pipe as per the manufacturer's recommendation.

(ii) Hub and plain-end soil pipe may be joined by compression fittings per the manufacturer's recommendation.

§ 3280.606 Traps and cleanouts.

(a) *Traps*—(1) *Traps required.* Each plumbing fixture, except listed water closets, shall be separately trapped by approved water seal "P" traps. All traps shall be effectively vented.

(2) *Dual fixture.* A two-compartment sink, two single sinks, two lavatories, or a single sink and a single lavatory with waste outlets not more than 30 inches apart in the same room with flood level rims at the same level may be connected to one "P" trap and may be considered as a single fixture for the purpose of drainage and vent requirements.

(3) *Prohibited traps.* A trap which depends for its seal upon concealed interior partitions shall not be used. Full "S" traps, bell traps, drum traps, crown-vented traps, and running traps are prohibited. Fixtures shall not be double-trapped.

(4) *Material and design.* Each trap shall be self-cleaning with a smooth and uniform interior waterway.

Union joints for a trap shall be beaded to provide a shoulder for the union nut. Each trap shall have the manufacturer's name stamped or cast in the body of the trap, and each tubing trap shall show the gage of the tubing.

(5) *Trap seal.* Each "P" trap shall have a water seal of less than 2 inches and not more than 4 inches and shall be set true to its seal.

(6) *Size.* Traps shall be not less than 1¼ inches in diameter. A trap shall not be larger than the waste pipe to which it is connected.

(7) *Location.* Each trap shall be located as close to its vent and to its fixture outlet as structural conditions will permit.

(8) *Length of tailpiece.* The vertical distance from a trap to the fixture outlet shall not exceed 24 inches.

(9) *Installation*—(i) *Grade of trap arm.* The piping between a "P" trap and the fixture tee or the vented waste line shall be graded ¼ inch per foot towards the vent and in no event shall have a slope greater than its diameter. The vent opening at fixture tees shall not be below the weir of the "P" trap outlet.

(ii) *Trap arm offset.* The piping between the "P" trap and vent may change direction or be offset horizontally with the equivalent of no more than 180 degrees total change in direction with a maximum of 90 degrees by any one fitting.

(iii) *Concealed traps.* Traps with mechanical joints shall be accessible for repair and inspection.

(iv) *Removability of traps, etc.* Traps shall be designed and installed so the "U" bend is removable without removing the strainers from the fixture. Continuous waste and tail pieces which are permanently attached to the "U" bend shall also be removable without removing the strainer from the fixture.

(b) *Cleanout Provisions.* (1) Drain lines shall be designed and installed with provisions to permit cleaning of the drain waste and vent system. Access to the system shall be provided so that a cleaning tool shall not be required to pass through more than 360 degrees of fittings.

(2) Acceptable means of access are: (i) The open air end of a vent stack; (ii) Trap arms when the trap is removed; (iii) Fixture drains, including water closets, when all bends within the fixtures are counted toward the 360° limit; (iv) Directional fittings provided with a screw pipe threaded plug or cap.

(3) Drain piping having less than ¼ inch per foot fall shall be accessible by cleaning tool through 135 degrees or less in fittings. Transition fittings connecting vertical risers to drain piping having less than ¼ inch per foot fall shall be long sweep ells or fittings or combinations of fittings, having equivalent sweep.

(4) Access to cleanouts. Cleanouts shall be accessible through an unobstructed minimum clearance of 12 inches directly in front of the opening. Each cleanout fitting shall open in a direction opposite to the flow or at right angles to the pipe. Concealed cleanouts that are not provided with access covers shall be extended to a point above the floor or outside of the home, with pipe and fittings installed, as required, for drainage piping without sags and pockets.

(5) Material. Plugs and caps shall be brass or plastic, with screw pipe threads.

(6) Design. Cleanout plugs shall have raised heads except that plugs at floor level shall have counter-sunk slots.

§ 3280.607 Plumbing fixtures.

(a) *General requirements*—(1) *Quality of fixtures.* Plumbing fixtures shall have smooth impervious surfaces, free from defects and concealed fouling surfaces, be capable of resisting road shock and vibration, and shall conform to the standards specified in § 3280.604. Fixtures shall be marked or labeled with the manufacturer's name or trademark.

(2) *Strainers.* The waste outlet of all plumbing fixtures, other than toilets, shall be equipped with a drain fitting that will provide an adequate unobstructed waterway.

(3) *Fixture connections.* Fixture tailpieces and continuous wastes in exposed or accessible locations shall be not less than No. 20 Brown and Sharpe gage seamless drawn-brass tubing or other approved pipe or tubing materials. Inaccessible fixture connections shall be constructed according to the requirements for drainage piping. Each fixture tailpiece, continuous waste, or waste and overflow shall be not less than 1½ inches for sinks of two or more compartments, dishwashers, clothes washing machines, laundry tubs, bath tubs, and not less than 1¼ inches for lavatories and single compartment sinks having a 2 inch maximum drain opening.

(4) *Concealed connections.* Concealed slip joint connections shall be provided with adequately sized unobstructed access panels and shall be accessible for inspection and repair.

(5) *Directional fitting.* A "Y" or other directional-type branch fitting shall be installed in every tailpiece or continuous waste that receives the discharge from food waste disposal units, dishwashing, or other force-discharge fixture or appliance.

(b) *Fixture*—(1) *Spacing.* All plumbing fixtures shall be installed to be accessible for their intended use.

(2) *Water Closets*—(i) *Floor connection.* Water closets shall be securely bolted to an approved flange or other approved fitting which is secured to the floor by means of corrosion-resistant screws. The bolts shall be of solid brass or other corrosion-resistant materials and shall be not less than ¼ inch in diameter. A watertight seal shall be made between the toilet and flange or other approved fitting by use of a gasket or sealing compound.

(3) *Shower and tub shower compartment.* (i) Each shower compartment stall shall be provided with a watertight receptor with sides and back extending at least one inch above the finished dam or threshold. In no case shall the depth of a shower be less than 2 inches or more than 9 inches measured from the top of the finished dam or threshold to the top of the drain.

(ii) The wall area of shower and or tub shower enclosures shall be constructed of smooth, noncorrosive and nonabsorbent waterproof materials to a height not less than 6 feet above the bathroom floor. Walls shall form a watertight joint with each other and with the bathtub, receptor or shower floor. The floor of the compartment shall slope uniformly to the drain at not less than one-fourth, nor more than one-half inch per foot.

(iii) The joint around the drain connection shall be made watertight by a flange, clamping ring, or other listed means.

(iv) Shower door and tub and shower enclosures shall be constructed to be waterproof and if glazed, glazing shall comply with the Standard for Safety Performance Specifications and Methods of Test for Safety Glazing Material used in Buildings (ANSI Z97.1–1975.)

(v) Prefabricated plumbing fixtures shall be listed.

(4) *Dishwashing machines.* (i) A dishwashing machine shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine, or through a high loop as specified by the dishwashing machine manufacturer, or into an open standpipe receptor with a height greater than the washing compartment of the machine. When a standpipe is used, it shall be at least 18 inches but not more than 30 inches above the trap weir. The drain connections from the air gap or high loop may connect to an individual trap, to a directional fitting installed in the sink tailpiece or to an opening provided on the inlet side of a food waste disposal unit.

(ii) Drain from a dishwashing machine shall not be connected to a sink tailpiece, continuous waste line, or trap on the discharge side of a food waste disposal unit.

(5) *Clothes washing machines.* (i) Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub.

(ii) Standpipes shall be 1½ inches minimum nominal iron pipe size, 1½ inches diameter nominal brass tubing not less than No. 20 Brown and Sharpe gage, or 1½ inches plastic materials. Receptors shall discharge into a vented trap or shall be connected to a laundry tub tailpiece by means of a directional fitting. Each standpipe shall extend not less than 18 inches or more than 30 inches above its trap and shall terminate in an accessible location no lower than the top of clothes washing machine. A removable, tightfitting cap or plug shall be installed on the standpipe when clothes washer is not provided.

(iii) Clothes washing machine drain shall not be connected to the tailpiece, continuous waste, or trap of any sink or dishwashing machine.

(c) *Installation*—(1) *Access.* Each plumbing fixture and standpipe receptor shall be located and installed in a manner to be accessible for usage, cleaning, repair and replacement. Access to diverter valves and other connections from the fixture hardware is not required.

(2) *Alignment.* Fixtures shall be set level and in true alignment with adjacent walls. Where practical, piping from fixtures shall extend to nearest wall.

(3) *Brackets.* Wall-hung fixtures shall be rigidly attached to walls by metal brackets or supports without any strain being transmitted to the piping connections. Flush tanks shall be securely fastened to toilets or to the wall with corrosive-resistant materials.

(4) *Tub supports.* Bathtub rims at wall shall be supported on metal hangers or on end-grain wood blocking attached to the wall unless otherwise recommended by the manufacturer of the tub.

§3280.608 Hangers and supports.

(a) Strains and stresses. Piping in a plumbing system shall be installed without undue strains and stresses, and provision shall be made for expansion, contraction, and structural settlement.

(b) Piping shall be supported, as specified by manufacturer's instructions, to carry the weight of the pipe and its contents, and secured to keep the pipe in alignment and to provide protection against motion, vibration, road shock or torque in the chassis. In the absence of such instructions, the following securement criteria shall be met:

(1) Drain and Vent Lines: Horizontal—not to exceed 4-foot intervals; Vertical—at the base and ceiling, or uppermost extension.

(2) Water-Supply Lines: Horizontal—every 3 feet; except that flexible polybutlene need only be secured at every fitting when supported by the structure. Vertical—every 3 feet except single fixture risers which are required to be secured only at the base and the uppermost extension or fixture fitting.

(3) Hangers and straps supporting plastic pipe shall not compress, distort, cut or abrade the piping and shall allow free movement of the pipe.

§ 3280.609 Water distribution system.

(a) *Water supply*—(1) *Supply piping.* Piping systems shall be sized to provide an adequate quantity of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of blackflow or syphonage. (See Table in § 3280.609 (f)(1). The manufacturer shall include in his written installation instructions that the home was been designed for an inlet water pressure of 80 psi. The instruction shall indicate that if the home is to be connected to a water supply where the pressure exceeds 80 psi, a pressure reducing valve set at 80 psi or less should be installed.

(2) *Hot water supply.* Each home shall be provided with a hot water supply system including a listed water heater.

(b) *Water outlets and supply connections*—(1) *Water Connections.* Each home shall be equipped with a ¾ inch minimum sized threaded inlet connection. This connection shall be tagged or marked "Fresh Water Connection". A matching cap or plug of durable non-toxic material shall be provided to seal the water inlet when not in use, and shall be permanently attached to the home or water supply piping. A master cold water full flow valve shall be installed on the main feeder line of the home in an accessible location. When a home includes expandable rooms or is composed of two or more units, fittings or connectors designed for such purpose shall be provided to connect any water piping. When not connected, the water piping shall be protected y means of matching caps or plugs.

(2) *Prohibited connections.* (i) The installation of potable water supply piping or fixture or appliance connections shall be made in a manner to prevent the possibility of backflow.

(ii) No part of the water system shall be connected to any drainage or vent piping.

(3) *Rim outlets.* The outlets of faucets, spouts, and similar devices shall be spaced at least 1 inch above the flood level of the fixture.

(4) *Appliance connections.* Water supplies shall be connected only to clothes washing or dishwashing machines that are protected by a fixed air gap provided within the appliance by the appliance manufacturer.

(5) *Flushometer values or manually operated flush valves.* A listed vacuum breaker shall be installed and maintained in the water supply line on the discharge side of a water closet flushmeter valve or manually operated flush valve. Vacuum breakers shall have a minimum clearance of 6 inches above the flood level of the fixture to the critical level mark unless otherwise permitted in their listing.

(6) *Flush tanks.* Water closet flush tanks shall be equipped with a listed anti-siphon ball cook which shall be installed and maintained with its outlet or critical level mark not less than 1 inch above the full opening of the overflow pipe.

(c) *Water heater safety devices.*—(1) *Relief valves.* (i) All water heaters shall be installed with a fully automatic valve or valves designed to provide temperature and pressure relief.

(ii) Any temperature relief valve or combined pressure and temperature relief valve installed for this purpose shall have the temperature sensing element immersed in the water within the upper 6 inches of the tank. It shall be set to start relieving at a pressure of 150 psi or the rated working pressure of the tank whichever is lower and at or below a water temperature of 210°F.

(iii) Relief valves shall be provided with nominally sized drains equivalent to that of the relief valve outlet, and shall be directed downward and discharge beneath and outside the home. Drain lines ahsll:

(A) Be of a material listed for hot water distribution;

(B) Drain by gravity;

(C) Not be trapped;

(D) Not utilize threaded outlets; and

(E) Be visible at the end of the drain for inspection.

(d) *Materials*—(1) *Piping material.* Water-supply pipe shall be of standard weight brass, galvanized steel, Type K, L or M copper tubing, plastic or other material.

(i) *Plastic piping.* All plastic water piping and fittings shall be listed for use with hot water.

(2) *Fittings.* Appropriate fittings shall be used for all changes in size and at pipe connections. The material and design of fittings shall conform to the type of piping used. Dissimilar metals subject to galvanic action shall not be joined unless a dielectric fitting is used.

(i) Fittings for screw-piping shall be standard weight galvanized iron for galvanized iron and steel pipe, and of brass for brass piping. These shall be installed, where required, for change in direction, reduction of size, or where pipes are joined together.

(ii) Fittings for copper tubing shall be cast brass or drawn copper (sweat-soldered) or shall be listed for the purpose intended.

(3) *Prohibited material.* Used piping materials shall not be permitted. Pipe dopes, solder fluxes, oils, solvents, chemicals, or other substances that are toxic, corrosive, or otherwise detrimental to the water system shall not be used.

(e) *Installation of piping*—(1) *Minimum requirement.* All piping equipment, appurtenances, and devices shall be installed in workmanlike manner and shall conform with the provisions and intent of this Standard.

(2) *Screw pipe.* Iron pipe size brass or galvanized iron or steel pipe fittings and pipe threads shall conform to the applicable standards in § 3280.604 and be joined so as to fully engage the pipe into the fitting. Pipe ends shall be reamed to the full bore of the pipe. Listed pipe joint compound shall be insoluble in water, non-toxic, and applied to the male threads only.

(3) *Solder fittings.* Joints in copper water tube shall be made by the appropriate use of approved cast brass or wrought copper fittings, properly soldered together. The surface to be soldered shall be cleaned bright. The joints shall be properly fluxed and made with approved solder.

(4) *Flared fittings.* A flaring tool shall be used to shape the ends of flared tubing to match the flare of fittings.

(5) *Plastic pipe and fittings.* Plastic pipe and fittings shall be joined by installation methods recommended by the pipe manufacturer or in accordance with the provisions of the applicable standard in § 3280.604. Insert type fittings, which require an insert into flexible plastic tubing, may be utilized for the nominal pipe size for which they are listed.

(f) *Size of water supply piping*—(1) *Minimum size.* The size of water supply piping and branch lines shall be sized no less than the sizes shown in the following table:

MINIMUM SIZE TUBING AND PIPE FOR WATER DISTRIBUTION SYSTEMS

Number of fixtures	Tubing (nominal)		Pipe—iron pipe size (inches)
	Diameter (inches)	Outer diameter (inches)	
1	[1] 1/4	3/8	1/2
2	3/8	1/2	1/2
3	1/2	5/8	1/2
4	1/2	5/8	1/2
5 or more	3/4	7/8	3/4

[1] 6 ft maximum length.

Nominal sizes shall be determined by using the appropriate standard in § 3280.604.

Exceptions to table: ⅜inch nominal diameter or ½ inch OD minimum size for clothes washing or dishwashing machines, unless larger size is recommended by the fixture manufacturer. ½ inch nominal diameter or ⅜ inch OD minimum size for flushometer or metering type valves unless otherwise specified in their listing. No galvanized screw piping shall be less than ½ inch iron pipe size.

(2) *Sizing procedure.* Both hot and cold water piping systems shall be computed by the following methods:

(i) Size of branch. Start at the most remote outlet on any branch of the hot or cold water piping and progressively count towards the water service connection, computing the total number of fixtures supplied along each section of piping. Where branches are joined together, the number of fixtures on each branch shall be totalled so that no fixture is counted twice. Following down the left-hand column of the preceding table a corresponding number of fixtures will be found. The required pipe or tubing size is indicated in the other columns on the same line.

(ii) A water heater, food waste disposal unit, evaporate cooler or ice maker shall not be counted as a water-using fixture when computing pipe sizes.

(g) Line valves. Valves, when installed in the water supply distribution system (except those immediately controlling one fixture supply) and when fully opened, shall have a cross-sectional area of the smallest orifice or opening, through which the water flows, at least equal to the cross-sectional area of the nominal size of the pipe in which the valve is installed.

§ 3280.610 Drainage systems.

(a) *General.* (1) Each fixture directly connected to the drainage system shall be installed with a water seal trap (§ 3280.606(a)).

(2) The drainage system shall be designed to provide an adequate circulation of air in all piping with no danger of siphonage, aspiration, or forcing of trap seals under conditions of ordinary use.

(b) *Materials*—(1) *Pipe.* Drainage piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic, cast iron, or other materials.

(2) *Fittings.* Drainage fittings shall be recessed drainage pattern with smooth interior waterways of the same diameter as the piping and shall be of a material conforming to the type of piping used. Drainage fittings shall be designed to provide for a ¼ inch per foot grade in horizontal piping.

(i) Fittings for screw pipe shall be cast iron, malleable iron, brass, or listed plastic with standard pipe threads.

(ii) Fittings for copper tubing shall be cast brass or wrought copper.

(iii) Socket type fittings for plastic piping shall comply with the appropriate standard in section 3280.604.

(iv) Brass or bronze adaptor or wrought copper fittings shall be used to join copper tubing to threaded pipe.

(c) *Drain outlets.* (1) Each home shall have only one drain outlet except that a separate "gray water" system may be provided with its own drain outlet. All drain lines shall be designed and installed to bring the drain system to the drain outlet.

(2) Clearance from drain outlet. The drain outlet shall be provided with a minimum clearance of 3 inches in any direction from all parts of the structure or appurtenances and with not less than 18 inches unrestricted clearance directly in front of the drain outlet.

(3) Drain connector. The drain connector shall be at least the same size as the piping to which it is connected and be equipped with a water-tight cap or plug matching the drain outlet. The cap or plug shall be permanently attached to the home or drain outlet.

(4) The drain outlet and drain connector shall be at least 3 inches inside diameter.

(5) Preassembly of drain lines. Section(s) of the drain system, designed to be located underneath the home, are not required to be factory-installed when the manufacturer designs the system for site assembly and also provides all materials and components including piping, fittings, cement, supports, and instructions necessary for proper site installation.

(d) *Fixture connections.* Drainage piping shall be provided with listed inlet fittings for fixture connections, correctly located according to the size and type of fixture to be connected.

(1) Water closet connection. The drain connection for each water closet shall be 3 inches minimum inside diameter and shall be fitted with an iron, brass, or listed plastic floor flange adapter ring securely screwed, soldered or otherwise permanently attached to the drain piping, in an approved manner and securely fastened to the floor.

(e) *Size of drainage piping.* (1) Fixture load. Except as provided by section 3280.611(d), drain pipe sizes shall be determined by the type of fixture and the total number connected to each drain.

(i) A 1½ inch minimum diameter piping shall be required for one and not

more than three individually vented fixtures.

(ii) A 2-inch minimum diameter piping shall be required for four or more fixtures individually vented.

(iii) A 3-inch minimum diameter piping shall be required for toilets.

(f) *Wet-vented drainage system.* Plumbing fixtures traps may connect into a wet-vented drainage system which shall be designed and installed to accommodate the passage of air and waste in the same pipe.

(1) *Horizontal piping.* All parts of a wet-vented drainage system, including the connected fixture drains, shall be horizontal except for wet-vented vertical risers which shall terminate with a 1½ inch minimum diameter continuous vent. Where required by structual design, wet-vented drain piping may be offset vertically when other vented fixture drains or relief vents are connected to the drain piping at or below the vertical offsets.

(2) *Size.* A wet-vented drain pipe shall be 2 inches minimum diameter and at least one pipe size larger than the largest connected trap or fixture drain. Not more than three fixtures may connect to a 2-inch diameter wet-vented drain system.

(3) *Length of trap arm.* Fixture traps shall be located within the distance given in § 3280.611(c)(5). Not more than one trap shall connect to a trap arm.

(g) *Offsets and branch fittings*—(1) *Changes in direction.* Changes in direction of drainage piping shall be made by the appropriate use of fittings and shall be of the following angles; 11¼, 22½, 45, 60, or 90 degrees, or other listed fittings or combination of fittings with equivalent radius of sweep. Equivalent sweep shall be determined by utilizing the size/fitting schedule appropriate for the pipe material being utilized in the standards specified in section 3280.604.

(2) *Horizontal to vertical.* Horizontal drainage lines, connecting with a vertical pipe shall enter through 45-degree "Y" branches, 60-degree "Y" branches, long-turn "TY" branches, sanitary "T" branches, or other approved or listed fittings or combination of fittings having equivalent sweep. Fittings having more than one branch at the same level shall not be used, unless the fitting is constructed so that the discharge from any one branch cannot readily enter any other branch. A double sanitary "T" may be used when the drainline is increased not less than two pipe sizes.

(3) *Horizontal to horizontal and vertical to horizontal.* Horizontal drainage lines connecting with other horizontal drainage lines or vertical drainage lines connected with horizontal drainage lines shall enter through 45° "Y" branches, long turn "TY" branches, or other fittings or combination of fittings having equivalent sweep. For single fixture drains, a standard quarter bend (90° ell) may be used to connect a vertical drain with a horizontal drain (e.g. standard closet bend for water closets).

(h) *Grade of horizontal drainage piping.* Except for fixture connections on the inlet side of the trap, horizontal drainage piping shall be run in practical alignment and have a uniform grade of not less than ¼ inch per foot toward the home's drain outlet. The pipe or piping may have a grade of not less than ⅛ inch per foot, when the clean out provisions in accordance with § 3280.606(b)(3) are provided.

§3280.611 Vents and venting.

(a) *General.* Each plumbing fixture trap shall be protected against siphonage and back pressure. Air circulation shall be ensured throughout all parts of the drainage system by means and vents installed in accordance with the requirements of this section and as required by this standard.

(b) *Materials*—(1) *Pipe.* Vent piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic cast iron or other materials.

(2) *Fittings.* Appropriate fittings shall be used for all changes in direction or size and where pipes are joined. The material and design of vent fittings shall conform to the type of piping used.

(i) Fittings for screw pipe shall be cast iron, malleable iron, plastic, or brass, with standard pipe threads.

(ii) Fittings for copper tubing shall be cast brass or wrought copper.

(iii) Fittings for plastic piping shall be made to the applicable standards in § 3280.604.

(iv) Brass adaptor fittings or wrought copper shall be used to join copper tubing to threaded pipe.

(v) Listed rectangualr tubing may be used for vent piping only providing it has an open cross section not less than required for a circular vent pipe. Listed transition fittings shall be used.

(c) *Size of vent piping.* (1) *Main vent.* The drain piping for each water closet shall be vented by a 1½ inch minimum diameter vent or rectangular vent of cross section equivalent to or greater than the cross section of a 1½ inch diameter vent, connected to the water closet drain by one of the following methods:

(i) A 1½ inch diameter (min.) individual vent pipe or equivalent directly connected to the water closet drain within the distance allowed in section 3280.611(c)(5), for 3-inch trap arms undiminished in size through the roof.

(ii) A 1½ inch diameter (min.) continuous vent or equivalent, indirectly connected to the water closet drain piping within the distance allowed in § 3280.611(c)(5) for 3 inch trap arms through a 2-inch wet vented drain that carries the waste of not more than one fixture, or,

(iii) Two or more vented drains when at least one is wet-vented, or 2-inch diameter (minimum), and each drain is separately connected to the water closet drain. At least one of the drains shall connect within the distance allowed in § 3280.611(c)(5) for 3-inch trap arms.

(2) Vent Pipe Area. Each individually vented fixture with a 1½ inch or smaller trap shall be provided with a vent pipe equivalent in area to a 1¼ inch nominal pipe size. The main vent, toilet vent and relief vent, and the continuous vent of wet-vented system shall have an area equivalent to 1½ inch nominal pipe size.

(3) Common Vent. When two fixture traps located within the distance allowed from their vent have their trap arms connected separately at the same level into a listed double fitting, and individual vent pipe may serve as a common vent without any increase in size.

(4) Intersecting Vents. Where two or more vent pipes are joined together, no increase in size shall be required; however, the largest vent pipe shall extend full size through the roof.

(5) Distance of fixture trap from vent shall not exceed the values given in the following table:

MAXIMUM DISTANCE OF FIXTURES FROM VENT TRAP

Size of fixture drain (inches)	Distance trap to vent
1¼	4 ft 6 in.
1½	4 ft 6 in.
2	5 ft.
3	6 ft.

(d) *Anti-siphon trap vent.* An anti-siphon trap vent may be used as a secondary vent system for plumbing fixtures protected by traps no larger than 1½ inches when installed in accordance with the manufacturer's recommendations and the following conditions:

(1) Fixtures shall be individually protected by the device and no more than 2 fixtures so protected shall be drained by a common 1½ inch diameter drain.

(2) Minimum drain size for three or more fixtures individually protected by the device shall be 2 inches.

(3) All water closets are vented in accordance with § 3280.611(c).

(4) The device shall be installed in a location that permits a free flow of air and shall be accessible for inspection, maintenance, and replacement. The sealing function shall be at least 6 inches above the top of the trap arm.

(5) Materials for the anti-siphon trap vent shall be as follows: cap and housing shall be listed acrylonitrile-butadiene-styrene, DWV grade; stem shall be DWV grade nylon or acetal; spring shall be stainless steel wire, type 302; sealing disc shall be neoprene, conforming to ASTM C 564–70(82), "Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings," or silicone rubber, low and high temperature and tear resistant, conforming to F.S. ZZ–R–765B–1970 "Rubber-Silcone" and MIL–L–10547E–1975 "Liners, Case, and Sheet, Overwrap; Water-Vaporproof or Waterproof, Flexible."

(e) *Grade and connections-Horizontal vents.* Each vent shall extend vertically from its fixture "T" or point of connection with the waste piping to a point not less than 6 inches above the extreme flood level of the fixture it is venting before offsetting horizontally or being connected with any other vent pipe. Vents for horizontal drains shall connect above the centerline of the drain piping ahead (downstream) of the trap. Where required by structural conditions, vent piping may offset below the rim of the fixture at the maximum angle or height possible.

(f) *Vent terminal*—(1) *Roof extension.* Each vent pipe shall extend through its flashing and terminate vertically, undiminished in size, not less than 2 inches above the roof. Vent opening shall not be less than 3 feet away from any motor-driven air intake that opens into habitable areas.

(2) *Flashing.* The opening around each vent pipe shall be made watertight by an adequate flashing or flashing material.

(g) *Vent caps.* Vents caps, if provided, shall be of the removalbe type (without removing the flashing from the roof). When vent caps are used for roof space ventilation and the caps are identical to vent caps used for the plumbing system, plumbing system caps shall be identified with permanent markings.

§ 3280.612 Test and inspection

(a) *Water distribution system.* All water piping in the water distribution system shall be subjected to a pressure test. The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure. When air pressure is used, the water heater shall not be connected during the test.

(b) *Drainage and vent system and plumbing fixtures.* The waste and vent system shall be tested by one of three alternate methods for evidence or indication of leakage:

(1) *Water test.* Before plumbing fixtures are connected, all of the openings into the piping shall be plugged and the entire piping system subjected to a static water test for 15 minutes by filling it with water to the top of the highest vent opening. There shall be no evidence of leakage.

(2) *Air Test.* After all fixtures have been installed, the traps filled with water, and the remaining openings securely plugged, the entire system shall be subjected to a 2 inch (manometer) water column air pressure test. If the system loses pressure, leaks may be located with smoke pumped into the system, or with soap suds spread on the exterior of the piping (Bubble test).

(3) *Flood level test.* The manufactured home shall be in a level position, all fixtures shall be connected, and the entire system shall be filled with water to the rim of the water closet bowl. (Tub and shower drains shall be plugged.) After all trapped air has been released, the test shall be sustained for not less than 15 minutes without evidence of leaks. Then the system shall be unplugged and emptied. The waste piping above the level of the water closet bowl shall then be tested and show no indication of leakage when the high fixtures are filled with water and emptied simultaneously to obtain the maximum possible flow in the drain piping.

(c) *Fixture test.* All plumbing fixtures (except the water heater) and their connections shall be subjected to a flow test by filling them with water and checking for leaks and retarded flow while they are being emptied. The home's water distribution system does not have to be used to fill the fixtures with water for this test if the air pressure test, required in paragraph (a) of this section is conducted with all of the fixtures, other than the water heater, connected. If all of the fixtures, other than the water heater, were not connected during the air pressure test, then the home's water distribution system shall be used to fill the fixtures for this test.

(d) *Shower compartment.* Shower compartments and receptors shall be tested for leaks prior to being covered by finish material. Each pan shall be filled with water to the top of the dam for not less than 15 minutes without evidence of leakage.

Subpart H—Heating, Cooling and Fuel Burning Systems

§ 3280.701 Scope.

This subpart covers the heating, cooling and fuel burning equipment installed within, on, or external to a home.

§ 3280.702 Definitions.

(a) The definitions in this subpart apply to Subpart H only.

(1) "Accessible"—when applied to a fixture, connection, appliance or equipment, means having access thereto, but which may require the removal of an access panel, door or similar obstruction.

(2) "Air Conditioning Blower Coil System"—a comfort cooling appliance where the condenser section is placed external to the home and evaporator section with circulating blower attached to the home air supply duct system. Provision must be made for a return air system to the evaporator/blower section. Refrigerant connection between the two parts of the system is accomplished by tubing.

(3) "Air Conditioning Split System"—a comfort cooling appliance where the condenser section is placed external to the home and the evaporator section incorporated into the heating appliance or with a separate blower coil section within the home. Refrigerant connection between the two parts of the system is accomplished by tubing.

(4) "Air Conditioning Condenser Section"—that portion of a refrigerated air cooling or (in the case of heat pump) heating system which includes the refrigerant pump (compressor) and the external heat exchanger.

(5) "Air Conditioning Evaporator Section"—a heat exchanger used to cool or (in the case of a heat pump) heat air for use in comfort cooling (or heating) the living space.

(6) "Air Conditioning Self-Contained System"—an externally installed comfort cooling appliance combining the condensor section, evaporator and air circulating blower into one unit designed to be connected by supply and return air ducts to the home's air duct.

(7) "Air Duct"—conduits or passgeways for conveying air to or from heating, cooling, air conditioning or ventilation equipment, but not including the plenum.

(8) "Btu. British Thermal Units"—the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

(9) "Btuh"—British thermal units per hour.

(10) "Burner"—a device for the final conveyance of fuel or a mixture of fuel and air to the combustion zone.

(11) "Central Air Conditioning System"—either an air conditioning split system, an air conditioning blower coil system, or an air conditioning self-contained system.

(12) "Class Zero Air Duct"—ducts and connectors of materials having a fire-hazard classification of 0 in accordance with UL Standard 181–81, "Factory Made Air Ducts and Connectors.

(13) "Class 1 Air Ducts"—ducts and connectors of materials having a flame spread rating of not over 25 without evidence of continued progressive combustion and a smoke developed rating of not over 50 in accordance with UL Standard 181–81 "Factory Made Air Ducts and Connectors".

(14) "Clearance"—the distance between the appliance, chimney, vent, chimney or vent connector or plenum and the nearest surface.

(15) "Connector—Gas Appliance"—a flexible or semi-rigid connector listed as confroming to ANSI Standard Z21.24–1981, Metal Connectors for Gas Appliance, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room with the outlet.

(16) "External Combination Heating/Cooling System"—a comfort conditioning system placed external to the home with connecting ducts for the supply and return air systems.

(17) "Factory-Built Fireplace"—a hearth, fire chamber and chimney assembly composed of listed factory-built components assembled in accordance with the terms of listing to form a complete fireplace.

(18) "Fireplace Stove"—a chimney connected solid fuel-burning stove having part of its fire chamber open to the room.

(19) "Flue Damper"—flue gas outlet damper operated through linkage or other mechanism.

(20) "Fuel Gas Piping System"—the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel gas to the appliance(s).

(21) "Fuel Oil Piping System"—the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel oil to the appliance(s).

(22) "Gas Supply Connection"—the terminal end or connection to which a gas supply connector is attached.

(23) "Gas Supply Connector"—a listed flexible connector designed for connecting the home to the gas supply source.

(24) "Gas Vents"—factory-built vent piping and vent fittings listed by an approved testing agency, that are assembled and used in accordance with the terms of their listings, for conveying flue gases to the outside atmosphere. (i) "Type B Gas Vent" means a gas vent for venting gas appliances with draft hoods and other gas appliances listed for use with Type B Gas Vents. (ii) "Type BW Gas Vent" means a gas vent for venting listed gas-fired vented wall furnances.

(25) "Heat Producing Appliance"—all heating and cooling appliances and fuel burning appliances.

(26) "Heating Appliance"—an appliance for comfort heating or for domestic water heating.

(27) "Heating/Cooling Anticipator Circuit"—a circuit that enables a thermostat to initiate cooling or terminate heating at a lower temperature and in advance of the time that the air temperature at the thermostat would normally cause the thermostat to initiate cooling or terminate heating.

(28) "Liquefied Petroleum Gases"—the terms "liquefied petroleum gases," "LPG" and "LP-Gas" as used in this standard shall mean and include any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them: propane, propylene butanes (normal butane or Isobutane), and butylenes.

(29) "Plenum"—an air compartment which is part of an air-distributing system, to which one or more ducts or outlets are connected.

(i) Furnace supply plenum is a plenum attached directly to, or an integral part of, the air supply outlet of the furnace. (ii) Furnace return plenum is a plenum attached directly to, or an integral part of, the return inlet of the furnace.

(30) "Readily Accessible"—direct access without the necessity of removing any panel, door, or similar obstruction.

(31) "Roof Jack"—that portion of a heater flue or vent assembly, including the cap, insulating means, flashing, and ceiling plate, located in and above the roof.

(32) "Sealed Combustion System (Direct Vent) Appliance"—an appliance which by its inherent design is constructed so that all air supplied for combustion, the combustion system of the appliance, and all products of combustion are completely isolated from the atmosphere of the space in which it is installed.

(33) "Water Heater"—an appliance for heating water for domestic purposes other than for space heating.

(34) "Room Heater, Solid fuel type"—a chimney connected solid fuel burning room heater which is designed to be operated with the fire chamber closed.

(35) "Room Heater, Fireplace Stove Combination"—a chimney connected solid fuel burning room heater, which is designed to be operated with the fire chamber either closed or open.

§ 3280.703 Minimum standards.

Heating, cooling and fuel burning appliances and systems shall be free of defects and shall conform to appliable standards in the following table except for applicance efficiency requirements. When more than one standard is referenced, compliance with any one of such standards shall meet the requirements of this standard.

Type	ANSI	UL	Other standards
Appliances:			
Central cooling air conditioners		465–1982	
Liquid fuel-burning heating appliances for mobile homes and recreational vehicles.		307A–1978 with revisions through November 1980.	
Electric air heater		1025–1980	
Electric baseboard heating equipment	1042–1978	1042–1979 with revisions through June 1980.	
Electric central air heating equipment	1096–1960	1096–1981 with revisions through June 1982.	
Gasburning heating appliances for mobile homes and recreational vehicles.		307(B)–1982	
Gas clothes dryers Vol I, type I clothes dryers	Z21.5.1–1979		
	Z21.5.1a–1979		
	Z21.5.1b–1981		
Gas fired absorption summer air conditioning appliances	Z21.40.1–1981		
	Z21.40.1a–1982		
Gas fired gravity and forced air central furnaces	Z21.47–1978		
	Z21.47a–1980		

Type	ANSI	UL	Other standards
Gas fired gravity and fan type direct vent wall furnaces	Z21.44-1981		
	Z21.44a-1982		
	Z21.44b-1982		
Household cooking gas appliances	Z21.1-1981		
Refrigerators using gas fuel	Z21.19-1975		
	Z21.19a-1978		
	Z21.19b-1982		
Gas water heaters, Vol. I automatic storage type water heaters with inputs of 75,000 BTU/hr. or less.	Z21.10.1-1981		
	Z21.10.1a-1982		
Heat pumps		559-1975 with revisions through July 1982.	
Separated combustion system central furnaces	Z83.10-1978		
	Z83.10a-1980		
	Z83.10b-1981		
Electric storage type water heaters		174-1979 with revisions through February 1982.	
Ferrous pipe and fittings:			
Black and hot dipped zinc-coated (galvanized) welded and seamless steel pipe for ordinary uses.			ASTM A 120-82.
Electric resistance welded coiled steel tubing for gas and fuel oil lines			ASTM A 539-79.
Pipe threads (except dry seal)	B2.1-1968		
Welded and seamless wrought steel pipes	B36.10-1979		
Nonferrous pipe, tubing and fittings:			
Seamless copper water tube			ASTM B 88-81.
Seamless copper tube for air conditioning and refrigeration field service			ASTM B 280-80.
Metal connectors for gas appliances	Z21.24-1981		
Manually operated gas valves	Z21.15-1979		
	Z21.15a-1981		
Gas supply connectors for mobile homes			IAPMO TSC9-1976.
Wrought seamless copper and copper alloy tube			ASTM B251-81.
Seamless copper pipe, standard size			ASTM B 42-82.
Direct vent central furnace	Z21.64-1978		
		Z21.64a-1980	
		Z21.64b-1982	
Miscellaneous:			
Factory made air duct materials and air duct connectors		181-1981 with revisions through September 1981.	
Tube fittings for flammable and combustible fluids and refrigeration service and marine use.		109-1978 with revisions through April 1981.	
Pigtails, expansion coils, and flexible hose connectors for liquefied petroleum gas.		569-1980 with revisions through July 1982.	
Roof jacks for mobile homes and recreational vehicles	A160.1-1976	311-1976 with revisions through February 1982.	
Relief valves and automatic gas shut off devices for hot water supply systems.	Z21.22-1979		
Automatic gas ignition systems and components	Z21.20-1979		
	Z21.20a-1979		
	Z21.20b-1982		
Automatic valves for gas appliances	Z21.21-1974		
	Z21.21a-1979		
	Z21.21b-1981		
Gas appliance thermostats	Z21.23-1980		
Gas vents		441-1979 with revisions through March 1982.	
Chimneys, factory-built, residential type and building heating appliances	103-1977	103-1978	
Factory-built fireplaces		127-1981	
Room heaters, solid fuel type		1482-1979 with revisions through August 1981.	
Fireplace stoves		737-1982	
Standard for fireplace stoves for installation in mobile structures			GAI-1973.
Installation of Oil-Burning	Z95.1-1978		NFPA 31-1978.
Equipment (the following sections only):			
1-1			
1-2			
1-3			
1-4 except 1-4.1			
1-5.1			
1-5.2			
1-5.4.2			
1-5.4.3			
1-5.5			
1-5.5			
1-5.6			
1-6			
1-7.2 except 1-7.2.4			
1-8			
1-9			
1-10.1			
3-1.1			
3-1.3			
3-1.4			
3-1.5			
3-1.6			
3-10			
4-1.1			
4-1.3			
4-1.4			
4-1.5			
4-2			
4-3 except 4-3.2			

Type	ANSI	UL	Other standards
4–4 except 4–4.2, 4–4.5.4, 4–4.6, 4–4.7 4–4.9 and 4–4.10 Appendices B, C, and E			
Installation of gas appliances, gas piping in buildings (National Fuel Gas Code).	Z223.1a-1980		NFPA 54–1980, NFPA 90B–1980.
Warm Air Heating and Air Conditioning Systems, except 2–2.4 2–3.6 Table 3–1.3, section 9 4–1.6			
Storage and Handling of Liquefied Petroleum Gas (Chapters 1, 2, and Articles 30 and 31 of Chapter 3).	106.1–1979		NFPA No. 58–1979, SAE J533b-1973.
Flares for Tubing			ARI 210–81.
Standard for Unitary Air Conditioning Equipment			ARI 240–81.
Air Source Unitary Heat Pump Equipment			

§ 3280.704 Fuel supply systems.

(a) LP-Gas system design and service line pressure—(1) Systems shall be of the vapor-withdrawal type.

(2) Gas, at a pressure not over 14 inches water column (1/2 psi), shall be delivered from the system into the gas supply connection.

(3) The LP Gas supply system, if provided by the manufacturer, shall be designed and installed in accordance with the requirements of the applicable portions of the National Fuel Gas Code, ANSI Z223.1–1980 (NFPA 54–1980).

(b) Fuel oil supply system, if provided by the manufacturer, shall be designed and installed in accordance with the requirements of the applicable portions (see § 3280.703) of the NFPA 31–1978, "Installation of Oil Burning Equipment".

§ 3280.705 Gas piping systems.

(g) *General.* The requirements of this section shall govern the installation of all fuel gas piping, except that none of the requirements in this section shall apply to the piping supplied as a part of a listed appliance. The gas piping supply system shall be designed for a pressure not exceeding 14 inch water column (1/2 psi) and not less than 7 inch water column (1/4 psi). The manufacturer shall indicate in his written installation instructions the design pressure limitations for safe and effective operation of the gas piping system. All exterior openings around piping, ducts, plenum or vents shall be protected to resist the entrance of rodents.

(b) *Materials.* All materials used for the installation, extension, alteration, or repair of any gas piping system shall be new and free from defects or internal obstructions. It shall not be permissible to repair defects in gas piping or fittings. Inferior or defective materials shall be removed and replaced with acceptable material. The system shall be made of materials having a melting point of not less than 1,450°F, except as provided in § 3280.705(e). They shall consist of one or more of the materials described in § 3280.705(b) (1) through (4).

(1) Steel or wrought-iron pipe shall comply with ANSI Standard B36.10 1979 for Wrought-Steel and Wrought-Iron Pipe. Threaded brass pipe in iron sizes may be used. Threaded brass pipe shall comply with Standard Sizes and Specifications for Seamless Red Brass Pipe—ASTM B43–80.

(2) Fittings for gas piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper).

(3) Copper tubing shall be internally tinned of an annealed type, grade K or L, conforming to the Specifications for Seamless Copper Water Tube—ASTM B 88–81 or shall comply with the Specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service—ASTM, B280–80.

(4) Steel tubing shall have a minimum wall thickness of 0.032 inch for tubing of 1/2 inch diameter and smaller and 0.049 inch for diameters 1/2 inch and larger. Steel tubing shall be constructed in accordance with ASTM Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines—ASTM A539–79 and shall be externally corrosion protected.

(c) *Piping design.* Each home requiring fuel gas for any purpose shall be equipped with a fuel gas piping system that is designed for both LP-Gas and Natural Gas.

(1) Where fuel gas piping is to be installed in both portions of an expandable or multiple unit home, the design and construction of the cross-over shall be as follows:

(i) There shall only be one point of cross-over which shall be readily accessible from the exterior of the home.

(ii) The connection between units shall be made with a listed connector or by direct plumbing sized in accordance with § 3280.705(d).

(iii) The gas supply connection shall be provided with protection from mechanical and impact damage and located to minimize the possibility of tampering.

(d) *Gas pipe sizing.* Gas piping systems shall be sized so that the pressure drop to any appliance inlet connection from any gas supply connection, when all appliances are in operation at maximum capacity, is not more than 0.5 inch water column as determined on the basis of test, or in accordance with the following Table. When determining gas pipe sizing in the table, gas shall be assumed to have a specific gravity of 0.65 and rated at 1000 BTU per cubic foot. The natural gas supply connection(s) shall be not less than 3/4 inch nominal pipe size.

TABLE I.—MAXIMUM CAPACITY OF DIFFERENT SIZES OF PIPE AND TUBING IN THOUSANDS OF BTU'S PER HOUR OF NATURAL GAS FOR GAS PRESSURES OF 0.5 PSIG OR LESS AND A MAXIMUM PRESSURE DROP OF ½ INCH WATER COLUMN

I.D.	Iron pipe sizes										O.D.	Tubing sizes									
	Length in feet											Length in feet									
	10	20	30	40	50	60	70	80	90	100		10	20	30	40	50	60	70	80	90	100
¼	43	29	24	20	18	16	15	14	13	12	⅜	27	18	15	13	11	10	9	9	8	8
⅜	95	65	52	45	40	36	33	31	29	27	½	56	38	31	26	23	21	19	18	17	16
½	175	120	97	82	73	66	61	57	53	50	⅝	113	78	62	53	47	43	39	37	34	33
¾	360	250	200	170	151	138	125	118	110	103	¾	197	136	109	93	83	75	69	64	60	57
1	680	465	375	320	285	260	240	220	205	195	⅞	280	193	155	132	117	106	98	91	85	81

Example of Piping System Design:

Determine the required pipe size for each section and outlet of the piping system shown in Exhibit 1, with a designated pressure drop of 0.50 inch water column. Gas to be used has 0.65 specific gravity and heating value of 1000 BTU per cubic foot.

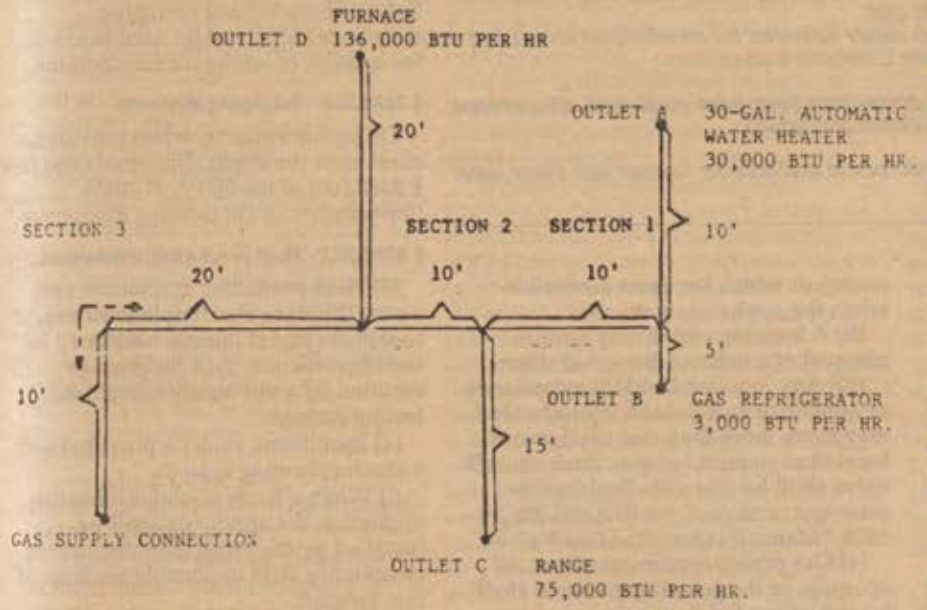


Exhibit 1

Solution:

(1) Maximum gas demand for outlet A:

$$\frac{\text{Consumption (rating plate input)}}{\text{BTU of gas}} =$$

$$\frac{\text{30,000 Btu per hour rating}}{\text{1,000 Btu per cubic foot}} = \frac{\text{30 cubic feet per hour}}{\text{(or 30 cfh)}}$$

Maximum gas demand for outlet B:

$$\frac{\text{Consumption}}{\text{Btu of gas}} = \frac{3{,}000}{1{,}000} = 3 \text{ cfh}$$

Maximum gas demand for outlet C:

$$\frac{\text{Consumption}}{\text{Btu of gas}} = \frac{75{,}000}{1{,}000} = 75 \text{ cfh}$$

Maximum gas demand for outlet D:

$$\frac{\text{Consumption}}{\text{Btu of gas}} = \frac{136{,}000}{1{,}000} = 36 \text{ cfh}$$

(2) The length of pipe from the gas supply connection to the most remote outlet (A) is 60 feet. This is the only distance used.

(3) Using the column marked 60 feet in Table I, Iron Pipe Sizes:

Outlet A, supplying 30 cfh, requires ⅜ inch I.D. pipe.

Outlet B, supplying 3 cfh, requires ¼ inch pipe.

Section 1, supplying outlets A and B, or 33 cfh, requires ⅜ inch pipe.

Outlet C, supplying 75 cfh, requires ¾ inch pipe.

Section 2, supplying outlets A, B and C or 108 cfh, requires ¾ inch pipe.

Outlet D, supplying 136 cfh, requires ¾ inch pipe.

Section 3, supplying outlets A, B, C and D, or 244 cfh, requires 1 inch pipe.

(4) For sizing tubing for the same example use column marked 60 feet in Table I, Tubing Sizes—e.g. outlet A, supplying 30 cfh requires ⅝ inch O.D. tubing.

(e) *Joints for gas pipe.* All pipe joints in the piping system, unless welded or brazed, shall be threaded joints that comply with ANSI Standard Pipe threads (Except Dryseal) B2.1–1968. Right and left nipples or couplings shall not be used. Unions, if used, shall be of ground joint type. The material used for welding or brazing pipe connections shall have a melting temperature in excess of 1,000°F.

(f) *Joints for tubing.* (1) Tubing joints shall be made with either a single or a double flare of 45 degrees in accordance with SAE Standard J 533 B–73, Flares for Tubing, or with other listed vibration-resistant fittings, or joints may be brazed with material having a melting point exceeding 1,000°F. Metallic ball sleeve compression-type tubing fittings shall not be used.

(2) Steel tubing joints shall be made with a double-flare in accordance with SAE Standard J 533 B–73, Flares for Tubing.

(g) *Pipe joint compound.* Screw joints shall be made up tight with listed pipe joint compound, insoluble in liquefied petroleum gas, and shall be applied to the male threads only.

(h) *Concealed Tubing.* Tubing shall not be installed within walls, floors, partitions, or roofs except that it may pass through walls, floors, partitions, roofs, or similar installations, such tubing shall be protected by the use of weather resistant grommets that shall snugly fit both the tubing and the hole through which the tubing passes.

(i) *Concealed joints.* Piping or tubing joints shall not be located in any floor, wall partition, or similar concealed construction space.

(j) *Gas supply connection.* When gas appliances are installed, at least one gas supply connection shalll be provided on each home. The connection shall not be located beneath an exit door. The piping system shall be sized to provide adequate capacity from each supply connection provided.

(k) *Identification of gas supply connections.* Each home shall have permanently affixed to the exterior skin at or near each gas supply connection or the end of the pipe, a tag of 3 inches by 1¾ inches minimum size, made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclad aluminum not less than 0.020 inch thick, or other approved material (e.g., 0.005 inch plastic laminates), which reads (as appropriate) in accordance with the following label design. The connector capacity indicated on this tag shall be equal to or greater than the total Btuh rating of all intended gas appliances.

Combination LP-Gas and Natural Gas System

This gas piping system is designed for use of either liquefied petroleum gas or natural gas.

NOTICE: BEFORE TURNING ON GAS BE CERTAIN APPLIANCES ARE DESIGNED FOR THE GAS CONNECTED AND ARE EQUIPPED WITH CORRECT ORIFICES. SECURELY CAP THIS INLET WHEN NOT CONNECTED FOR USE.

When connecting to lot outlet, use a listed gas supply connector for manufactured home rated at ☐ 100,000 Btuh or more; ☐ 250,000 Btuh or more.

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliance for leakage with soapy water or bubble solution, and light all pilots.

(l) *Gas supply connectors*—(1) *LP-Gas.* A listed LP–Gas flexible connector conforming to the UL Standard for Pigtails, Expansion Coils and Flexible Hose Connectors for LP–Gas (U.L. 569–1980) or equal shall be supplied when the fuel gas piping system is designed for the use of LP–Gas and cylinder(s) and regulator(s) are supplied.

(2) *Appliance connections.* All gas burning appliances shall be connected to the fuel piping. Materials as provided in section 3280.705(b) or listed appliance connectors shal be used. Listed appliance connectors when used shall not run through walls, floors, ceilings or partitions. Connectors of aluminum shall not be used outdoors. A home containing combination LP-natural-gas-system may be provided with a gas outlet to supply exterior appliances when installed in accordance with the following:

(i) A shut-off value shall be installed upstream of the connection.

(ii) A tag shall be permanently attached to the outside of the exterior wall of the home as close as possible to the gas supply connection. The tag shall indicate the type of gas and the Btuh capacity of the outlet and shall be legibly inscribed as follows:

THIS OUTLET IS DESIGNED FOR USE WITH GAS PORTABLE APPLIANCES WHOSE TOTAL INPUT DO NOT EXCEED BTUH. REPLACE PROTECTIVE COVERING OVER CONNECTOR WHEN NOT IN USE.

(3) *Valves.* A shutoff value shall be installed in the fuel piping at each appliance inside the home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components. The shutoff valve shall be located within 6 feet of a cooking appliance and within 3 feet of any other appliance. Accessible locations for the installation of gas shutoff valves include:

(i) Any proximity behind the cooking appliance to which there is either direct access or which becomes accessible when the appliance is moved;

(ii) A location which may require removal of a cabinet drawer or door;

(iii) Any location inside the appliance or appliance vestibule. A shutoff valve may serve more than one appliance if located as required above. Each shutoff valve shall be of a non-displaceable rotor type and conform to ANSI Z21.15–1979, "Manually Operated Gas Valves".

(4) *Gas piping system openings.* All openings in the gas piping system shall be closed gas-tight with threaded pipe plugs or pipe caps.

(5) *Electrical ground.* Gas piping shall not be used for an electrical ground.

(6) *Couplings.* Pipe couplings and unions shall be used to join sections of threaded piping. Right and left nipples or couplings shall not be used.

(7) *Hangers and supports.* All gas piping shall be adequately supported by galvanized or equivalent protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members. Solid-iron-pipe gas supply connection(s) shall be rigidly anchored to a structural member within 6 inches of the supply connection(s).

(8) *Testing for leakage.* (i) Before appliances are connected, piping systems, except shut-off or appliance valves, shall withstand a pressure of at least six inches of mercury or three PSI gage for a period of not less than ten minutes without showing any drop in pressure. The pressure shall be measured with a mercury manometer or slope gage calibrated so as to read in increments of not greater than one-tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made. Before a test is begun, the temperature of the ambient air and of the piping shall be approximately the same, and constant air temperature be maintained throughout the test.

(ii) After appliances are connected, the piping system, including shut-off and appliance valves, shall be pressurized to not less than 10 inches nor more than 14 inches water column and the appliance connections tested for leakage with soapy water or bubble solution. Solutions containing corrosive substances shall not be used to check for leakage of appliance connections.

§ 3280.706 Oil piping systems.

Oil piping systems, when provided, shall meet the applicable provisions (see § 3280.703) of the NFPA 31–1978, "Installation of Oil Burning Equipment."

§ 3280.707 Heat producing appliances.

(a) Heat-producing appliances and vents, fireplace and fireplace stoves, roof jacks and chimneys necessary for their installation shall be listed or certified by a nationally recognized testing agency.

(1) Each home shall be provided with a comfort heating system.

(i) When a home contains a heating appliance, the appliance shall be installed by the home manufacturer in compliance with applicable sections of this Subpart.

(ii) When a home is manufactured for field application of an external heating or combination heating/cooling appliance, preparation of the home for this external application shall comply with the applicable sections of this subpart.

(b) Fuel-burning heat-producing appliances and refrigeration appliances, except ranges and ovens, shall be of the vented type and vented to the outside.

(c) Fuel-burning appliances shall not be converted from one fuel to another fuel unless converted in accordance with the terms of their listing and the appliance manufacturer's instructions. The appliance manufacturer's instructions for conversion shall be permanently attached to the appliance. Any necessary parts such as orifices or nozzles for conversion from one fuel to another shall be supplied with and attached to the appliance.

(d) Each space comfort heating, cooling or combination comfort heating and cooling system shall be provided with at least one thermostat for the regulation of temperature. The thermostats shall be placed a minimum of 3 feet from the vertical edge of the applicance compartment door and on a vertical plane which is at least 3 feet from the nearest edge of a supply register measured horizontally. They shall not be located on an exterior wall or on a wall separating the applicance compartment from a habitable room.

(1) The thermostat shall be capable of being set to temperatures as low as 55°F

for heating and as high as 85°F for cooling.

(2) Each thermostat provided for a central comfort heating or combination heating and cooling system shall be equipped with an anticipator circuit.

(3) Each thermostat circuit shall be wired for a combination heating and cooling system in homes designed for Zone I that are certified with or acceptable for site installed comfort cooling (see comfort cooling certificate—§ 3280.509(b)).

(e) Oil fired heating equipment. All oil fired heating equipment shall conform to UL 307(A) 1978 "Liquid Fuel Burning Heating Appliances for Mobile Homes and Recreational Vehicles" and be installed in accordance with equipment manufacturer's instructions. Regardless of the requirements of the above referenced standards, or any other reference standards, the following are not required:

(1) External switches or remote controls which shut off the burner or the flow of oil to the burner, or

(2) An emergency disconnect switch to interrupt electric power to the equipment under conditions of excessive temperature.

§ 3280.708 Exhaust duct system and provisions for the future installation of a clothes dryer.

(a) *Clothes dryers.* (1) All gas and electric clothes dryers shall be exhausted to the outside by a moisture-lint exhaust duct and termination fitting. When the clothes dryer is supplied by the manufacturer, the exhaust duct and termination fittings shall be completely installed by the manufacturer. However, if the exhaust duct system is subject to damage during transportation, it need not be completely installed at the factory when:

(i) The exhaust duct system is connected to the clothes dryer, and

(ii) a moisture lint exhaust duct system is roughed in and installation instructions are provided in accordance with § 3280.708 (b)(3) or (c).

(2) A clothes dryer moisture-lint exhaust duct shall not be connected to any other duct, vent or chimney.

(3) The exhaust duct shall not terminate beneath the home.

(4) Moisture-lint exhaust ducts shall not be connected with sheet metal screws or other fastening devices which extend into the interior of the duct.

(5) Moisture-lint exhaust duct and termination fittings shall be installed in accordance with the appliance manufacturer's printed instructions.

(b) *Provisions for future installation of a gas clothes dryer.* A home may be provided with "stubbed in" equipment at the factory to supply a gas clothes dryer for future installation by the owner provided it complies with the following provisions:

(1) The "stubbed in" gas outlet shall be provided with a shutoff valve, the outlet of which is closed by threaded pipe plug or cap;

(2) The "stubbed in" gas outlet shall be permanently labeled to identify it for use only as the supply connection for a gas clothes dryer;

(3) A moisture lint duct system consisting of a complete access face (hole) through the wall or floor cavity with a cap or cover on the interior and exterior of the cavity secured in such a manner that they can be removed by a common household tool shall be provided. The cap or cover in place shall limit air infiltration and be designed to resist the entry of water or rodents. The manufacturer is not required to provide the mositure-lint exhaust duct or the termination fitting. The manufacturer shall provide written instructions to the owner on how to complete the exhaust duct installation in accordance with provisions of § 3280.708(a) (1) through (5).

(c) Provisions for future installation of an electric clothes dryer. When wiring is installed to supply an electric clothes dryer for future installation by the owner, the manufacturer shall:

(1) Provide a roughed in moisture-lint exhaust duct system consisting of a complete access space (hole) through the wall or floor cavity with a cap or cover on the interior and exterior of the cavity which are secured in such a manner that they can be removed by the use of common household tools. The cap or cover in place shall limit air filtration and be designed to resist the entry of water or rodents into the home. The manufacturer is not required to provide the moisture-lint exhaust duct or the termination fitting;

(2) Install a receptacle outlet for future connection of the dryer;

(3) Provide written instructions on how to complete the exhaust duct installation in accordance with the provisions of § 3280.708(a)(1) through (5).

§ 3280.709 Installation of appliances.

(a) The installation of each appliance shall conform to the terms of its listing and the manufacturer's instructions. The installer shall leave the manufacturer's instructions attached to the appliance. Every appliance shall be secured in place to avoid displacement. For the purpose of servicing and replacement, each appliance shall be both accessible and removable.

(b) Heat-producing appliances shall be so located that no doors, drapes, or other such material can be placed or swing closer to the front of the appliance than the clearance specified on the labeled appliances.

(c) Clearances surrounding heat producing appliances shall not be less than the clearances specified in the terms of their listings.

(1) Prevention of storage. The area surrounding heat-producing appliances requiring clearance installed in closets and alcoves with interior or exterior access shall be framed-in or guarded with limited combustible or noncombustible material such that the distance from the appliance to the framing or guarding material is not greater than three inches unless the appliance is installed in compliance with paragraph (c)(2) of this section. When clearance required by the listing is greater than three inches, the guard or frame shall not be closer to the appliance than the distance provided in the listing.

(2) Clearance spaces surrounding heat-producing appliances are not required to be framed-in or guarded when:

(i) A space is designed specifically for a clothes washer or dryer;

(ii) Dimensions surrounding the appliance do not exceed three inches, or

(iii) The manufacturer affixes either to a side of an alcove or compartment containing the appliance, or to the appliance itself, in a clearly visible location, 3" x 5" adhesive backed plastic laminated label or the equivalent which reads as follows:

"Warning"

This compartment is not to be used as a storage area. Storage of combustible materials or containers on or near any appliance in this compartment may create a fire hazard. Do not store such materials or containers in this compartment.

(d) All fuel-burning appliances, except ranges, ovens, illuminating appliances, clothes dryers, solid fuel-burning fireplaces, solid fuel-burning fireplace stoves and solid fuel room heaters, shall be installed to provide for the complete separation of the combustion system from the interior atmosphere of the home. Combustion air inlets and flue gas outlets shall be listed or certified as components of the appliance. The required separation may be obtained by:

(1) The installation of direct vent system (sealed combustion system) appliances, or

(2) The installation of appliances within enclosures so as to separate the appliance combustion system and

venting system from the interior atmosphere of the home. There shall not be any door, removable access panel, or other opening into the enclosure from the inside of the home. Any opening for ducts, piping, wiring, etc., shall be sealed.

(e) A forced air appliance and its return-air system shall be designed and installed so that negative pressure created by the air-circulating fan cannot affect its or another appliance's combustion air supply or act to mix products of combustion with circulating air.

(1) The air circulating fan of a furnace shall be operable only when any door or panel covering an opening in the return air plenum, or duct, or in the furance compartment is in the closed position. This shall be accomplished by installing an interlock switch in the blower door of the compartment or other equivalent means that would shut off the blower when the furnace door is open.

(2) If a warm air appliance is installed within an enclosure to conform to § 3280.709(d)(2), each warm-air outlet and each return air inlet shall extend to the exterior of the enclosure. Ducts, if used for that purpose, shall not have any opening within the enclosure and shall terminate at a location exterior to the enclosure.

(3) Cooling coils installed as a portion of, or in connection with, any forced-air furnace shall be installed on the downstream side unless the furnace is specifically otherwise listed. It shall not be necessary to move or disconnect (1) any fuel piping except vertical risers connected to the furnace, or (2) electrical wiring to install cooling coils.

(4) An air conditioner evaporator section shall not be located in the air discharge duct or plenum of any forced-air furnace unless the home manufacturer has complied with certification required in § 3280.511.

(5) If a cooling coil is installed with a forced-air furnace, the coil shall be installed in accordance with its listing. When a furnace-coil unit has a limited listing, the installation must be in accordance with that listing.

(6) When an external heating appliance or combination cooling/heating appliance is to be field installed, the home manufacturer shall make provision for proper location of the connections to the supply and return air systems. The manufacturer is not required to provide said appliance(s). The preparation by the manufacturer for connection to the home's supply and return air system shall include all fittings and connection ducts to the main duct and return air system such that the installer is only required to provide: (i) The appliance, (ii) any appliance connections to the home, and (iii) the connecting duct between the external applicance and the fitting installed on the home by the manufacturer. The above connection preparations by the manufacturer do not apply to supply or return air systems designed only to accept external cooling (i.e. self contained air conditioning systems, etc.)

(7) The installation of a self contained air conditioner comfort cooling appliance or heat pump shall meet the following requirements: (i) The installation on a duct common with an installed heating appliance shall require the installation of an automatic damper or other means to prevent the cooled air from passing through the heating appliance unless the heating appliance is certified or listed for such application and the supply system is intended for such an application.

(ii) The installation shall prevent the flow of heated air into the external cooling appliance and its connecting ducts to the home supply and return air system during the operation of the heating appliance installed in the home.

(iii) The installation shall prevent simultaneous operation of the heating and cooling appliances.

(iv) The connections to the supply ducts and locations of the return air systems shall be designed to insure the proper operation of the air distribution system.

(8) Evaporative cooling systems. Evaporative cooling appliances shall be accessible for inspection, service, and replacement without removing permanent construction; and shall conform to applicable portions of UL507, 1982 "The Standard for Electric Fans." When a manufacturer furnishes any part of an evaporative cooling system, but does not install the entire system, it shall provide written instructions which include procedures for field-installations.

(f) Each sealed combustion forced air appliance shall be provided with a fresh air inlet (nor for combustion air) which draws its air from the exterior of the home (not the underside). The inlet shall be continuously connected from the furnace to the exterior and be capable of providing at least 25 CFM with the furnace fan in normal operation.

(g) Solid fuel-burning factory-built fireplaces, fireplace stoves and room heaters listed for use in homes may be installed in homes provided they and their installation conform to the following paragraphs: A fireplace, fireplace stove or solid fuel room heater shall not be considered as a heating facility for determining compliance with Subpart F. A room heater fireplace stove combination which is designed to be operated with the fire chamber open to the room shall comply with the following requirements for fireplace stoves in addition to requirements for room heaters as specified in § 3280.703.

(1) A solid fuel-burning fireplace, fireplace stove or room heater shall be provided with: (i) Integral door(s) or shutter(s) designed to close the fireplace, fireplace stove or room heater fire chamber opening;

(ii) Complete means for venting through the roof;

(iii) An external combustion air inlet;

(iv) Hearth extension and;

(v) Means to securely attach the fireplace, fireplace stove or room heater to the structure.

(2) Installation. The installation shall conform to the following:

(i) A listed factory built chimney designed to be attached directly to the fireplace, fireplace stove or room heater shall be used. The listed factory built chimney shall be equipped with and contain as part of its listing a termination device(s) and a spark arrester(s).

(ii) A fireplace, fireplace stove or room heater air intake assembly, hearth extension and the chimney shall be installed in accordance with terms of their listing and their manufacturer's instructions.

(iii) The external combustion air inlet shall be installed by the manufacturer so as to conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping onto the area beneath the home.

(iv) The fireplace, fireplace stove or room heater shall not be installed in a sleeping room.

(v) The hearth extension shall be of non-combustible material not less than ⅜ inch thick. The hearth shall extend at least 16 inches in front of and at least 8 inches beyond each side of the fireplace, fireplace stove or room heater opening. Furthermore, the hearth shall extend over the entire surface beneath a fireplace stove, room heater and beneath an elevated or overhanging fireplace. Hearth extension shall not be installed over a carpet.

(vi) The label on each solid fuel burning fireplace, fireplace stove, and room heater shall include the following wording: For use with solid fuel only.

(vii) The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the home within 10 feet of the chimney. Portions of the chimney and termination that exceed an elevation of

13½ feet above ground level may be designed to be removed for transporting the home.

§ 3280.710 Venting, ventilation and combustion air.

(a) The venting as required by § 3280.707(b) shall be accomplished by one or more of the methods given in paragraphs (a)(1) and (a)(2) of this section:

(1) An integral vent system listed or certified as part of the appliance.

(2) A venting system consisting entirely of listed components, including roof jack, installed in accordance with the terms of the appliance listing and the appliance manufacturer's instructions.

(b) Venting and combustion air systems shall be installed in accordance with the following:

(1) Components shall be securely assembled and properly aligned at the factory in accordance with the appliance manufacturer's instructions except vertical or horizontal sections of the venting system that extend beyond the roof line or wall line may be installed at the site. Sectional venting systems shall be listed for such applications and installed in accordance with the terms of their listings and manufacturers' instructions. In cases where sections of the venting system are removed for transportation, a label shall be permanently attached to the appliance indicating the following: "Sections of the venting system have not been installed. Warning—Do not operate the appliance until all sections have been assembled and installed in accordance with the manufacturer's instructions."

(2) Draft hood connectors shall be firmly attached to draft hood outlets or flue collars by sheet metal screws or by equivalent effective mechanical fasteners.

(3) Every joint of a vent, vent connector, exhaust duct and combustion air intake shall be secure and in alignment.

(c) Venting systems shall not terminate underneath the home.

(d) Venting system terminations shall be not less than three feet from any motor-driven air intake discharging into habitable areas.

(e) The area in which cooking appliances are located shall be ventilated by a metal duct which may be single wall, not less than 12.5 square inches in cross-sectional area (minimum dimension shall be two inches) located above the appliance(s) and terminating outside the home, or by listed mechanical ventilating equipment discharging outside the home, that is installed in accordance with the terms of listing and the manufacturer's instructions. Gravity or mechanical ventilation shall be installed within a horizontal distance of not more than ten feet from the vertical front of the applicance(s).

(f) Mechanical ventilation which exhausts directly to the outside atmosphere from the living space of a home shall be equipped with an automatic or manual damper. Operating controls shall be provided such that mechanical ventilation can be separately operated without directly energizing other energy consuming devices.

§ 3280.711 Instructions.

Operating instructions shall be provided with each appliance. These instructions shall include directions and information covering the proper use and efficient operation of the appliance and its proper maintenance.

§ 3280.712 Marking.

(a) Information on clearances, input rating, burner lighting and shutdown shall be attached to the appliances with the same permanence as the nameplate, and so located that it is easily readable when the appliance is installed.

(b) Each fuel-burning appliance shall bear permanent marking designating the type(s) of fuel for which it is listed.

§ 3280.713 Accessibility.

Every appliance shall be accessible for inspection, service, repair, and replacement without removing permanent construction. For those purposes inlet piping supplying the appliance shall not be considered permanent construction. Sufficient room shall be available to enable the operator to observe the burner, control, and ignition means while starting the appliance.

§ 3280.714 Appliances, air conditioners, heat pumps and combination air conditioning and heating units.

(a) Every air conditioning appliance, heat pump, or combination air conditioning and heating unit shall be listed or certified by a nationally recognized testing agency for the application for which the unit is intended and installed in accordance with the terms of its listing. When a cooling coil is installed within a forced air furnace, the coil shall be listed for use with that furnace.

(1) Mechanical air conditioners shall be rated in accordance with the standards for unitary air conditioning equipment ARI Standard 210–81, "Unitary Air-Conditioning Equipment" and certified by ARI or other nationally recognized testing agency capable of providing follow-up service.

(2) Heat pumps shall be listed in ARI Directory of Certified Unitary Heat Pump or certified to comply with all the requirements of the standard for unitary heat pump, ARI 240–81 "Air-Source Unitary Heat Pump Equipment."

(3) Gas-fired absorption air conditioners shall be listed as certified in accordance with the ANSI Standard Z21.40.1–1981 "Gas Fired Absorption Summer Air-Conditioning Appliances" with addenda la 1982 and certified by AGA or another nationally recognized testing agency capable of providing follow-up service.

(b) Installation and instructions. (1) The installation of each appliance shall conform to the terms of its listing as specified on the appliance and in the appliance manufacturer's instructions.

The appliance manufacturer's installation instructions shall be included with the home. Appliance shall be secure in place to avoid displacement and movement from vibration and road shock.

(2) Operating instructions shall be provided with the appliance.

(c) Fuel-burning air conditioners shall also comply with § 3280.707.

(d) The appliance rating plate shall be located that it is easily readable when the appliance is properly installed.

(e) Every installed appliance shall be accessible for inspection, service, repair and replacement without removing permanent construction.

§ 3280.715 Circulating air system.

(a) *Supply system.* (1) Supply ducts and any dampers contained therein shall be made from galvanized steel, tin plated steel or aluminum or shall be listed as class 0 or class 1 air ducts. A duct system integral with the structure shall be of durable construction that can be demonstrated to be equally resistant to fire and deterioration. Ducts made of sheet metal shall be of thicknesses as shown in the following table:

MINIMUM METAL THICKNESS FOR DUCTS

Duct type	Diameter 14 in or less	Width over 14 in
Round	0.013	0.016
Enclosed rectangular	.013	.016
Exposed rectangular	.016	.019

When "nominal" thicknesses are specified, 0.003 in shall be added to these "minimum thicknesses.

(2) Sizing of ducts for heating. (i) ducts shall be so designed that when a forced-air furnace is installed and operated

continuously at its normal heating air circulating rate; with all registers in the full open position, the static pressure measured in the casing shall not exceed 90% of that shown on the label. For upflow furnaces the static pressure shall be taken in the duct plenum. For external heating or combination heating/cooling appliances the static pressure shall be taken at the point used by the agency listing or certifying the appliance.

(ii) When an evaporator-coil is installed between the furnace and the duct plenum, the total static pressure shall be measured downstream of the coil if so provided by the appliance label and shall not exceed 90 percent of that shown on the label of the appliance.

(iii) When any other air-cooler coil is installed between the furnace and the duct plenum, the total static pressure shall be measured between the furnace and the coil and it shall not exceed 90 percent of that shown on the label of the furnace.

(iv) The minimum dimension of any branch duct shall be at least 1½ inches, and of any main duct, 2½ inches.

(3) Sizing of ducts. (i) The home manufacture shall certify the capacity of the air cooling supply duct system for the maximum allowable output of ARI certified cental air conditioning systems, the certification shall be at operating static pressure of 0.3 inches of water or greater. (See § 3280.509).

(ii) The refrigerated air cooling supply duct system including registers must be capable of handling at least 300 cfm per 10,000 btuh with a static pressure no greater than 0.3 inches of water when measured at room temperature. In the case of application of external self contained comfort cooling appliances, or the cooling mode of combination heating/cooling appliances, either the external ducts between the appliance and the home supply system shall be considered part of, and shall comply with the requirements for the refrigerated air cooling supply duct system, or the connecting duct between the external appliance and the mobile supply duct system shall be a part of the listed appliance. The minimum dimension of any branch duct shall be at least 1½ inches, and of any main duct, 2½ inches.

(4) Airtightness of supply duct systems. A supply duct system shall be considered substantially airtight when the static pressure in the duct system, with all registers sealed and with the furnace air circulator at high speed, is at least 80 percent of the static pressure measured in the furnace casing, with its outlets sealed and the furnace air circulator operating at high speed. For the purpose of this paragraph and § 3280.715(b) pressures shall be measured with a water manometer or equivalent device calibrated to read in increments not greater than 1/10 inch water column.

(5) Expandable or multiple-width home connections. (i) An expandable or multi-sectioned home may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the home is fully expanded or coupled, the resulting duct joint will conform to the requirements of this Subpart.

(ii) Installation instructions for supporting the crossover duct from the home shall be provided for onsite installation. The duct shall not be in contact with the ground.

(6) Air supply ducts shall be insulated with material having an effective thermal resistance (R) of not less than 4.0 unless they are installed within the thermal envelope of the home.

Note.—See § 3280.504(c) for additional requirements when ducts are designed for mechanical cooling and home is designed to be used in the thermal Zone I.

(7) Supply and return ducts exposed directly to outside air, such as under chassis crossunder ducts or ducts connecting external heating, cooling or combination heating/cooling appliances shall be insulated with material having a minimum thermal resistance of R=4.0 with a continuous vapor retarder having a perm rating of not more than 1.0 perm. Where exposed underneath the home, all such ducts shall comply with § 3280.715(a)(5(ii).

(b) *Return air systems*—(1) *Return air openings.* Provisions shall be made to permit the return of circulating air from all rooms and living spaces except toilet room(s), to the circulating air supply inlet of the furnace.

(2) *Duct material.* Return ducts and any diverting dampers contained therein shall be in accordance with the following: (i) Portions of return ducts directly above the heating surfaces, or closer than 2 feet from the outer jacket or casing of the furnace shall be constructed of metal in accordance with § 3280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts.

(ii) Return ducts, except as required by paragraph (a) of this section, shall be constructed of one-inch (nominal) wood boards (flame spread classification of not more than 200), other suitable material no more flammable than one-inch board or in accordance with § 3280.715(a)(1).

(iii) Facotry made air ducts used for connecting external heating, cooling or combination heating/cooling appliances to the supply system and return air system shall be listed by a nationally recognized testing agency. Ducts applied to external heating appliances or combination heating/cooling appliances supply system outlets shall be constructed of metal in accordance with § 3280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts for those portions of the duct closer than 2 feet from the outer casing of the appliance.

(iv) Ducts applied to external appliances shall be resistant to deteriorating environmental effects, including but not limited to ultraviolet rays, cold weather, or moisture and shall be resistant to insects and rodents.

(3) *Sizing.* The cross-sectional areas of the return air duct shall not be less than 2 square inches for each 1,000 Btu per hour input rating of the appliance. Dampers shall not be placed in a combination fresh air intake and return air ducts so arranged that the required cross-sectional area will not be reduced at all possible positions of the damper.

(4) *Permanent uncloseable opening.* Living areas except bathrooms not served by return air ducts or closed off from the return opening of the furnace by doors, sliding partitions, or other means shall be provided with permanent uncloseable openings in the doors or separating partitions to allow circulated air to return to the furnace. Such openings may be grilled or louvered. The net free area of each opening shall be not less than 1 square inch for every 5 square feet of total living area closed off from the furnace by the door or partition serviced by the opening. Undercutting doors connecting the closed-off space may be used a a means of providing return air area. However, in the event that doors are undercut, they shall be undercut a minimum of 2 inches and not more than 2½ inches, as measured from the top surface of the floor decking to the bottom of the door and no more than one half of the free air area so provided shall be counted as return air area.

(c) *Joints and seams.* Joints and seams of ducts shall be securely fastened and made substantially airtight. Slip joints shall have a lap of at least 1 inch and shall be individually fastened. Tape or caulking compound may be used for sealing mechanically secure joints. Where used, tape or caulking compound shall not be subject to deterioration under long exposures to temperatures up to 200° F. and to conditions of high humidity, excessive moisture, or mildew.

(d) *Supports.* Ducts shall be securely supported.

(e) *Registers or grilles.* Fittings connecting the registers or grilles to the duct system shall be constructed of metal or material which complies with the requirements of Class 0 or 1 ducts under Underwriters' Laboratories, Inc. Standard for Air Ducts, U.L. 181–1981. Air Supply terminal devices (registers) shall be equipped with adjustable closeable dampers. Registers or grilles shall be constructed of metal or conform with the following:

(1) Be made of a material classified 94VE–0 or 94VE–1 when tested as described in Underwriters' Laboratories, Inc. Standard for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances, UL 94–1974.

(2) Floor registers or grilles shall resist without structural failure a 200 lb. concentrated loan on a 2-inch diameter disc applied to the most crictical area of the exposed face of the resgister or grille. For this test the register or grille is to be at a temperature of not less then 165° F. and is to be supported in accordance with the manufacturer's instructions.

Subpart I—Electrical Systems

§ 3280.801 Scope.

(a) This subpart covers the electrical conductors and equipment installed within or on a home, and the conductors and equipment that connect a home to a supply of electricity.

(b) In addition to the requirements of this standard all articles and sections of the National Electrical Code (NPFA No. 70–1981) except as follows shall be applicable for electrical installations in manufactured homes. Wherever the requirements of this Standard differ from the National Electrical Code (NEC), this standard shall apply. The following articles and connections of the NEC are not applicable:

Article	Part	Section
100	B	All.
110	B	All.
210	C	60, 62, 70(b).
215		7, 8.
220	B	12, 13, 20.
220	C	32, 33, 34.
220	D	All.
225		6(b), 13, 14(b), 14(d) 19.
230	E	44, 45, 48, 49, 50, 56.
230	G	71(a), 72(a), 72(b), 72(d), 80, 84.
230	J	93, 95.
230	K	All.
240	A	12.
240	F	60.
240	H	All.
250	B	3, 6, 7.
250	C	22, 24, 28.
250	F	55, 58, 61, 62.
250	G	73, 76, 78.
250	J	93.
250	K	121, 122, 124, 125.
250	M	All.
280		All.
300	A	3(b), 5, 6(b), 7, 22(d).
300	B	All.
305		All.
310		4, 6, 7, 9, 14, Tables 32 through 54.
318		All.
320		All.
321		All.
324		All.
422	C	15.
426		All.
427		All.
430	J	All.
450		All.
460		All.
470		All.
480		All.
500		All.
501		All.
502		All.
503		All.
510		All.
511		All.
513		All.
514		All.
515		All.
516		All.
517		All.
518		All.
520		All.
530		All.
540		All.
545		All.
547		All.
326		All.
328		All.
336		8.
339		3(a) (1), (2) and (3).
340		All.
342		All.
344		All.
351	B	All.
352		All.
353		All.
354		All.
356		All.
358		All.
382		All.
383		All.
384		All.
385		All.
386		All.
370	D	All.
374		All.
380	A	8(b).
384		3 (e) and (f).
400	C	All.
410	M	All.
	R	All.
550	A	6(g), 12(b).
550	B	All.
551		All.
555		All.
600		All.
610		All.
620		All.
630		All.
640		All.
645		All.
650		All.
660		All.
665		All.
668		All.
669		All.
670		All.
675		All.
680		All.
685		All.
700		All.
701		All.
702		All.
710		All.
800		All.
810		All.
820		All.

§ 3280.802 Definitions.

The definitions contained in Article 100 and other Articles or the National Electrical Code, NFPA No. 70–1981, apply to Subpart I if this standard except that wherever the term "mobile home" appears in applicable Articles of the NEC, it shall mean "manufactured home." (See definition of "manufactured home" in § 3280.2).

§ 3280.803 General

(a) All electrical materials, devices, appliances, fittings and other equipment shall be evaluated for safety and suitability in accordance with Article 110–3 of the NEC. Only equipment which demonstrated an acceptable level of performance shall be installed in manufactured homes. All equipment shall be listed and/or labled by a nationally recognized testing agency and shall be used or installed in accordance with instructions in the listing or label.

(b) Aluminum conductors, aluminum alloy conductors, and aluminum core conductors such as copper clad aluminum are not acceptable in branch circuit wiring.

§ 3280.804 Power supply.

(a) The power supply to the home shall be a feeder assembly consisting of not more than one listed 50 ampere mobile home power supply cord with integral molded cap or by a permanently installed circuit. A home that is factory equipped with gas or oil fired central heating equipment and cooking appliances may be provided with a listed mobile home power supply cord rated 40 amperes. Refer to article 550–3 of the NEC.

(b) Where the calculated load exceeds 50 amperes or where a permanent circuit is used, the supply shall be by means of:

(1) One mast weatherhead installation installed in accordance with Article 230 of the NEC containing four continous insulated, color-coded, feeder conductors, one of which shall be an equipment grounding conductor; or,

(2) A raceway from the disconnecting means inside the home to its underside and provisions for the attachment of a suitable junction box or fitting to the raceway on the underside of the home. The manufacturer shall provide in its written installation instructions, the proper feeder conductor sizes for the raceway and the size of the junction box ot be used or;

(c) The supply may be by service equipment installed on the home provided:

(1) The entire installation is completed by the maufacturer in accordance with Article 230 of the NEC except for the service connections, the meter, and the grounding electrode conductor;

(2) The home is designed to be installed on a permanent foundation;

(3) Exterior siding and roofing materials are nonmetallic;

(4) Exterior equipment is listed as rainproof or raintight or is installed in enclosures which are listed as rainproof or raintight. Exterior conductors shall be suitable for use in wet locations;

(5) The neutral conductor is connected to the system grounding conductor on the supply side of the main disconnect in accordance with Articles 250–23, 25 and 53 of the NEC. The neutral conductor shall remain insulated from the equipment grounding conductor on the loadside of the main disconnect;

(6) The manufacturer includes in its written installation instructions at least one method of grounding the service equipment at the installation site. The minimum size of the grounding electrode conductor shall be specified;

(7) A red "Warning" label is mounted on or adjacent to the service equipment which states: WARNING—Do not provide electrical power until the grounding electrode conductor is installed. (See installation instructions).

§ 3280.805 Disconnecting means and branch circuit protection equipment.

(a) Refer to article 550–4 of the NEC.

(b) When a home is provided with installed service equipment, a single disconnecting means for disconnecting the branch circuit conductors from the service entrance conductors shall be provided in accordance with Part H of Article 230 of the NEC. The means shall be listed for use as service equipment.

(c) A 3 inch by 1¾ inch minimum size tag made of etched, metal stamped, or embossed brass, stainless steel, anodized aluminum or alclad aluminum not less than .020 inch thick or other approved materal (e.g. 0.005 inch plastic laminates) shall be permanently affixed on the outside adjacent to the feeder assembly or service entrance and shall read: "This connection for 120/240 volt 3 pole, 4 wire, 60 Hertz —— ampere supply" (or "this connection for 120/240 volts 3 pole 60 Hertz —— ampere service") when service equipment is provided.

(d) The distribution panel board shall be protected by a single disconnecting means rated not more than the ampere supply or service capacity indicated on the tag required by paragraph (c) of this section.

(e) All common, companion trip or handle-tied paired circuit breakers shall simultaneously disconnect all ungrounded conductors of the circuit.

3280.806 Branch circuits required.

(a) Refer to article 550–5(a), and (c) of the NEC.

(b) In addition to the branch circuits required for lighting by article 550–5(a) of the NEC, at least two 20 ampere branch circuits shall be provided for all receptacle outlets in the kitchen, pantry, dining room and breakfast room. Those circuits shall have no other outlets in the home.

(c) Where a laundry area (refer to Article 550–2 of the NEC) is provided, a 20 branch circuit shall be provided to supply the laundry receptacle outlets. (Refer to Article 550–4(b) of the NEC) This circuit shall have no other outlets.

3280.807 Receptacle outlets.

(a) Refer to Article 550–6(a) of the NEC.

(b) Receptacles for heat tapes shall be (1) located in accordance with § 3280.603(b)(4); and (2) They shall not have ground fault circuit protection nor shall they be on a circuit protected by a ground fault circuit interrupter.

(c) Where laundry facilities are located in a bathroom, the required 20 ampere circuit and receptacle shall not be required to have ground fault circuit protection.

(d) Receptacles located in compartments accessible from the outside of the home shall not be considered as the required outdoor receptacle, but shall be required to have ground fault circuit protection unless the receptacle is provided for the use of a heat tape.

(e) In addition to the receptacle outlets required in Article 550–6 of the NEC, there shall be a receptacle within 6 feet of the intended location of any laundry appliance.

(f) in addition to locations excepted from requiring a receptacle in article 550–6 of the NEC, the following locations are also excepted:

(1) Wall space defining passage and hallway areas, including recessed bedroom entry and room areas dedicated to traffic.

(2) Wall spaces behind any door which fully opens against the wall.

(3) Lattice type room dividers 8 feet or less in length, not solid, within 6 inches of the floor, attached at one end to another wall provided that a receptacle is installed in that wall within 12 inches of where the divider is being attached.

(4) Wall spaces occupied by built in kitchen or wardrobe cabinets.

(5) Wall spaces less than 2 feet 6 inches (30 in.) in width. This exception is not applicable to counter top spaces.

§ 3280.808 Fixtures and appliances.

(a) Refer to article 550–7 of the NEC.

(b) When a lighting fixture is installed over a bathtub or in a shower stall, it shall be listed for wet locations. Enclosed light fixtures, used in other areas of the bathroom, do not have to be so listed provided that these comply with the definition of a "dry area", in accordance with article 100 of the NEC.

(c) The switch for shower lighting fixtures and exhaust fans located over a tub or in a shower stall shall be located outside the tub or shower space by at least 30 inches.

(d) Any combustible wall or ceiling finish exposed between the edge of a fixture canopy or pan and the outlet box shall be covered with either limited combustible or noncombustible material.

§ 3280.809 Wiring methods and materials.

(a) Refer to article 550–8 of the NEC.

(b) Nonmetallic sheathed cable shall be secured and supported to prevent injury to the cable by the structure and during the manufacturing process, and prevent undue strain on the cable, cabinet, box or fitting.

(1) In wall, floor and exposed areas, the cable shall be dadoed and covered with steel plates or be held in place every 4½ feet by staples, straps, drilled holes or other equivalent means, and secured within 12 inches from every cabinet, box or fitting by staples, straps or similar fittings installed to prevent movement of the cable. The 12 inch distance shall be determined by measuring between the secured point and the cabinet, box or fitting. The length of cable available at the cabinet box or fitting shall not exceed 18 inches.

(2) In ceiling spaces, cables shall be secured within 12 inches of every cabinet, box fitting or cable drop by staples, straps, or similar fittings installed to prevent movement of the cable. The cable shall be installed so as to be supported by the structure at least every 4½ feet.

(3) Cable clamps securing the cable to an appliance shall not be considered as securement within 12 inches.

(i) *Exception No. 1.* For an appliance installed in a compartment or space designed for that appliance and where the cable is secured at the nearest framing member and at the appliance, the 12 inch limit may be exceeded.

(ii) *Exception No. 2.* Where a finished wall panel is installed on a home, it shall be permissible to fish the cable between access points. The cable shall be secured at the box or fitting and within 12 inches before entering the finished wall panel.

(iii) *Exception No. 3.* A wiring device approved for the purpose without a separate outlet box, incorporating an integral cable clamp shall be permitted when the cable is secured in place at

intervals not exceeding 4½ feet and within 12 inches from the wiring device wall opening, and there shall be at least a 12 inch loop of unbroken cable or 6 inches of cable end available on the interior side of the finished wall to permit replacement. Exception No. 2 shall be permitted to apply where the device is also a termination.

(c) Boxes, fittings and cabinets shall be securely fastened in place and shall be supported from a structural member of the home, either directly or by using a brace. The brace, including the fastening mechanism to attach the brace to the home structure, shall withstand a force of 50 lbs. applied to the brace at the intended point(s) of attachment for the box in a direction perpendicular to the surface in which the box is installed. Snap-in type boxes provided with special wall or ceiling brackets that securely fasten boxes shall be permitted provided the brackets and the wall substrate are capable of withstanding a 50 lb. force applied in a direction perpendicular to the mounting surface. Verification of the 50 lb. load resistance shall either be load test or calculation.

(d) Outlet boxes shall fit closely with a maximum of a $\frac{1}{16}$ inch gap to the openings in combustible walls and ceilings and they shall be flush with the finish surface or project therefrom.

(e) Where the sheathing of NM cable has been cut or damaged and visual inspection reveals that the conductor and its insulation has not been damaged, it shall be permitted to repair the cable sheath with electrical tape which provides equivalent protection to the sheath.

§ 3280.810 Grounding.

Refer to article 550–9 of the NEC.

§ 3280.811 Electrical Testing.

(a) Dielectric strength test. The wiring of each home shall be subjected to a dielectric strength test with all switches closed. The voltage is to be applied between the home ground and the live parts, and between the home ground and neutral. The voltage shall be applied for one minute when voltages between 900–1079 are utilized or alternatively the voltage may be applied for one second if voltage between 1080 and 1250 are utilized. This test shall be performed after the branch circuits are complete and after the fixtures and appliances are installed with the exception that smoke detectors shall be disconnected. Fixtures and appliances which are listed shall not be required to withstand the dielectric strength test.

(b) Each home shall be subjected to:

(1) A continuity test to assure that metallic parts are properly bonded;

(2) Electrical operational tests to demonstrate that all equipment, except water heaters, electric furnaces, dishwashers, clothes washers and portable appliances, is connected and in working order, and

(3) Electrical polarity checks to determine that connections have been properly made. Visual verification shall be an acceptable check.

§ 3280.812 Calculations.

Refer to article 550–11 of the NEC.

§ 3280.813 Wiring of expandable units and dual (multi-sectioned) units.

Refer to Article 550–12(a) of the NEC.

§ 3280.814 Outdoor outlets, fixtures, air conditioning equipment, etc.

(a) Outdoor fixtures, equipment and receptacles shall be listed for use in wet locations, except that if located on the underside of the home or located under roof extensions or similarily protected locations, they may be listed for use in damp locations. (See Article 410–4 of the NEC fixtures and Article 410–50 of the NEC for receptacles.)

(b) A wall switch controlled exterior lighting outlet is required at each exterior entrance door. Any temporary covering provided for the outlet shall conform to the provisions of Article 370–21, or 410–12 of the NEC.

(c) Refer to Article 550–13(b) of the NEC.

§ 3280.815 Painting of wiring.

During painting or staining of the home, it shall be permitted to paint metal raceways (except where grounding continuity would be reduced) or the sheath of the nonmetallic cable. Some arrangement, however, shall be made so that no paint shall be applied to the individual wires, as the color coding may be obliterated by the paint.

§ 3280.816 Polarization.

(a) The identified (white) conductor shall be employed for grounded circuit conductors only and shall be connected to the identified (white) terminal or lead on receptacle outlets and fixtures. It shall be the unswitched wire in switched circuits, except that a cable containing an identified conductor (white) shall be permitted for single-pole three-way or four-way switch loops where the connections are made so that the unidentified conductor is the return conductor from the switch to the outlet. Painting of the terminal end of the wire shall not be required.

(b) If the identified (white) conductor of a cable is used for other than grounded conductors or for other than switch loops as explained above (for a 230-volt circuit for example), the conductor shall be finished in a color other than white at each outlet where the conductors are visible and accessible.

(c) Green-colored wires or green with yellow stripe shall be used for grounding conductors only.

Subpart J—Transportation

§ 3280.901 Scope.

This subpart sets forth the (a) durability requirement pertaining to the home's structure to withstand the long-term effects of highway transportation; and (b) safety requirements pertaining to the performance of the home's transportation equipment.

§ 3280.902 Definitions.

(a) "Chassis" means the entire transportation system comprising the following subsystems: drawbar and coupling mechanism, frame, and running gear assembly.

(b) "Drawbar and Coupling Mechanism" means the rigid assembly (usually an "A" frame) upon which is mounted a coupling mechanism, which connects the home's frame to the towing vehicle.

(c) "Frame" means the fabricated rigid substructure which provides considerable support to the affixed home's structure both during transport and on-site; and also provides a platform for securement of the running gear assembly, the drawbar and coupling mechanism.

(d) "Running gear assembly" means the subsystem consisting of suspension springs, axles, bearings, wheels, hubs, tires, and brakes, with their related hardware.

"(e) "Transportation length" means the distance from the extreme front of the home to the extreme rear, including the drawbar and coupling mechanism, but not including expandable features that do not project from the body during transportation.

(f) "Transportation System" (same as chassis, above).

§ 3280.903 Durability requirements for designing the structural system to resist transportation loads.

(a) *General.* (1) The home's structure and chassis, including its plumbing, mechanical and electrical systems, shall be capable of resisting transportation forces without adversely affecting its ability to perform as a safe, and durable dwelling.

(2) Particular attention shall be given to maintaining moisture resistance and conserving energy by assuring that structural components in the roof and walls (and their connections with vents,

windows, doors, etc.) are capable of resisting normal forces resulting from highway transportation.

Note.—While the majority of homes utilize a fabricated steel frame assembly, upon which the structure is constructed, it is not the intent of this Standard to limit innovation. Therefore, other concepts, such as integrating the frame function into the home structure, are acceptable provided that such design meets the requirements of this subpart.

(3) The drawbar, coupling mechanism, and components of the running gear assembly may be removed during or subsequent to installation provided that the manufacturers' instructions contain complete specification(s) for the removed component(s) and all information necessary to reaffix the component(s) once removed.

(b) *Verification of designs.* The adequacy of the structural and transportation system to resist the design transportation forces (see paragraph (c) of this section) shall be verified by one or a combination of the following methods:

(1) An engineering analysis using the design criteria defined in §3280.903(c);

(2) Testing which validates the adequacy of the structure/chassis to bending, shear and torsion forces resulting from transportation (see § 3280.303(g), or;

(3) Certification of prior transportation experience which states that "no more than 1.0 percent failures to the structure and/or chasais have resulted from highway transport utilizing that integrated system." Manufacturers utilizing this procedure shall indicate the maximum static dead weight, sidewall opening size and location and chassis configuration to which their certification(s) is applicable. Any new designs which do not meet the criteria shall be evaluated under paragraph (b)(1) or (b)(2) of this section.

(c) *Design loads.* Transportation forces shall be considered to act in only one direction for designing any element of the structure or transportation system and shall not be considered as acting simultaneously with the wind or roof and snow live load.

(1) The structure and frame, their assemblies and components and all joint connections shall be designed to resist the following transportation loads:

(i) Vertical direction, 2.5 times the supported dead weight (includes 1G for weight of home).

(ii) Longitudinal direction, 1.25 times the supported dead weight.

(iii) Lateral direction, static dead weight of the assembly times the applicable load factors: ceiling, 1.8; wall 1.1; floor 0.4; frame/running gear, 0.2.

(2) The integrated design of the structure and frame shall be capable of insuring rigidity and structural integrity of the complete manufactured home structure during transportation and the integrity of structural or finish members after installation.

§ 3280.904 Safety requirements for designing the transportation system.

(a) *Drawbar.* The drawbar shall be constructed of sufficient strength, rigidity and durability to safely withstand the following loads applied at the coupler ball joint:

Vertical = tongue weight × 2.50
Longitudinal = tongue weight × 1.80
Lateral = tongue weight × 1.10

Unless substantiated by engineering analysis, certificiation, or tests, the drawbar shall:

(1) Have a transverse stiffener at the mid point between the coupler and front crossmember of the chassis; and,

(2) Be of at least a 10 inch I Beam or the equivalent for structural units which are greater than 12 ft x 60 ft and 14 ft x 56 ft in box size, or for units with non-metallic exterior coverings (i.e., asphalt shingles, hardboard siding, etc.) and be of at least 8 inch I Beam or the equivalent for all other unit sizes. The drawbar shall be securely fastened to the manufactured home frame by either a continuous weld or by bolting.

(b) *Coupling mechanism.* Coupling mechanism (which is usually of the socket type) shall be securely fastened to the drawbar in such a manner as to assure safe and effective transfer of the maximum loads, including dynamic loads, between the manufactured home structure and the hitch-assembly of the towing vehicle. The coupling shall be equipped with a manually operated mechanism so adapted as to prevent disengagement of the unit while in operation. The coupling shall be so designed that it can be disconnected regardless of the angle of the home to the towing vehcile. With the home located on level ground, the center of the socket of the coupler shall not be less than 20 inches nor more than 26 inches from ground level.

(c) *Running gear assembly.* (1) The design load used to size running gear components shall be the gross static weight minus the static tongue weight supported by the drawbar. It shall be designed to accept shock and vibration, both from the highway and the towing vehicle and effectively dampen those forces so as to protect the home structure from damage and fatigue. Its components shall be designed to facilitate routine maintenance, inspection and replacement.

(2) Location of the running gear assembly shall be determined by documented engineering analysis, taking into account the gross weight (including all contents), total length of the home, the necessary coupling hitch weight, and span distance. The coupling weight shall be not less than 12 percent nor more than 25 percent of the gross weight.

(d) *Spring assemblies.* Spring assemblies (springs, hangers, shackles, bushings and mounting bolts) shall be capable of withstanding the running gear design-loads without exceeding maximum allowable stresses and cyclic fatigue life for the spring assembly as recommended by the spring assembly manufacturer. The capacity of the spring system shall assure, that under maximum operating load conditions, sufficient clearance shall be maintained between the tire and home's frame or structure to permit unimpeded wheel movement and for changing tires.

(1) Attachments. The spring hanger shall be continuously welded to the main member of the frame with at least an ⅛ inch fillet weld or the connection shall be designed to resist the following loads:

Vertical, 2.50 time the static dead load
Longitudinal, 1.00 times the static dead load
Lateral, 1.50 times the static dead load.

(e) *Axles.* Axles, and their connecting hardware, shall be capable of withstanding the running gear design loads without exceeding the maximum allowable stresses for design axle loads and fatigue life as recommended by the axle manufacturer.

(1) The number and load capacity of axles necessary to provide a safe tow and good ride characteristics shall be not less than required to support the design load. Use of axles must comply with the axle manufacturer's specification regarding type and size of wheels, tires, etc.

(2) When 6000 lb. rated axles are used, the number of axles may be determined by use of the following table:

TABLE 1

Length of home	No. of axles [1]
12 feet wide:	
To 60 ft. maximum	2
Greater than 60 ft. to 80 ft. maximum	3
14 feet wide:	
To 52 ft. maximum	2
To 76 ft. maximum	3
To 80 ft. maximum	4

[1] No. of 6,000 pound rated axles equipped with 7x14.5 mobile home 8-ply rated tires.

TABLE 2

Length of home	No. of axles [1]
12 feet wide:	
To 65 ft. maximum	2
Greater than 65 ft. to 80 ft. maximum	3
14 feet wide:	
To 56 ft. maximum	2
Greater than 56 ft. to 80 ft. maximum	3

[1] No. of 6,000 pound rated axles equipped with 8x14.5 mobile home 8-ply rated tires.

Length: The home's "transportation length" is defined in § 3280.902(f).

Determination of the number of axles required by use of the above table does not eliminate the requirement for each axle to be capable of withstanding the actual imposed dead load without exceeding the maximum allowable stresses permitted for the axle or the maximum tire load rating in §3280.906(g). If a manufacturer has submitted documented evidence of transportation experience to meet the requirements of §3280.903, the maximum number of axles required by the experience record may not be reduced by use of the above tables.

(3) Recycled axles. Before re-use, all axles, including springs, brakes hubs, wheels and bearings shall be reconditioned and inspected by a nationally recognized testing agency to meet all tolerances required by the original equipment manufacturer's specifications. Reconditioned axles and their components shall utilize only compatible (not mis-matched) components and be of the same size and rating. Reconditioned axles shall not be lengthened, or shortened.

(f) *Hubs and bearings.* Hubs and bearings shall meet the requirements of §3280.904(c)(1) and good engineering practice. Both of these components shall be accessible for inspection, routine maintenance and replacement of parts.

(g) *Tires, wheels and rims.* Tires, wheels and rims shall be capable of resisting the static dead load supported by the running gear. Configuration of wheels and rims shall be in accordance with the tire manufacturer's recommendations. Wheel lug bolts shall be tightened to at least the torque load recommended by the original equipment manufacturer.

(1) Tires. Tires shall be inflated to the pressure necessary to develop the tire capacity as determined in accordance with paragraph (i), below:

(i) The allowable tire capacity may be determined by utilizing a service load factor of 1.50 multiplied by the mobile home tire load limit specified in MH–1 of the Tire and Rim Association Inc. Yearbook—1980. However, the individual permissible tire loading shall not exceed 3,000 lbs. For example, the maximum tire loading for a 7 x 14.5 manufactured home 8 ply tire at 70 psi cold inflation pressure would be 2,805 lbs. (1,870 lbs. (MH–1 rating) x 1.5 (service load factor) = 2,805 lbs.). The tire load limit specified in MH–1 shall be determined by the tire manufacturer.

(ii) Used tires which are fitted to new or recycled axles shall be individually inspected at the factory, and be certified as conforming with the following:

(A) Having a tread depth of not less than $\frac{2}{32}$ of an inch as determined by a tread wear indicator and

(B) Being free of any structural and thermal defect (i.e., dry rotting, sidewall splitting, etc.).

The allowable tire capacity for used tires may also be determined in accordance with paragraph (i) of this section.

(2) Wheels and Rims. Configuration of wheels and rims shall be in accordance with the tire manufacturer's recommendations.

(i) Wheel lug bolts shall be tightened to at least the torque load recommended by the equipment manufacturer. A minimum of 90 lbs of torque shall be used when no recommendation is provided.

(ii) Brake assemblies. (A) Unless otherwise substantiated by test (see paragraph (B)) of this section, there shall be a minimum of two axles equipped with brake assemblies on each manufactured home floor or unit.

(B) Whenever tests are used to verify the adequacy of the combined braking performance of the towing vehicle and the manufactured home, the combined braking system shall be capable of assuring that the maximum stopping distance from an initial velocity of 20 mph does not exceed 40 feet. The stopping distance shall be measured from the point at which movement of the service brake pedal or control begins. The towing vehicle and manufactured home shall be in the center of a 12 feet wide lane when the test begins and the tires shall not deviate from that lane during the test. The test shall be made on a level surface that is substantially dry, smooth, and free of loose material. The tests shall be made utilizing the actual combination or running gear equipment to be used by the manufacturer in production.

(C) To provide a comparable operating voltage for each brake, wiring shall be installed in parallel. The voltage available at the brakes shall be not less than the value specified in the brake manufacturers' instructions, unless actual braking tests determine that the stopping requirements can be met at a lower voltage. Low voltage alumium wire, when used, shall be provided with suitable terminations which are protected against corrosion.

(Secs. 604 and 625, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403, 5404 and 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: August 3, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-21946 Filed 8-9-83; 3:46 pm]

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federal register

Tuesday
August 16, 1983

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Proposed Actions Under Guidelines and Advisory Committee Meeting

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20205, on September 19, 1983, from 9:00 a.m. to recess at approximately 5:00 p.m. This meeting will be open to the public from 9:00 a.m. To approximately 4:00 p.m. to discuss:

Report of Working Group on President's Commission's report on social and ethical issues of genetic engineering with humans;
Containment for oncogenes and retroviruses: Amendment of Guidelines;
Proposed exemption for organisms that exchange genetic information; and
Other matter requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately one hour for the review, discussion, and evaluation of proposal(s) from a commercial concern(s) for field testing of recombinant organisms. It is anticipated that this will occur from approximately 4:00 p.m. until adjournment. The proposal(s) and the discussion could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 3B10, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

Note.—OMB's "Mandatory Information Requirements for Federal Assistant Program Annoucements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalogue of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalogue of Federal Domestic Assistance* are affected.

Dated: August 4, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83-22331 Filed 8-15-83; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposes actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on September 19, 1983, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by September 15, 1983.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Report of Working Group of Ethical and Social Issues

At its April 11, 1983 meeting, the Recombinant DNA Advisory Committee (RAC) endorsed a proposal to form a working group to comment and report to RAC on the "Report on the Social and Ethical Issue of Genetic Engineering with Human Beings," issued by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The President's Commission began its study in September 1980, in response to a request of the President's Science Advisor. Concern had been expressed earlier that year by the Nation's three major religious associations that no governmental body was "exercising adequate oversight or control, nor addressing the fundamental ethical questions in a major way." The Commission's report, issued in November 1982, concluded that continuing oversight of the field is desirable, and suggested that one possible mechanism could be revising the responsibilities of the RAC.

The RAC Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues met at NIH on June 24, 1983, and prepared a proposal for consideration by the full RAC on September 19, 1983. The Working Group requested that the document be published for comment.

Proposal of RAC Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues, June 24, 1983

The Working Group agrees that there is a need for ongoing consideration of the ethical and social implications of the application of genetic technology to humans. Within this context, RAC should be prepared to consider social and ethical issues related to the applications of recombinant DNA techologies. For specific cases which come before the committee, RAC should consider explicitly issues such as those raised in the "Splicing Life" report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. We, therefore, recommend that:

(1) The membership of the RAC be modified to include adequate representation to deal credibly with these issues.

(2) Procedures should be developed for the coordinate consideration of experiments involving the use of recombinant DNA technology in humans by Institutional Review Boards, the Office of Protection from Research Risks, the Food and Drug Administration, Institutional Biosafety Committees, the Office of Recombinant DNA Activities, and the Recombinant DNA Advisory Committee.

(3) The NIH Guidelines for Research Involving Recombinant DNA Molecules

should be reviewed from their adequacy and clarity in dealing with human experimentation.

We recognize that the issues which will be dealt with by RAC represent only some of the social and ethical issues associated with the applications of genetic and biomedical technologies. In addition, we believe that the general oversight function needed for these broader issues is not easily combined with the RAC's role in setting Guidelines and reviewing specific experiments. The expertise and experience of the RAC will be available to bodies which may exercise oversight of the broader issues. We expect continuing national discussion to lend new insight in dealing with the specific cases to be considered by RAC.

II. Proposed Amendment of Procedures for Scale-Up of Exempt Organisms

Dr. Irving S. Johnson of Lilly Research Laboratories, a division of Eli Lilly and Company, has proposed that procedures be modified for experiments involving more that 10 liters of culture of exempt organisms. Specifically, Dr. Johnson proposes the following two changes in the Guidelines:

1. Delete statements in all sections of Appendix C that refer to large-scale experiments, viz: "Large-scale experiments [e.g., more that 10 liters of culture] require prior IBC review and approval. [See Section III–B–5.]"

2. Modify Section III–B–5 to read as follows:

III–B–5. *Experiments With Non-Exempt Organisms Involving More Than 10 Liters of Culture.* The appropriate containment will be decided by the IBC. Where appropriate, the large-scale containment recommendations of the NIH should be used (See Appendix K).

III. Proposal To Include Streptococcus Mutans in Sublist F of Appendix A

Dr. Francis Macrina of the Medical College of Virginia of the Virginia Commonwealth University requests that *Streptococcus mutans* be included in Sublist F and deleted from Sublist E of Appendix A of the NIH Guidelines for Research Involving Recombinant DNA Molecules. Dr. Macrina argues that *S. mutans* should be included in Sublist F for the following reasons:

(1) A broad host range streptococcal plasmid, pAMβ1 (conferring erythromycin resistance), is conjugatively transmissible to *S. mutans*. Strains of *S. mutans* inheriting this plasmid are able to transmit it via conjugal transfer.

(2) The report of non-plasmid associated conjugal transfer of tetracycline resistance from *S. mutans* to other strains of *S. mutans* and to *S. faecalis* support the claim of natural genetic transfer from *S. mutans* to other streptococci.

(3) A tetracycline resistance determinant from a naturally-resistant *S. mutans* clinical isolate shares sequence homology with the Tn916 (Tc^r) conjugative transposon originating in *S. faecalis*.

(4) Naturally transformable strains of *S. mutans* are readily transformed with plasmid or chromosomal DNA from other *mutans* as well as *sanguis* strains.

IV. Proposed Modification of Appendix L.

Dr. Sue Tolin, in consultation with other members of the RAC Plant Working Group, has proposed amendments to Appendix L–11–C.

Appendix L–II–C currently reads:

Appendix L–II–C. The vector consists of DNA: (i) from exempt host-vector systems (Appendix C); (ii) from plants of the same or closely related species; (iii) from nonpathogenic prokaryotes or nonpathogenic lower eukaryotic plants; (iv) from plant pathogens only if sequences causing disease have been deleted; of (v) chimeric vectors constructed from sequences defined in (i) to (iv) above. The DNA may be introduced by any suitable method.

Dr. Tolin proposes that Appendix L–II–C be modified to read as follows:

Appendix L–II–C. The vector consists of DNA: (i) From exempt hostvector systems (Appendix C); (Ii) from plants of the same or closely related species; (iii) from nonpathogenic prokaryotes or nonpathogenic lower eukaryotic plants; (iv) from plant pathogens only if sequences resulting in production of disease symptoms have been deleted; or (v) chimeric vectors constructed from sequences defined in (i) to (iv) above. The DNA may be introduced by any suitable method. If sequences resulting in production of disease symptoms are retained for purposes of introducing the DNA into the plant, greenhouse-grown plants must be shown to be free of such sequences before such plants, derivatives, or seed from them can be used in field tests.

Dr. Tolin notes that, under the present language, review by the Plant Working Group might have to be done in the strictest sense of the word "disease." If so, this may preclude the approval of some plasmid and virus-derived nucleic acid as vectors, since their replication might be construed as disease in the strict sense even though no symptoms develop in the plants. Dr. Tolin states that it is her belief that if all other stipulations of Appendix L are satisfied, this minor change will result in no greater probability of risk of introducing plants containing recombinant DNA into the environment.

V. Request for Permission To Field Test Recombinant DNA Containing Rhizobium Meliloti

BioTechnica International Inc., of Cambridge, Massachusetts, requests permission to field test recombinant strains of *Rhizobium meliloti*. This proposal will be reviewed in a portion of the RAC meeting closed to the public.

VI. Request To Field Test Genetically Engineered Plants

Cetus Madison Corporation requests permission to field test genetically engineered plants that have expressed disease resistance under greenhouse and growth chamber environments. This proposal will be reviewed in a portion of the RAC meeting closed to the public.

Note.—OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: July 29, 1983.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases National Institutes of Health.

[FR Doc. 83-22332 Filed 8-15-83; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: On August 9, 1983, the Office of the Federal Register announced termination of the formal program of agency publication on assigned days of the week, effective August 22, 1983. See 48 FR 36197.

List of Public Laws

Last Listing August 11, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.J. Res. 139 / Pub. L. 98–71 To designate the week beginning June 24, 1984, as "Federal Credit Union Week". (Aug. 11, 1983; 97 Stat. 402) Price: $1.50

S. 272 / Pub. L. 98–72 To improve small business access to Federal procurement information. (Aug. 11, 1983; 97 Stat. 403) Price: $1.50

S. 930 / Pub. L. 98–73 To authorize the Smithsonian Institution to purchase land in Santa Cruz County, Arizona. (Aug. 11, 1983; 97 Stat. 406) Price: $1.50

S. 727 / Pub. L. 98–74 To authorize the Secretary of the Interior to set aside certain judgment funds of the Three Affiliated Tribes of Fort Berthold Reservation in North Dakota, and for other purposes. (Aug. 11, 1983; 97 Stat. 407) Price: $1.50

H.J Res. 321 / Pub. L. 98–75 To proclaim a day of national celebration of the two hundredth anniversary of the signing of the Treaty of Paris. (Aug. 11, 1983; 97 Stat. 409) Price: $1.50